
STATE LAND BOARD MEETING

Tuesday, September 13, 1994

State Lands Building

775 Summer Street NE, Salem, Oregon

10:00 a.m.

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GOVERNOR BARBARA ROBERTS: Good morning. We have a rather brief, but as always, important agenda this morning. We are going to get right into that. Beginning with Item Number 1, which is public input related to a proposed dedication of Onion Peak, which is a registered natural area. This would be a hearing to deal with the issue of a Natural Heritage Conservation area. So I am going to open this segment of the agenda into a hearing on that Item. The people that would like to comment -- do you want to make any comment other than that, Gus, or --

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AGENDA ITEM NO. 1

DIRECTOR GARY GUSTAFSON: Maybe I ought to just very briefly explain what the proposal is before we take comment.

The Onion Peak is a 100-acre tract of Common School Trust land, located in Clatsop County. It's a very unique area. It's already on the Natural Heritage Register. It was placed there by the Land Board at the recommendation of the Natural Heritage Advisory Council back in 1988. It is an area that is also designated by Forestry as conservancy under their timber plan. It is now been proposed by the Natural Heritage Advisory Council that it be placed in the dedication status, which gives it a heightened degree of management responsibility.

I just wanted to mention that thus far we only have two areas in the state that have received the dedication status. One is the summit of Steans Mountains, where we have a tract of Common School Trust land. The other one is down at the California border in the coast range, there's about 160 acres that have been placed in that also -- similar designation.

This one now comes forward with the complete concurrence of the Department of Forestry, which manages the tract and the adjacent tract of county trust lands. Clatsop County has signified that it is in agreement with

this proposal. At this time it is in our process to hold a public hearing to see what else other folks may have to say. Then to come back at the next Land Board meeting for a final decision, and if the decision at that time is to include it in dedication status, we would do that by special agreement, and make sure that that is recorded.

I also want to mention that because this is Common School Trust land, it is important to understand that at the present time we are making absolutely no revenue off this tract, nor is there any likelihood in the foreseeable future that we would. It's already been partially harvested. It's a high alpine area.

Also, there is a provision in State law that provides for termination if the Land Board decides that it would like to use this parcel for some other purpose in the future that might for instance gain additional revenue. The Land Board at that time could initiate the termination proceedings, which involve, very simply, notice of opportunity for public notice and a finding that this needs to be removed. So it is up to your purview should you dedicate it, you can undedicate under State statutes.

So with that, we'll stand by for any questions.

GOVERNOR BARBARA ROBERTS: Thank you. I do now have the sign-up sheet. There are two people who are here

on the side of -- Steven Anderson would like to make comments. Steve. You're going to come together, okay. You're a team today, okay.

MR. STEVEN ANDERSON: Yeah.

GOVERNOR BARBARA ROBERTS: Would you identify yourself for the tape, and we'd be happy to hear your comments.

MR. STEVEN ANDERSON: Yes, thank you and good morning. I'm Steven Anderson, I'm Chair of the Oregon Natural Heritage Advisory Council. With me is Jimmy Kagan, who is the ecologist coordinator for the Oregon Natural Heritage Advisory Council.

I'd like to just make three very brief points in support of this proposal to dedicate Onion Peak as a Natural Heritage Conservation area.

The first one is is that this is the first Land Board that will take the step of dedicating State lands as Natural Heritage Conservation areas under the Act, under the Natural Heritage Act. There have been two sites that have been dedicated that Gus mentioned were done under different procedures. There haven't been any sites dedicated under the Act which passed the Legislature in 1979.

At a time when so much of our debate about natural resources is polarized, dedication is an opportunity

to protect Oregon's natural heritage for future generations through a process that calls for cooperation not confrontation. I think is -- as members of the Board know, the Natural Heritage program is designed to work with land managers, both public and private, strictly on a cooperative basis. We don't have any regulatory authority, we just advise State agencies on how they can identify and protect significant natural areas and preserve them for future generations. That would be the case with Onion Peak.

