



# Oregon

Theodore R. Kulongoski, Governor

## Department of State Lands

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### State Land Board

The State Land Board met in regular session on June 12, 2007, in the Land Board Room of the State Lands Building, 775 Summer Street NE, Salem, Oregon 97301-1279.

Theodore R. Kulongoski  
Governor

### Present were:

Bill Bradbury  
Secretary of State

Theodore R. Kulongoski  
Bill Bradbury  
Randall Edwards

Governor  
Secretary of State  
State Treasurer

Randall Edwards  
State Treasurer

### Land Board Assistants

Michael Carrier  
Elon Hasson  
Inga Deckert

Governor's Office  
Secretary of State's Office  
State Treasurer's Office

### Staff

Louise Solliday  
Steve Purchase  
Jeannette Holman

Julie Curtis  
Nancy Pustis

John Lilly  
Lorna Hobbs

### DOJ

Richard Whitman

Secretary Bradbury called the meeting to order at 10:13 a.m. Governor Kulongoski arrived shortly thereafter to assume the Chair. The topics discussed and the results of those discussions are listed as follows. Further details of the discussions may be obtained in the 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).

Director Solliday noted that the agenda had been revised to include item 1h on the consent agenda and that the Board had before them supplemental items for their consideration:

1. Letter from Coos County Commissioner John Griffith regarding item 1c;
2. Letter from George Huston and Larry Jacobs of the Foundation for North American Wild Sheep regarding item 1d;
3. Email from Eric R. Brown regarding item 1h; and
4. Legislative update.

## Consent Agenda

1. a. Request for approval of minutes of the April 10, 2007 State Land Board meeting.
- b. Request for approval of a permanent roadway easement for the Oregon Department of Transportation in Coos County.
- c. Request for approval to initiate review and determination of the purchase of a 28.20-acre parcel of land adjacent to the South Slough National Estuarine Research Reserve in Coos County.
- d. Request for approval to sell or exchange twenty-four parcels of forest and rangeland in Baker, Union, Umatilla and Wallowa Counties.
- e. Request for approval to initiate review and determination of the sale of approximately 0.7 acres of submersible land in Svensen Slough in Clatsop County.
- f. Request for approval to initiate review and determination of the sale of two parcels of up to 7 acres of historically filled land in Coos Bay in Coos County.
- g. Request for approval to initiate review and determination of the sale of up to 4 acres of historically filled land in Coos Bay in Coos County.
- h. Request for approval to initiate review and determination of the purchase of a 0.0014-acre "reserve strip" of land on the south boundary of the Ward Road Parcel in Deschutes County.

Director Solliday reviewed the consent agenda.

Governor Kulongoski asked for an explanation of the land sale process in item 1d.

Director Solliday responded that, in October 2006, the Board approved the revised Asset Management Plan and authorized the Department to initiate the review and determination of the sale or exchange of these lands. Staff has reviewed the parcels and the Department solicited public input on the proposed land sales/exchanges. Staff will present their recommendations to the Board at a future meeting. She noted that the Department will work with those agencies that

expressed interest in land exchanges and will seek opportunities to acquire land that have the potential to raise revenue for the Common School Fund.

Governor Kulongoski made it clear that the process for disposing of these lands is still in the beginning stage and nothing will be sold or exchanged without further review. And, after further review, some parcels may not be sold at all.

Treasurer Edwards asked if any revenue is currently being produced from these lands.

Director Solliday responded that none of the parcels were under lease. She added that the Department doesn't have access to many of these parcels.

Secretary Bradbury made a motion to approve the consent agenda. Treasurer Edwards seconded the motion. The consent agenda was approved.

### **Action Agenda**

#### **2. Request for final approval of the sale of a 0.585-acre parcel of filled lands in Clatsop County to Grover W. Utzinger.**

Director Solliday introduced the item and explained that the sale would resolve a quiet title suit filed by Mr. Utzinger. He has agreed to a sale price of \$31,000.

Treasurer Edwards moved to approve the item. Secretary Bradbury seconded the motion. The item was approved.

#### **3. Request for final approval of the sale of a 1.16-acre parcel of filled lands in Multnomah County to Mar Com Holding, LLC.**

Director Solliday introduced the item and explained that the parcel being sold to Mar Com would be combined with a larger parcel that Mar Com plans to sell to the Port of Portland for the Terminal 4 expansion project. The only access to the parcel is by water. Mar Com has agreed to a sale price of \$175,000.

