



Oregon

Kate Brown, Governor

Public Wi-Fi logon: LandsDSL

Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

(503) 986-5200

FAX (503) 378-4844

www.oregon.gov/dsl

State Land Board

STATE LAND BOARD

December 18, 2018

10:00 am – 12:00 pm

Oregon Department of State Lands

Land Board Room

775 Summer St NE

Salem, Oregon

Kate Brown

Governor

Dennis Richardson

Secretary of State

Tobias Read

State Treasurer

AGENDA

Consent Items

1. Request for approval of the minutes of the August 14, 2018, State Land Board Meeting and the October 16, 2018, State Land Board Meeting.
2. ODOT Bridge Easement – Schooner Creek
3. ODOT Bridge Easement – John Day River

Action Items

4. Easement Rulemaking
5. Coos County Filled Land Sale
6. Clarification of Callan's Annual Report
7. Elliott State Forest Updates
 - OSU proposal presentation
 - Other proposal presentations
 - Declaration regarding the \$100 million in bonding

Continued on next page

From: ELZINGA Stephen * SOS <Stephen.ELZINGA@oregon.gov>
Sent: Monday, December 17, 2018 12:01 PM
To: Governor Brown * GOV; READ Tobias; WALKER Vicki
Cc: CUMMINGS Leslie * SOS; MINER Jason * GOV; MANN Ryan; RYAN Bill; STRAIGHT Jean; RICHARDSON Dennis * SOS
Subject: RE: Land Board Meeting

Land Board Members and Director Walker,

Secretary Richardson has decided to withdraw the delegation below. As you all know, the Land Board has received verbal advice from the Attorney General disagreeing with part of this delegation. Although our office has a different perspective on this, Secretary Richardson does not want to waste taxpayer resources on a lengthy legal fight to vindicate his rights as a member of the Land Board. Secretary Richardson has always focused on the Land Board's constitutional and moral duty to prioritize school funding through efficiency and improved management of Common School Fund trust lands. He appreciates your partnership in these efforts.

Thank you,
Steve

P.S. In order to ensure full transparency, Secretary Richardson requests that Director Walker include this email with the December 18 public meeting materials.



Steve Elzinga
Governmental & Legal Affairs Director
Office of the Secretary of State
503-986-2299 (desk)
971-283-0001 (cell)
stephen.elzinga@oregon.gov

*****CONFIDENTIALITY NOTICE*****

This e-mail may contain information that is privileged, confidential, or otherwise exempt from disclosure under applicable law. If you are not the addressee or it appears from the context or otherwise that you have received this e-mail in error, please advise me immediately by reply e-mail, keep the contents confidential, and immediately delete the message and any attachments from your system.

From: RICHARDSON Dennis * SOS
Sent: Monday, October 15, 2018 5:37 PM
To: Governor Brown * GOV <Governor.Brown@oregon.gov>; READ Tobias <Tobias.Read@state.or.us>; WALKER Vicki <Vicki.Walker@state.or.us>
Cc: CUMMINGS Leslie * SOS <Leslie.CUMMINGS@oregon.gov>; ELZINGA Stephen * SOS <Stephen.ELZINGA@oregon.gov>; MINER Jason * GOV <Jason.MINER@oregon.gov>; MANN Ryan <Ryan.Mann@state.or.us>; RYAN Bill <bill.ryan@state.or.us>; STRAIGHT Jean <Jean.Straight@state.or.us>
Subject: Land Board Meeting

**DENNIS
RICHARDSON**
Secretary of State



900 Court St NE, Suite
136
Salem, OR 97301
(503) 986-1500

Governor Brown, Treasurer Read, and Director Walker,

I am incredibly grateful to serve the people of Oregon as their Secretary of State and work with you on the Land Board. We are doing important work together.

Despite my cancer treatment, I remain focused on the core functions of my office and am working with my executive leadership team daily to provide direction.

In order to focus my time and energy, I have decided to reduce public appearances. Under Section 5, Article VIII of the Oregon Constitution and ORS 177.040, my Deputy Secretary of State will attend Land Board meetings and vote on my behalf for the duration of my cancer treatment. My Governmental and Legal Affairs Director will continue to serve as Land Board Assistant. I have instructed them to continue prioritizing my longstanding focus on the Land Board's constitutional and moral obligation to improve management of our public lands and generate more education funding for our kids and grandkids. We need to do all we can to invest in smaller class sizes, more school days, expanded career training, more highly-qualified teachers, and provide a fair shot for a bright future to all Oregon children.

Sincerely,

Dennis

P.S. In order to ensure full transparency, I'm asking Director Walker to include this email in the October 16 public meeting materials.

- Review and/or discussion of public comments received regarding Oregon Consensus Report
- Direction from the Land Board on next steps for public engagement

8. UP Transfer Bill (LC 686)

9. Resolution regarding Sough Slough National Estuarine Research Reserve

10. OOST Reappointments

Informational Items

11. Other

Livestream available at: <https://www.youtube.com/channel/UCQA7FHTWwl-gjJkQeYPJ1IA>

This meeting will be held in a facility that is accessible for persons with disabilities. If you need assistance to participate in this meeting due to a disability, please notify Arin Smith at (503) 986-5224 or arin.n.smith@state.or.us at least two working days prior to the meeting.

Public Testimony - The State Land Board places great value on information received from the public. The Board accepts both oral and written comments on **consent and action agenda items only**.

When providing testimony, please:

- Provide written summaries of lengthy, detailed information
- Recognize that substance, not length, determines the value of testimony or written information
- Endorse rather than repeat the testimony of others

Written comments may be submitted before or during the meeting for consideration by the Board. To speak at the meeting, you must sign in on the sheet provided at the information table located near the meeting room's entrance. The standard time limit is three minutes for each individual. The Board cannot accept testimony on a topic for which a public hearing has been held and the comment period has closed.



Oregon

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State Land Board

Kate Brown

Governor

Dennis Richardson

Secretary of State

Tobias Read

State Treasurer

The State Land Board (Board) met in regular session on August 14, 2018, in the Land Board Room at the Department of State Lands, 775 Summer Street NE, Salem, Oregon.

Present were:

Kate Brown

Governor

Dennis Richardson

Secretary of State (by telephone)

Tobias Read

State Treasurer

Land Board Assistants

Jason Miner

Governor's Office

Steve Elzinga

Secretary of State's Office (by telephone)

Ryan Mann

State Treasurer's Office

Department Staff

Vicki Walker

Bill Ryan

Jean Straight

Ali Ryan-Hansen

Chris Castelli

Arin Smith

Anne Friend

Department of Justice

Matt DeVore

Governor Brown called the meeting to order at 10:00 a.m. The topics discussed, and the results of those discussions are listed below. To view the Land Board meeting in its entirety, please visit our YouTube page: <https://www.youtube.com/watch?v=tyYtufuxT7c>

CONSENT AGENDA

1. Request for approval of the minutes of the June 12, 2018, State Land Board meeting.

10:03 a.m.

Director Vicki Walker briefly described the items on the consent agenda.

Treasurer Read made a motion to approve the consent agenda.

Secretary Richardson seconded that motion.

There were no objections to this motion. The consent agenda was approved at 10:03 a.m.

Action Items

2. Amended Budget Request

10:03 a.m.

Director Walker briefly described package 115, an addition to DSL's budget submission at the June meeting.

Treasurer Read made a motion to approve agenda item 2.
Secretary Richardson seconded that motion.
The action item was approved at 10:06 a.m.

3. South Redmond Tract

10:06 a.m.

Director Walker made a request for approval to continue the planning process on the South Redmond Tract by submitting applications to expand the Urban Growth Boundary and for Annexation of the property into the jurisdiction of the City of Redmond, and by applying Large Lot Industrial zoning designation to the property. Request for approval to partition two parcels from the larger parcel for a land exchange with Deschutes County and a land sale to Oregon Military Department.

10:17 a.m.

Director Walker introduced George Endicott, Mayor of the City of Redmond who briefly addressed the Board.

Questions were taken from Governor Brown.

Director Walker then recognized those involved in the project and a representative from the Military Department briefly addressed the Board.

Treasurer Read made a motion to approve agenda item 3.
Secretary Richardson seconded that motion.
The action item was approved at 10:21 a.m.

A short recess was taken for photos.

Informational Items

4. Update on Request for Information (RFI) for Forest Land Management

10:35 a.m.

Director Walker gave a short update on the public information gathering process to look at options and alternatives for the management of state forest lands.

5. Other

10:37 a.m.

Director Walker gave short updates on the following items:

- Elliott State Forest update
- Elliott State Forest Tour
- Bend Tour – Rangeland and Communication site
- UP Auction update

Governor Brown adjourned the meeting at 11:00 a.m.

Kate Brown, Governor

Vicki L. Walker, Director



Oregon

Kate Brown, Governor

Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

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State Land Board

The State Land Board met in regular session on October 15, 2018, in the Land Board Room at the Department of State Lands, 775 Summer Street NE, Salem, Oregon.

Present were:

Kate Brown
Leslie Cummings
Tobias Read

Governor
Deputy Secretary of State
State Treasurer

Kate Brown
Governor

Dennis Richardson
Secretary of State

Land Board Assistants

Jason Miner
Steve Elzinga
Ryan Mann

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

Tobias Read
State Treasurer

Department Staff

Vicki Walker Bill Ryan Jean Straight Ali Hansen Chris Castelli
Nancy Pustis Anne Friend Melissa Pelton

Department of Justice

Matt DeVore

Governor Brown called the meeting to order at 10:31 a.m. The topics discussed, and the results of those discussions are listed below. To view the Land Board meeting in its entirety, please visit our YouTube page: <https://www.youtube.com/watch?v=zHEqDswf-o0>

The Governor made a statement for the record that Secretary Richardson would be unable to join the meeting and Deputy Secretary Leslie Cummings would attend in his place.

Consent & Action Items

These items were postponed until the December Land Board meeting.

Informational Items

1. Trust Property Reports

10:33 a.m.

Director Walker gave a short description of the Trust Property Program and its processes.

She then gave an update on the process of moving the Unclaimed Property Program to Treasury.

Comments were taken from Governor Brown and Treasurer Read

2. Goble Update

10:46 a.m.

Director Walker gave an update on the cleanup of the Goble Superfund Site. The cost of the cleanup is \$11.2 Million and climbing. This cost included the removal of several derelict vessels, including the River Queen.

3. Chetco Pilot Filled Lands Update

10:52 a.m.

Director Walker gave an updated on the Chetco Pilot and stated that future work researching possible historically filled lands will most likely be outsourced.

4. Oregon Consensus Report

10:55 a.m.

Director Walker stated that the Habitat Conservation Plan (HCP) process is underway. She then introduced Peter Harkama, Director of Oregon Consensus. Peter gave an overview of their report.

Land Board members gave their comments.

Public input regarding the report will be taken through November 15, 2018.

5. RFI Forest Management Update

11:20 a.m.

Director Walker gave a summary on the Request for Information (RFI) process and outcome. She also informed the Board on her plans for next steps in finding a solution for the management of forest lands and the generation of revenue for the Common School Fund.

Public testimony was then taken, and Land Board members gave their comments.

6. Other

11:30 a.m.

Director Walker recognized DSL's Multicultural Awareness Committee and members for their work on the very successful diversity trainings that were offered to staff in October.

Bend staff, Randy Wiest and Sheena Miltenberger were then recognized for their work on and completion of the DSL Rangeland Inventory four years ahead of schedule.

Director Walker then gave a short update on the possible transfer in management of the South Slough National Estuarine Research Reserve (SSNERR).

Governor Brown adjourned the meeting at 11:51 a.m.

Kate Brown, Governor

Vicki L. Walker Director



Oregon

Kate Brown, Governor

Department of State Lands

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Kate Brown

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Secretary of State

Tobias Read

State Treasurer

State Land Board

Regular Meeting December 18, 2018 Agenda Item 2

SUBJECT

Approval of a perpetual easement for the bridge crossing on Highway 101 over Schooner Creek in the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 34 of Township 07 South, Range 11 West of Willamette Meridian in Lincoln County, Oregon.

ISSUE

Whether the State Land Board should approve a request from Oregon Department of Transportation (ODOT) for a perpetual easement to construct and maintain the bridge crossing Schooner Creek on Highway 101.

AUTHORITY

Article VIII, Section 5 of the Oregon Constitution; requiring the Land Board to “manage lands under its jurisdiction with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management.”

ORS 273.171; relating to the responsibilities and authority of the Director for the administration of the department.

OAR 141-122-0010 to 141-122-0120; establishing procedures for granting easements and rights-of-way on trust and non-trust lands and requiring Land Board approval of easements granted in perpetuity.

PUBLIC INVOLVEMENT

The application was not circulated for public comment since the bridge is an existing structure. Local approval for the project would have been granted prior to original construction.

BACKGROUND

This is a bridge preservation project. The Schooner Creek Bridge was constructed between 1930 and 1949, and has significant corrosion, cracking and concrete spalling. The primary purpose of this project is to make structural repairs and provide cathodic protection to the bridge. Minor roadway work is included to match into existing conditions.

Compensation is required as this easement falls within Lincoln City's city limits, as displayed in Appendix A. Compensation was determined pursuant to OAR 141-122-0070 (7)(c) and totals \$100.

RECOMMENDATION

The Department of State Lands recommends that the State Land Board approve the permanent easement to Oregon Department of Transportation 61061-EA to construct, maintain and operate a bridge over and across Schooner Creek, on Highway 101, Lincoln County, Oregon.

APPENDICES

- A. Map
- B. Draft Easement for 61061-EA

State of Oregon
Department of State Lands



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

EXHIBIT A:

**Waterway Easement 61061-EA
T07S, R11W Section 34
Schooner Creek, Lincoln County**

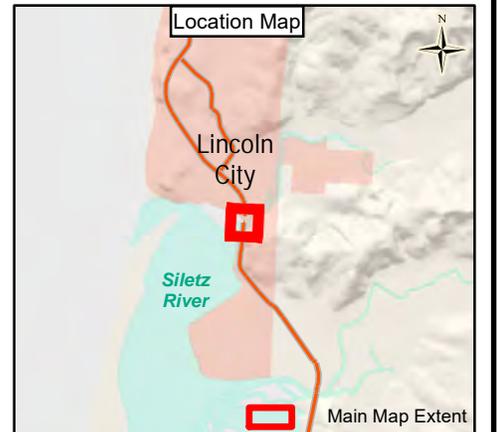
2016 Aerial Photo

This map depicts the approximate location and extent of a Department of State Lands Proprietary authorization for use. This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

0 50 100



Map Projection:
Oregon Statewide Lambert
Datum NAD83
International Feet
State of Oregon
Department of State Lands
775 Summer St NE, Suite 100
Salem, OR 97301
503-986-5200
www.oregon.gov/DSL
Date: 6/26/2018



STATE OF OREGON
Department of State Lands

EASEMENT NO. 61061-EA
S&S Bridge

The STATE OF OREGON, by and through its Department of State Lands, GRANTOR, for and in consideration of \$ 100.00, hereby grants to GRANTEE,

NAME of GRANTEE:	ADDRESS:
Oregon Department of Transportation	455 Airport Rd. SE, Building A Salem, OR 97301

an easement and right to construct, maintain, operate and replace a bridge over, upon, and across the following particularly described property situated in Lincoln County, Oregon, more particularly described as follows:

A parcel of land lying in Section 34, Township 7 South, Range 11 West, W.M., Lincoln County, Oregon; the said parcel being all state-owned submerged and submersible land within Schooner Creek lying below the line of Mean Low Tide on the North and lying below the line of Mean High Tide on the South, and lying Easterly of the West right of way line, said line being parallel with and 30.00' Westerly of the L1 center line of the Oregon Coast Highway and lying Westerly of the East right of way line, said line being parallel with and 70.00' Easterly of the L2 center line of the Oregon Coast Highway, said center lines are described as follows:

L1 Center Line:

Beginning at Engineer's center line Station 1077+ 71.30, said Station being 720.08 feet North and 532.32 feet East of the North quarter corner of Section 34, Township 7 South, Range 11 West, W.M., Lincoln County, Oregon;

thence South 49°14'22" East 1368.40 feet;

thence on a 477.47 foot radius curve right (the long chord of which bears South 21°56'22" East 437.9 feet) 455.00 feet;

thence South 5°21'38" West 486.30 feet;

thence on a 477.47 foot radius curve to the right (the long chord of which bears South 16°40'08" West 187.25 feet) 188.47 feet to Engineer's center line Station 1102+69.47.

L2 Center Line:

Beginning at Engineer's center line Station 1079+75.95, said Station being 579.94 feet

North and 693.96 feet East of the North quarter corner of Section 34, Township 7 South, Range 11 West, W.M., Lincoln County, Oregon;

thence South 49°29'11" East 1031.50 feet;

thence on a spiral curve right (the long chord of which bears South 46°19'14" East 199.76 feet) 200.00 feet;

thence on a 603.11 foot radius curve right (the long chord of which bears South 32°46'41" East 151.35 feet) 151.75 feet;

thence on a spiral curve right the long chord of which bears South 1°27'44" East 746.68 feet) 760.00 feet to Engineer's center line Station 1101+19.20 back equals 1101+ 16.80 ahead;

thence South 10°31'49" West 183.20 feet to Engineer's center line Station 1103+00.

Bearings are based upon Oregon Coordinate Reference System (OCRS), Oregon Coast Zone, NAD83(2011), Epoch 2010.

Containing 0.79 acres or 34,621 square feet, more or less, and as shown on the attached Exhibit A.

TO HAVE AND TO HOLD the same unto GRANTEE in perpetuity, subject to the following conditions:

1. GRANTOR has the right to grant additional easements within the area authorized by this easement subject to the provisions of the administrative rules governing the granting of easements.
2. GRANTEE shall obtain prior written approval from GRANTOR prior to:
 - a) Changing the type of use authorized by this easement;
 - b) Expanding the number of authorized developments or uses;
 - c) Changing the authorized area; and/or
 - d) Permitting other persons to utilize the easement for uses and developments requiring separate written authorization by GRANTOR pursuant to the administrative rules governing the granting of easements or other GRANTOR requirements.
3. The easement area shall remain open to the public for recreational and other non-proprietary uses unless restricted or closed to public entry by the State Land Board or GRANTOR.

4. GRANTOR and/or its authorized representative(s) shall have the right to enter into and upon the easement area at any time for the purposes of inspection or management.
5. Except as expressly authorized in writing by the Department, GRANTEE shall not:
 - a) Cut, destroy or remove, or permit to be cut, destroyed or removed any vegetation, or
 - b) Remove any sand and gravel, or other mineral resources for commercial use or sale, that occur in the easement area except as expressly authorized in writing by GRANTOR.

Routine right-of-way maintenance including vegetation trimming shall be allowed.

6. GRANTEE shall compensate GRANTOR for the fair market value of any commercially valuable timber or sand and gravel resources in the easement area that must be removed during or after placement of the authorized use, or which cannot be developed because of the authorized use.
7. GRANTEE shall conduct all operations within the easement area in a manner that conserves fish and wildlife habitat; protects water quality; and does not contribute to soil erosion, or the introduction or spread of noxious weeds or pests. Upon completion of construction, GRANTEE shall reclaim disturbed lands to a condition satisfactory to GRANTOR.
8. GRANTEE shall obtain a surety bond in the amount of \$N/A to ensure compliance with the terms and conditions of this easement.
9. The right to use this easement shall automatically terminate if it, or the development authorized by GRANTOR, is not used within five (5) consecutive years of the date this easement was granted, pursuant to the provisions of the administrative rules governing the granting of easements.
10. Unless otherwise approved in writing by GRANTOR, GRANTEE shall remove all cables, pipes, conduits, roads, and other developments placed by GRANTEE on the easement, and shall restore the surface of the easement area to a condition satisfactory to GRANTOR within one (1) year following termination of use or expiration of this easement.
11. GRANTEE shall inspect the condition of the area authorized by this easement and the developments authorized by this easement on a frequency of: Annually.
12. GRANTOR shall have the right to stop operation of the use authorized by this easement for noncompliance with the conditions of this easement, the provisions of the administrative rules governing the granting of easements, and/or any lawful requirement by a regulatory agency of this STATE.

13. If this easement authorizes the use of state-owned submerged and/or submersible land:
 - a) Construction in navigable waters shall conform to the standards and specifications set by the U.S. Army Corps of Engineers and the U.S. Coast Guard for the use authorized by this easement.
 - b) Any blasting which may be necessary, or in-water placement, maintenance, or repair of the authorized use shall be performed according to the laws of this STATE, including strict adherence to Oregon Department of Fish & Wildlife in-water work windows.
14. GRANTEE shall pay to GRANTOR the current market value, as determined by GRANTOR, for any unnecessary and non-approved damages to state-owned lands caused by construction or maintenance of the easement.
15. GRANTEE shall pay all assessments that may be legally charged on public lands which are levied against the property subject to this easement, whether or not such assessments have been levied against the easement area or STATE by the assessing agency.
16. GRANTEE shall use the authorized easement area only in a manner or for such purposes that assure fair and non-discriminatory treatment of all persons without respect to race, creed, color, religion, handicap, disability, age, gender or national origin.
17. This easement is freely transferable. However, no transfer may increase the burden on the easement area or detract from the value of the underlying state-owned land.

[remainder of page intentionally left blank]

This easement does not convey an estate in fee simple of the lands used for a right-of-way. This grant is for an easement only, and title remains in the State of Oregon.



STATE OF OREGON, acting by and through its Department of State Lands

DSL Authorized Signature/Printed Name

Date

STATE OF OREGON)
)ss
County of Marion)

This foregoing instrument was acknowledged before me this ____ of _____, 20 , by _____, the _____ of the Department of State Lands.

Signature
My commission Expires _____, 20__.