So it's an opportunity that this Land Board has to exercise real leadership and to -- to set a precedent for dedicating some natural areas using the procedures that are established in the law and the regulations, and with the advice of the Council.

We, speaking for the Council, we commend the Land Board for taking this issue up and for taking this step. We hope that it will be the first of a number of natural areas that are dedicated in the coming months.

In addition to Onion Peak, under consideration as land that's managed or owned by the Division of State Lands, there are other agencies that are now going through their process with some of their priority sites to dedicate those sites too. In particular, the Department of Fish & Wildlife, Department of Forestry, and Parks and

Recreation, are all -- all have under consideration and in process sites that they'd like to dedicate. We hope that the Land Board in October will be able to take up several of these sites recommended by several State agencies for dedication as Natural Heritage Conservation areas.

That was my second point. The third point is we appreciate you taking up this issue on a piece of land that's Common School Fund land. This is an issue that needs to be dealt with, because while many high-value natural areas on State lands are not Common School Fund land. There are some that are Common School Fund land that have high value as natural areas, and yet they aren't generating income and don't appear to have the potential to generate income. They need to be better managed to preserve their natural values, the plants and wildlife that they harbor for future generations. So dedication is a way of providing the opportunity to do that. With Onion Peak as an example, we hope that this will -- this discussion will set a precedent for dealing with the -- with other lands that -- that might fall into the same category. One example I would mention is the -- is a natural area called Eight Dollar Mountain in the Illinois Valley in Southern Oregon. That's one that we hope that the Land Board will also look at in the future as an area that needs to be dedicated for its very rich natural

values. It's also an area that's a Common School Fund land that is not generating income and doesn't appear to have the potential for doing so.

Of course, as Gus mentioned, when this matter is discussed, there is the law and procedures provide an opportunity to remove something from dedication if there comes a need to do that in the future.

Again, speaking on behalf of the Council, we commend you for taking up this issue, and it's -- we view it as a tremendous opportunity to move forward, to make real progress protecting Oregon's native plants and wildlife for future generations. We stand ready to be helpful and to offer any assistance that you might want as this process goes forward. Thank you.

GOVERNOR BARBARA ROBERTS: Thank you, Steven. Jimmy, did you want to make any comments?

MR. JIMMY KAGAN: No. I just want to be here to answer questions if you have any.

GOVERNOR BARBARA ROBERTS: Okay. Any questions on the part of the Board?

SECRETARY OF STATE PHIL KEISLING: Just to clarify. Steve, I haven't read these statutes. Does the statute have us do the dedication even if it's not Common School Fund land? For example, if it's Department of Forestry land or Fish & Wildlife land, or Parks land?

Do we take formal action on all requests?

MR. STEVEN ANDERSON: Yes. Every -- an agency recommends to the--

SECRETARY OF STATE PHIL KEISLING: To MAYHAC (phonetic).

MR. STEVEN ANDERSON: An agency recommends it to the Land Board--

SECRETARY OF STATE PHIL KEISLING: To the Land Board.

MR. STEVEN ANDERSON: It's my understanding. MAYHAC works with the agency to put together the dedication proposal.

SECRETARY OF STATE PHIL KEISLING: Right.

MR. STEVEN ANDERSON: And every agency that goes through this process needs to go through a process holding a hearing and with public notice, as this hearing is today. Then, once the agency, Board, or commission approves it, that approval amounts to a recommendation to the Land Board--

SECRETARY OF STATE PHIL KEISLING: Okay.

MR. STEVEN ANDERSON: That this site be dedicated.

SECRETARY OF STATE PHIL KEISLING: So we take final action regardless--

MR. STEVEN ANDERSON: That's right.

SECRETARY OF STATE PHIL KEISLING: Of which agency

or entity owns the land.

MR. STEVEN ANDERSON: That's right.

GOVERNOR BARBARA ROBERTS: Although we're basically the overseer for the program, and I think that's the other way--

MR. STEVEN ANDERSON: That's right. You wear two hats actually, one that's--

GOVERNOR BARBARA ROBERTS: On this one we really do.

MR. STEVEN ANDERSON: Yeah.

