

The State Land Board met in regular session on December 9, 2003 in the Land Board Room of the State Lands Building, 775 Summer Street NE, Salem, Oregon 97301-1279.

Present were:

Theodore R. Kulongoski	Governor
Bill Bradbury	Secretary of State
Randall Edwards	State Treasurer

<u>Assistants</u>	<u>Staff</u>	<u>Dept. of Justice</u>
Jim Brown	Ann Hanus	Lore Bensel
Jesse Cornett	John Lilly	
Kate Richardson	Steve Purchase	
	Jeannette Holman	
	Gail Lowry	

The Governor called the meeting to order at 10:08 am. The topics discussed and the results of those discussions are listed as follows. Further details of the discussions may be obtained in the written transcript of the meeting available at the Department of State Lands, 775 Summer Street NE, Suite 100, Salem, Oregon 97301-1279, (phone: (503) 378-3805, ext. 224).

**1. Request to amend administrative rules governing the export of unprocessed timber from common school forest trust land and other Land Board managed land.**

Director Ann Hanus introduced this item and asked Deputy State Forester Roy Woo to report on the Department of Forestry's recommendation.

Woo explained that the essential issue for the Land Board is determining how retaining or repealing the hardwood exemption would impact the short- and long-term revenues to the Common School Fund. He said the state is receiving fair market value overall for forest products. He believes the current exemption is having a positive impact on revenues due in part to the acquisition of the Garibaldi mill, which is in close proximity to the state forests, resulting in lower log

hauling costs. He added that eliminating the current exemption in the rule would reduce the available alder market for purchasers of state timber sales and reduce the overall competition for hardwood timber sales.

Woo said it is difficult to assess the long-term situation, adding that it is likely to be influenced by the current and pending litigation. Because of this uncertainty, he said the state needs to monitor to ensure they continue to receive the best value for forest products.

Woo recommended that smaller sales of alder be made available, which exporters under the current exemption would not be eligible to bid on. This would provide data and assist in understanding what is happening in the alder market as it relates to the smaller mills.

He said he will accept the petitioners' and Weyerhaeuser's offer to allow for review of their purchase orders for alder from purchasers of state timber sales, since this will also be valuable in providing information to the state.

He stated that they hope to develop and apply criteria to develop a method to list alder (though it is a minor species) and conifer sales as separate bid species. He added that this would help to assure the state is getting competitive prices for its forest products.

Treasurer Edwards asked whether the Department of Forestry would be taking a similar approach with the Board of Forestry lands. Woo confirmed they would be.

Woo concluded by saying the Department of Forestry will report to the Land Board as to how they are doing with these measures during the 2004 annual report. He said the information received shows that there is good competition and that good prices are being received. He added that the Department of Forestry will continue to monitor this for the long-term revenues as well.

Treasurer Edwards moved the Board adopt the staff recommendation not to amend the rule and to work with the Department of Forestry to implement the Deputy State Forester's recommendation as presented.

Secretary Bradbury stated that he would be voting against the motion. He said there is not any compelling case either way, and, therefore, does not believe an exemption from our policies should exist. He said

the burden of proof should rest on those who wish to maintain the exemption. He said he supports what the Deputy State Forester is doing, since we need to gain more information about whether we are getting fair market value for alder. He said he does not support the exemption because the alder market is changing dramatically and it is no longer clear that the exemption provides for fair market value for alder.

Treasurer Edwards expressed his appreciation for Secretary Bradbury's position. He said the Land Board needs to continue monitoring to ensure they are receiving the best value.

Governor Kulongoski said the hearing process is very charged politically and he complimented those involved in the process. He said the burden of proof should rest on those who want the exemption removed, rather than those who are currently supporting the exemption. He said he would vote in favor of the motion.

Governor Kulongoski and Treasurer Edwards voted for the proposal not to amend the administrative rule allowing the exemption. Secretary Bradbury voted against the motion. The motion carried two to one.

## **2. Request for authorization of a cost-benefit analysis of the sale of Common School Forest Land within the Elliott State Forest.**

Director Hanus explained this request stemmed from a budget note requesting a cost benefit study that both the Department of Forestry and Department of State Lands received during their budget hearings before the Legislature. She said the information should be useful as DSL's Asset Management Plan is revised. Both market and non-market values will be considered during the study, which is anticipated to be completed by the summer of 2004. She requested the Board approve the request.

Treasurer Edwards commented that he wants to ensure there is a balanced approach to this analysis and that the broader context is being considered.

Governor Kulongoski expressed his support for how the recommendation has been framed, since there are many elements in the proposal he said are not usually in cost-benefit analyses. He voiced concerns as to whether the project could be completed by

summer 2004 without pressure and ensure the results are not compromised.

Secretary Bradbury moved the request for the cost-benefit analysis for the sale of common school forestlands within the Elliott State Forest be approved. Treasurer Edwards seconded the motion and the approval was unanimous.

### **3. Request for approval to implement a State Land Board external awards program.**

Director Ann Hanus acknowledged the committee of DSL staff that helped develop this program: Monte Turner, Nancy Pustis, Randy Weist, Larry Devroy, Gordon Dunkeld, Dana Field, Cy Young and Kevin Herkamp. Hanus said this is an excellent opportunity to recognize responsible, sustainable stewardship of natural resources, saying it also helps the agency in fostering good relationships. She said one award would focus on the lessee of the year, a second would be a stream award and a third would be related to wetlands. Nominations would be solicited in January. Individuals from several organizations that are interested in the process would be involved in a committee with DSL staff and Land Board assistant representation to review nominations that would be brought before the Land Board.