CERTIFICATE OF APPROVAL OF CONVEYANCE
(ORS 93.808)

THE OREGON DEPARTMENT OF TRANSPORTATION, Grantee, hereby approves and accepts, pursuant to ORS 93.808, the grant of an interest in real property from THE DEPARTMENT OF STATE LANDS, Grantor, as described in the instrument to which this Certificate is attached.

A copy of this Certificate may be affixed to, and recorded with, the instrument described above.

DATED this 2 day of July, 2018.

Oregon Department of Transportation
Grantee

By: [Signature]

Name: John Boals

Title: DOT Region 2 ROW Manager

STATE OF OREGON)
) ss.
County of MARION)

On this 2ND day of JULY, 2018, before me personally appeared JOHN BOALS, who being duly sworn stated that he/she is the REG 2 ROW MANAGER of OR DEPT. OF TRANSPORTATION, Grantee, and acknowledged the foregoing instrument to be the voluntary act of said Grantee and that he/she executed the foregoing instrument under authority granted by said Grantee.

[Signature]
NOTARY PUBLIC FOR OREGON
My commission Expires: OCTOBER 8, 2021

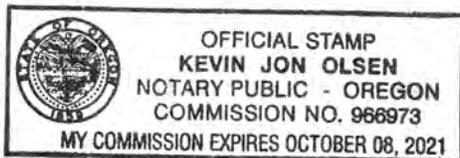


EXHIBIT A - Page 1 of 1

File 9373001
 Drawing 1R-4-1285
 January 9, 2018

Parcel 1 – Permanent Easement for Highway Right of Way Purposes

A parcel of land lying in Section 34, Township 7 South, Range 11 West, W.M., Lincoln County, Oregon; the said parcel being all state-owned submerged and submersible land within Schooner Creek lying below the line of Mean Low Tide on the North and lying below the line of Mean High Tide on the South, and lying Easterly of the West right of way line, said line being parallel with and 30.00' Westerly of the L1 center line of the Oregon Coast Highway and lying Westerly of the East right of way line, said line being parallel with and 70.00' Easterly of the L2 center line of the Oregon Coast Highway, said center lines are described as follows:

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L2 Center Line:

Beginning at Engineer's center line Station 1079+75.95, said Station being 579.94 feet North and 693.96 feet East of the North quarter corner of Section 34, Township 7 South, Range 11 West, W.M., Lincoln County, Oregon; thence South 49°29'11" East 1031.50 feet; thence on a spiral curve right (the long chord of which bears South 46°19'14" East 199.76 feet) 200.00 feet; thence on a 603.11 foot radius curve right (the long chord of which bears South 32°46'41" East 151.35 feet) 151.75 feet; thence on a spiral curve right (the long chord of which bears South 1°27'44" East 746.68 feet) 760.00 feet to Engineer's center line station 1101+19.20 back equals 1101+16.80 ahead; thence South 10°31'49" West 183.20 feet to Engineer's center line Station 1103+00.

Bearings are based upon Oregon Coordinate Reference System (OCRS), Oregon Coast Zone, NAD83(2011), Epoch 2010.

This parcel of land contains 34,621 square feet, more or less.

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

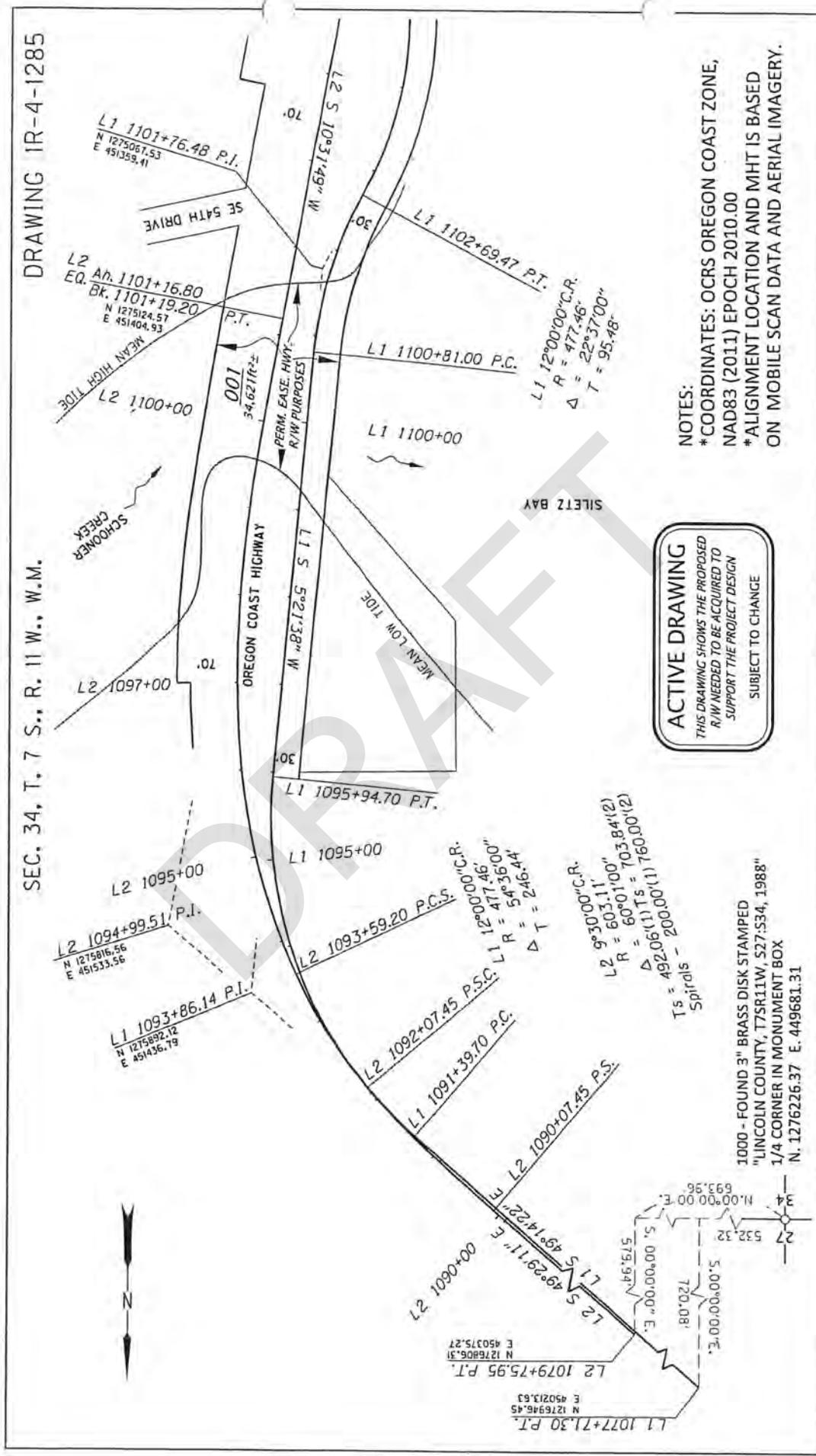
DIGITALLY SIGNED Jan 10 2018 3:33 PM

OREGON
 DECEMBER 6, 2013
 ANDREW MICHAEL MILLER
 79372

RENEWAL DATE: 12/31/2018

DRAWING IR-4-1285

SEC. 34, T. 7 S., R. 11 W., W.M.



ACTIVE DRAWING
 THIS DRAWING SHOWS THE PROPOSED R/W NEEDED TO BE ACQUIRED TO SUPPORT THE PROJECT DESIGN
 SUBJECT TO CHANGE

NOTES:
 * COORDINATES: OCRS OREGON COAST ZONE, NAD83 (2011) EPOCH 2010.00
 * ALIGNMENT LOCATION AND MHT IS BASED ON MOBILE SCAN DATA AND AERIAL IMAGERY.

1000 - FOUND 3" BRASS DISK STAMPED
 "LINCOLN COUNTY, T75R11W, S27-534, 1988"
 1/4 CORNER IN MONUMENT BOX
 N. 1276226.37 E. 449681.31

SECTION		CAD FILE NAME		REVISION HISTORY	
US101: SCHOONER CREEK	US101: SCHOONER CREEK	S18599_RET01.DGN			
Highway	OREGON COAST	Scale	1" = 100'	DATE	
County	LINCOLN	Date	JAN. 2018	NAME	
Purpose	DSL EASEMENT	Proj. No.	9373	DESCRIPTION	

OREGON DEPARTMENT OF TRANSPORTATION
Exhibit A
RIGHT OF WAY DRAWING



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

EXHIBIT A:

Waterway Easement 61061-EA
T07S, R11W Section 34
Schooner Creek, Lincoln County

2016 Aerial Photo

This map depicts the approximate location and extent of a Department of State Lands Proprietary authorization for use. This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

0 50 100

Feet



Map Projection:
Oregon Statewide Lambert
Datum NAD83
International Feet
State of Oregon
Department of State Lands
775 Summer St NE, Suite 100
Salem, OR 97301
503-986-5200
www.oregon.gov/DSL
Date: 6/26/2018



Map Producer: bheim



Oregon

Kate Brown, Governor

Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

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State Land Board

Kate Brown

Governor

Dennis Richardson

Secretary of State

Tobias Read

State Treasurer

State Land Board

**Regular Meeting
December 18, 2018
Agenda Item 3**

SUBJECT

Request approval to grant a perpetual easement for a bridge crossing the John Day River, in Section 32 of Township 07 South, Range 19 East of the Willamette Meridian in Wheeler and Wasco Counties.

ISSUE

Whether the State Land Board should approve a request from the Oregon Department of Transportation (ODOT) for a perpetual bridge easement crossing the John Day River.

AUTHORITY

Article VIII, Section 5 of the Oregon Constitution; requiring the Land Board to “manage lands under its jurisdiction with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management.”

ORS 273.171; relating to the duties and authority of the Director.

OAR 141-122-0010 to 141-122-0120; establishing procedures for granting easements and rights-of-way on trust and non-trust lands and requiring Land Board approval of easements granted in perpetuity.

BACKGROUND

The existing ODOT bridge has been in place since 1975. This bridge, the Clarno Bridge, is the only ODOT bridge crossing within DSL’s proprietary jurisdiction in Wasco and

Wheeler Counties. ODOT is seeking a permanent easement and has completed the required bridge survey.

This crossing is not within any city limits; therefore, pursuant to OAR 141-122-0060(7)(c), does not require any compensatory payment.

PUBLIC INVOLVEMENT

The application was circulated to adjoining property owners, various city, state and federal resource and permitting agencies, and tribal entities. No significant comments were received from the circulation.

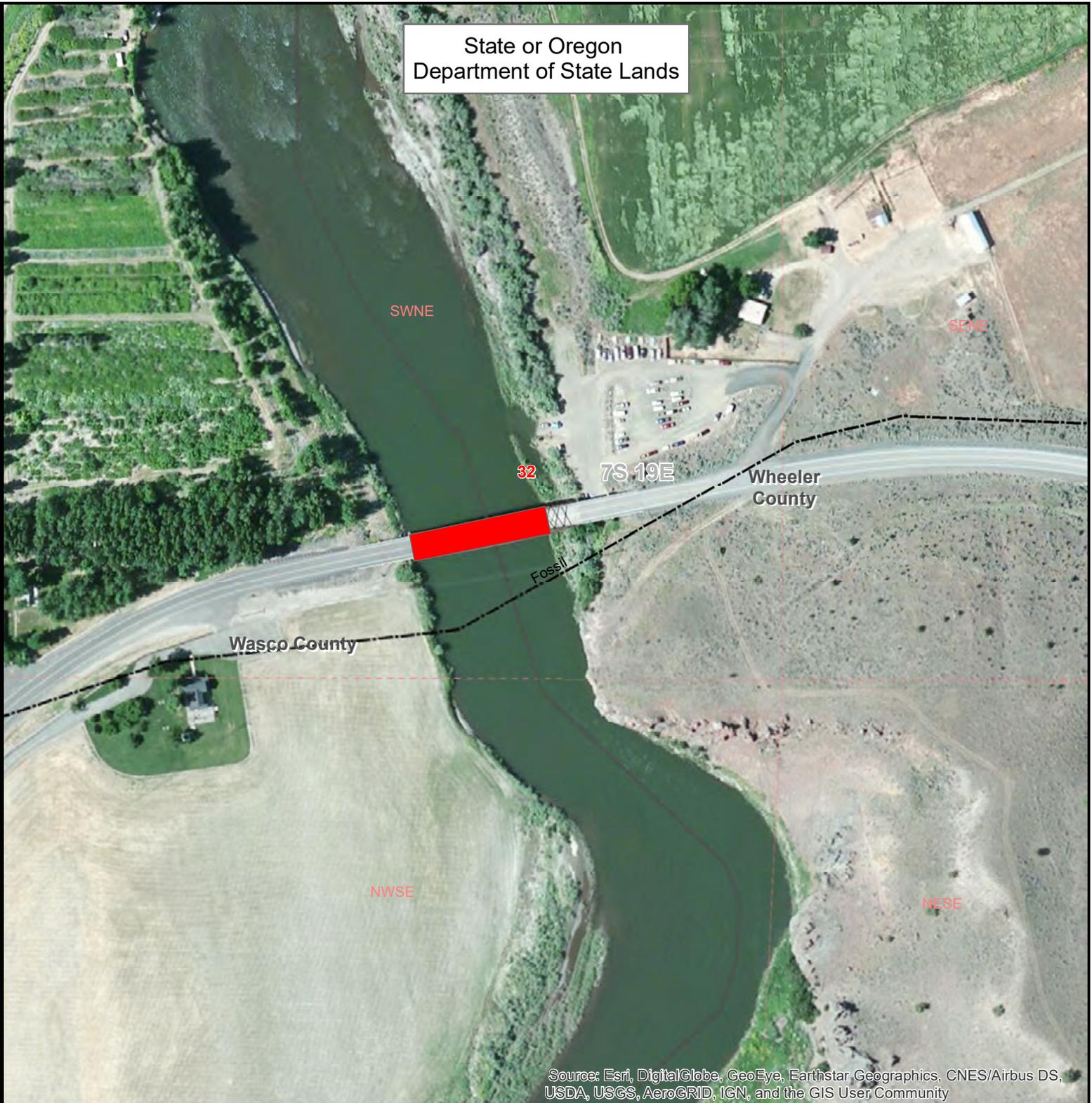
RECOMMENDATION

The Department recommends that the State Land Board approve the perpetual easement 60756-EA to the Oregon Department of Transportation for the bridge crossing to maintain and operate the bridge and cables for right of way purposes on, over, under or across the John Day River.

APPENDICES

- A. Map
- B. Draft Easement 60756-EA

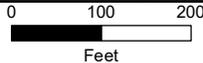
State or Oregon
Department of State Lands



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

EXHIBIT A

Easement Application 60756-EA
R.M. 110 John Day River
ODOT Bridge at Clarno
Wasco County



Map Projection:
Oregon Statewide Lambert
Datum NAD83
International Feet

State of Oregon
Department of State Lands
775 Summer St NE, Suite 100
Salem, OR 97301
503-986-5200
www.oregon.gov/DSL
Date: 12/19/2017



Legend

 Clarno_Bridge

This map depicts the approximate location and extent of a Department of State Lands Proprietary authorization for use. This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

STATE OF OREGON
Department of State Lands

EASEMENT NO. 60756-EA
Bridge Crossing

The STATE OF OREGON, by and through its Department of State Lands, GRANTOR, for and in consideration of \$0.00 hereby grants to GRANTEE,

NAME of GRANTEE:
State of Oregon, by and through its
Department of Transportation

ADDRESS:
4040 Fairview Industrial Dr. SE MS #2
Salem, OR 97302-1142

an easement and right to construct, maintain, operate and replace a bridge over, upon, and across the following particularly described property situated in Wheeler and Wasco Counties, Oregon, more particularly described as follows:

A parcel of land lying in the SW1/4NE1/4 of Section 32, Township 7 South, Range 19 East, Willamette Meridian, Wasco and Wheeler Counties, Oregon and being a portion of that property lying between the ordinary high water lines of the John Day River; the said parcel being that portion of said property lying between lines at right angles to the center line of the relocated Shaniko – Fossil Highway Highway at Engineer’s Stations 124+17.00 and 128+00.00 and included in a strip of land 100.00 feet in width, lying on the Southerly side of said center line.

ALSO that portion of said property lying between line at right angles to the center line of the relocated Shaniko – Fossil Highway Highway at Engineer’s Stations 124+17.00 and 128+00.00 and included in a strip of land 80.00 feet in width, lying on the Southerly side of said center line.

The centerline of the relocated Shaniko – Fossil Highway is described as follows:

Beginning at Engineer’s center line Station 114+15.33 P.O.T., said station being 310.07 feet North and 2,860.56 feet West of the East quarter corner of Section 32, Township 7 South, Range 19 East, Willamette Meridian; thence North 37° 08’08” East 9.69 feet; thence on a spiral curve right (the long chord of which bears North 40°07’58” East 299.67 feet) 300.00 feet; thence on a 955.54 foot radius curve right (the long chord of which bears North 57°51’40” East 388.57 feet) 391.30 feet; thence on a spiral curve right (the long chord of which bears North 75°35’22” East 299.67 feet) 300.0 feet; thence North 78°35’13” East 463.68 feet to Engineer’s center line Station 128+80.00 P.O.T., on said center line.

Bearings are based upon the Oregon State Plane Coordinate System, North Zone 3601, NAD 83(2011) Epoch 2010.00.

This parcel of land contains 40,614 square feet, more or less.
and as shown on the attached Exhibit "A".

This description is used to establish the approximate location and extent of the area subject to this Department of State Lands authorized use. All locations, bearings, and distances were developed in the Oregon Coordinate Reference System Standard; Oregon Statewide Lambert Conformal Conic, NAD 1983, International Feet, GRS 1980 Spheroid.

TO HAVE AND TO HOLD the same unto GRANTEE in perpetuity, subject to the following conditions:

1. GRANTOR has the right to grant additional easements within the area authorized by this easement subject to the provisions of the administrative rules governing the granting of easements.
2. GRANTEE shall obtain prior written approval from GRANTOR prior to:
 - a) Changing the type of use authorized by this easement;
 - b) Expanding the number of authorized developments or uses;
 - c) Changing the authorized area; and/or
 - d) Permitting other persons to utilize the easement for uses and developments requiring separate written authorization by GRANTOR pursuant to the administrative rules governing the granting of easements or other GRANTOR requirements.
3. The easement area shall remain open to the public for recreational and other non-proprietary uses unless restricted or closed to public entry by the State Land Board or GRANTOR.
4. GRANTOR and/or its authorized representative(s) shall have the right to enter into and upon the easement area at any time for the purposes of inspection or management.
5. Except as expressly authorized in writing by the Department, GRANTEE shall not:
 - a) Cut, destroy or remove, or permit to be cut, destroyed or removed any vegetation, or
 - b) Remove any sand and gravel, or other mineral resources for commercial use or sale, that occur in the easement area except as expressly authorized in writing by GRANTOR.

Routine right-of-way maintenance including vegetation trimming shall be allowed.

6. GRANTEE shall compensate GRANTOR for the fair market value of any commercially valuable timber or sand and gravel resources in the easement area

that must be removed during or after placement of the authorized use, or which cannot be developed because of the authorized use.

7. GRANTEE shall conduct all operations within the easement area in a manner that conserves fish and wildlife habitat; protects water quality; and does not contribute to soil erosion, or the introduction or spread of noxious weeds or pests. Upon completion of construction, GRANTEE shall reclaim disturbed lands to a condition satisfactory to GRANTOR.
8. GRANTEE shall obtain a surety bond in the amount of \$N/A to ensure compliance with the terms and conditions of this easement.
9. The right to use this easement shall automatically terminate if it, or the development authorized by GRANTOR, is not used within five (5) consecutive years of the date this easement was granted, pursuant to the provisions of the administrative rules governing the granting of easements.
10. Unless otherwise approved in writing by GRANTOR, GRANTEE shall remove all cables, pipes, conduits, roads, and other developments placed by GRANTEE on the easement, and shall restore the surface of the easement area to a condition satisfactory to GRANTOR within one (1) year following termination of use or expiration of this easement.
11. GRANTEE shall inspect the condition of the area authorized by this easement and the developments authorized by this easement on a frequency of: as needed.
12. GRANTOR shall have the right to stop operation of the use authorized by this easement for noncompliance with the conditions of this easement, the provisions of the administrative rules governing the granting of easements, and/or any lawful requirement by a regulatory agency of this STATE.
13. If this easement authorizes the use of state-owned submerged and/or submersible land:
 - a) Construction in navigable waters shall conform to the standards and specifications set by the U.S. Army Corps of Engineers and the U.S. Coast Guard for the use authorized by this easement.
 - b) Any blasting which may be necessary, or in-water placement, maintenance, or repair of the authorized use shall be performed according to the laws of this STATE, including strict adherence to Oregon Department of Fish & Wildlife in-water work windows.
14. GRANTEE shall pay to GRANTOR the current market value, as determined by GRANTOR, for any unnecessary and non-approved damages to state-owned lands caused by construction or maintenance of the easement.

15. GRANTEE shall pay all assessments that may be legally charged on public lands which are levied against the property subject to this easement, whether or not such assessments have been levied against the easement area or STATE by the assessing agency.
16. GRANTEE shall use the authorized easement area only in a manner or for such purposes that assure fair and non-discriminatory treatment of all persons without respect to race, creed, color, religion, handicap, disability, age, gender or national origin.
17. If a crossing listed in this easement is later found to have a valid easement from the GRANTOR, then the easement with the latest expiration date will be the “prevailing easement.”
18. This easement is freely transferable. However, no transfer may increase the burden on the easement area or detract from the value of the underlying state-owned land.