GOVERNOR BARBARA ROBERTS: That's true. Well, thank you very much. Any other questions? If not, thank you, Jimmy and Steven, we're glad to have you here, and we appreciate your taking time to do that. Is there anyone else who would like to comment on this item while it is open for hearing?

I'll remind you again that in the October meeting the Board will act on the item that has been before us for hearing today, and with that I will close the hearing on Agenda Item Number 1, related to Onion -- what is it called? Onion Peak. I knew it was Onion something. Onion Peak. So thank you very much.

We'll now move on to Item Number 2, which is the request of approval of a Memorandum of Agreement regarding responsibility for Common School Fund administration. Gus?

AGENDA ITEM NO. 2

GARY GUSTAFSON: Governor, members of the Board, last March the Land Board authorized the Division to move ahead and work with the Treasurer's office to put together a Memorandum of Agreement. To better quantify the responsibilities of the respective parties that are involved in the administration of the Common School Fund. Statutorily and constitutionally several entities have certain responsibilities. They include, of course, the Land Board, the Division of State Lands, the Treasurer's office, and the Oregon Investment Council.

We've been working with the Treasurer's office since March, and we have before you today a draft Memorandum of Agreement. I want to recognize the Treasurer's office for their contributions in helping put this document together, specifically, Deputy State Treasurer Gary Bruebaker, who is here today. And I know Gary is also available to answer any questions that may arise.

We have a document before you today, asking for your authorization to finalize it and sign it. This document does spell out the responsibilities of the parties. I won't go through all of them, but what we've done is clarify precisely who does what, how, and when. Essentially, the Division of State Lands is responsible for communicating with the Land Board matters that have to do

with the Common School Fund. We also report, on a regular basis, to the Treasury the amount that is available for investment. We also arrange for the quarterly meetings that are now being held between the Division and the Treasurer's office.

The Treasury, among other things, provides a summary of the investment actions that have occurred with respect to the Common School Fund. They also communicate and coordinate the Land Board investment policy recommendations with the Oregon Investment Council, and provide timely responses to any questions or concerns that may be expressed relative to the Common School Fund from either the Board or the Division.

We think that this Agreement nicely compartmentalizes these responsibilities so that we can avoid any future ambiguity relative to responsibilities, and ask for your authorization to go ahead and finalize and sign this.

GOVERNOR BARBARA ROBERTS: Thank you, Gus. Are there comments or a motion on part of the Board?

SECRETARY OF STATE PHIL KEISLING: Madame Chair, I would like to make a motion to approve the Memorandum of Agreement. It's a real good step forward. Appreciate all the work that you and the Treasurer's staff have done on this.

STATE TREASURER JIM HILL: Second.

GOVERNOR BARBARA ROBERTS: Somehow that second doesn't come as a surprise. It's been moved and seconded that we accept Item Number 2 as a -- contained in -- there is a second version of the Agreement, is that not correct? A corrected version?

GARY GUSTAFSON: That is correct.

GOVERNOR BARBARA ROBERTS: So that we know that -- that we accept it as written in the Agenda. Is there discussion on that motion? If not, those who agree will say aye; those opposed, nay. Motion has passed.

SECRETARY OF STATE PHIL KEISLING: Good work.

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GOVERNOR BARBARA ROBERTS: We also have before us now the Consent Agenda. Could I have a motion on that, please?

STATE TREASURER JIM HILL: I move the Consent Agenda, Madame Chair.

SECRETARY OF STATE PHIL KEISLING: I'll second the Consent Agenda.

GOVERNOR BARBARA ROBERTS: Those in favor will signify by saying aye; those opposed, nay. Thank you very much.

We are now on informational item, Item Number 4, which is in regard to the Elliott State Forest Habitat Conservation Plan. Ray and Logan Jones, I think, are going to discuss this with us for awhile.

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GARY GUSTAFSON: Governor, we are approaching the time by which we are almost ready to submit the Habitat Conservation Plan for the Elliott State Forest, and an array of other documents that have to accompany it.