Treasurer Edwards moved the Board adopt the award program as outlined.

Governor Kulongoski said these awards are very appropriate and are an opportunity for the Board to deliver a much broader message to the public. He said these awards need to be symbolic of the value of the work these people are doing. He suggested something more than a piece of paper with the Board's signatures be awarded. He asked that some creativity be used to determine what these awards might be. Treasurer Edwards agreed with the Governor's perspective that something of quality needs to be presented to those receiving these awards.

The motion was unanimously approved.

Director Hanus introduced new employees: Pamela Kostantopoulos, finance manager; Cyndi Wickham, previous finance manager who became the manager of the Trust Properties Program; Cy Young, property manager; and Nancie Young, filling in while our Human

Resource manager is out. Hanus added that the Bend Office also hired a new employee, Chris Bedsel, for the eastern Oregon property manager.

### **Consent Agenda**

- 4.a. Request for adoption of new rules and amendment of existing rules governing the unclaimed property and estates program.**
- b. Request that the State Land Board endorse the Oregon Statewide Programmatic General Permit.**
- c. Request for approval of an exchange of surface and mineral rights on Common School Fund parcels for surface and mineral rights on Longview Fibre Company property. Also request for approval of an exchange of mineral rights involving Oregon Parks and Recreation Department, Oregon Department of Forestry and Longview Fibre Company.**
- d. Request for approval to appear before the January 2004 Legislative Emergency Board to report the Division of State Lands' progress in implementing work plans presented to the Natural Resources Subcommittee of the Joint Ways and Means Committee.**
- e. Request for approval of the October 21, 2003, State Land Board minutes.**

Director Ann Hanus briefly reviewed each item on the Consent Agenda. State Treasurer Edwards moved the Consent Agenda be approved. Secretary Bradbury seconded the motion and the approval was unanimous.

### **Informational Agenda**

- 5. Report on the status of Common School Fund Forest Land Management/State Forests Policy.**

Director Ann Hanus introduced State Forester Marvin Brown to review the report on the status of the Common School Fund forestland management.

Brown said on the revenue side, from 1998-2003 average harvest on common school lands was about 33 million board feet, after costs returning an average of \$12 million per year to the Common School Fund. He noted that the figures were not as good for the year 2003 due to threatened and endangered species constraints (especially for the northern spotted owl, marbled murrelet, and potentially coastal coho salmon) and take avoidance requirements. The harvest was 24 million feet last year (roughly 30 percent below the average). Because prices were also lower, he said about \$4.5 million was returned to the Common School Fund (over 60 percent less than normal).

Brown expressed pleasure at the cost-benefit analysis being approved by the Board, saying he is anxious to see what the information yields. He said they hope to get the study completed by early summer, paralleling the track for developing the Elliott Forest Management Plan. He hopes they can arrive at a strategy to manage endangered species issues in a way that will achieve a more reasonable financial return. He hopes the Plan will be ready for Land Board approval early 2005. If it looks like a logical way to achieve the desired results is with a habitat conservation plan that negotiates an incidental take permit with the U.S. Fish and Wildlife Service, he said that process would take another year or so after that point.

Governor Kulongoski asked about the projections for 2004-2005. Brown said the plan is to harvest about 27 million board feet. He added that prices might increase some, but they do not anticipate they will go up appreciably. This harvest level probably would result in about \$8-10 million to the Common School Fund.

## **6. Update on the status of navigability issues.**

Director Ann Hanus said the agency started on the John Day navigability study process in accordance with the Board's instructions. Notices have been sent to the property owners and the public interests. A draft study will be completed by April 2004 with hearings in October. She noted a final decision would be ready possibly by December 2004.

She said the Rogue River from rivermile 68-158 would be next on the list of rivers slated for navigability studies, and the agency would come before the Board at the February meeting to request permission to proceed.

John Lilly, Assistant Director for Policy and Planning, said the Josephine County District Attorney made the request due to issues with boaters and fishermen along the riverbank in the area and problems with enforcement. Treasurer Edwards commented that this is another indication of the need for having a longer-term solution to the issue, rather than a piece meal, river-by-river approach.

Governor Kulongoski asked how the county commissioners view the petition for a study, and whether the request is still valid, since the District Attorney originally making the request is no longer in office. Lore Bensel, Assistant Attorney General, suggested that the Department of Justice review the issue, since there is a legal question concerning the authority of the District Attorney's office.

Governor Kulongoski said he wants to go into the next legislative session with a bill on the floatage easement issue that will allow a more thorough debate than at the last session. He stated he believes Treasurer Edwards' approach to the issue to be fundamentally correct and said they will need legal research and legislative direction to resolve the issue.

## **7. Update on Asset Management Plan.**

With the completion of the strategic plan, Director Ann Hanus said it is time to turn our attention to revising the Asset Management Plan that the Land Board adopted in 1995.

The meeting was adjourned at 10:55 am.

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Bill Bradbury, Secretary of State

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Ann Hanus, Director