DRAFT

**CERTIFICATE OF APPROVAL OF CONVEYANCE
(ORS 93.808)**

State of Oregon, by and through its Department of Transportation, Grantee, hereby approves and accepts, pursuant to ORS 93.808, the grant of an interest in real property from State of Oregon, by and through its Department of State Lands, Grantor, as described in the instrument to which this Certificate is attached.

A copy of this Certificate may be affixed to, and recorded with, the instrument described above.

DATED this ____ day of _____, 20__.

State of Oregon, by and through its
Department of Transportation,
Grantee

By: _____

Name: _____

Title: _____

STATE OF OREGON)
) ss
County of _____)

On this _____ day of _____, 20__, before me personally appeared _____, who being duly sworn stated that he/she is the _____ of Oregon Department of Transportation, Grantee, and acknowledged the foregoing instrument to be the voluntary act of said Grantee and that he/she executed the foregoing instrument under authority granted by said Grantee.

NOTARY PUBLIC FOR OREGON
My commission Expires: _____



Oregon

Kate Brown, Governor

Department of State Lands

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State Land Board

Kate Brown

Governor

State Land Board

**Regular Meeting
December 18, 2018
Agenda Item 4**

Dennis Richardson

Secretary of State

Tobias Read

State Treasurer

SUBJECT

Request for adoption of changes to the administrative rules governing the granting of easements on state-owned Trust and Non-Trust Land (OAR 141-122-0010 to OAR 141-122-0130). Separate OAR 141-122 into two rule divisions: 1. OAR 141-122 – Rules for Granting Easements on Trust Lands; and 2. OAR 141-123 – Rules for Granting Easements on Non-Trust Lands.

ISSUE

Whether the State Land Board should adopt the above referenced changes to (OAR 141-122).

AUTHORITY

Oregon Constitution, Article VIII, Section 5

ORS Chapter 183; Administrative procedures and rules of state agencies.

ORS Chapter 273; State Lands Generally.

ORS Chapter 274; Submerged and Submersible Lands.

OAR 141-122; Rules for Granting Easements on Trust and Non-Trust Land.

BACKGROUND

On June 22, 2011, the State Land Board authorized the Oregon Department of State Lands (Department) to amend its rules for granting easements on Trust and Non-Trust Land.

The purpose of the rulemaking effort was to:

- Separate Division 122 rules into two rule divisions: 1. Division 122 – Rules for Granting Easements on Trust Lands; and 2. Division 123 – Rules for Granting Easements on Non-Trust Lands.
- Accommodate statutory, and rule changes that have occurred in the past several years,
- Update the general provisions section to reflect the current practices of the Department,
- Complete rule language changes recommended by the Oregon Department of Justice,
- Review and update the administrative procedures for reviewing and issuing easements, and
- Review compensation for easements

PUBLIC INVOLVEMENT

Rules Advisory Committee (RAC)

A RAC was convened in January of 2018 to review and make comments on the proposed amendments and changes to the rules. Members of the RAC consisted of:

- Steve Walti, NW Natural Gas
- Brendan J. McCarthy, Portland General Electric
- Kevin Arnold, Comcast
- Ryan Brown Oregon Department of Transportation
- Brian Worley, Association of Oregon Counties
- Samantha Ridderbusch, Century Link
- Jerome Rosa, Oregon Cattleman's Association
- Brandon Hignite, Central Lincoln PUD
- Erin Doyle, League of Oregon Cities

- Laurie Wimmer, Oregon Education Association
- Joy Vaughn, Oregon Department of Fish and Wildlife
- Patrick Harrington, Idaho Power Company
- Clark Balfour, Special Districts Association of Oregon
- Jim Palmer, Pacific Power

The RAC met four times over a period of four months as they assisted the Department in preparing a draft rule for public comment.

Public Notice

A Notice of Proposed Rulemaking Hearing was sent to current easement holders that are up for renewal in two years, interested parties and stakeholders, and posted on the Department's website. Furthermore, the Statement of Need and Fiscal Impact required by the Oregon Secretary of State was sent to the Rules Advisory Committee for their review and comment as well as posted on the agency website.

Public Hearings

The Department held three public hearings on the proposed rules. The hearings were held in Ontario on August 21, 2018, Bend on August 22, 2018, and Salem on August 28, 2018.

RECOMMENDATION

The Department recommends that the Land Board adopt the proposed changes to the administrative Rules for Granting Easements on Trust Land (OAR 141-122- 0010 to 141-122-0130) and Rules for Granting Easements on Non-Trust Land (OAR 141-123-0010 to 141-123-0120).

APPENDICES

- A. Final Easement Rules for Land Board Consideration
- B. Notice of Proposed Rulemaking including Statement of Need and Fiscal Impact, and Draft Easement Rules for Review and Public Comment
- C. Public comments received and DSL responses

DEPARTMENT OF STATE LANDS

DIVISION 123

RULES FOR GRANTING EASEMENTS ON NON-TRUST LAND

141-123-0010

Purpose and Applicability

(1) These rules:

(a) Govern the granting and renewal of easements on state-owned Non-Trust land as specified herein.

(b) Do not apply to the:

(A) Granting of easements for State-Owned Trust lands under OAR 141-122 (Rules for Granting Easements on Trust Land)

(B) Granting of easements for fiber optic and other cables on state-owned submerged and submersible land within the Territorial Sea, an activity governed by OAR 141-083 (Rules for Granting Easements for Fiber Optic and Other Cables on State-Owned Submerged and Submersible Land Within the Territorial Sea);

(C) Granting of authorizations for hydroelectric projects on state-owned Non-Trust Land, an activity governed by OAR 141-087 (Hydroelectric Projects);

(D) Granting of authorizations for remediation and habitat restoration activities governed by OAR 141-145 (Rules Governing the Management of State-Owned Submerged and Submersible Land Subject to Remediation and Habitat Restoration Activities);

(E) Granting of authorizations for leases, licenses and registrations for structures on and uses of state-owned submerged and/or submersible lands governed by OAR 141-082 (Rules Governing the Management Of, And Issuing of Leases, Licenses and Registrations for Structures On, And Uses of State-Owned Submerged and Submersible Land).

(F) Dedication of roads or rights-of-way required of the Department or its agents by local government resulting from a local land use approval involving state-owned land; or

(G) Existing valid easements or right of ways granted, by the Department of State Lands (Department) or State Land Board, prior to the adoption of these rules.

(c) Require prior authorization for all uses described under OAR 141-123-0010(2) and (3) unless otherwise exempt from easement under the provisions of OAR 141-123-0010(4) of these rules.

(d) Contain specific provisions relating to the granting of easements by the Department to persons who have or will place a structure or facility on state-owned Non-Trust Land necessary to take water for which they have a right to use.

(2) Unless otherwise exempt under the provisions of OAR 141-123-0010(4) of these rules, developments and uses of state-owned Non-Trust Land subject to easement include, but are not limited to the following:

- (a) Water, gas, electric and communication service lines (including fiber optic cables) and associated equipment such as pumping stations, transformers and meters;
 - (b) Innerducts and conduits for cables (regardless of whether they contain a cable or are in use);
 - (c) Water supply pipelines, ditches, canals, and flumes;
 - (d) Drainage and irrigation works;
 - (e) Sewer, storm, and cooling water lines, including storm water outfalls and other outfalls;
 - (f) Bridges, skylines, and logging lines;
 - (g) Railroad and light rail track, bridges, stations, depots, and other related facilities;
 - (h) Roads and trails of all types;
 - (i) Overhead transportation lines (for example, tramways, etc.);
 - (j) Storage of materials (for example, sand, gravel, dredge spoils, etc.); and
 - (k) Other encroachments
- (l) Erosion control structures, dikes, levees, and tide-gates.

(3) The Department Director may determine that other uses and developments similar to those specified in OAR 141-123-0010(2) are also subject to authorization by, or exempted from, an easement and these rules.

(4) An easement is not required:

(a) For uses or developments on state-owned Non-Trust Land that would require an easement under these rules if the person undertaking the use or owning the development has obtained a valid authorization from the Department pursuant to the provisions of OAR 141-082 (Leasing And Registration Of Structures On, And Uses Of State-Owned Submerged And Submersible Lands); OAR 141-145 (Authorizations For Remediation And Habitat Restoration Activities); or OAR 141-125 (Authorizing Special Uses On State-Owned Land), provided the proposed use or development is located on the land which is subject of the authorization, is incidental to the specific use that is the subject of the authorization, and does not result in an additional burden on the land; or

(b) For any structure or facility necessary for the use of water crossing or situated on state-owned submersible land if the below conditions apply:

(A) The withdrawal is authorized by a valid right to use the water; and

(B) The water is used exclusively for irrigation or domestic use.

(c) For water, gas, electric and communication lines physically attached to and supported by county or state-owned bridges that cross state-owned waterways which are located outside of city limits. If the water, gas, electric and communication lines are located within a city, or cross a state-owned waterway within a city, they are subject to easement unless otherwise exempt by these rules.

(5) A person who is exempt from obtaining an easement under the provisions of OAR 141-123-0010(4) may apply to obtain an easement and the Department

may authorize an easement even though none is required under these rules. The application shall be processed in accordance with OAR 141-123-0050.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0020

General Provisions

(1) Pursuant to Article VIII, Section 5(2) of the Oregon Constitution, the State Land Board, through the Department, has a constitutional responsibility to manage all land (Trust and Non-Trust) under its jurisdiction "with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management."

(2) The Department shall follow the guiding principles and resource-specific management prescriptions contained in the Real Estate Asset Management Plan, and consider the comments received from federal, state, and local governments and interested persons when determining whether to authorize or condition an easement on state-owned land.

(3) All tidally influenced and title navigable waterways (referred to as state-owned submerged and submersible land) have been placed by the Oregon State Legislature under the jurisdiction of the State Land Board and the Department, as the administrative arm of the State Land Board.

(4) All references in these rules to "state-owned submerged and submersible land" include state-owned submerged lands or submersible lands or both.

(5) State-owned submerged and submersible land is managed to ensure the collective rights of the public to fully use and enjoy this resource for commerce, navigation, fishing, recreation, and other public trust values. These rights are collectively referred to as "public trust rights".

(6) All uses of state-owned land must conform to applicable local (including local comprehensive land use planning and zoning ordinance requirements), state and federal laws.

(7) No applicant or grantee is allowed to request from any government agency a change in the zoning for, or approved uses of, state-owned land without first applying to and receiving written approval from the Department.

(8) The Department shall not grant an easement if:

(a) As a result of its circulation for public comment of the application for easement as described in OAR 141-123-0050(4) it determines that the proposed use or development would unreasonably impact use or developments proposed or already in place within the requested area; or

(b) If the proposed use or development is inconsistent with local, state, or federal laws; or

(c) If the proposed use or development is inconsistent with these rules; or

(d) If the proposed use or development has unacceptable impacts on public health, safety or welfare, or would result in the loss of, or damage to natural, historical, cultural or archaeological resources, as determined by the Department;

or

(e) If the proposed use or development is prohibited by a State Land Board or Department-adopted area closure, use restriction, or area management plan (such as the Lower Willamette River Management Plan; or a Total Maximum Daily Load Implementation Plan); or

(f) If the proposed use or development is inconsistent with any endangered species management plan adopted by the Department under the Oregon Endangered Species Act (ORS 496.171 to 496.192).

(9) The Department may, at its discretion, deny an easement if the applicant's financial status or past business practices, or both, indicate that the applicant may not:

(a) Be able to fully meet the terms and conditions of an easement offered by the Department; or

(b) Use the land applied for in a way that meets the provisions of OAR 141-123-0020.

(10) The Department may, at its discretion, deny an easement if the applicant is out of compliance with the terms and conditions of any previous authorization issued, or is subject to any enforcement or corrective action, by the Department.

(11) The Department shall:

(a) Recognize all valid easements of record on land acquired by the Department as disclosed at the time of acquisition; and

(b) Honor any renewal provisions contained in existing valid easements granted by the Department if the Holder of the easement has complied with all terms and conditions of the easement and applies to the Department for a new easement as prescribed in these rules.

(12) Except as provided in OAR 141-123-0010(4) and OAR 141-123-0100(2), any person wanting to use or place a development on state-owned land subject to an easement must obtain a written authorization in the form of an easement from the Department prior to beginning the use or placing the development.

Additionally, an easement is required for any use or development that encroaches on state-owned land regardless of its height above or below, or manner of crossing the state-owned land.

(13) Unless otherwise exempt by these rules, each individual use of, or development placed on, state-owned land constitutes a separate discrete activity subject to:

(a) An easement specifically authorizing only that individual use or development; and

(b) Payment of compensation as required in these rules.

(14) An easement cannot be established on Department-managed land by adverse possession regardless of the length of time the use or development has been in existence.

(15) The Department may:

(a) Conduct field inspections to determine if the uses and developments in place on state-owned land are authorized by, or conform with, the terms and conditions of an easement and, if not;

(b) Pursue whatever remedies are available under law and OAR 141-123-0120 to ensure that unauthorized uses subject to an easement on state-owned land are either brought into compliance with the requirements of these rules or removed.
Stat. Auth.: ORS 273.045
Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0030

Definitions

- (1) "Applicant" is any person applying for an easement.
- (2) "Appraised Value" means an estimate of current market value of the property (not including improvements) as of a specific date, prepared by a qualified independent appraiser in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) standards.
- (3) "Authorized Area" is the area of state-owned land defined in the easement for which a use is authorized.
- (4) "Cable" means a conductor of electricity or light with insulation, or a combination of conductors insulated from one another within a single jacket or sheath.
- (5) "Circuit" means a system of conductors through which an electric current is intended to flow. A single pole or transmission tower may support one or more circuits, each of which may consist of up to four separate conductors.
- (6) "City" means a city incorporated under ORS 221.020 through 221.100.
- (7) "City Limits" refers to the boundaries of a city incorporated under ORS 221.020 through 221.100.
- (8) "Communication Line" is any cable including fiber optic cable which transmits electronic information, telephone or television signals or other data.
- (9) "Comparative Compensatory Payment" is the amount of money paid to owners of parcels that are similar to the state-owned land requested by an applicant for a use that is the same as, or similar to that requested by an applicant. When the applicant's requested use is in, on or over Trust Land, the comparative compensatory payment is the maximum amount of money private landowners receive for the same or similar uses in, on or over parcels that they own that are similar to the Trust Land requested by the applicant.
- (10) "Compensation" or "Compensatory Payment" is the amount of money paid or something of equal value provided for an easement to the Department for the use of Department managed land.
- (11) "Conduit" is a pipe that protects cables from damage. It may be buried or used in above-ground applications such as bridge crossings. Innerducts may be installed within a conduit to facilitate individual cable installation.
- (12) "Deflector" is a structural barrier such as a groin or jetty projecting into a waterway to divert flow away from and prevent eroding sections of the banks of a waterway.
- (13) "Department" means the Department of State Lands.
- (14) "Development" is any structure or physical facility (for example, each cable, innerduct, innerduct and cable, conduit, conduit and cable, pipeline, electrical

line, communication line, bridge, road, fence, ditch, reservoir, or easement-associated building) on state-owned land subject to or authorized by an easement granted by the Department.

(15) "Director" means the Director of the Department of State Lands or designee.

(16) "Domestic Use" means the use of water for human consumption and household purposes that is necessary for the sustenance of an individual, family unit or household. Domestic use may also include water used by an individual family unit or household for heating or cooling purposes.

(17) "Easement" is an authorization granted by the Department that gives a person the use of a specifically designated parcel of state-owned land for a specific purpose and length of time. An easement does not convey any proprietary or other rights of use to the Holder other than those specifically granted in the easement authorization.

(18) "Easement for Conservation Purposes" is a type of easement granted by the Department that limits uses to protect the property for conservation values, such as fish and wildlife habitat or other ecosystem processes. The easement for conservation purposes is conveyed by the Department when the applicant is not eligible to hold a Conservation Easement or otherwise does not conform to ORS 271.715 to 271.775.

(19) "Encroachment" is an unauthorized development or use, such as, but not limited to a structure, fill, or pile of aggregate, that overlaps on, or otherwise occupies or restricts the full use of state-owned land. An encroachment may be a pipe, conduit, or other structure that has been abandoned in place. An encroachment may also occur when the Holder of an easement granted by the Department extends their use outside of the area authorized by that easement or adds a use or development not authorized.

(20) "Erosion Control Structures" mean revetments, attenuators, deflectors, retaining walls, riprap and other structures placed adjacent to, or on Non-Trust Land.

(21) "Fiber Optic Cable" means an insulated and often armored cable used to transmit telecommunications through glass fibers using pulses of light.

(22) "Gas Lines and Associated Fixtures" are the pipelines and required compressor and gate stations, valves, meters, regulators, relief stacks, marker posts, rectifiers, and all other related fixtures and equipment necessary to deliver natural gas from the point of origin to the user.

(23) "Governmental Body" means an agency of the Federal Government, the State of Oregon, and every political subdivision thereof as defined in ORS 271.005.

(24) "Holder" means any person who holds a current authorization from the Department for the use of state-owned lands.

(25) "Individual Use" or "Individual Development" is each separate use of, or development placed on state-owned land.

(26) "Innerduct" is tubing that not only protects fiber optic and other types of cables, but also facilitates their installation. It is often placed inside a conduit or may be buried directly into the ground.

- (27) "Intake" is a location or structure through which something is taken in, e.g. water in a channel or pipe from a body of water.
- (28) "Irrigation" or "Irrigation Use" means the artificial application of water to crops or plants by controlled means to promote growth or to nourish crops or plants. Examples of irrigation uses include, but are not limited to, watering of an agricultural crop, commercial garden, tree farm, orchard, park, golf course play field or vineyard.
- (29) "Market Value" Means the most probable price, as of a specified date, in cash, or in terms equivalent to cash for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller acting prudently, knowledgeably, and assuming neither is under undue duress.
- (30) "Maximum Value Per Square Foot" means the highest price per square foot that the Department may use in determining compensation for easements.
- (31) "Multiple-Use Easement" means an authorization issued for a single conduit, through which additional uses may be embedded.
- (32) "Non-Trust Land" is land managed by the Department other than Trust Land. Examples of Non-Trust Land include state-owned Swamp Land Act Land, and submerged and submersible land [*(land below ordinary high water)*] under navigable and tidally influenced waterways.
- (33) "Outfall" is the point of a drain where it discharges to an area of land or body of water.
- (34) "Owner" means a person or legal entity that has a property interest in a structure or land
- (35) "Permanent Easement" is a type of easement that is issued in perpetuity.
- (36) "Person" includes individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies as well as any state or other governmental or political subdivision or agency, public corporation, public authority, or Indian Tribe.
- (37) "Public Trust Use(s)" means those uses embodied in the Public Trust Doctrine under federal and state law including, but not limited to navigation, recreation, commerce and fisheries, and other uses that support, protect, and enhance those uses. Examples of Public Trust uses include, but are not limited to, short term moorage, camping, bank fishing, picnicking, and boating.
- (38) "Real Estate Asset Management Plan" is the plan adopted by the State Land Board that provides the policy direction and management principles to guide both the short and long-term management by the Department of the Common School Fund's real estate assets.
- (39) "Real Market Value" for land means the current market value of the property (not including improvements) assigned to the land within the tax lot, adjacent riparian tax lot, or comparable tax lot by the county tax assessor.
- (40) "Right of Way" is the legal right, established by grant, to pass along a specific route through grounds or property belonging to another.
- (41) "Right to Use Water" is a water right permit, water right certificate, or a proposed or final order approving a water right permit granted by the Oregon Water Resources Department, or court decree evidencing a water right,

authorizing a person to take and use a specific quantity of water for a specific use or uses from a specific location under specific terms and conditions.

(42) "Roadway" means a road, driveway, or any other development for the use vehicles or other traffic.

(43) "Rip-Rap" means crushed rock or concrete placed on the bank of a waterway or lake to prevent or reduce erosion of the bank.

(44) "Single-Use Easement" means an authorization for a crossing with an individual use.

(45) "State Land" or "State-Owned Land" is land owned by the State and managed by the Department or its agents and includes Trust Land and Non-Trust Land.

(46) "State Land Board" means the constitutionally created body consisting of the Governor, Secretary of State, and State Treasurer that is responsible for managing the assets of the Common School Fund as well as for additional functions placed under its jurisdiction by law.

(47) "Structure or Facility Necessary for the Use of Water" means the pipelines and required stands, pumps, wiring, fish screens, and similar equipment necessary to convey water from the point of diversion to the place of use.

(48) "Submerged Land" means land lying below the line of ordinary low water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.

(49) "Submersible Land" means land lying above the line of ordinary low water and below the line of ordinary high water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.

(50) "Trust Land" is land granted to the state upon its admission into the Union or obtained by the state as the result of an exchange of Trust Land, or obtained in lieu of originally granted Trust Land, or purchased with trust funds, or obtained through foreclosure of loans using trust funds.

(51) "Use" means an activity on state-owned lands that requires an easement under these rules.

(52) "Utility" means water, waste water, gas, electric, or communication service lines, fixtures and other related facilities.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0040

Easement Application Requirements

(1) Except as provided by OAR 141-123-0010(4) (Purpose and Applicability) and 141-123-0100 (**Easements for Structures and Facilities Necessary for the Use of Water**), any person wanting to use state-owned land for any of the purposes described in OAR 141-123-0010(2) and (3) must:

(a) Apply to the Department for the easement using a form provided by the Department; and

(b) Submit a non-refundable application fee as provided in OAR 141-123-0040(3) payable to the Department to cover the administrative costs of processing the

application and issuing the authorization. When applying for an easement for a structure or facility necessary for the use of water as described in OAR 141-123-0100, a person may submit to the Department a copy of their application to the Department of Water Resources for a right to use water in lieu of using the Department's easement application form.