Secretary Bradbury moved to approve the item. Treasurer Edwards seconded the motion. The item was approved.

#### **4. Request for final approval of the sale of a 3.41-acre parcel of filled lands in Clatsop County to Coyote Point, LLC.**

Director Solliday introduced the item and explained that the sale was to clear the cloud on the title. The Department worked with Coyote Point and the adjacent River Ranch Homeowners Association to resolve issues of access to the Columbia River. Coyote Point has agreed to a sale price of \$49,104.

Treasurer Edwards moved to approve the item. Secretary Bradbury seconded the motion. The item was approved.

Secretary Bradbury commended staff for working with the adjacent property owners to resolve issues with the sale.

**5. Request for final approval of a Territorial Sea statutory easement for a fiber optic communication cable corridor landing for MFS Globenet (US) Inc. in Tillamook County.**

Director Solliday introduced the item and explained that the fiber optic cable would provide additional communication between the US and Asia, particularly China. She stated that there were a couple of people who wanted to speak to the Board regarding this item.

Governor Kulongoski called on Scott McMullen, who represents the Oregon Fishermen Cable Committee (OFCC).

Mr. McMullen discussed the partnership between the Oregon fishing industry and Verizon (MFS Globenet parent company) and other cable companies. The partnership has allowed both parties to share the ocean floor. Mr. McMullen expressed his support for the approval of the easement to MFS Globenet.

Governor Kulongoski called on Frank Salli.

Mr. Salli introduced himself as the Senior Project Manager for the Trans Pacific Express Project. Mr. Salli thanked the Board, the State and the OFCC. He also thanked the Department for their assistance with moving the project through the regulatory process. He explained that the 2008 Olympics was the driving factor for completing the project.

Secretary Bradbury moved to approve the item. Treasurer Edwards seconded the motion. The item was approved.

**6. Request for approval of the exchange of Board of Forestry mineral rights for mineral rights owned by Back-Acres Tree Company, LLC; Andrew Martin Nygaard; and Warrenton Fiber Company (G&N) in Clatsop County.**

Director Solliday introduced the item and clarified that the request before the Board was for approval of the exchange of mineral rights and does not involve any Common School Fund lands or DSL lands. She recommended that the Board take public comment first and then discuss staff recommendations.

Governor Kulongoski called Marcia Dennison to speak first.

Ms. Denison introduced herself and discussed the mineral appraisal that was prepared by the Department of Geology and Mineral Industries (DOGAMI) in 1999. She stated that the proposed mineral exchange would not be of equal value. She urged the Board to have a new appraisal performed prior to making a decision.

Governor Kulongoski called on Carolyn Eady to speak next.

Ms. Eady introduced herself and walked the Board through the materials she provided. She stated that the Oregon Department of Forestry should be required to defend their statement that the materials on the parcel in question are not commercially exploitable and, therefore, have no market value. She discussed roads that had potential access to the site as well as potential markets for the material. She urged the Board to hire an independent mineral resource consultant to assess the site.

Director Solliday recommended that, in light of the testimony presented, the Board wait to make a decision until the Department has the time to make sure that the mineral analysis done by DOGAMI is still accurate. She clarified that the sand resource is exchanged as part of the land exchange and not the mineral exchange because it is a surface mineral, not a subsurface mineral. But, it would be good due diligence for the Department and the Board to confirm that the analysis previously done is accurate.

Governor Kulongoski asked Director Solliday when the item would be back before the Board.

Director Solliday responded that they would likely bring the item back to the October Land Board meeting.

Governor Kulongoski asked that the Department keep all interested parties informed of what transpires during the interim.

The item was put over until the October Land Board meeting or until further notification from the Director.

## **7. Request for approval of the Stevens Road Tract Master Plan.**

Director Solliday introduced John Lilly, Asset Manager for the Department.

Mr. Lilly gave a presentation of the revised master plan for the Stevens Road Tract in Deschutes County. He stated that this parcel was the first the State received as an in-lieu selection from the federal government. The parcel is 640 acres, with 12½ acres inside the Bend city limits and the remainder within the

county. The Department has been working with the City of Bend to include all of the property within the City's urban growth boundary or at least within the urban reserve. He described the plan as a mixed-use development that would include housing, a community center, schools, parks, trail systems and open space.

