



The Oregon State Land Board met in regular session on October 26, 1995 in the Land Board Room of the State Lands Building, 775 Summer Street N.E., Salem, Oregon 97310.

Present were:

John Kitzhaber	Governor
Phil Keisling	Secretary of State
Jim Hill	State Treasurer

DIVISION OF
STATE LANDS

STATE LAND BOARD

JOHN A. KITZHABER
Governor

PHIL KEISLING
Secretary of State

JIM HILL
State Treasurer

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Governor Kitzhaber called the meeting to order. 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 Division of State Lands, 775 Summer Street N.E., Salem, Oregon 97310 (phone: 378-3805).

Elliott State Forest Habitat Conservation Plan (HCP)

Acting Director John Lilly introduced Jim Brown, State Forester, and Rick Rogers, manager of the Elliott State Forest. Brown discussed the implementation plans for the HCP, saying he is confident that under it Forestry will be able to achieve the Land Board's goals for the Elliott as well as meeting the trust responsibilities. He discussed the monitoring and adaptive management approach that the document incorporates, allowing for fine tuning as more information about the Elliott is learned.

Brown said the 1997 sale plan will be the first using the new habitat rating. He discussed upcoming sales, saying current sales are on schedule. He summarized by saying the Elliott is resuming its role as a productive forest under the HCP.

Rick Rogers said he is committed to doing a good job in managing the Elliott in an environmentally sound way.

Governor Kitzhaber noted that Oregon is the first state in the nation to have an authorized HCP that protects marbled murrelets and owls and produces a timber flow. While in Washington DC on the previous day, the Governor said Secretary Babbitt indicated that whenever Oregon is ready to start on an HCP for the Tillamook, he'll get the federal agencies lined up.

Governor Kitzhaber recognized a number of individuals for their outstanding work on the HCP. The following people received certificates of appreciation: Jill Bowling, Logan Jones, Mike DeLaune, Jane Hope, Rick Quam, Val Rapp, Rick Rogers, Ray Craig, Clark Seely, Jenifer Robison, Dave McAllister, Melinda Bruce, and Jim Brown.

Asset Management Plan

Acting Director John Lilly said that the Land Board has owned and managed lands for 130 years without a comprehensive strategy document to direct its management responsibilities. For the past 14 months, the agency has been working on the draft Asset Management Plan with the help of the consulting firm of Cogan Owens Cogan. Lilly said the Plan is being presented today to discuss the product to date and to review the results of an extensive public involvement process that has taken place. Lilly said the Division plans to circulate the revised Plan to the public during the first of December and bring it back to the Board for adoption at the December 12 Land Board meeting--in order to meet the legislatively-imposed deadline of January 1, 1996 (Senate Bill 1132).

Lilly described the document as a 20- to 30-year plan with opportunity for a five-year update and review. It classifies existing ownerships for the first time according to the capability and production of the land, balancing resource protection with revenue production.

He explained that the Plan is not parcel-specific, but rather provides a strategy to use along with the land classification, allowing the implementation process to provide the parcel-specific details.

Lilly said one of the goals of the Plan is to increase the value of the land portfolio, thus increasing the contributions to the Common School Fund.

He commented that one of the underlying principles of the Plan is recommendation of disposal of certain types of assets, either through sale or exchange, but maintaining the overall land base through acquisitions.

The dynamic of revenue generation and managing publicly-owned lands for public values was discussed. Lilly stated that the tension that this generates will always be present and must be managed.

Assistant Attorney General Bill Cook discussed the Board's legal obligations in management of the Trust and non-Trust lands. He said that since waterways are also subject to the Public Trust Doctrine, it's important to avoid unreasonable interference with public navigation, recreation, fisheries, and commerce.

Lilly reported that an aggressive public outreach effort had taken place since the release of the draft Plan. As a result, 128 individual comments were received, condensed to 17 major issue areas.

One area of concern is that the Asset Management Plan sacrifices long-term benefit for short-term gain. In response to this, Lilly stated that the Plan is a long-term plan. The management prescriptions and the classification system in the Plan allow for resource protection and take a prudent approach to land management.

The other issue Lilly said was of large concern is the potential sale of some of the rangelands. He said despite the efforts to raise fees, after factoring in indirect costs, the agency determined that management of these lands is costing more than it is returning in revenue. There were concerns that the state may rush too quickly to sell these public assets, without consideration for other values aside from just forage for cattle.

The recommendation has been to reevaluate the unleased isolated tracts for the possibility of sale or exchange first, then considering the leased isolated tracts for the same. Lilly said the blocked lands shouldn't be sold until a review of the isolated tract disposal program has been done. He said prior to any property being sold or exchanged, a predisposal evaluation needs to be done to determine the natural, cultural or recreational values existing on the site, as well as any possible alternative uses.