(2) Unless otherwise exempt under the provisions of OAR 141-123-0010(4) (Purpose and Applicability), each individual use of, or development placed on state-owned land must be authorized by a separate easement specifically authorizing only that use or development.

(a) With regard to a conduit, regardless of the number of innerducts or fiber optic cables contained within the conduit, each cable or innerduct is considered an individual use subject to authorization by an easement.

(b) With regard to electric power transmission lines, one transmission line with one or more circuits will constitute an individual use subject to authorization by an easement. Additional parallel transmission lines owned by the same entity with one or more circuits may be included in the same individual use so long as such parallel lines are located within the designated boundaries of the easement.

(3) Except as provided by OAR 141-123-0100 (**Easements for Structures and Facilities Necessary for the Use of Water**) and OAR 141-123-0040(4), the application fee for all easements is \$750; the application fee for all structures or facilities necessary for the use of water on submerged land subject to an easement is \$125.

(4) A single easement application form may be used to request:

(a) An easement for a single pipeline, cable, or similar use or development which crosses one or more parcels of state-owned land.

(b) An easement for all state, county or city-owned bridges within a single county, or

(c) An easement for one or more identical uses or developments which cross the same parcel of state-owned land or state-owned waterway, for example, two parallel pipelines.

(5) An easement application for a conduit must include a cross-sectional drawing that shows the proposed use and the remaining conduit space available for future use.

(6) A fully completed application must be submitted to the Department at least 90 calendar days prior to the proposed use or placement of a development subject to a term easement on state-owned land unless otherwise allowed by the Director in writing,

(7) A fully completed application must be submitted to the Department at least 120 calendar days prior to the proposed use or placement of a development that is eligible for a permanent easement on state-owned land, unless otherwise allowed by the Director in writing.

(8) Any person holding a valid easement (other than a permanent easement) granted by the Department prior to the adoption of these rules who wants to continue holding the authorized area following the expiration of the easement for a use subject to easement must:

(a), Apply to the Department for a new easement and pay the required application fee 180 calendar days prior to the expiration of the easement as provided in OAR 141-123-0040(1), unless otherwise allowed by the Director in writing; and

(b) Pay the compensatory payment required by OAR 141-123-0060 at such time that the Department has reviewed and approved the easement application request pursuant to OAR 141-123-0050 (9) and (10).

Stat. Auth.: ORS 274.040, ORS 273.045

Stats. Implemented: ORS 273.058, ORS 273.761, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0050

Easement Application Review and Approval Process

(1) Department staff may require a meeting to discuss a proposed project and use before performing an application completion review. This meeting may be in person or through other means acceptable to the Department. The Department may invite other government entities and affected stakeholders to take part in an application meeting.

(2) Upon receipt of an application, and the completion of an application meeting if necessary, the Department will determine whether it is complete. Applications determined to be incomplete will be returned to the applicant with a written explanation of the reason(s) for rejection.

(3) If a rejected application is resubmitted within 120 calendar days from the date the Department returned it to the applicant, no additional application fee will be assessed.

(4) If determined by the Department to be complete, the application will be circulated to affected local, state, and federal agencies; Holders of valid authorizations granted by the Department in the requested area; and other interested persons including federally recognized tribal governments and ports for review and comment. As a part of this review, the Department will specifically request comments concerning:

(a) The presence, type and location of state or federal listed threatened and endangered species (including candidate species), and archeological and historic resources within the requested area which may be disturbed by the proposed use;

(b) Whether the proposed easement use:

(A) Conforms with other local, state, and federal law and rules;

(B) Conforms with the local comprehensive land use plan and zoning ordinances;

(C) Conforms with the general provisions described in OAR 141-123-0020 of these rules; and

(D) Would unreasonably impact uses or developments proposed or already in place within the requested area.

(5) The Department may post a notice of an application and opportunity to comment at a local government building, public library, or other appropriate locations in order to ensure that minority and low-income communities are

included and aware of a proposed use. The Department shall make paper copies of an application available to any person upon request.

(6) The Department may waive the circulation requirement described in OAR 141-123-0050(4) if:

(a) The use or development has been previously reviewed by the listed agencies and other interested persons, and the results are documented in the easement application;

(b) The application is for an easement associated with the right to use water and the Water Resources Department is conducting or has conducted a public interest review sufficient to make the determinations required by OAR 141-123-0050(4); or

(c) The application is for an easement for an energy facility that has been granted a site certificate by the Energy Facility Siting Council under ORS 469.300 et seq. and OAR 345-022, et seq. (Regulation of Energy Facilities), in which case the Department will accept the findings and conclusions of the Energy Facility Siting Council in evaluating the easement application over Non-Trust Land.

(7) An applicant for an easement may be required to amend their application at any time to address issues, concerns, or information needs identified by the Department or others that provided comments.

(8) After receipt of agency and public comment concerning the proposed use, the Department will determine, and advise the applicant in writing if:

(a) Changes to the requested easement area are necessary to respond to agency or public comment;

(b) Additional information is required from the applicant, including but not limited to a survey of:

(A) State or federal listed threatened and endangered species (including candidate species) within the requested area; or

(B) Archaeological and historic resources within the requested area.

(c) The request is denied. Applicants will be given the opportunity to revise their proposed project if the Department denies the request; or

(d) The easement will be granted with specific terms and conditions.

(9) If the Department decides to grant the easement, the written notification will also indicate:

(a) The amount of compensation pursuant to the requirements of OAR 141-123-0060 that the applicant must remit to the Department to obtain the authorization;

(b) Any surety bond amount required by the Department pursuant to the provisions of OAR 141-123-0070(13); and

(c) The easement terms and conditions.

(10) The Department will not grant an easement to an applicant until it has received all fees and compensation specified in these rules, and evidence of a surety bond (if required). However, the Department, at its discretion, may grant a provisional easement prior to receipt of compensation due for removal of timber, sand and gravel, or other natural resources in the easement area if the fair market value of those resources is based on actual receipts from their sale.

(11) The Director may refer unusual or controversial easement applications to the State Land Board for review and approval.

(12) If requested by the Department, an applicant must present evidence to the Department prior to placing the use or development that they have obtained:

- (a) All authorizations required by local, state, and federal governing bodies to undertake the proposed use or development; and
- (b) Any authorization that may be required to obtain access to, or to cross land belonging to a person other than the Department to undertake the use or development.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0060

Compensation

(1) Except as provided in OAR 141-123-0060(11) and (12), the Department will, prior to granting an easement, require an applicant not otherwise exempt under OAR 141-123-0060(6) or as provided in OAR 141-123-0060(10) to submit to the Department a compensatory payment for each individual crossing or use of state-owned land in an amount equal to the greatest of:

(a) For submerged and submersible lands, compensation is based on 33 1/3 percent of the market value of the adjacent riparian tax lots for uses described in OAR 141-123-0010(2) and (3). Market value is either:

- (A) An appraised value that is acceptable to the Department; or
- (B) The Real Market value of the adjacent riparian tax lots.

(b) \$500; or

(c) The highest Comparative Compensatory Payment.

(2) For all single-use easements on, over, above, or below state submersible or submerged lands, the value per square feet derived from the real market value of the adjacent riparian tax lot(s) shall not exceed the Maximum Value per Square Foot. The Statewide Maximum Value Per Square Foot is \$11.93 starting July 1, 2018 and shall increase each year on July 1st by three percent

(3) For all multiple-use easements on, over, above, or below state submersible or submerged lands, compensation is based upon the real market value of the adjacent riparian tax lot(s) and is not limited by the Statewide Maximum Value per Square Foot.

(4) For each new individual use, proposed to be embedded in existing conduit authorized by the Department prior to January 1, 2019, compensation is required and the Statewide Maximum Value per Square Foot shall apply.

(5) For each new individual use, proposed to be embedded in existing conduit authorized by the Department after January 1, 2019, no additional compensation is required.

(6) The following types of easements located on Non-Trust Land are exempt from the mandatory compensatory payment to the Department specified in OAR 141-123-0060(1):

- (a) State and county-owned bridges located outside of city limits.

(b) Gas, electric and communication line easements located outside of city limits, as allowed by ORS 758.010.

(c) Water ditches; water supply pipes; and water supply mains up to a maximum width of 25 feet on each side of the center line, as allowed by ORS 273.761.

(d) Sanitary pressure mains and storm water pipes and storm water outfalls up to a maximum width of 25 feet on each side of the center line, as allowed by ORS 273.761.

(e) Any structure or facility necessary for the use of water crossing or situated on state-owned submersible land, as allowed by ORS 274.040(3) if:

(A) The withdrawal is authorized by a valid right to use the water; and

(B) The water is used exclusively for irrigation or domestic use.

(7) There is granted to all persons constructing railways built after February 21, 1891, within the boundaries of the state, and to their successors and assigns as allowed by ORS 273.751:

(a) A right of way through any unimproved state lands, of the width of 100 feet, being 50 feet in width on each side of the center line of the road.

(b) All necessary grounds for stations, depots, shops, side tracks, turntables and water stations, not exceeding 10 acres in any one place, upon payment to the state of the sum therefor as fixed by the Department of State Lands.

(c) The right to take, from the lands of this state adjacent to the route lines of the road, material necessary for the construction of the roads.

(d) The right to construct and maintain railroad bridges over any navigable waters in this state. All bridges crossing navigable waters shall be subject to such regulations, restrictions and compensation as may be fixed by the department and shall be so constructed as not unnecessarily to interfere with navigation.

(8) Compensatory payments shall be required at the rate specified in OAR 141-123-0060(1) for that part of an easement for the uses specified in OAR 141-123-0060(2) and (3) which exceeds the maximum widths or acreages indicated, or occurs on:

(a) Trust Land (under OAR 141-122), or

(b) Other land not exempt from a mandatory compensatory payment.

(9) If required by the Department, applicants must also submit to the Department a payment in an amount to be determined by the Department for the fair market value of any commercially valuable timber, sand and gravel, or other natural resources in the easement area which must be removed during or after placement of the proposed use, or which cannot be developed because of the easement use. Such payment shall be due at a date to be determined by the Department.

(10) The Department may, in lieu of a cash compensatory payment, negotiate a non-cash compensatory payment equivalent to or greater than the compensation required under OAR 141-123-0060(1).

(11) Notwithstanding the provisions of OAR 141-123-0060(1), for state, county and city-owned bridges crossing a state-owned waterway on Non-Trust Land, the required compensation will be:

- (a) No compensation for a 30-year easement if none of the bridges listed on a single county application submitted by either the Oregon Department of Transportation or any county is located within a city.
 - (b) \$100 for a 30-year easement if any bridge listed on a single county application submitted by either the Oregon Department of Transportation or any county is located within a city.
 - (c) \$100 for a permanent easement for each state, county or city-owned bridge crossing state-owned land if it is located in a city.
- (12) Notwithstanding the provisions of OAR 141-123-0060(1), for People's Utility Districts (PUD) structures crossing a state-owned waterway on Non-Trust Land, the required compensation will be:
- (a) No compensation for a 30-year easement if the structures are not located within a city.
 - (b) \$100 for a 30-year easement if the structures are located within a city.
- (13) If in the process of calculating compensation, the assessed value is found to be depressed due to the presence of hazardous substances or some other extenuating circumstance(s) as determined by the Department, another comparable upland tax lot shall be selected by the Department as the basis for calculating the compensation. The applicant may suggest a comparable tax lot or may appeal the Department's selection to the Director.
- Stat. Auth.: ORS 273.045
Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0070

General Easement Terms and Conditions

- (1) Easements shall be offered by the Department for the minimum area and term determined by the Department to be required for the requested use or development. Unless otherwise authorized by the Director, the minimum width of an easement shall be no less than 15 feet.
- (2) The applicant shall have ninety (90) calendar days from the date of offer to execute an easement with the Department. The Department may revoke the offer after ninety calendar days, at which time the applicant may re-apply for an easement in accordance with OAR 141-123-0040.
- (3) The Department may grant additional easements which, as determined by the Department, do not substantially interfere with other authorized easements within a given area.
- (4) Easements shall be offered for a term no longer than thirty (30) years, unless otherwise authorized by the Director.
- (5) The Department may, upon request of the applicant, grant permanent easements only for the following uses of state-owned land:
 - (a) State, county and city-owned bridges if the application contains a full surveyed legal description for each bridge and the appropriate compensation required by these rules; and

(b) Structures or facilities necessary for the use of water as provided in OAR 141-123-0100.

(6) Requests for permanent easements shall be taken to the State Land Board for review and approval.

(7) An easement granted by the Department will generally be to a specific person for a specific use, location, and term. The Holder of an easement must apply to and obtain prior written approval from the Department as provided in OAR 141-123-0040 prior to:

(a) Changing the authorized use;

(b) Transfer of ownership;

(c) Expanding the number of authorized developments or uses;

(d) Changing the authorized area; or

(e) Permitting other persons to utilize the authorized area for uses and developments requiring separate authorization by the Department (for example, attachment of cables, conduits, or pipes under a bridge already authorized by an easement).

(8) State-owned submerged and submersible land must remain open to Public Trust Uses unless a restriction is approved by the Department or other agencies with jurisdiction over navigation or public safety.

(a) Notwithstanding the provisions of Division 88, a Holder may close all or a portion of the authorized area to Public Trust Uses, or restrict Public Trust Uses within all or a portion of the authorized area, provided the closure or restriction is:

(A) Reasonably necessary to protect persons and property from harm arising from Holder's authorized use of the submerged and submersible land;

(B) Limited in duration; and

(C) Limited in scope.

(b) If the proposed closure or restriction is wholly or partially within the navigation channel of the waterway as established by the United States Coast Guard, or is located in such a way as to increase traffic in or otherwise impact use of the navigation channel, Holder shall consult with the United States Coast Guard, the Oregon Marine Board and any applicable port prior to implementing the closure or restriction. Holder must comply with all requirements imposed by the United States Coast Guard and the Oregon Marine Board.

(c) The Holder must provide written notice to the Department no less than fourteen (14) days prior to the implementation of any closure or restriction. The written notice must identify the need for and the scope, and duration of the closure or restriction, and must certify that Holder has consulted and received approval from the United States Coast Guard and the Oregon Marine Board regarding the closure or restriction.

(d) The Department, in its sole discretion, may at any time require Holder to terminate or modify the closure or restriction. The Department, in its sole discretion, may at any time require the closure or restriction to be established pursuant to OAR 141-088.

(9) The Department or its authorized representative(s) shall have the right to enter into and upon the authorized easement area at any time for the purposes of inspection or management.

(10) Routine right-of-way maintenance including, but not limited to vegetation trimming and the application of state-approved herbicides will be allowed as specified by the easement conditions. However, except as expressly authorized in writing by the Department, an easement Holder will not otherwise remove any sand, gravel, or other mineral or natural resources within the authorized area for commercial use or sale.

(11) The Holder of an easement must conduct all operations within the authorized area in a manner that conserves fish and wildlife habitat; protects water quality; and does not contribute to soil erosion, or the introduction or spread of noxious weeds or pests. Upon completion of construction, disturbed lands shall be reclaimed as specified by the Department.

(12) The Holder of an easement must maintain all buildings, pipelines, cables, and other developments or items placed in or on state-owned land in a good state of repair.

(13) Applicants for an easement may be required to obtain:

(a) Insurance, bond or other guarantees of performance required by the Department in the exercise of its reasonable discretion if, in the opinion of the Department, the use constitutes a risk to other users of the area, to public safety, or to the State of Oregon, or if required by Oregon state law. The Department may:

(A) Request that the applicant for, or the Holder of an easement provide information concerning the use or development to the Risk Management Division of the Oregon Department of Administrative Services, which may assist the Department in determining the appropriate amount of insurance coverage based on the nature of the use, and

(B) Require that the State of Oregon be named as an additional insured party in any such policy.

(b) A surety bond in an amount to be determined by the Department to ensure that the easement Holder will perform in accordance with all terms and conditions of the authorization; or a cash deposit in an amount equal to the amount required for a surety bond.

(14) Easement Holders must inspect the condition of the easement area and the developments placed on it on a frequency to be determined by the Department in consultation with the easement Holder and other interested parties.

(15) Unless otherwise agreed to in writing in the easement, the Holder of an easement which does not have a permanent term must terminate all use and remove any or all developments or uses placed within the easement area upon expiration or cancellation of the easement. If the Holder of the easement refuses to terminate their use or remove their developments, the Department may remove them and charge the Holder for doing so.

(16) The Holder of an easement must indemnify the State of Oregon and the Department against any claim or costs arising from or related to a release of a hazardous substance on or from the authorized area resulting from the actions or negligence of the easement Holder.

(17) A term easement that is exempt from fees may be subject to the future imposition by the Department of a consideration payment, and/or usage fee to be established by the State Land Board as authorized by law.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0080

Transfer of Easements

(1) An easement in good standing is transferable. Prior written consent of the Department is required prior to any transfer of the easement. No transfer may increase the burden on the estate or detract from the value of the underlying state land.

(2) The Holder of an easement wanting to transfer their easement must submit to the Department:

(a) Notice of proposed transfer on a form provided by the Department at least 60 calendar days prior to the date that the transfer is to occur; and

(b) Non-refundable transfer processing fee of \$750 payable to the Department.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0090

Termination of an Easement

(1) The Department may terminate any easement:

(a) If there is no use of, or development placed on the easement area for five consecutive years;

(b) If the easement is for a structure or facility necessary for the use of water on state-owned submerged and submersible land and the associated right to use water is cancelled by the Oregon Water Resources Department or abandoned by the easement Holder. Upon such termination, the Department will notify the easement Holder in writing using the last known address reported by the easement Holder to the Department. This notification will state that the easement has terminated, and that the easement Holder will have 30 calendar days from the date of the notice to respond in writing to the Director why the easement should be reinstated. The Director will notify the easement Holder in writing of his/her decision within 60 calendar days of receipt of the request for reinstatement of the easement; or

(c) If the Holder of the easement fails to comply with these rules or the terms and conditions of the easement, or violates other laws covering the use of their authorized area, the Department will notify the Holder of the easement in writing of the default and demand correction within a specified time frame. If the Holder of an easement fails to correct the default within the time frame specified, the Department may:

(A) Modify or terminate the easement;

(B) Invoke other remedies as provided in OAR 141-123-0120.

(2) Notwithstanding the provision of OAR 141-123-0090(1), the Department will not terminate a term easement if the Holder of the easement is ready, but unable to commence the requested use within the five-year period due to their inability to obtain other required authorizations within the five-year period.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0100

Easements for Structures and Facilities Necessary for the Use of Water

(1) Except as otherwise provided in OAR 141-123-0100(2), an easement is required for all structures and facilities placed on Non-Trust Land managed by the Department that are necessary for the use of water.

(2) An easement is not required for those parts of structures and facilities necessary for the use of water placed on state-owned submerged and submersible land managed by the Department if the:

(a) Owner of the structures and facilities holds a valid right to use the water, and

(b) Water is used exclusively for domestic and/or irrigation purposes.

(3) Persons who own, use, have placed, intend to place, or have the legal authority to represent the owners or users of structures and facilities necessary for the use of water subject to an easement must apply to the Department for an easement on a form provided by the agency. The applicant must include with the application a non-refundable application fee in the amount of \$125 payable to the Department to cover the administrative costs of processing the application and issuing the easement.

(4) An application received by the Department for an easement for a structure or facility necessary for the use of water will be processed pursuant to the provisions of OAR 141-123-0050 and 141-123-0060 (as applicable) of these rules.

(5) The Department will allow a person to include up to three water pipelines and associated fixtures per lot of record on their application for an easement.

(6) An easement issued by the Department under this section will have the same term as that of the associated right to use the water as determined by the Oregon Water Resources Department. Land Board approval will not be required for an easement granted under this section.

(7) The Department may enter into an agreement with the Oregon Water Resources Department to consolidate the processing of easements for structures or facilities necessary for the use of water with the processing of a right to use water.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0105

Unauthorized Uses and Penalties

(1) Uses and developments not authorized by an easement issued by the Department, or by another agency as a valid existing right of record on land acquired by the Department, constitute a trespass and must be removed as directed unless otherwise authorized in writing by the Department.

(2) In addition to any other penalties provided or permitted by law, the use or placement of any development on state-owned land without the required Department authorization as described in these rules, or which is otherwise not in compliance with these rules, will constitute a trespass and be prosecuted pursuant to governing law.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0110

Reconsideration of Decision

An applicant or any person adversely affected by the issuance or denial of an easement by the Department may request the Director or the State Land Board, depending on which entity made the decision, to reconsider the decision. A request for reconsideration must be filed in compliance with ORS 183.482 or 183.484.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0120

Enforcement Actions; Civil Penalties and Other Remedies

(1) The Department may:

(a) Conduct field inspections to determine if uses of, and developments on, in or over state-owned submerged and submersible land are authorized by, or conform with the terms and conditions of an easement and, if not,

(b) Pursue whatever remedies are available under law to ensure that any use that is in violation of the terms or conditions of an easement is either brought into compliance with the requirements of these rules or other applicable law, or removed.

(2) In addition to any other penalty or sanction provided by law, for uses subject to easement located on state-owned submerged and submersible land, the Director may assess a civil penalty of not more than \$1,000 per day of violation for the following:

(a) Violations of any provision of OAR 141-123 or ORS 273 or 274; or

(b) Violations of any term or condition of a written authorization granted by the Department under ORS 273 and 274.

(3) The Director will give written notice of a civil penalty incurred under OAR 141-123-0120(2) by registered or certified mail to the person incurring the penalty.

The notice will include, but not be limited to the following:

- (a) The particular section of the statute, rule or written authorization involved;
- (b) A short and clear statement of the matter asserted or charged;
- (c) A statement of the party's right to request a hearing within 20 calendar days of the notice;
- (d) The time allowed to correct a violation; and
- (e) A statement of the amount of civil penalty which may be assessed and terms and conditions of payment if the violation is not corrected within the time period stated.