Governor Kulongoski asked for clarification on what the Department's interest is in owning the property.

Mr. Lilly explained that the plan is a 20 to 30-year plan and that any decisions made regarding whether or not to keep or sell all or portions of the property would be far into the future. The main purpose of the plan is to show the community that there is an overall plan for the parcel and it will not be developed piecemeal.

Director Solliday added that it would be likely that the Board would sell some property for such things as residential development and keep some to maintain a revenue source for the Common School Fund. She also stated that the Department has been in contact with other states that are doing the same thing.

Governor Kulongoski expressed his concern with state government in the business of commercial development. He stated that the State does not have the expertise.

Treasurer Edwards noted that this is new territory for the Board and that hiring a third party, as was done, and enlisting assistance from other state agencies and the Office of the Treasurer for the expertise needed would be a good idea.

Director Solliday pointed out that there is a lot of time to work on the plan and they have the advantage of seeing what other states are doing and can learn from their mistakes and successes.

Secretary Bradbury moved for approval of the item. Treasurer Edwards seconded the motion. The item was approved.

### **Informational Agenda**

#### **8. Oregon Department of Forestry update on the Habitat Conservation Plan for the Elliott State Forest.**

Director Solliday introduced Jim Paul, Assistant State Forester for the Forest Management Division of the Department of Forestry. Mr. Paul introduced Jim Young, District Forester at the Elliott State Forest. Mr. Paul and Mr. Young updated the Board on the progress of the Habitat Conservation Plan for the Elliott State Forest and the timeline for when the Plan may be in place. Mr. Young stated that the draft Environmental Impact Statement is scheduled to be sent out

for public review in September 2007. Comments will be reviewed by the Department of Forestry and the two federal agencies. A final EIS should be ready by May 2008. Around August 2008, the federal agencies will write a biological opinion and make a decision on the issuance of an incidental take permit. The Land Board and the Board of Forestry would then make a decision on whether or not to sign onto the HCP agreement.

#### **9. Customer service survey results.**

Director Solliday presented the Board with the results of the recent customer service survey. 1460 surveys were sent out with 342 responses returned. The overall average was a 74.4 percent rating of the agency as good or excellent. The area of most needed improvement was timeliness. Director Solliday stated that the reason for the lower rating was likely due to the implementation of the State Programmatic General Permit (SPGP). The highest rating of 82 percent was for knowledgeable staff.

#### **10. Legislative update.**

Director Solliday gave an overview of legislation the agency has been working on or tracking through the legislative session. She discussed the agency's two fee bills (HB 2105 & HB 2106), which are on their way to the full Ways and Means Committee and the agency's budget, which was signed by the Governor. Another agency bill, HB 2104, which reduces the dormancy period for financial institutions from five years to three years for unclaimed property reporting, is on its way to the Governor for signature. She also discussed SB 67, which moves the Unclaimed Property program to the Office of the State Treasurer. The bill is not yet dead and the Board sent a letter to the co-chairs of the Ways and Means Committee and would also be sending one to legislative leadership.

#### **11. Other.**

Secretary Bradbury asked for an update on the advice received from the Attorney General's Office regarding marine protected areas.

Director Solliday said that the advice from the Attorney General's Office stated that the Board has the authority to designate marine protected areas. But, in order to designate no-take marine reserves, the Board would need to work in conjunction with other boards and commissions who have the regulatory authority over the resources. The Governor's Office has been working with the "Marine Cabinet", which is comprised of agency directors who are involved in managing marine resources. The Cabinet has been working with the Ocean Policy Advisory Council (OPAC) to design a process that will lead to the designation of "Heritage Marine Reserves" by the middle of next year. The process will include soliciting nominations for designation of special places within the Territorial Sea. OPAC would review the nominations and bring a

recommendation to the Governor. At that point, the Marine Cabinet would work through their individual boards and commissions to initiate a joint rulemaking process with all of the boards and commissions where public hearings would be held on the coast and inland to get public input on the recommendation. The Land Board would make the designations and the other boards and commissions would set the prohibitions on activities as appropriate. The Governor's staff is working with the Marine Cabinet and OPAC to develop a set of criteria to be used for the nominations.

The meeting was adjourned at 12:13 p.m.

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Theodore R. Kulongoski, Governor

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Louise Solliday, Director