Jim Owens, from the consulting firm of Cogan Owens Cogan, said another major concern was a misconception that waterway lease rates would be increased upon adoption of the Plan or soon thereafter. Owens said this is not the intent. He said a reevaluation of the lease rates will be done, taking into consideration that a statewide lease rate doesn't make sense; there needs to be regional variation. He said that the reevaluation will include a public process with comments from lessees, interest groups, and the general public. Another recommendation is that the Division maintain the upland

preference right system, and in pursuing any acquisitions, the Division and Land Board should cooperate closely with ports and other upland landowners. Another recommendation with waterway leases was to put a higher priority on getting those unleased areas currently being used under lease.

It was stated that before disposing of forest lands, exchange opportunities should be explored. Governor Kitzhaber asked for clarification on this. Owens said there will be situations where an exchange is not a viable option. He said at that point, the lands would be evaluated for potential sale.

Owens said a concern surfaced over the financial analyses that were the basis of determining how the assets had been performing--particularly for rangelands. He said these analyses are being updated, using future projections of performance (as nearly as these can be determined).

John McCully, Oregon Cattlemen's Association, voiced his opinion that the rangeland is highly overvalued in the Plan as far as use for grazing purposes. He said another concern is that the Plan would be used as a tool to end grazing on public lands.

McCully said that underlying all the concerns of many folks in southeastern Oregon, is the potential impacts to their local communities if grazing is negatively impacted by actions taken as a result of the Plan. He urged the Board to uphold its fiduciary responsibilities and consider the impacts to schools, communities and the economies in the local areas.

Liz Frenkel, Sierra Club, commented that stewardship governs both fiduciary and public interest issues as well. She doesn't feel the Plan reflects that.

Frenkel suggested that in classification of lands, the description should include whether they are Trust or non-Trust lands, since it makes a difference in how the Board deals with the lands.

Governor Kitzhaber asked Frenkel whether the state should sell isolated tracts of land. She said the Sierra Club has no general opposition to sale of such parcels.

Ken Armstrong, Oregon Public Ports Association, commended staff of the Division, saying they have gone out of their way to seek their input. Relative to waterway leasing, he said, since the state doesn't have a real investment on waterway property, such as dredging and construction, and all the risk is borne by the lessee, it is not appropriate to absolutely maximize the revenue off the asset.

He also added they believe that lease rates for waterways should not be based on upland values, since often the value of the upland is created by the ports. He said marinas owned and operated by ports many times are marginal in terms of return, if they make any money at all. A substantial increase in lease rates, he said, would force them out of business.

Armstrong said the Division needs a very clear policy direction to steer it through the competing interests of public use and access, of job creation and the financial rate of return. He said the Plan presents a very positive step, though more work needs to be done on it.

Cherie Sprando, President of Waterfront Owners and Operators of Oregon, said she agreed with Armstrong's testimony. Sprando asked how the agency could make fair decisions on waterway lease fees, when the actual resource base is not known for sure. She stressed the need for the agency to have a database of all submerged and submersible lands subject to lease.

Sprando said that before determining a lease fee formula, it must be realized that the lands are basically mud, generally undevelopable as land, with no services provided by the lessor. The lessee receives only the permission to float a development of some sort on this land. She stated that the lease fee is really a tax--to raise revenue.

She said a formula for a new lease rate must be based only upon submerged and submersible lands, not upland development. She said the consumer price indexes of one area should not be used to establish other areas' rate structure. She added that using the rates charged by other states would be totally inequitable, since Oregon doesn't have the same economic structure and recreational demands as other states.

Sprando expressed concern over what she termed was an unconstitutional proposal to promote competitive bidding with the intent to use eminent domain provisions to gain access to private lands.

She suggested an enforcement division be created to collect fees due the state. She said that marketing all unleased land should increase income dramatically for the Division and lessen the burden for the few who willingly send in their yearly lease fees. She shared a chart representing the total unleased waterways compared with the existing leased waterways. Out of 800,000 acres, approximately 1,815 acres are paying fees.

Another chart showed the net income per acre for 1993-94, showing that compared with other leased lands, the leased waterways are definitely paying their share. She encouraged the Division to give a higher priority to potential revenue from the territorial sea. She suggested a task force, made up of various submerged and submersible lessees and staff of the Division to establish a fair lease fee structure, but only after the completion of the state's resource database.

Secretary of State Keisling asked Sprando what she thought of the possibility of sharing a percentage of the return or profit of the marina with the state. Sprando suggested that the state would make no money, since marina expenses are so high. She again reiterated that the state needs to get a database of their resources, and begin getting leases for those areas currently being used but not leased, which is untapped resources and potential revenue.

Secretary of State Keisling said he disagreed with Sprando when she said the lease fees were really taxes. He explained that this is a case of rent being charged for use of the land by the landowner.

Jim McCauley, Oregon Forest Industries Council, said times have changed and management of state forests will never be the same since the signing of the Habitat Conservation Plan.