(4) The person incurring the penalty may request a hearing within 20 calendar days of the date of service of the notice provided in OAR 141-123-0120(3). Such request must be in writing. If no written request for a hearing is made within the time allowed, or if the party requesting a hearing fails to appear, the Director may make a final order imposing the penalty.

(5) In imposing a penalty under OAR 141-123-0120 of these rules, the Director will consider the following factors as specified in ORS 274.994:

- (a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation;
- (b) Any prior violations of statutes, rules, orders and authorizations pertaining to submerged and submersible land or Trust lands;
- (c) The impact of the violation on public trust uses of commerce, navigation, fishing and recreation; and
- (d) Any other factors determined by the Director to be relevant and consistent with the policy of these rules.

(6) Pursuant to ORS 183.090(2), a civil penalty imposed under OAR 141-123-0120 will become due and payable 10 calendar days after the order imposing the civil penalty becomes final by operation of law or on appeal.

(7) If a civil penalty is not paid as required by OAR 141-123-0120, interest will accrue at the maximum rate allowed by law from the date first due.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

OFFICE OF THE SECRETARY OF STATE
DENNIS RICHARDSON
SECRETARY OF STATE

LESLIE CUMMINGS
DEPUTY SECRETARY OF STATE



Appendix B

ARCHIVES DIVISION
MARY BETH HERKERT
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 141
DEPARTMENT OF STATE LANDS

FILED
07/31/2018 2:17 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amending and adopting rules for Easements on Trust and Non-trust Lands

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/31/2018 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT: Anne Friend
503-986-5245
anne.m.friend@state.or.us

775 Summer Street NE
Suite 100
Salem, OR 97301

Filed By:
Anne Friend
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 08/21/2018
TIME: 4:00 PM - 6:00 PM
OFFICER: Nancy Pustis
ADDRESS: Clarion Inn, Lewis and Clark
Room
1249 Tapadera Ave
Ontario, OR 97914

DATE: 08/22/2018
TIME: 4:00 PM - 6:00 PM
OFFICER: Nancy Pustis
ADDRESS: Deschutes County Road
Department
61150 SE 27th St
Bend, OR 97702

DATE: 08/28/2018
TIME: 4:00 PM - 6:00 PM
OFFICER: Gary Cooper
ADDRESS: Department of State Lands
Building, Land Board Room
775 Summer Street NE
Salem, OR 97301

NEED FOR THE RULE(S):

- Accommodate statutory, and rule changes that have occurred in the past several years,
- Update the general provisions section to reflect the current practices of the Department,
- Complete rule language changes recommended by the Oregon Department of Justice,
- Review and update the administrative procedures for reviewing and issuing easements, and
- Review compensation for easements

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

ORS Chapter 273 (available at the Oregon State Legislature's website), ORS Chapter 274 (available at the Oregon State Legislature's website), ORS Chapter 376 (available at the Oregon State Legislature's website), draft rules were generated and reviewed by the agency's rulemaking advisory committee (available on at <https://bit.ly/2OsV2KB>) and OAR 141-122 (available at the Department of State Lands website)

FISCAL AND ECONOMIC IMPACT:

OAR 141-122 and OAR-141-123

The Department does not anticipate any additional administrative costs to the state with the changes to these rules. This includes administering the application process, working with the applicant and affected stakeholders through

issues, drafting all required authorizations, compliance monitoring, legal defense of agency decisions, and State Land Board review and approval as needed.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

OAR 141-122

It is anticipated that these rules will have a minimal fiscal impact on state agencies, units of local government and members of the public with an interest in the granting of easements on state-owned submerged and submersible land. We do not expect the revision of these rules to require any other governmental agencies to engage in rulemaking or to adopt subsequent code or ordinance.

OAR 141-123

It is anticipated that these rules will have a minimal fiscal impact on state agencies, units of local government and members of the public with an interest in the granting of easements on state-owned submerged and submersible land. We do not expect the revision of these rules to require any other governmental agencies to engage in rulemaking or to adopt subsequent code or ordinance.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

OAR 141-122

It is anticipated that these rules will not have any significant fiscal impacts on small businesses, however, compensation could increase in some cases. There may also be some indirect costs to small business that utilize the services of larger companies that acquire easements. These costs could increase given that there may be increases to large companies acquiring easements, as well as in some cases companies may pay less under these rules than they did under previous rules.

OAR 141-123

It is anticipated that these rules will not have any significant fiscal impacts on small businesses, since compensation in most cases will be lower. There may also be some indirect costs to small business that utilize the services of larger companies that acquire easements. These costs should remain flat or go down due to the fact that companies acquiring easements should pay less under these rules than they did under previous rules.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

OAR 141-122

There is no expected increase in reporting, recordkeeping and other administrative activities, including professional services for the small business.

OAR 141-123

There is no expected increase in reporting, recordkeeping and other administrative activities for the small business.

c. Equipment, supplies, labor and increased administration required for compliance:

OAR 141-122

There is no expected increase in equipment, supplies, labor or administration for small business

OAR 141-123

There is no expected increase in equipment, supplies, labor or administration for the Department or the regulated public.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

OAR 141-122

The Rulemaking Advisory Committee (RAC) included representatives from businesses and groups most likely to be impacted by easement rule changes. Some of the affected stakeholders included, but are not limited to, Oregon Education Association, Association of Oregon Counties, Oregon Cattleman’s Association, League of Oregon Cities, Lincoln County PUD, and Special Districts Association. RAC members have been instrumental in the development of these revised rules. The RAC members evaluated how they thought that small businesses may be impacted, though it would be rare for a small business to be impacted.

OAR 141-123

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Following is a list of contacts that were asked to participate on the RAC and declined or did not respond:

1. Oregon Peoples Utility Districts Association (OPUDA)
2. Oregon School Employees Association (OSEA)
3. League of Women Voters
4. The Nature Conservative
5. Willamette Partnership
6. Coalition of Oregon Land Trusts
7. Wetlands Conservancy
8. Legislative Commission on Indian Services (Tribes)

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

141-122-0010, 141-122-0020, 141-122-0030, 141-122-0040, 141-122-0050, 141-122-0060, 141-122-0070, 141-122-0080, 141-122-0090, 141-122-0100, 141-122-0105, 141-122-0110, 141-122-0120, 141-122-0130, 141-123-0010, 141-123-0020, 141-123-0030, 141-123-0040, 141-123-0050, 141-123-0060, 141-123-0070, 141-123-0080, 141-123-0090, 141-123-0100, 141-123-0105, 141-123-0110, 141-123-0120

AMEND: 141-122-0010

RULE SUMMARY: Removed References to non-trust lands, now addressed in 141-123

CHANGES TO RULE:

141-122-0010

Purpose and Applicability ¶¶

(1) These rules:¶¶

(a) Govern the granting and renewal of easements on state-owned Trust and Non-Trust land as specified herein.¶¶

(b) Do not apply to the:¶¶

- (A) Granting of easements for State owned submerged and submersible lands administered under OAR 141-123 (Rules for Granting Easements on Non-Trust Land)¶
- ~~(B) Granting of easements for fiber optic and other cables on state-owned submerged and submersible land within the Territorial Sea, an activity governed by OAR 141-083 (Rules For Granting Easements For Fiber Optic And Other Cables On State-Owned Submerged and Submersible Land Within The Territorial Sea);¶~~
- ~~(BC) Granting of authorizations for hydroelectric projects on state-owned Trust and Non-Trust Land, an activity governed by OAR 141-087; (Hydroelectric Projects); ¶~~
- ~~(CD) Dedication of roads or rights-of-way required of the Department or its agents by local government resulting from a local land use approval involving state-owned land; or¶~~
- ~~(DE) Existing valid easements granted or right of ways granted, by the Department or State Land Board, prior to the adoption of these rules.¶~~
- (c) Require prior authorization for all uses described under OAR 141-122-0010(2) and (3) unless otherwise exempt from easement under the provisions of OAR 141-122-0010(4) of these rules.¶
- (d) Contain specific provisions relating to the granting of easements by: ¶
- (A) The Department and the Oregon State Forester on Common School Forest Land; and¶
- (B) The Department to persons who have or will place a structure or facility on state-owned ~~Non-Trust Land~~ necessary ~~for the use of water~~ to take water for which they have a right to use the water.¶
- (2) Unless otherwise exempt under the provisions of OAR 141-122-0010(4) of these rules, developments and uses of state-owned land subject to easement include, but are not limited to the following:¶
- (a) Water, gas, electric and communication service lines (including fiber optic cables) and associated equipment such as pumping stations, transformers and meters;¶
- (b) Innerducts and conduits for cables (regardless of whether they contain a cable or are in use);¶
- (c) Water supply pipelines, ditches, canals, and flumes;¶
- (d) Drainage and irrigation works;¶
- (e) Sewer, storm, and cooling water lines, including storm water outfalls and other outfalls;¶
- (f) Bridges, skylines, and logging lines;¶
- (g) Railroad and light rail track, bridges, stations, depots, and other related facilities;¶
- (h) Roads and trails of all types;¶
- (i) Overhead transportation lines (for example, skylines, tramways, logging lines, etc.);¶
- (j) Storage of materials (for example, sand, gravel, dredge spoils, etc.); and¶
- ~~(k) Other encroachments; and.¶~~
- ~~(l) Erosion control structures, dikes, levees, and tidegates.¶~~
- ~~(3) The The Department Director may determine that other uses and developments similar to those specified in OAR 141-122-0010(2) are also subject to authorization by, or exempted from an easement and these rules.¶~~
- ~~(4) An easement is not required:¶~~
- ~~(a) F for uses or developments on either Trust or Non-Trust Land that would require an easement under these rules if the person undertaking the use or owning the development has obtained a valid authorization from the Department pursuant to the provisions of OAR 141-082 (Leasing and Registration of Structures on, and Uses of State-Owned Submerged and Submersible Lands); 141-110 (Management and Leasing of Rangeland Forage); or OAR 141-125 (Authorizing Special Uses on State-Owned Land), provided the proposed use or development is located on the land which is subject of the authorization, is incidental to the specific use that is the subject of the authorization, and does not result in an additional burden on the land; or¶~~
- ~~(b) For any structure or facility necessary for the use of water crossing or situated on state-owned submersible land if:¶~~
- ~~(A) The withdrawal is authorized by a valid right to use the water; and¶~~
- ~~(B) The water is used exclusively for irrigation or domestic use; or¶~~
- ~~(c) For water, gas, electric and communication lines physically attached to and supported by county or state-owned bridges that cross state-owned waterways which are located outside of city limits. If the water, gas, electric and communication lines are located within a city, or cross a state-owned waterway within a city, they are subject~~

~~to easement unless otherwise exempt by these rules.~~¶

(5) A person who is exempt from obtaining an easement under the provisions of OAR 141-122-0010(4) may apply to obtain an easement, and the Department may authorize an easement even though none is required under these rules. The application shall be processed in accordance with OAR 141-122-0050.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0020

RULE SUMMARY: Clarified the Departments constitutional mandate in managing Trust lands, added provision allowing Department to deny an easement if applicant is subject of existing enforcement action.

CHANGES TO RULE:

141-122-0020

Policies ¶

- (1) Pursuant to Article VIII, Section 5(2) of the Oregon Constitution, the State Land Board, through the Department, has a constitutional responsibility to manage all land (Trust and Non-Trust) under its jurisdiction "with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management." ¶
- (2) In addition to the constitutional mandate ~~stipulated~~ described in OAR 141-122-0020(1), the Department is required to manage its Trust Land to ~~ensure that full market value is obtained from any use of this asset.~~ maximize revenue to the Common School Fund over the long term. ¶
- (3) The Department ~~wi~~shall follow the guiding principles and resource-specific management prescriptions contained in the Real Estate Asset Management Plan, and consider the comments received from federal, state, and local governments and interested persons when determining whether to authorize or condition an easement on state-owned land. ¶
- (4) ~~The Department will manage~~ All uses of state-owned submerged and submersible land to ensure the collective rights of the public to fully use and enjoy this resource for commerce, navigation, fishing, recreation, and other related public purposes consistent ~~land must conform to applicable local (including local comprehensive land use planning and zoning ordinance requirements), state and federal laws.~~ ¶
- (5) No applicant or grantee is allowed to request from any government agency a change in the zoning for, or approved uses of, state-owned land without first applying to, and receiving written ~~approval from the Department.~~ ¶
- (56) The Department ~~wi~~shall not grant an easement if: ¶
- (a) As a result of its circulation for public comment of the application for easement as described in OAR 141-122-0050(~~34~~) it determines that the proposed use or development would unreasonably impact uses or developments proposed or already in place within the requested area; or ¶
- (b) ~~The easement is in an area the Department has closed to the granting of easements or other authorizations offered by the agency. Such~~ If the proposed use or development is inconsistent with local, state, or federal laws; or ¶
- (c) If the proposed use or development is inconsistent with these rules; or ¶
- (d) If the proposed use or development has unacceptable impacts on public health, safety or welfare, or would result in the loss of, or damage to natural, historical, cultural or archaeological resources; or ¶
- (e) If the proposed use or development is prohibited by a State Land Board or Department-adopted area closure, use restriction, or areas may be identified by contacting the Department ~~management plan (such as the Lower Willamette River Management Plan; or a Total Maximum Daily Load Implementation Plan);~~ or ¶
- (f) If the proposed use or development is inconsistent with any endangered species management plan adopted by the Department under the Oregon Endangered Species Act (ORS 496.171 to 496.192). ¶
- (67) The Department ~~wi~~shall: ¶
- (a) Recognize all valid easements of record on land acquired by the Department as disclosed at the time of acquisition; and ¶
- (b) Honor any ~~renewal~~ provisions contained in existing valid easements granted by the Department if the ~~h~~Holder of the easement has complied with all terms and conditions of the easement and applies to the Department for a new easement as prescribed in these rules. ¶
- (78) Except as provided in OAR 141-122-0010(4), ~~141-122-0100~~, and OAR 141-122-0105(2)~~0~~, any person wanting to use or place a development on state-owned land subject to an easement must obtain a written

authorization in the form of an easement from the Department prior to beginning the use or placing the development. Additionally, an easement is required for any use or development that encroaches on state-owned land regardless of ~~their~~its height above or below, or manner of crossing the state-owned land.¶

~~(89)~~ Unless otherwise exempt by these rules, each individual use of, or development placed on, state-owned land constitutes a separate discrete activity subject to:¶

(a) An easement specifically authorizing only that individual use or development; and¶

(b) Payment of compensation as required in these rules.¶

~~(910)~~ The Department may, at its discretion, deny an easement if the applicant's financial status or past business practices, or both, indicate that the applicant may not:¶

(a) Be able to fully meet the terms and conditions of an easement offered by the Department; or¶

(b) Use the land applied for in a way that meets the provisions of OAR 141-122-0020.¶

~~(101)~~ The Department may, at its discretion, deny an easement if the applicant is out of compliance with the terms of any authorization issued, or is subject to any enforcement or corrective action, by the Department.¶

~~(12)~~ An easement cannot be established on Department-managed land by adverse possession regardless of the length of time the use or development has been in existence.¶

~~(113)~~ The Department may:¶

(a) Conduct field inspections to determine if the uses and developments in place on state-owned land are authorized by, or conform with, the terms and conditions of an easement and, if not;¶

(b) Pursue whatever remedies are available under law and OAR 141-122-0130 to ensure that unauthorized uses subject to an easement on state-owned land are either brought into compliance with the requirements of these rules or removed.¶

~~(124)~~ Pursuant to the provisions of ORS 530.490(2) and (3), the Oregon State Forester may issue easements on Common School Forest Land in accordance with these rules (OAR 141-122-0100) and those adopted by the Oregon State Board of Forestry.¶

~~(13)~~ The Department will not grant an easement if the proposed use or development is inconsistent with any endangered species management plan adopted by the Department under the Oregon Endangered Species Act (ORS 496.171 to 496.192).

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0030

RULE SUMMARY: Added definitions for Appraised Value, Easement for Compensation Purposes, Holder, Intake, Market Value, Outfall, Owner, Public Trust Uses, Real Estate Asset Management Plan, Real Market Value, Right of Way, State Land Board, and Utility.

CHANGES TO RULE:

141-122-0030

Definitions ¶

- (1) "Applicant" is any person applying for an easement. ¶
- (2) ~~"Asset Management Plan" is the plan adopted by the State Land Board that provides the policy direction and management principles to guide both the short and long-term management by the Department of the Common School Fund's real estate assets. ¶~~
- (3) ~~"Attenuator" is a ppraised Value" means an estimate of current market value of the property (not including improvements) as of a specific date, prepared by a qualifixed or floating device that is placed in the water to absorb or reduce the energy contained in wave~~ independent appraiser in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) standards. ¶
- (43) "Authorized Area" is the area of state-owned land defined in the easement for which a use is authorized. ¶
- (54) "Cable" means a conductor of electricity or light with insulation, or a combination of conductors insulated from one another within a single jacket or sheath. ¶
- (65) "Circuit" means a system of conductors through which an electric current is intended to flow. A single pole or transmission tower may support one or more circuits, each of which may consist of up to four separate conductors. ¶
- (76) "City" means a city incorporated under ORS 221.020 through 221.100. ¶
- (87) "City Limits" refers to the boundaries of a city incorporated under ORS 221.020 through 221.100. ¶
- (98) "Common School Forest Land" is Trust Land that has been designated or "certified" by the State Land Board and the Oregon Board of Forestry for management by the Oregon Department of Forestry under contract between the State Forester and the State Land Board as allowed in ORS 530.450 through 530.520. ¶
- (109) "Communication Line" is any cable including fiber optic cable which transmits electronic information, telephone or television signals or other data. ¶
- (110) "Comparative Compensatory Payment" is the amount of money paid to owners of parcels that are similar to the state-owned land requested by an applicant for a use that is the same as, or similar to that requested by an applicant. When the applicant's requested use is in, on or over Trust Land, the comparative compensatory payment is the maximum amount of money private landowners receive for the same or similar uses in, on or over parcels that they own that are similar to the Trust Land requested by the applicant. ¶
- (121) "Compensation" or "Compensatory Payment" is the amount of money ~~paid~~, or something of equal value, paid or provided for an easement to the Department for the use of Department-managed land. ¶
- (13-2) ~~"Conduit" is a pipe that protects cables from damage. It may be buried or used in above-ground applications such as bridge crossings. Innerducts may be installed within a conduit to facilitate individual cable installation. ¶~~
- (14) ~~"Conservation Easement" is a type of easement granted by the Department that limits or prevents uses on a parcel of land in order to protect or enhance the property's ecological or open-space values. ¶~~
- (153) "Deflector" is a structural barrier such as a groin or jetty projecting into a waterway to divert flow away from and prevent eroding sections of the banks of a waterway. ¶
- (164) "Department" means the Department of State Lands. ¶
- (175) "Development" is any structure or physical facility (for example, each cable, innerduct, innerduct and cable, conduit, conduit and cable, pipeline, electrical line, communication line, bridge, road, fence, ditch, reservoir, or easement-associated building) on state-owned land subject to, or authorized by an easement granted by the Department. ¶
- (186) "Director" means the Director of the Department of State Lands or designee. ¶

- (197) "Domestic Use" means the use of water for human consumption and household purposes that is necessary for the sustenance of an individual, family unit or household. Domestic use may also include water used by an individual family unit or household for heating or cooling purposes.¶
- (2018) "Easement" is an authorization granted by the Department that gives a person the use of a specifically designated parcel of state-owned land for a specific purpose and length of time. An easement does not convey any proprietary or other rights of use to the HHolder other than those specifically granted in the easement authorization.¶
- (219) "Easement for Conservation Purposes" is a type of easement granted by the Department that limits uses to protect the property for conservation values, such as fish and wildlife habitat or other ecosystem processes. The easement for conservation purposes is conveyed by the Department when the applicant is not eligible to hold a Conservation Easement or otherwise does not conform to ORS 271.715 to 271.775.¶
- (20) "Encroachment" is an unauthorized development or use, such as, but not limited to a structure, fill, or pile of aggregate, that overlaps on, or otherwise occupies or restricts the full use of state-owned land. An encroachment may be a pipe, conduit, or other structure that has been abandoned in place. An encroachment may also occur when the HHolder of an easement granted by the Department extends their use outside of the area authorized by that easement or adds a use or development not authorized.¶
- (221) "Erosion Control Structures" mean revetments, attenuators, deflectors, retaining walls, riprap and other structures placed adjacent to, or on the bank of a waterway or lake to stabilize its position and to prevent or reduce erosion.¶
- (23) "Fair Market Value" is the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell, and both having reasonable knowledge of the relevant facts concerning the property.¶
- (24)State Trust Land¶
- (22) "Fiber Optic Cable" means an insulated and often armored cable used to transmit telecommunications through glass fibers using pulses of light.¶
- (253) "Gas Lines and Associated Fixtures" are the pipelines and required compressor and gate stations, valves, meters, regulators, relief stacks, marker posts, rectifiers, and all other related fixtures and equipment necessary to deliver natural gas from the point of origin to the user.¶
- (264) "Governmental Body" means an agency of the Federal Government, the State of Oregon, and every political subdivision thereof as defined in ORS 271.005.¶
- (275) "Holder" means any person who holds a current authorization from the Department for the use of state-owned lands. ¶
- (26) "Individual Use" or "Individual Development" is each separate use of, or development placed on state-owned land.¶
- (287) "Innerduct" is tubing that not only protects fiber optic and other types of cables, but also facilitates their installation. It is often placed inside a conduit, or may be buried directly into the ground¶
- (28) "Intake" is a location or structure through which something is taken in, e.g. water in a channel or pipe from a body of water.¶
- (29) "Irrigation" or "Irrigation Use" means the artificial application of water to crops or plants by controlled means to promote growth or to nourish crops or plants. Examples of irrigation uses include, but are not limited to, watering of an agricultural crop, commercial garden, tree farm, orchard, park, golf course play field or vineyard.¶
- (30) "Market Value" means the most probable price, as of a specified date, in cash, or in terms equivalent to cash for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller acting prudently, knowledgeably, and assuming neither is under undue duress.¶
- (31) "Miscellaneous Development" means any development placed upon, over or across state land that is not already defined in these rules (e.g. mailboxes, monitoring wells, Helipads) ¶
- (32) "Non-Trust Land" is land managed by the Department other than Trust Land. Examples of Non-Trust Land include state-owned Swamp Land Act Land, and submerged and submersible land [(land below ordinary high

water)] under navigable and tidally influenced waterways.¶

(313) "Outfall" is the point of a drain where it discharges to an area of land or body of water.¶