So to bring you up to date, relative to the status of those documents, and what we are about to do, Ray Craig, the Deputy State Forester, and Logan Jones, from the Department of Forestry are here to provide a brief update and also answer questions. Ray?

MR. RAY CRAIG: Thank you, Governor, members of the Board, my name is Ray Craig, Assistant State Forester. As Gary indicated, the Department wanted to take this opportunity to brief you folks on a benchmark date, which is occurring next Friday, where we will turn over to the US Fish & Wildlife Service a Habitat Conservation Plan and associated documents for the Elliott State Forest. Logan Jones is with me on my right, he is the principal forester for the Forest Management Division, has done an awful lot of work on this. This is the person best able, I think, to give you a brief update on the status of the Plan, and give you some ideas of the documents that will be submitted and what they mean. So, Logan.

MR. LOGAN JONES: Thanks. My name is Logan Jones, I'm the Principal Forester for the Forest Management Division of the Department of Forestry.

As you are aware that we have been working on this Habitat Conservation Plan, which is a companion document to the long-range management plan for the Elliott State Forest that you approved in draft form last year. The -- as Ray said, our plan is to submit the Habitat Conservation Plan, the accompanying environmental assessment, the implementing agreement, which is between the Department of Forestry, the Land Board, and the US Fish & Wildlife Service, and an application for an incidental take permit.

Our plan is to have Jim Brown, the State Forester, Gary Gustafson, Director of DSL, Rudy Rosen (phonetic), the Director of the Department of Fish & Wildlife, to turn these documents over to Gertch Mitch (phonetic) of the US Fish & Wildlife Service on Friday, September 16.

Just some of the highlights of the documents since you last heard about it is that we are now asking for a 60-year permit to -- for the Northern Spotted Owl, and a 6-year permit for the Marbled Murrelet. Our reasoning is that -- especially for the 6-year permit is that there is so little known about the biology of the Murrelet, is that we felt that having a long-term commitment for the management, who is not -- wise decision at this time, and so what we plan to do is to have a short-term permit with a large review at the end of that term, after we have

initiated some research and surveying to -- so we can find out some more about the biology of the Murrelet. Then that will allow us to make changes in the permit if needed or HCP, if needed, after we know more about how to do it.

We feel that -- we submitted a draft to the US Fish & Wildlife Service in June, both the Habitat Conservation Plan and the implementing agreement, and they add many comments. We have been working hard to incorporate all their comments, the Department of Forestry and the Department of Fish & Wildlife, to incorporate all of their concerns. We feel that we have done that. We think that the US Fish & Wildlife Service is in agreement with what we propose and how we plan to manage for both Marbled Murrelet, the Northern Spotted Owl, and to manage the timber to meet our -- the Land Board's constitutional responsibilities.

We think that because the environmental agreement is actually the US Fish & Wildlife Service's document, that's the part that has to go through the NEPA process. It's actually their document. There may be some minor modifications in that to meet the procedural requirements for NEPA. Since we are not NEPA experts and they are, we have tried with communication with them to provide all the information; that there may be some minor, I think, modifications.

The plan would be to submit these documents to the Fish & Wildlife Service this coming Friday. And then they will take whatever measures they need to take. There is some requirements of the Federal Endangered Species Act that they need to go through, a Section 7 consultation, which is like with any federal land that they'd have to do. Then -- we think that the schedule will go like this: is that they will publish the Executive Summary of the Environmental Assessment in the Federal Register by the end of October. At that time there will be a 30-day comment period for individuals to review the Environmental Assessment and the Habitat Conservation Plan, which is an accompanying document. At the end of the 30-day public comment period, there will also be, probably, a public hearing involved with this public comment period that the US Fish & Wildlife Service will initiate and take care of. At the end of the 30-day comment period, then we will incorporate all the significant comments that we get from the public. Our hope and our intent is to have a signed incidental take permit, which is the end process of all these documents, by the first of January. That's our thinking at this point. It's also US Fish & Wildlife's thinking at this point. We think that that is doable. It may be a little optimistic, but we do think that it is doable. Unless there is some major glitches that we

have not -- are not aware of at this time.

