

## STAFF REPORT

Agenda Item No.: 4  
Title and # of Issue: State Forests Management – Issue 2  
Objective 4 – Evaluate the OAR for Land Acquisitions and Exchanges  
Date of Presentation: March 7, 2007  
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### **SUMMARY**

This item will provide the Board of Forestry (Board) with the results of the initial Department evaluation of the current Oregon Administrative Rules (OAR) 629-033-0000 through 629-033-0055 governing land acquisitions and exchanges. The Department will also provide a recommendation on when to proceed with potential changes, if any, to the existing rules.

### **CONTEXT**

The Board selected this item to include in the State Forests work plan. In addition, given the challenges of the G & N land exchange, it seemed prudent to revisit the OAR and therefore was added to the Board's work plan in 2007.

### **BACKGROUND AND ANALYSIS**

Historically land exchange and acquisitions are pursued by the State Forests program for a number of reasons including:

- Acquiring land for stated statutory purposes set out in Oregon Revised Statute (ORS) 530.010 (i.e. value for production of forest crops, watershed protection and development, erosion control, grazing, recreation, or forest administrative purposes; and
- Furthering the goal of consolidating the land base.

The current rules were approved by the Board in September 2001. In 2002 the Board approved the G & N and Swanson land exchanges. The G & N exchange was subsequently appealed as a contested case, as provided for in the new rules under 629-033-0055. Given the case was contested, the Board and Department have had several discussions since 2002 about the rules and processes associated with land transactions. The Department's land specialist has researched and documented Board discussion related to the rules from 2002 through 2004. The Board raised questions that required Department follow-up and the results included the following items:

- A legal opinion related to the issue of whether or not consolidation is needed to be a factor in land exchanges.
- A comprehensive checklist was developed (and since used in successful exchanges) for determining compliance with requirements of the exchange rules as part of the package presented to the Board of Forestry.

- A presentation that provided an overview of policy and processes associated with land transactions.

Since April 2003 there have been two land exchanges and one acquisition that were successfully completed following the process and procedures presented to the Board and using the comprehensive checklist.

The Department is currently involved with two initiatives that may result in new policy related to land acquisition. They include the Working Forests for Higher Education legislative concept (SB 98) and the community forestry initiative. If legislation is passed related to the Working Forests for Higher Education, it would present alternatives for acquiring forest land. At that time, it would be beneficial to evaluate the need for rule revisions and/or new rules associated with land acquisition the Board has authority to make.

### **RECOMMENDATION**

The Department recommends the Board defer revising the current OAR for land acquisition and exchange until the results of other policy discussions surrounding alternatives for acquiring land are known.

In addition, the State Forests program plans on:

- Finalizing the draft State Forests Program policy, procedure and guidance documents based on the current rule.
- Proceeding with updating district long-range acquisition and exchange plans as outlined in the State Forests Program documents mentioned above.
- Proceeding with high priority acquisition and exchange opportunities as they arise.

### **NEXT STEPS**

In the short term (one year), the Board will be presented, likely through consent agendas, with updated district long-range acquisition and exchange plans. The West Oregon District is expected to be the first district to do so by the summer of 2007. The Department will proceed with priority land transactions, such as exchanges where willing partners are ready to proceed. As specific proposals are pursued, the Department will present, when needed, approval in concept documents to the Board for approval to proceed. At that time, the Department will present the proposal to the Board in context with the district long-range acquisition and exchange plan.

After the results of the legislative session (Working Forests for Higher Education proposed legislation) and the results of the community forestry initiative are known, proceed with rule revisions or development as needed.

### **ATTACHMENTS**

- (1) Oregon Department of Forestry Land Acquisition and Exchange Rules -Issue Paper
- (2) OAR ch 629 Division 33 – Land Acquisitions and Exchanges