(34) "Owner" means a person or legal entity that has a property interest in a structure or land¶

(35) "Permanent Easement" is a type of easement that is issued in perpetuity.¶

(326) "Person" includes individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies as well as any state or other governmental or political subdivision or agency, public corporation, public authority, or Indian Tribe.¶

(33) "Right T7) "Public Trust Use(s)" means those uses embodied in the Public Trust Doctrine under federal and state law including, but not limited to navigation, recreation, commerce and fisheries, and other uses that support, protect and enhance those uses. Examples of Public Trust Uses include, but are not limited to, short term moorage, camping, bank fishing, picnicking, and boating.¶

(38) "Real Estate Asset Management Plan" is the plan adopted by the State Land Board that provides the policy direction and management principles to guide both the short and long-term management by the Department of the Common School Fund's real estate assets.¶

(39) "Real Market Value for Land" means the current market value of the property (not including improvements) assigned to the land within the tax lot, adjacent riparian tax lot, or comparable tax lot by the county tax assessor.¶

(40) "Right of Way" is the legal right, established by grant, to pass along a specific route through grounds or property belonging to another.¶

(41) "Right to Use Water" is a water right permit, water right certificate, or a proposed or final order approving a water right permit granted by the Oregon Water Resources Department, or court decree evidencing a water right, authorizing a person to take and use a specific quantity of water for a specific use or uses from a specific location under specific terms and conditions.¶

(342) "Rip-Rap roadway" means crushed rock or concrete placed on the ba road, driveway or anky of a waterway or lake to prevther development for reduce erosion of the bankthe use of a vehicle.¶

(435) "State Land" or "State-Owned Land" is land owned orby the State and managed by the Department or its agents and includes Trust Land and Non-Trust Land.¶

(3644) "State Land Board" means the constitutionally created body consisting of the Governor, Secretary of State, and State Treasurer that is responsible for managing the assets of the Common School Fund as well as for additional functions placed under its jurisdiction by law.¶

(45) "Structure or Facility Necessary for the Use of Water" means the pipelines and required stands, pumps, wiring, fish screens, and similar equipment necessary to convey water from the point of diversion to the place of use.¶

(3746) "Submerged Land" means land lying below the line of ordinary low water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.¶

(3847) "Submersible Land" means land lying above the line of ordinary low water and below the line of ordinary high water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.¶

(3948) "Trust Land" is land granted to the state upon its admission into the Union, or obtained by the state as the result of an exchange of Trust Land, or obtained in lieu of originally granted Trust Land, or purchased with trust funds, or obtained through foreclosure of loans using trust funds.¶

(409) "Use" means an activity on state-owned Trust and Non-Trust Landlands that requires an easement under these rules.¶

(50) "Utility" means water, waste water, gas, electric or communication service lines, fixtures and other related facilities.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0040

RULE SUMMARY: Modified fee schedule for easement applications, clarifies application requirements for easements involving conduit.

CHANGES TO RULE:

141-122-0040

Easement Application Requirements ¶

(1) Except as provided by OAR 141-122-0010(4) (Purpose and Applicability) and 141-122-0100 (Easements Issued on Common School Forest Land), any person wanting to use state-owned land for any of the purposes described in OAR 141-122-0010(2) and (3) must: ¶

(a) Apply to the Department for the easement using a form provided by the Department; and ¶

(b) Submit a non-refundable application fee as provided in OAR 141-122-0040(3) payable to the Department to cover the administrative costs of processing the application and issuing the authorization. When applying for an easement for a structure or facility necessary for the use of water as described in OAR 141-122-0105, a person may submit to the Department a copy of their application to the Department of Water Resources for a right to use water in lieu of using the Department's easement application form. ¶

(2) Unless otherwise exempt under the provisions of OAR 141-122-0010(4) (Purpose and Applicability), each individual use of, or development placed on state-owned land must be authorized by a separate easement specifically authorizing only that use or development. ¶

(a) ~~With regard to fiber optic cables, each single empty conduit, or single conduit containing one fiber optic cable, or every a conduit, regardless of the number of innerducts or fiber optic cable plaes contained within at the conduit after the first fiber optic cable has been installed is, each cable or innerduct is considered~~ an individual use subject to authorization by an easement. ¶

(b) With regard to electric power transmission lines, one transmission line with one or more circuits will constitute an individual use subject to authorization by an easement. Additional parallel transmission lines owned by the same entity with one or more circuits may be included in the same individual use so long as such parallel lines are located within the designated boundaries of the easement. ¶

(3) ~~Except as provided by OAR 141-122-0105 (Structures or Facilities Necessary for the Use of Water), the application fee for all easements is \$750~~ The application fee for all easements is as follows: ¶

(a) Utility Easements \$750 ¶

(b) All Other Trust Land Easements: \$1,500.00 ¶

(c) Application fee for all structures or facilities necessary for the use of water on submerged land subject to an easement is \$125. ¶

(4) A single easement application form may be used to request: ¶

(a) Multiple easements required for a single pipeline, cable, or similar use or development which cross one or more parcels of state-owned land; ¶

(b) An easement for all state, county or city-owned bridges within a single county, or ¶

(c) An easement for one or more identical uses or developments which cross the same parcel of state-owned land or state-owned waterway, for example, two parallel pipelines. ¶

~~(5) An easement application for a conduit must include a cross-sectional drawing that shows the proposed use and the remaining conduit space available for future use. ¶~~

(7) A fully completed application must be submitted to the Department at least 90 calendar days prior to the proposed use or placement of a development subject to a term easement on state-owned land, unless otherwise allowed by the Director in writing, a ¶

(8) A fully completed application must ~~shall~~ be submitted to the Department at least ~~6~~120 calendar days prior to the proposed use or placement of a development ~~subject to easement on state-owned land~~ that is eligible for a permanent easement on state-owned land, unless otherwise allowed by the Director in writing. ¶

~~(6) Any person holding a valid easement (other than a permanent easement) granted by the Department prior to~~

the adoption of these rules who wants to continue holding the authorized area following the expiration of the easement for a use subject to easement must:

(a) ~~Unless otherwise allowed by the Director, a~~ Apply to the Department for a new easement and pay the required application fee 180 calendar days prior to the expiration of the easement as provided in OAR 141-122-0040(1), unless otherwise allowed by the Director in writing; and

(b) Pay the compensatory payment required by OAR 141-122-0060 at such time that the Department has reviewed and approved the easement application request pursuant to OAR 141-122-0050(~~79~~) and (810).

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0050

RULE SUMMARY: Added EJ Provisions to public noticing protocol, added language to streamline review of EFSC certified projects.

CHANGES TO RULE:

141-122-0050

Easement Application Review and Approval Process ¶

(1) Upon receipt of an application, Department staff may require a meeting to discuss a proposed project and use before performing an application completion review. This meeting may be in person or through other means acceptable to the Department. The Department may invite other government entities and affected stakeholders to take part in an application meeting. ¶

(2) Upon receipt of an application, and the completion of an application meeting if necessary, the Department will determine whether it is complete. Applications determined to be incomplete will be returned to the applicant with a written explanation of the reason(s) for rejection. ¶

(23) If a rejected application is resubmitted within 9120 calendar days from the date the Department returned it to the applicant, no additional application fee will be assessed. ¶

(34) If determined by the Department to be complete, the application will be circulated to affected local, state, and federal agencies; holders of valid authorizations granted by the Department in the requested area; and other interested parties including federally recognized tribal governments and ports for review and comment. As a part of this review, the Department will specifically request comments concerning: ¶

(a) The presence, type and location of state or federal listed threatened and endangered species (including candidate species), and archeological and historic resources within the requested area which may be disturbed by the proposed use; ¶

(b) Whether the proposed easement use: ¶

(A) Conforms with other local, state, and federal law and rules; ¶

(B) Conforms with the local comprehensive land use plan and zoning ordinances; ¶

(C) Conforms with the ~~policy~~ general provisions described in OAR 141-122-0020 of these rules; and ¶

(D) Would unreasonably impact uses or developments proposed or already in place within the requested area. ¶

(45) The Department may post a notice of an application and opportunity to comment at a local government building, public library, or other appropriate locations in order to ensure that minority and low-income communities are included and aware of a proposed use. The Department shall make paper or electronic copies of an application available to any person upon request. ¶

(6) The Department may waive the circulation requirement described in OAR 141-122-0050(34) if: ¶

(a) The use or development has been previously reviewed by the listed agencies and other interested persons, and the results are documented in the easement application; ¶

(b) The application is for an easement associated with the right to use water and the Water Resources Department is conducting/ or has conducted a public interest review sufficient to make the determinations required by OAR 141-122-0050(34) or; ¶

(c) The application is for an easement for an energy facility that has been granted a site certificate by the Energy Facility Siting Council under ORS 469.300 et seq. and OAR 345-022, et seq. (Regulation of Energy Facilities), in which case the Department will accept the findings and conclusions of the Energy Facility Siting Council in evaluating the easement application over Trust Land. ¶

(57) An applicant for an easement may be required to amend their application at any time to address issues, concerns, or information needs identified by the Department or other commenters. ¶

(68) After receipt of agency and public comment concerning the proposed use, the Department will determine, and advise the applicant in writing if: ¶

(a) Changes to the requested easement area are necessary to respond to agency or public comment; ¶

(b) Additional information is required from the applicant, including but not limited to a survey of; ¶

(A) State or federal listed threatened and endangered species (including candidate species) within the requested area; ~~and/or.~~

(B) Archaeological and historic resources within the requested area.

(c) The request is denied. Applicants will be given the opportunity to revise their proposed project if the Department denies the request; or.

(d) The easement will be granted with specific terms and conditions.

(79) If the Department decides to grant the easement, the written notification will also indicate:

(a) The amount of compensation pursuant to the requirements of OAR 141-122-0060 that the applicant must ~~shall~~ remit to the Department to obtain the authorization;

(b) Any surety bond or other guarantees of performance in an amount required by the Department pursuant to the provisions of OAR 141-122-0070(142); and.

(c) The easement terms and conditions.

(810) The Department will not grant an easement to an applicant until it has received all fees and compensation specified in these rules, and evidence of a surety bond or other guarantees of performance (if required). However, the Department, at its discretion, may grant a provisional easement prior to receipt of compensation due for removal of timber, sand and gravel, or other natural resources in the easement area if the fair-market value of those resources is based on actual receipts from their sale.

(911) The Director may refer unusual or controversial easement applications to the State Land Board for review and approval.

(102) If requested by the Department, an applicant must present evidence to the Department prior to placing the use or development that they have obtained:

(a) All authorizations required by local, state, and federal governing bodies to undertake the proposed use or development; and

(b) Any authorization that may be required to obtain access to, or to cross land belonging to a person other than the Department to undertake the use or development.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0060

RULE SUMMARY: Defined the minimum compensation fee for various easement types.

CHANGES TO RULE:

141-122-0060

Compensation ¶¶

- (1) Except as provided in OAR 141-122-0060(73), the Department will, prior to granting an easement, require an applicant ~~not otherwise exempt under 141-122-0060(2) or as provided in 141-122-0060(6)~~ to submit to the Department a compensatory payment for each individual crossing or use of state-owned land in the greatest of: ¶¶
- (a) 100 percent of the ~~fair market value of the area requested for the easement if it is on, over or above state-owned upland for uses as defined in OAR 141-122-0010(2) and (3). Fair m~~Market value is either: ¶¶
- (A) ~~Determined by an appraisal that is acceptable to the Department and that has been prepared by a:~~ ¶¶
- (i) ~~State-certified appraiser; or~~ ¶¶
- (ii) ~~Salaried public employee of the federal government, the State of Oregon or a political subdivision of the federal government or the State of Oregon while engag~~Real market value as determined in~~by the performance of the duties of the employee as defined in ORS 674.110(2)(h); or~~ ¶¶
- (B) ~~The county assessor's real market value of the tax lot(s) affected by the easement.~~ ¶¶
- (b) ~~For submerged and submersible lands, compensation is based on 33 1/3 percent of the fair market value of the adjacent riparian tax lots for uses defined in OAR 141-122-0010(2) and (3). Fair market value is either:~~county tax assessor for DSL parcel impacted and the benefitting tax lot(s); or ¶¶
- (AB) ~~Determined by a~~An appraised value that is acceptable to the Department and that has been prepared by a state-certified appraiser; or ¶¶
- (B) ~~The county assessor's real market value of the adjacent riparian tax lots.~~ ¶¶
- (c) ~~\$250; or~~ ¶¶
- (d) ~~The highest comparative compensatory payment.~~ ¶¶
- (2) ~~The following types of easements located on Non-Trust Land are exempt from the mandatory compensatory payment to the Department specified in OAR 141-122-0060(1):~~ ¶¶
- (a) ~~State and county-owned bridges located outside of city limits.~~ ¶¶
- (b) ~~Gas, electric and communication line easements located outside of city limits.~~ ¶¶
- (c) ~~Water ditches; water supply pipes; and water supply mains up to a maximum width of 25 feet on each side of the center line.~~ ¶¶
- (d) ~~Sanitary pressure mains and storm water pipes and outfalls up to a maximum width of 25 feet on each side of the center line.~~ ¶¶
- (e) ~~Any structure or facility necessary for the use of water crossing or situated on state-owned submersible land if:~~ ¶¶
- (A) ~~The withdrawal is authorized by a valid right to use the water; and~~ ¶¶
- (B) ~~The water is used exclusively for irrigation or domestic use.~~ ¶¶
- (3) ~~The Department is limited to \$1.00 per acre consideration for easements on Non-Trust Land for:~~qualified state-certified appraiser. ¶¶
- (b) Minimum compensation fee as follows: ¶¶
- (A) Utilities: \$3,500.00 ¶¶
- (aB) Railroad track right-of-way (exclusive of bridges over state-owned submerged and submersible land) up to a maximum width of 50 feet on each side of the center line of the road; andoadways: \$2,500.00 ¶¶
- (bC) Railroad stations, depots, and other related facilities (exclusive of bridges over state-owned submerged and submersible land) up to a maximum of 10 acres in any one place. ¶¶
- (4) ~~Compensatory payments shall be required at the rate stipulated in OAR 141-122-0060(1) for that part of an easement for the uses specified in OAR 141-122-0060(2) and (3) which exceeds the maximum widths or acreages indicated, or occurs on:~~ ¶¶

~~(a) Trust Land, or~~

~~(b) Other land not exempt from a mandatory compensatory payment. Miscellaneous Development: \$1,000.00~~

~~(52) If required by the Department, applicants must also submit to the Department a payment in an amount to be determined by the Department for the fair-market value of any commercially valuable timber, sand and gravel, or other natural resources in the easement area which must be removed during or after placement of the proposed use, or which cannot be developed because of the easement use. Such payment shall be due at a date to be determined by the Department.~~

~~(63) The Department may, in lieu of a cash compensatory payment, negotiate a non-cash compensatory payment equivalent to or greater than the compensation required under OAR 141-122-0060(1).~~

~~(7) Notwithstanding the provisions of OAR 141-122-0060(1), for state, county and city-owned bridges crossing a state-owned waterway on Non-Trust Land, the required compensation will be:~~

~~(a) No compensation for a 30-year easement if none of the bridges listed on a single county application submitted by either the Oregon Department of Transportation or any county is located within a city.~~

~~(b) \$100 for a 30-year easement if any bridge listed on a single county application submitted by either the Oregon Department of Transportation or any county is located within a city.~~

~~(c) \$100 for a permanent easement for each state, county or city-owned bridge crossing state-owned land if it is located in a city.~~

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0070

RULE SUMMARY: Amending this rule to reflect the division of rules for trust and non-trust lands for easements.

CHANGES TO RULE:

141-122-0070

General Easement Terms And Conditions ¶¶

- (1) Easements shall be offered by the Department for the minimum area and term determined by the Department to be required for the requested use or development. Unless otherwise authorized by the Director, the minimum width of an easement shall be no less than 15 feet. ¶¶
- (2) The applicant shall have ninety (90) calendar days from the date of offer to execute an easement with the Department. The Department may revoke the offer after ninety calendar days, at which time the applicant may re-apply for an easement in accordance with OAR 141-122-0040. ¶¶
- (3) The Department may grant additional easements which, as determined by the Department, do not substantially interfere with other authorized easements within a given area. ¶¶
- ~~(34) The Department will, upon request of the applicant, grant permanent easements only for the following uses of state-owned land: ¶¶~~
- ~~(a) Conservation purposes (conservation easements); ¶¶~~
- ~~(b) State, county and city owned bridges if the application contains a full surveyed legal description for each bridge and the appropriate compensation required by these rules; ¶¶~~
- ~~(c) Water, gas, electric and communication lines; and ¶¶~~
- ~~(d) Structures or facilities necessary for the use of water as provided in OAR 141-122-0105. ¶¶~~
- (4) Easements shall be offered for a term no longer than thirty (30) years unless otherwise authorized by the Director. ¶¶
- (5) The Department may, upon request of the applicant, grant permanent easements only for structures or facilities necessary for the use of water as provided in OAR 141-122-0105. ¶¶
- (6) Requests for permanent easements shall be taken to the State Land Board for review and approval. ¶¶
- (7) An easement granted by the Department will generally be to a specific person for a specific use, location, and term. The ~~h~~Holder of an easement must apply to and obtain prior written approval from the Department as provided in OAR 141-1242-0040 prior to: ¶¶
- (a) Changing the authorized use; ¶¶
- (b) Transfer of ownership; ¶¶
- (c) Expanding the number of authorized developments or uses; ¶¶
- ~~(ed)~~ Changing the authorized area; or ¶¶
- ~~(de)~~ Permitting other persons to utilize the authorized area for uses and developments requiring separate authorization by the Department (for example, attachment of cables, conduits, or pipes under a bridge already authorized by an easement). ¶¶
- ~~(58)~~ State-owned land authorized for a specific use by an easement will remain open to the public for recreational and other non-proprietary uses unless restricted or closed to public entry by the State Land Board or the Department. An easement ~~h~~Holder may request the Department to partially restrict or close an easement area to partial or total public use if it can be demonstrated to the Department that: ¶¶
- (a) Public entry on the area encumbered by the easement could cause damage to the use of, or development placed on the authorized area; or ¶¶
- (b) The use of the authorized area could cause harm to the public. ¶¶
- ~~(69)~~ The Department or its authorized representative(s) ~~wi~~shall have the right to enter into and upon the authorized easement area at any time for the purposes of inspection or management. ¶¶
- ~~(710)~~ Routine right-of-way maintenance including, but not limited to vegetation trimming and the application of state-approved herbicides will be allowed as specified by the easement conditions. However, except as expressly authorized in writing by the Department, an easement ~~h~~Holder will not otherwise remove any sand, gravel, or

other mineral or natural resources within the authorized area for commercial use or sale.¶

~~(8) An applicant for an easement must compensate the Department for the fair market value of any commercially valuable timber, sand and gravel, or other natural resources in the requested area that must be removed during or after placement of the proposed use, or that cannot be developed because of the use or development.¶~~

~~(9)¶~~

~~(11) The hHholder of an easement must conduct all operations within the authorized area in a manner that conserves fish and wildlife habitat; protects water quality; and does not contribute to soil erosion, or the introduction or spread of noxious weeds or pests. Upon completion of construction, disturbed lands shall be reclaimed as specified by the Department.¶~~

~~(102) The hHholder of an easement must maintain all buildings, pipelines, cables, and other developments or items placed in or on state-owned land in a good state of repair.¶~~

~~(113) Applicants for an easement may be required to obtain:¶~~

~~(a) Insurance, bond or other guarantees of performance required by the Department in the exercise of its reasonable discretion if, in the opinion of the Department, the use constitutes a risk to other users of the area, to public safety, or to the State of Oregon, or if required by Oregon state law. The Department may:¶~~

~~(A) Request that the applicant for, or the hHholder of an easement provide information concerning the use or development to the Risk Management Division of the Oregon Department of Administrative Services, which may assist the Department in determining the appropriate amount of insurance coverage based on the nature of the use, and¶~~

~~(B) Require that the State of Oregon be named as an additional insured party in any such policy.¶~~

~~(b) A surety bond in an amount to be determined by the Department to ensure that the easement hHholder will perform in accordance with all terms and conditions of the authorization; or a cash deposit in an amount equal to the amount required for a surety bond.¶~~

~~(124) Easement hHholders must inspect the condition of the easement area and the developments placed on it on a frequency to be determined by the Department in consultation with the easement hHholder and other interested parties.¶~~

~~(135) Unless otherwise agreed to in writing in the easement, the hHholder of an easement which does not have a permanent term must terminate all use, and remove any or all developments or uses placed within the easement area upon expiration or cancellation of the easement. If the hHholder of the easement refuses to terminate their use or remove their developments, the Department may remove them and charge the hHholder for doing so.¶~~

~~(146) The hHholder of an easement must indemnify the State of Oregon and the Department against any claim or costs arising from or related to a release of a hazardous substance on or from the authorized area resulting from the actions or negligence of the easement holder.¶~~

~~(17) A term easement exempt from any fees may be subject to the future imposition by the Department of a consideration payment, and/or usage ¶~~

~~fee to be established by the State Land Board as authorized by law.~~

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0080

RULE SUMMARY: Amending this rule to reflect the division of rules for trust and non-trust lands for easements.