So with that, I'll take any questions, or if you want more detailed information about the Habitat Conservation Plan itself, we'll be happy to explain those. Whatever your wish is.

GOVERNOR BARBARA ROBERTS: Thank you, Logan. I'm just smiling to myself thinking of getting this done before I leave my term as Governor. After coming in with it, it would be nice to have one completed, approved document in process before I go. So I wasn't sure we'd ever get there early on in this process.

MR. LOGAN JONES: Well, that's our intent, is to do this--

GOVERNOR BARBARA ROBERTS: Great.

MR. LOGAN JONES: Since you and the rest of the Land Board were the major initiators of this process. We'd certainly like to do that before you do leave office.

GOVERNOR BARBARA ROBERTS: Sounds great. Are there comments or questions on the part of the Board members?

SECRETARY OF STATE PHIL KEISLING: Other than this -- I know how -- it's been a long, tedious process. We've just kept at it. We appreciate all the hard work that all of you have shown on it. I did want -- there's something in our book about timber sales I just wanted to

clarify. We are planning to do some timber sales that are consistent with our interim plan, the one that is currently in effect. We are hoping HCP will come by January, you know, it could come later obviously. In the meantime, we're trying to do what we can. But we've got some sales scheduled for late October, and US Fish & Wildlife is -- I think we've, you know, let them know about -- they're fully apprised of all that, and part of our baseline and everything.

GOVERNOR BARBARA ROBERTS: Okay.

MR. RAY CRAIG: Yes, Secretary Keisling, we have notified US Fish & Wildlife of these timber sales, and they are fully aware of them. And they will -- their attitude and response to us is they will become part of the baseline.

GOVERNOR BARBARA ROBERTS: Well, I just want to comment on this very long process, and I think a very positive one. I think we've learned a lot. I think the Department has. We have as members of this Land Board. We've discovered that it is an ongoing learning process. I think to know where we started from and the transitions we've gone through as we've learned more as the Murrelet issue came forward, as we looked at this multi-species view -- versus the view we started with. I think there's no question it's been a long and growing process for all of

us. I just want to commend the Department for the work they put into it. The cooperative way they worked with agencies, both federal and other State agencies, and I, you know -- it will be exciting to see the HCP in place and begin to move forward to demonstrate long term, over the 60 years, and even the 6-year other package that we can do this correctly. I think that Oregon will be a model, and our forest, the Elliott, will be a model for what we are capable of doing when we determine it can be done in such a manner. So I just want to personally say thank you for the work of the Department and the cooperative way and collaborative way in which you've done what you've done. So thank you.

MR. RAY CRAIG: Thank you, Governor.

MR. LOGAN JONES: Thanks.

GOVERNOR BARBARA ROBERTS: Anything else? Thank you very much, gentlemen. By the way, congratulations on being a grandfather, Ray.

MR. RAY CRAIG: Thank you.

GOVERNOR BARBARA ROBERTS: You don't look old enough to be a grandfather. Now, don't do that over there. Some of us who are grandparents look very young. Do we have anything else, Gus?

GARY GUSTAFSON: That's all.

GOVERNOR BARBARA ROBERTS: This may be a record

for us in this period of time. I don't think this Land Board has ever been done--

SECRETARY OF STATE PHIL KEISLING: I'm sure it's a record.

GOVERNOR BARBARA ROBERTS: We used to do Land Boards like this before you guys came along.

SECRETARY OF STATE PHIL KEISLING: We're moving along at mach speed, you know, it's like mach three.

GOVERNOR BARBARA ROBERTS: Thank you very much. We're adjourned.

SECRETARY OF STATE PHIL KEISLING: Are we doing a motion for adjournment?

GOVERNOR BARBARA ROBERTS: Oh, we could do that, yes.

SECRETARY OF STATE PHIL KEISLING: We could do that. I'll move we adjourn.

STATE TREASURER JIM HILL: Second.

GOVERNOR BARBARA ROBERTS: He's getting so formal in his old age. It's been moved and seconded that we adjourn. Those in favor will signify by saying aye; those opposed, nay. We are adjourned.

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