McCauley said the Asset Management Plan implies that the Department of Forestry's administrative costs are excessive. He disagreed, saying their management costs for the common school forest lands are realistic for managing forests today. He said the development of the HCP resulted in a substantial cost to the Department, a reduced timber sale level and subsequent loss of revenue to the Common School Fund--things the Department of Forestry had no control over, but need to be taken into account. He said while 73 percent of the Division's land management costs are associated with Forestry's management, the revenue generated from forest lands creates 85 percent of the Common School Fund distribution. The remaining trust lands result in 27 percent of those costs, yet contribute 15 percent of that revenue.

McCauley said a higher priority should be placed on exchanges of the isolated tracts of forest land, rather than on sales. He recommends the commercial forest land base be maintained, as long as it makes economic sense.

Avis Rana discussed her concerns over the underlying philosophy of why the lands are being held by a public entity. She encouraged a look at the public lands for the long term--for even 100 years to examine what the concerns should be.

Mel Pittman, Rose City Yacht Club and member of the Columbia River Association, recommended the Board not rush in coming up with an effective formula for the waterway leasing rates in order to meet a legislatively-mandated timeframe.

In relation to Secretary of State Keisling's discussion regarding the possibility of sharing returns from marinas, Pittman explained that they are a non-profit recreational facility.

Pittman said many present at a community board meeting he attended were vitally concerned in the submerged land lease rate. A recommendation came forth that a task force be formed. Many of those present, he said, would be willing to participate in that and in the compilation of additional data.

John Murray, operator of a dry dock on the north Portland slough, said any increases in lease fees would have to be passed on to the consumer in order for him to stay in business. He asked the Board to have consideration with regards to the people who use the waterway.

Jim Schwitter, Columbia River Yachting Association, commended the Division for their work on the Plan. He said they have no problem with paying the fees, but asked that they be made fair. He cited development costs and maintenance costs on moorages as being very expensive. The Association feels these are costs for which the state is unaware.

Bill Casselman, Waterfront Owners and Operators, discussed the difficulties he has experienced with the lack of coordination between state, local, and federal offices. He encouraged working together toward a statewide goal.

Casselman asked the Board to postpone the rate study until Multnomah Channel/Sauvies Island study is finished, in order to use it for a vehicle.

He said until the zoning and the lease deal is settled for his project, he doesn't want to invest money in the state's property.

Responding to Casselman's concerns over intergovernmental coordination, Governor Kitzhaber said he held a meeting with representatives of state agencies, cities and counties to encourage better communication. He said he is working within state agencies to break down agency barriers and focus on problem solving, rather than compartmentalized thinking.

Governor Kitzhaber reiterated that the Board is not considering a waterway fee increase at this time, but rather a reevaluation of the fee structure.

Secretary of State Keisling said he is impressed with the work of the Asset Management Plan. He said the Board should think seriously about selling the isolated grazing lands, then determine how that goes. He said prior to this there should be a systematic process for determining whether sale or exchange is consistent with the Board's fiduciary duty--not just economic but considering stewardship as well. He described the Plan as one that will change with time and new Land Boards. He said this Plan will not lock the Board into any one particular course of action.

State Treasurer Hill said few states are undertaking this kind of process. He said Oregon is in a leadership position and thanked Acting Director John Lilly and staff, as well as Arnold Cogan and Jim Owens for their work. He encouraged the agency to continue the open public process.

Governor Kitzhaber suggested the agency touch bases with each of the Board members separately with the final draft before it is completed. He requested the input received on the waterway leases be included and asked for a clarification between a "recommendation" and an "option" in the final Plan.

Regarding the sale of state land, Governor Kitzhaber said land is a fairly rare commodity and the state doesn't own very much of it. He recommended exchange as a preferred option over sale.

Acting Director Lilly said the final draft will be returned to the Board on December 12. Lilly said a separate background report which will contain much of the factual information will be completed around the first of the year and available shortly thereafter.

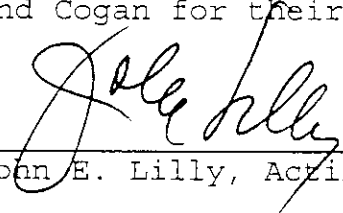
Jim Owens said the Plan will lay out a process for developing implementation. The final Plan will show when items are scheduled to occur, responsibilities, costs, etc. He said this will not be laid out prior to January 1, 1996.

Arnold Cogan said the implementation will be done in a building block style. It will occur over three biennia.

Lilly said the final plan will expand on the existing implementation action program described in the draft Plan.

Governor Kitzhaber asked that written testimony from Ray Simms, Lake County, and William Montgomery from the Portland Rowing Club be entered into the record.

Governor Kitzhaber thanked Acting Director Lilly, staff, Owens and Cogan for their work. He adjourned the meeting at 10:58 am.



John E. Lilly, Acting Director



John A. Kitzhaber, Governor