CHANGES TO RULE:

141-122-0080

Assignment of Easements ¶¶

(1) An easement in good standing is ~~assignment~~transferable. Prior written consent of the Department is required prior to any ~~assignment~~transfer of the easement. No transfer may increase the burden on the estate or detract from the value of the underlying state land. ¶¶

(2) The ~~holder~~Holder of an easement wanting to ~~assignment~~transfer their easement must submit to the Department: ¶¶

(a) Notice of proposed ~~assignment~~transfer on a form provided by the Department at least 60 calendar days prior to the date that the ~~assignment~~transfer is to occur; and ¶¶

(b) Non-refundable ~~assignment~~transfer processing fee of ~~\$75~~1,000.00 payable to the Department.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0090

RULE SUMMARY: Amending this rule to reflect the division of rules for trust and non-trust lands for easements.

CHANGES TO RULE:

141-122-0090

Termination of an Easement ¶

- (1) ~~With the exception of permanent easements, t~~The Department may terminate any easement:¶
- (a) If there is no use of, or development placed on the easement area for five consecutive years;¶
- (b) If the easement is for a structure or facility necessary for the use of water on state-owned ~~submerged and submersible~~ land and the associated right to use water is cancelled by the Oregon Water Resources Department or abandoned by the easement ~~h~~Holder. Upon such termination, the Department will notify the easement ~~h~~Holder in writing using the last known address reported by the easement ~~h~~Holder to the Department. This notification will state that the easement has terminated, and that the easement ~~h~~Holder will have 30 calendar days from the date of the notice to respond in writing to the Director why the easement should be reinstated. The Director will notify the easement ~~h~~Holder in writing of his/her decision within 60 calendar days of receipt of the request for reinstatement of the easement; or ¶
- (c) If the ~~h~~Holder of the easement fails to comply with these rules or the terms and conditions of the easement, or violates other laws covering the use of their authorized area, the Department will notify the ~~h~~Holder of the easement in writing of the default and demand correction within a specified time frame. If the ~~h~~Holder of an easement fails to correct the default within the time frame specified, the Department may:¶
- (A) Modify or terminate the easement;¶
- ~~(B) Request the Attorney General to take or cause to be taken appropriate legal action against the holder of the easement; or ¶~~
- ~~(C) Invoke other remedies as provided in OAR 141-122-0130.¶~~
- ~~(32) Notwithstanding the provision of OAR 141-122-0090(1), the Department will not terminate an easement that is not perman term easement if the hHolder of the easement is ready, but unable ¶ to commence the requested use within the five-year period due to their inability to obtain other required authorizations within the five-year period.~~

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0100

RULE SUMMARY: Amending this rule to reflect the division of rules for trust and non-trust lands for easements.

CHANGES TO RULE:

141-122-0100

Easements Issued on Common School Forest Land ¶¶

(1) The Oregon State Forester may issue an easement not to exceed a term of ten years [temporary easements] on certified Common School Forest Land in accordance with applicable statutes and administrative rules. ¶¶

(2) Such easements may be issued by the Oregon State Forester for uses such as, but not limited to: ¶¶

(a) Use of roads for forest management purposes; ¶¶

(b) Constructing, improving and/or maintaining temporary roads, including spur roads; ¶¶

(c) Constructing landing sites to deck timber; ¶¶

(d) Use of stumps and/or trees for guide lines and tail holds; ¶¶

(e) Extracting sand, gravel, or quarry rock for the improvement, construction or maintenance of state-owned roads; and ¶¶

(f) Use of existing roads for forest management purposes. ¶¶

(3) Any person wanting to obtain an easement on certified Common School Forest Land must apply directly to the Oregon Department of Forestry. ¶¶

(4) Any person wanting to obtain an easement on Common School Forest Land for the uses or developments described in OAR 141-122-0010(2) and (3), must apply to the Department pursuant to these rules.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0105

RULE SUMMARY: Amending this rule to reflect the division of rules for trust and non-trust lands for easements.

CHANGES TO RULE:

141-122-0105

Easements For Structures and Facilities Necessary for the Use of Water ¶¶

~~(1) Except as otherwise provided in OAR 141-122-0105(2), a~~An easement is required for all structures and facilities placed on Trust or Non-Trust Land managed by the Department that are necessary for the use of water.¶¶

~~(2) An easement is not required for those parts of structures and facilities necessary for the use of water placed on state-owned submersible land managed by the Department if the:~~¶¶

~~(a) Owner of the structures and facilities holds a valid right to use the water, and~~¶¶

~~(b) Water is used exclusively for domestic and irrigation purposes.~~¶¶

~~(3) Persons who own, use, have placed, intend to place, or have the legal authority to represent the owners or users of structures and facilities necessary for the use of water subject to an easement must apply to the Department for an easement on a form provided by the agency. The applicant must include with the application a non-refundable application fee in the amount of \$125 payable to the Department to cover the administrative costs of processing the application and issuing the easement.~~¶¶

~~(4) An application received by the Department for an easement for a structure or facility necessary for the use of water will be processed pursuant to the provisions of OAR 141-122-0050 and 141-122-0060 (as applicable) of these rules.~~¶¶

~~(5) The Department will allow a person to include up to three water pipelines and associated fixtures per lot of record on their application for an easement.~~¶¶

~~(6) An easement issued by the Department under this section will have the same term as that of the associated right to use the water as determined by the Oregon Water Resources Department. Land Board approval will not be required for an easement granted under this section.~~¶¶

~~(7) The Department may enter into an agreement with the Oregon Water Resources Department to consolidate the processing of easements for structures or facilities necessary for the use of water with the processing of a right to use water.~~

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0110

RULE SUMMARY: Amending this rule to reflect the division of rules for trust and non-trust lands for easements.

CHANGES TO RULE:

141-122-0110

Unauthorized Uses and Penalties ¶

(1) Uses and developments not authorized by an easement issued by the Department, or by another agency as a valid existing right of record on land acquired by the Department, constitute a trespass and must be removed as directed unless otherwise authorized in writing by the Department. ¶

(2) In addition to any other penalties provided or permitted by law, the use or placement of any development on state-owned land without the required Department authorization as described in these rules, or which is otherwise not in compliance with these rules, will constitute a trespass and be prosecuted pursuant to governing law.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0120

RULE SUMMARY: Amending this rule to reflect the division of rules for trust and non-trust lands for easements.

CHANGES TO RULE:

141-122-0120

Reconsideration of Decision ¶

An applicant or any person adversely affected by the issuance or denial of an easement by the Department may request the Director or the State Land Board, depending on which entity made the decision, to reconsider the decision. A request for reconsideration must be filed in compliance with ORS 183.482 or 183.484.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0130

RULE SUMMARY: Amending this rule to reflect the division of rules for trust and non-trust lands for easements.

CHANGES TO RULE:

141-122-0130

Enforcement Actions; Civil Penalties and Other Remedies ¶

(1) The Department may:¶

(a) Conduct field inspections to determine if uses of, and developments on, ~~in or over state-owned submerged and submersible land~~ Trust Lands are authorized by, or conform with the terms and conditions of an easement and, if not,¶

(b) Pursue whatever remedies are available under law to ensure that any use that is in violation of the terms or conditions of an easement is either brought into compliance with the requirements of these rules or other applicable law, or removed.¶

(2) In addition to any other penalty or sanction provided by law, for uses subject to an easement located on state-owned submerged and submersible Trust Lands, the Director may assess a civil penalty of not more than \$1,000 per day of violation for the following:¶

(a) Violations of any provision of OAR 141-122 or ORS 273 or 274; or¶

(b) Violations of any term or condition of a written authorization granted by the Department under ORS 273 and 274.¶

(3) The Director will give written notice of a civil penalty incurred under OAR 141-122-0130(2) by registered or certified mail to the person incurring the penalty. The notice will include, but not be limited to the following:¶

(a) The particular section of the statute, rule or written authorization involved;¶

(b) A short and clear statement of the matter asserted or charged;¶

(c) A statement of the party's right to request a hearing within 20 calendar days of the notice;¶

(d) The time allowed to correct a violation; and¶

(e) A statement of the amount of civil penalty which may be assessed and terms and conditions of payment if the violation is not corrected within the time period stated.¶

(4) The person incurring the penalty may request a hearing within 20 calendar days of the date of service of the notice provided in OAR 141-122-0130(3). Such request must be in writing. If no written request for a hearing is made within the time allowed, or if the party requesting a hearing fails to appear, the Director may make a final order imposing the penalty.¶

(5) In imposing a penalty under OAR 141-122-0130 of these rules, the Director will consider the following factors as specified in ORS 274.994:¶

(a) The ~~past~~ history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation;¶

(b) Any prior violations of statutes, rules, orders and authorizations pertaining to Trust lands, or submerged and submersible lands;¶

(c) The impact of the violation on ~~public trust uses of commerce, navigation, fishing and recreation, and~~ Trust Land.¶

(d) Any other factors determined by the Director to be relevant and consistent with the policy of these rules.¶

(6) Pursuant to ORS 183.090(2), a civil penalty imposed under OAR 141-122-0130 will become due and payable 10 calendar days after the order imposing the civil penalty becomes final by operation of law or on appeal.¶

(7) If a civil penalty is not paid as required by OAR 141-122-0130, interest will accrue at the maximum rate allowed by law from the date first due.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0010

RULE SUMMARY: Adopting rules for granting easements on non-trust lands

CHANGES TO RULE:

141-123-0010

Purpose and Applicability

(1) These rules:

(a) Govern the granting and renewal of easements on state-owned Non-Trust land as specified herein.

(b) Do not apply to the:

(A) Granting of easements for State-Owned Trust lands under OAR 141-122 (Rules for Granting Easements on Trust Land)

(B) Granting of easements for fiber optic and other cables on state-owned submerged and submersible land within the Territorial Sea, an activity governed by OAR 141-083 (Rules for Granting Easements for Fiber Optic and Other Cables on State-Owned Submerged and Submersible Land Within the Territorial Sea);

(C) Granting of authorizations for hydroelectric projects on state-owned Non-Trust Land, an activity governed by OAR 141-087 (Hydroelectric Projects);

(D) Granting of authorizations for remediation and habitat restoration activities governed by OAR 141-145 (Rules Governing the Management of State-Owned Submerged and Submersible Land Subject to Remediation and Habitat Restoration Activities);

(E) Granting of authorizations for leases, licenses and registrations for structures on and uses of state-owned submerged and/or submersible lands governed by OAR 141-082 (Rules Governing the Management Of, And Issuing of Leases, Licenses and Registrations for Structures On, And Uses of State-Owned Submerged and Submersible Land);

(F) Dedication of roads or rights-of-way required of the Department or its agents by local government resulting from a local land use approval involving state-owned land; or

(G) Existing valid easements or right of ways granted, by the Department of State Lands (Department) or State Land Board, prior to the adoption of these rules.

(c) Require prior authorization for all uses described under OAR 141-123-0010(2) and (3) unless otherwise exempt from easement under the provisions of OAR 141-123-0010(4) of these rules.

(d) Contain specific provisions relating to the granting of easements by the Department to persons who have or will place a structure or facility on state-owned Non-Trust Land necessary to take water for which they have a right to use.

(2) Unless otherwise exempt under the provisions of OAR 141-123-0010(4) of these rules, developments and uses of state-owned Non-Trust Land subject to easement include, but are not limited to the following:

(a) Water, gas, electric and communication service lines (including fiber optic cables) and associated equipment such as pumping stations, transformers and meters;

(b) Innerducts and conduits for cables (regardless of whether they contain a cable or are in use);

(c) Water supply pipelines, ditches, canals, and flumes;

(d) Drainage and irrigation works;

(e) Sewer, storm, and cooling water lines, including storm water outfalls and other outfalls;

(f) Bridges, skylines, and logging lines;

(g) Railroad and light rail track, bridges, stations, depots, and other related facilities;

(h) Roads and trails of all types;

(i) Overhead transportation lines (for example, tramways, etc.);

(j) Storage of materials (for example, sand, gravel, dredge spoils, etc.); and

(k) Other encroachments

(l) Erosion control structures, dikes, levees, and tide-gates.

(3) The Department Director may determine that other uses and developments similar to those specified in OAR 141-123-0010(2) are also subject to authorization by, or exempted from, an easement and these rules.

(4) An easement is not required:¶

(a) For uses or developments on state-owned Non-Trust Land that would require an easement under these rules if the person undertaking the use or owning the development has obtained a valid authorization from the Department pursuant to the provisions of OAR 141-082 (Leasing And Registration Of Structures On, And Uses Of State-Owned Submerged And Submersible Lands); OAR141-145 (Authorizations For Remediation And Habitat Restoration Activities); or OAR 141-125 (Authorizing Special Uses On State-Owned Land), provided the proposed use or development is located on the land which is subject of the authorization, is incidental to the specific use that is the subject of the authorization, and does not result in an additional burden on the land; or¶

(b) For any structure or facility necessary for the use of water crossing or situated on state-owned submersible land if the below conditions apply: ¶

(A) The withdrawal is authorized by a valid right to use the water; and¶

(B) The water is used exclusively for irrigation or domestic use. ¶

(c) For water, gas, electric and communication lines physically attached to and supported by county or state-owned bridges that cross state-owned waterways which are located outside of city limits. If the water, gas, electric and communication lines are located within a city, or cross a state-owned waterway within a city, they are subject to easement unless otherwise exempt by these rules.¶

(5) A person who is exempt from obtaining an easement under the provisions of OAR 141-123-0010(4) may apply to obtain an easement and the Department may authorize an easement even though none is required under these rules. The application shall be processed in accordance with OAR 141-123-0050.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0020

RULE SUMMARY: Adopting rules for the general provisions of the easements on non-trust lands.

CHANGES TO RULE:

141-123-0020

General Provisions

- (1) Pursuant to Article VIII, Section 5(2) of the Oregon Constitution, the State Land Board, through the Department, has a constitutional responsibility to manage all land (Trust and Non-Trust) under its jurisdiction "with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management." ¶
- (2) The Department shall follow the guiding principles and resource-specific management prescriptions contained in the Real Estate Asset Management Plan, and consider the comments received from federal, state, and local governments and interested persons when determining whether to authorize or condition an easement on state-owned land. ¶
- (3) All tidally influenced and title navigable waterways (referred to as state-owned submerged and submersible land) have been placed by the Oregon State Legislature under the jurisdiction of the State Land Board and the Department, as the administrative arm of the State Land Board.¶
- (4) All references in these rules to "state-owned submerged and submersible land" include state-owned submerged lands or submersible lands or both.¶
- (5) State-owned submerged and submersible land is managed to ensure the collective rights of the public to fully use and enjoy this resource for commerce, navigation, fishing, recreation, and other public trust values. These rights are collectively referred to as "public trust rights". ¶
- (6) All uses of state-owned land must conform to applicable local (including local comprehensive land use planning and zoning ordinance requirements), state and federal laws.¶
- (7) No applicant or grantee is allowed to request from any government agency a change in the zoning for, or approved uses of, state-owned land without first applying to and receiving written approval from the Department. ¶
- (8) The Department shall not grant an easement if:¶
- (a) As a result of its circulation for public comment of the application for easement as described in OAR 141-123-0050(4) it determines that the proposed use or development would unreasonably impact use or developments proposed or already in place within the requested area; or¶
- (b) If the proposed use or development is inconsistent with local, state, or federal laws; or¶
- (c) If the proposed use or development is inconsistent with these rules; or¶
- (d) If the proposed use or development has unacceptable impacts on public health, safety or welfare, or would result in the loss of, or damage to natural, historical, cultural or archaeological resources, as determined by the Department; or¶
- (e) If the proposed use or development is prohibited by a State Land Board or Department-adopted area closure, use restriction, or area management plan (such as the Lower Willamette River Management Plan; or a Total Maximum Daily Load Implementation Plan); or¶
- (f) If the proposed use or development is inconsistent with any endangered species management plan adopted by the Department under the Oregon Endangered Species Act (ORS 496.171 to 496.192).¶
- (9) The Department may, at its discretion, deny an easement if the applicant's financial status or past business practices, or both, indicate that the applicant may not:¶
- (a) Be able to fully meet the terms and conditions of an easement offered by the Department; or ¶
- (b) Use the land applied for in a way that meets the provisions of OAR 141-123-0020.¶
- (10) The Department may, at its discretion, deny an easement if the applicant is out of compliance with the terms and conditions of any previous authorization issued, or is subject to any enforcement or corrective action, by the Department. ¶
- (11) The Department shall:¶

(a) Recognize all valid easements of record on land acquired by the Department as disclosed at the time of acquisition; and¶¶

(b) Honor any renewal provisions contained in existing valid easements granted by the Department if the Holder of the easement has complied with all terms and conditions of the easement and applies to the Department for a new easement as prescribed in these rules.¶¶

(12) Except as provided in OAR 141-123-0010(4) and OAR 141-123-0100(2), any person wanting to use or place a development on state-owned land subject to an easement must obtain a written authorization in the form of an easement from the Department prior to beginning the use or placing the development. Additionally, an easement is required for any use or development that encroaches on state-owned land regardless of its height above or below, or manner of crossing the state-owned land.¶¶

(13) Unless otherwise exempt by these rules, each individual use of, or development placed on, state-owned land constitutes a separate discrete activity subject to: ¶¶

(a) An easement specifically authorizing only that individual use or development; and¶¶

(b) Payment of compensation as required in these rules.¶¶

(14) An easement cannot be established on Department-managed land by adverse possession regardless of the length of time the use or development has been in existence. ¶¶

(15) The Department may: ¶¶

(a) Conduct field inspections to determine if the uses and developments in place on state-owned land are authorized by, or conform with, the terms and conditions of an easement and, if not: ¶¶

(b) Pursue whatever remedies are available under law and OAR 141-123-0120 to ensure that unauthorized uses subject to an easement on state-owned land are either brought into compliance with the requirements of these rules or removed.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0030

RULE SUMMARY: Definitions were adopted for non-trust lands easements.

CHANGES TO RULE:

141-123-0030

Definitions

- (1) "Applicant" is any person applying for an easement.¶
- (2) "Appraised Value" means an estimate of current market value of the property (not including improvements) as of a specific date, prepared by a qualified independent appraiser in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) standards.¶
- (3) "Authorized Area" is the area of state-owned land defined in the easement for which a use is authorized.¶
- (4) "Cable" means a conductor of electricity or light with insulation, or a combination of conductors insulated from one another within a single jacket or sheath.¶
- (5) "Circuit" means a system of conductors through which an electric current is intended to flow. A single pole or transmission tower may support one or more circuits, each of which may consist of up to four separate conductors.¶
- (6) "City" means a city incorporated under ORS 221.020 through 221.100.¶
- (7) "City Limits" refers to the boundaries of a city incorporated under ORS 221.020 through 221.100.¶
- (8) "Communication Line" is any cable including fiber optic cable which transmits electronic information, telephone or television signals or other data.¶
- (9) "Comparative Compensatory Payment" is the amount of money paid to owners of parcels that are similar to the state-owned land requested by an applicant for a use that is the same as, or similar to that requested by an applicant. When the applicant's requested use is in, on or over Trust Land, the comparative compensatory payment is the maximum amount of money private landowners receive for the same or similar uses in, on or over parcels that they own that are similar to the Trust Land requested by the applicant.¶
- (10) "Compensation" or "Compensatory Payment" is the amount of money paid or something of equal value provided for an easement to the Department for the use of Department managed land.¶
- (11) "Conduit" is a pipe that protects cables from damage. It may be buried or used in above-ground applications such as bridge crossings. Innerducts may be installed within a conduit to facilitate individual cable installation.¶
- (12) "Deflector" is a structural barrier such as a groin or jetty projecting into a waterway to divert flow away from and prevent eroding sections of the banks of a waterway.¶
- (13) "Department" means the Department of State Lands.¶
- (14) "Development" is any structure or physical facility (for example, each cable, innerduct, innerduct and cable, conduit, conduit and cable, pipeline, electrical line, communication line, bridge, road, fence, ditch, reservoir, or easement-associated building) on state-owned land subject to or authorized by an easement granted by the Department.¶
- (15) "Director" means the Director of the Department of State Lands or designee.¶
- (16) "Domestic Use" means the use of water for human consumption and household purposes that is necessary for the sustenance of an individual, family unit or household. Domestic use may also include water used by an individual family unit or household for heating or cooling purposes.¶
- (17) "Easement" is an authorization granted by the Department that gives a person the use of a specifically designated parcel of state-owned land for a specific purpose and length of time. An easement does not convey any proprietary or other rights of use to the Holder other than those specifically granted in the easement authorization.¶
- (18) "Easement for Conservation Purposes" is a type of easement granted by the Department that limits uses to protect the property for conservation values, such as fish and wildlife habitat or other ecosystem processes. The easement for conservation purposes is conveyed by the Department when the applicant is not eligible to hold a Conservation Easement or otherwise does not conform to ORS 271.715 to 271.775.¶
- (19) "Encroachment" is an unauthorized development or use, such as, but not limited to a structure, fill, or pile of

aggregate, that overlaps on, or otherwise occupies or restricts the full use of state-owned land. An encroachment may be a pipe, conduit, or other structure that has been abandoned in place. An encroachment may also occur when the Holder of an easement granted by the Department extends their use outside of the area authorized by that easement or adds a use or development not authorized. ¶

(20) "Erosion Control Structures" mean revetments, attenuators, deflectors, retaining walls, riprap and other structures placed adjacent to, or on Non-Trust Land. ¶

(21) "Fiber Optic Cable" means an insulated and often armored cable used to transmit telecommunications through glass fibers using pulses of light. ¶

(22) "Gas Lines and Associated Fixtures" are the pipelines and required compressor and gate stations, valves, meters, regulators, relief stacks, marker posts, rectifiers, and all other related fixtures and equipment necessary to deliver natural gas from the point of origin to the user. ¶

(23) "Governmental Body" means an agency of the Federal Government, the State of Oregon, and every political subdivision thereof as defined in ORS 271.005. ¶

(24) "Holder" means any person who holds a current authorization from the Department for the use of state-owned lands. ¶

(25) "Individual Use" or "Individual Development" is each separate use of, or development placed on state-owned land. ¶

(26) "Innerduct" is tubing that not only protects fiber optic and other types of cables, but also facilitates their installation. It is often placed inside a conduit or may be buried directly into the ground. ¶

(27) "Intake" is a location or structure through which something is taken in, e.g. water in a channel or pipe from a body of water. ¶

(28) "Irrigation" or "Irrigation Use" means the artificial application of water to crops or plants by controlled means to promote growth or to nourish crops or plants. Examples of irrigation uses include, but are not limited to, watering of an agricultural crop, commercial garden, tree farm, orchard, park, golf course play field or vineyard. ¶

(29) "Market Value" Means the most probable price, as of a specified date, in cash, or in terms equivalent to cash for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller acting prudently, knowledgeably, and assuming neither is under undue duress. ¶

(30) "Maximum Value Per Square Foot" means the highest price per square foot that the Department may use in determining compensation for easements. ¶

(31) "Multiple-Use Easement" means an authorization issued for a single conduit, through which additional uses may be embedded. ¶

(32) "Non-Trust Land" is land managed by the Department other than Trust Land. Examples of Non-Trust Land include state-owned Swamp Land Act Land, and submerged and submersible land [(land below ordinary high water)] under navigable and tidally influenced waterways. ¶

(33) "Outfall" is the point of a drain where it discharges to an area of land or body of water. ¶

(34) "Owner" means a person or legal entity that has a property interest in a structure or land ¶

(35) "Permanent Easement" is a type of easement that is issued in perpetuity. ¶

(36) "Person" includes individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies as well as any state or other governmental or political subdivision or agency, public corporation, public authority, or Indian Tribe. ¶

(37) "Public Trust Use(s)" means those uses embodied in the Public Trust Doctrine under federal and state law including, but not limited to navigation, recreation, commerce and fisheries, and other uses that support, protect, and enhance those uses. Examples of Public Trust uses include, but are not limited to, short term moorage, camping, bank fishing, picnicking, and boating. ¶

(38) ""Real Estate Asset Management Plan" is the plan adopted by the State Land Board that provides the policy direction and management principles to guide both the short and long-term management by the Department of the Common School Fund's real estate assets. ¶

(39) "Real Market Value" for land means the current market value of the property (not including improvements)

assigned to the land within the tax lot, adjacent riparian tax lot, or comparable tax lot by the county tax assessor.¶

(40) "Right of Way" is the legal right, established by grant, to pass along a specific route through grounds or property belonging to another. ¶

(41) "Right to Use Water" is a water right permit, water right certificate, or a proposed or final order approving a water right permit granted by the Oregon Water Resources Department, or court decree evidencing a water right, authorizing a person to take and use a specific quantity of water for a specific use or uses from a specific location under specific terms and conditions.¶

(42) "Roadway" means a road, driveway, or any other development for the use vehicles or other traffic.¶

(43) "Rip-Rap" means crushed rock or concrete placed on the bank of a waterway or lake to prevent or reduce erosion of the bank. ¶

(44) "Single-Use Easement" means an authorization for a crossing with an individual use.¶

(45) "State Land" or "State-Owned Land" is land owned by the State and managed by the Department or its agents and includes Trust Land and Non-Trust Land. ¶

(46) "State Land Board" means the constitutionally created body consisting of the Governor, Secretary of State, and State Treasurer that is responsible for managing the assets of the Common School Fund as well as for additional functions placed under its jurisdiction by law.¶

(47) "Structure or Facility Necessary for the Use of Water" means the pipelines and required stands, pumps, wiring, fish screens, and similar equipment necessary to convey water from the point of diversion to the place of use. ¶

(48) "Submerged Land" means land lying below the line of ordinary low water of all title navigable and tidally influenced water within the boundaries of the State of Oregon. ¶

(49) "Submersible Land" means land lying above the line of ordinary low water and below the line of ordinary high water of all title navigable and tidally influenced water within the boundaries of the State of Oregon. ¶

(50) "Trust Land" is land granted to the state upon its admission into the Union or obtained by the state as the result of an exchange of Trust Land, or obtained in lieu of originally granted Trust Land, or purchased with trust funds, or obtained through foreclosure of loans using trust funds.¶

(51) "Use" means an activity on state-owned lands that requires an easement under these rules.¶

(52) "Utility" means water, waste water, gas, electric, or communication service lines, fixtures and other related facilities.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0040

RULE SUMMARY: Adopting the application review and approval process for easements on the non-trust lands.

CHANGES TO RULE:

141-123-0040

Easement Application Requirements

(1) Except as provided by OAR 141-123-0010(4) (Purpose and Applicability) and 141-123-0100 (Easements for Structures and Facilities Necessary for the Use of Water), any person wanting to use state-owned land for any of the purposes described in OAR 141-123-0010(2) and (3) must: ¶

(a) Apply to the Department for the easement using a form provided by the Department; and ¶

(b) Submit a non-refundable application fee as provided in OAR 141-123-0040(3) payable to the Department to cover the administrative costs of processing the application and issuing the authorization. When applying for an easement for a structure or facility necessary for the use of water as described in OAR 141-123-0100, a person may submit to the Department a copy of their application to the Department of Water Resources for a right to use water in lieu of using the Department's easement application form. ¶

(2) Unless otherwise exempt under the provisions of OAR 141-123-0010(4) (Purpose and Applicability), each individual use of, or development placed on state-owned land must be authorized by a separate easement specifically authorizing only that use or development. ¶

(a) With regard to a conduit, regardless of the number of innerducts or fiber optic cables contained within the conduit, each cable or innerduct is considered an individual use subject to authorization by an easement. ¶

(b) With regard to electric power transmission lines, one transmission line with one or more circuits will constitute an individual use subject to authorization by an easement. Additional parallel transmission lines owned by the same entity with one or more circuits may be included in the same individual use so long as such parallel lines are located within the designated boundaries of the easement. ¶

(3) Except as provided by OAR 141-123-0100 (Easements for Structures and Facilities Necessary for the Use of Water) and OAR 141-123-0040(4), the application fee for all term easements is \$750; the application fee for all structures or facilities necessary for the use of water on submerged land subject to an easement is \$125. ¶

(4) There is no application fee for water, gas, electric or communication service ¶
lines across non-trust lands outside of city limits. ¶

(5) A single easement application form may be used to request: ¶

(a) An easement for a single pipeline, cable, or similar use or development which crosses one or more parcels of state-owned land. ¶

(b) An easement for all state, county or city-owned bridges within a single county, or ¶

(c) An easement for one or more identical uses or developments which cross the same parcel of state-owned land or state-owned waterway, for example, two parallel pipelines. ¶

(6) An easement application for a conduit must include a cross-sectional drawing that shows the proposed use and the remaining conduit space available for future use. ¶

(7) A fully completed application must be submitted to the Department at least 90 calendar days prior to the proposed use or placement of a development subject to a term easement on state-owned land unless otherwise allowed by the Director in writing. ¶

(8) A fully completed application must be submitted to the Department at least 120 calendar days prior to the proposed use or placement of a development that is eligible for a permanent easement on state-owned land, unless otherwise allowed by the Director in writing. ¶

(9) Any person holding a valid easement (other than a permanent easement) granted by the Department prior to the adoption of these rules who wants to continue holding the authorized area following the expiration of the easement for a use subject to easement must: ¶

(a) Apply to the Department for a new easement and pay the required application fee 180 calendar days prior to the expiration of the easement as provided in OAR 141-123-0040(1), unless otherwise allowed by the Director in writing; and ¶

(b) Pay the compensatory payment required by OAR 141-123-0060 at such time that the Department has reviewed and approved the easement application request pursuant to OAR 141-123-0050 (9) and (10).

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0050

RULE SUMMARY: Adopting easement application review and approval process for easements on non-trust lands.

CHANGES TO RULE:

141-123-0050

Easement Application Review and Approval Process

- (1) Department staff may require a meeting to discuss a proposed project and use before performing an application completion review. This meeting may be in person or through other means acceptable to the Department. The Department may invite other government entities and affected stakeholders to take part in an application meeting.¶
- (2) Upon receipt of an application, and the completion of an application meeting if necessary, the Department will determine whether it is complete. Applications determined to be incomplete will be returned to the applicant with a written explanation of the reason(s) for rejection.¶
- (3) If a rejected application is resubmitted within 120 calendar days from the date the Department returned it to the applicant, no additional application fee will be assessed.¶
- (4) If determined by the Department to be complete, the application will be circulated to affected local, state, and federal agencies; Holders of valid authorizations granted by the Department in the requested area; and other interested persons including federally recognized tribal governments and ports for review and comment. As a part of this review, the Department will specifically request comments concerning:¶
- (a) The presence, type and location of state or federal listed threatened and endangered species (including candidate species), and archeological and historic resources within the requested area which may be disturbed by the proposed use; ¶
- (b) Whether the proposed easement use:¶
- (A) Conforms with other local, state, and federal law and rules; ¶
- (B) Conforms with the local comprehensive land use plan and zoning ordinances; ¶
- (C) Conforms with the general provisions described in OAR 141-123-0020 of these rules; and¶
- (D) Would unreasonably impact uses or developments proposed or already in place within the requested area. ¶
- (5) The Department may post a notice of an application and opportunity to comment at a local government building, public library, or other appropriate locations in order to ensure that minority and low-income communities are included and aware of a proposed use. The Department shall make paper copies of an application available to any person upon request. ¶
- (6) The Department may waive the circulation requirement described in OAR 141-123-0050(4) if:¶
- (a) The use or development has been previously reviewed by the listed agencies and other interested persons, and the results are documented in the easement application;¶
- (b) The application is for an easement associated with the right to use water and the Water Resources Department is conducting or has conducted a public interest review sufficient to make the determinations required by OAR 141-123-0050(4); or¶
- (c) The application is for an easement for an energy facility that has been granted a site certificate by the Energy Facility Siting Council under ORS 469.300 et seq. and OAR 345-022, et seq. (Regulation of Energy Facilities), in which case the Department will accept the findings and conclusions of the Energy Facility Siting Council in evaluating the easement application over Non-Trust Land.¶
- (7) An applicant for an easement may be required to amend their application at any time to address issues, concerns, or information needs identified by the Department or others that provided comments. ¶
- (8) After receipt of agency and public comment concerning the proposed use, the Department will determine, and advise the applicant in writing if: ¶
- (a) Changes to the requested easement area are necessary to respond to agency or public comment; ¶
- (b) Additional information is required from the applicant, including but not limited to a survey of: ¶
- (A) State or federal listed threatened and endangered species (including candidate species) within the requested area; or ¶

- (B) Archaeological and historic resources within the requested area. ¶
 - (c) The request is denied. Applicants will be given the opportunity to revise their proposed project if the Department denies the request; or ¶
 - (d) The easement will be granted with specific terms and conditions. ¶
 - (9) If the Department decides to grant the easement, the written notification will also indicate: ¶
 - (a) The amount of compensation pursuant to the requirements of OAR 141-123-0060 that the applicant must remit to the Department to obtain the authorization; ¶
 - (b) Any surety bond amount required by the Department pursuant to the provisions of OAR 141-123-0070(13); and ¶
 - (c) The easement terms and conditions. ¶
 - (10) The Department will not grant an easement to an applicant until it has received all fees and compensation specified in these rules, and evidence of a surety bond (if required). However, the Department, at its discretion, may grant a provisional easement prior to receipt of compensation due for removal of timber, sand and gravel, or other natural resources in the easement area if the fair market value of those resources is based on actual receipts from their sale. ¶
 - (11) The Director may refer unusual or controversial easement applications to the State Land Board for review and approval. ¶
 - (12) If requested by the Department, an applicant must present evidence to the Department prior to placing the use or development that they have obtained:¶
 - (a) All authorizations required by local, state, and federal governing bodies to undertake the proposed use or development; and¶
 - (b) Any authorization that may be required to obtain access to, or to cross land belonging to a person other than the Department to undertake the use or development.
- Statutory/Other Authority: ORS 273.045
- Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0060

RULE SUMMARY: Adopting Compensation rules for the easements on non-trust lands.

CHANGES TO RULE:

141-123-0060

Compensation

(1) Except as provided in OAR 141-123-0060(11) and (12), the Department will, prior to granting an easement, require an applicant not otherwise exempt under OAR 141-123-0060(6) or as provided in OAR 141-123-0060(10) to submit to the Department a compensatory payment for each individual crossing or use of state-owned land in an amount equal to the greatest of: ¶

(a) For submerged and submersible lands, compensation is based on 33 1/3 percent of the market value of the adjacent riparian tax lots for uses described in OAR 141-123-0010(2) and (3). Market value is either:¶

(A) An appraised value that is acceptable to the Department; or¶

(B) The Real Market value of the adjacent riparian tax lots. ¶

(b) \$500; or¶

(c) The highest Comparative Compensatory Payment. ¶

(2) For all single-use easements on, over, above, or below state submersible or submerged lands, the value per square feet derived from the real market value of the adjacent riparian tax lot(s) shall not exceed the Maximum Value per Square Foot. The Statewide Maximum Value Per Square Foot is \$11.93 starting July 1, 2018, and shall increase each year on July 1st by three percent.¶

(3) For all multiple-use easements on, over, above, or below state submersible or submerged lands, compensation is based upon the real market value of the adjacent riparian tax lot(s) and is not limited by the Statewide Maximum Value per Square Foot.¶

(4) For each new individual use, proposed to be embedded in existing conduit authorized by the Department prior to January 1, 2019, compensation is required and the Statewide Maximum Value per Square Foot shall apply.¶

(5) For each new individual use, proposed to be embedded in existing conduit authorized by the Department after January 1, 2019, no additional compensation is required.¶

(6) The following types of easements located on Non-Trust Land are exempt from the mandatory compensatory payment to the Department specified in OAR 141-123-0060(1): ¶

(a) State and county-owned bridges located outside of city limits.¶

(b) Gas, electric and communication line easements located outside of city limits, as allowed by ORS 758.010.¶

(c) Water ditches; water supply pipes; and water supply mains up to a maximum width of 25 feet on each side of the center line, as allowed by ORS 273.761. ¶

(d) Sanitary pressure mains and storm water pipes and storm water outfalls up to a maximum width of 25 feet on each side of the center line, as allowed by ORS 273.761. ¶

(e) Any structure or facility necessary for the use of water crossing or situated on state-owned submersible land, as allowed by ORS 274.040(3) if:¶

(A) The withdrawal is authorized by a valid right to use the water; and¶

(B) The water is used exclusively for irrigation or domestic use.¶

(7) There is granted to all persons constructing railways built after February 21, 1891, within the boundaries of the state, and to their successors and assigns as allowed by ORS 273.751:¶

(a) A right of way through any unimproved state lands, of the width of 100 feet, being 50 feet in width on each side of the center line of the road.¶

(b) All necessary grounds for stations, depots, shops, side tracks, turntables and water stations, not exceeding 10 acres in any one place, upon payment to the state of the sum therefor as fixed by the Department of State Lands.¶

(c) The right to take, from the lands of this state adjacent to the route lines of the road, material necessary for the construction of the roads.¶

(d) The right to construct and maintain railroad bridges over any navigable waters in this state. All bridges crossing navigable waters shall be subject to such regulations, restrictions and compensation as may be fixed by the

department and shall be so constructed as not unnecessarily to interfere with navigation.¶

(8) Compensatory payments shall be required at the rate specified in OAR 141-123-0060(1) for that part of an easement for the uses specified in OAR 141-123-0060(2) and (3) which exceeds the maximum widths or acreages indicated, or occurs on:¶

(a) Trust Land (under OAR 141-122), or ¶

(b) Other land not exempt from a mandatory compensatory payment. ¶

(9) If required by the Department, applicants must also submit to the Department a payment in an amount to be determined by the Department for the fair market value of any commercially valuable timber, sand and gravel, or other natural resources in the easement area which must be removed during or after placement of the proposed use, or which cannot be developed because of the easement use. Such payment shall be due at a date to be determined by the Department. ¶

(10) The Department may, in lieu of a cash compensatory payment, negotiate a non-cash compensatory payment equivalent to or greater than the compensation required under OAR 141-123-0060(1).¶

(11) Notwithstanding the provisions of OAR 141-123-0060(1), for state, county and city-owned bridges crossing a state-owned waterway on Non-Trust Land, the required compensation will be:¶

(a) No compensation for a 30-year easement if none of the bridges listed on a single county application submitted by either the Oregon Department of Transportation or any county is located within a city.¶

(b) \$100 for a 30-year easement if any bridge listed on a single county application submitted by either the Oregon Department of Transportation or any county is located within a city.¶

(c) \$100 for a permanent easement for each state, county or city-owned bridge crossing state-owned land if it is located in a city.¶

(12) Notwithstanding the provisions of OAR 141-123-0060(1), for People's Utility Districts (PUD) structures crossing a state-owned waterway on Non-Trust Land, the required compensation will be:¶

(a) No compensation for a 30-year easement if the structures are not located within a city.¶

(b) \$100 for a 30-year easement if the structures are located within a city.¶

(13) If in the process of calculating compensation, the assessed value is found to be depressed due to the presence of hazardous substances or some other extenuating circumstance(s) as determined by the Department, another comparable upland tax lot shall be selected by the Department as the basis for calculating the compensation. The applicant may suggest a comparable tax lot or may appeal the Department's selection to the Director.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0070

RULE SUMMARY: Adopting Terms and Conditions for easements on non-trust lands

CHANGES TO RULE:

141-123-0070

General Easement Terms and Conditions

- (1) Easements shall be offered by the Department for the minimum area and term determined by the Department to be required for the requested use or development. Unless otherwise authorized by the Director, the minimum width of an easement shall be no less than 15 feet. ¶
- (2) The applicant shall have ninety (90) calendar days from the date of offer to execute an easement with the Department. The Department may revoke the offer after ninety calendar days, at which time the applicant may re-apply for an easement in accordance with OAR 141-123-0040.¶
- (3) The Department may grant additional easements which, as determined by the Department, do not substantially interfere with other authorized easements within a given area. ¶
- (4) Easements shall be offered for a term no longer than thirty (30) years, unless otherwise authorized by the Director. ¶
- (5) The Department may, upon request of the applicant, grant permanent easements only for the following uses of state-owned land:¶
- (a) State, county and city-owned bridges if the application contains a full surveyed legal description for each bridge and the appropriate compensation required by these rules; and¶
- (b) Structures or facilities necessary for the use of water as provided in OAR 141-123-0100. ¶
- (6) Requests for permanent easements shall be taken to the State Land Board for review and approval.¶
- (7) An easement granted by the Department will generally be to a specific person for a specific use, location, and term. The Holder of an easement must apply to and obtain prior written approval from the Department as provided in OAR 141-123-0040 prior to: ¶
- (a) Changing the authorized use;¶
- (b) Transfer of ownership; ¶
- (c) Expanding the number of authorized developments or uses; ¶
- (d) Changing the authorized area; or ¶
- (e) Permitting other persons to utilize the authorized area for uses and developments requiring separate authorization by the Department (for example, attachment of cables, conduits, or pipes under a bridge already authorized by an easement). ¶
- (8) State-owned submerged and submersible land must remain open to Public Trust Uses unless a restriction is approved by the Department or other agencies with jurisdiction over navigation or public safety. ¶
- (a) Notwithstanding the provisions of Division 88, a Holder may close all or a portion of the authorized area to Public Trust Uses, or restrict Public Trust Uses within all or a portion of the authorized area, provided the closure or restriction is:¶
- (A) Reasonably necessary to protect persons and property from harm arising from Holder's authorized use of the submerged and submersible land;¶
- (B) Limited in duration; and¶
- (C) Limited in scope.¶
- (b) If the proposed closure or restriction is wholly or partially within the navigation channel of the waterway as established by the United States Coast Guard, or is located in such a way as to increase traffic in or otherwise impact use of the navigation channel, Holder shall consult with the United States Coast Guard, the Oregon Marine Board and any applicable port prior to implementing the closure or restriction. Holder must comply with all requirements imposed by the United States Coast Guard and the Oregon Marine Board.¶
- (c) The Holder must provide written notice to the Department no less than fourteen (14) days prior to the implementation of any closure or restriction. The written notice must identify the need for and the scope, and duration of the closure or restriction, and must certify that Holder has consulted and received approval from the

United States Coast Guard and the Oregon Marine Board regarding the closure or restriction. ¶

(d) The Department, in its sole discretion, may at any time require Holder to terminate or modify the closure or restriction. The Department, in its sole discretion, may at any time require the closure or restriction to be established pursuant to OAR 141-088. ¶

(9) The Department or its authorized representative(s) shall have the right to enter into and upon the authorized easement area at any time for the purposes of inspection or management. ¶

(10) Routine right-of-way maintenance including, but not limited to vegetation trimming and the application of state-approved herbicides will be allowed as specified by the easement conditions. However, except as expressly authorized in writing by the Department, an easement Holder will not otherwise remove any sand, gravel, or other mineral or natural resources within the authorized area for commercial use or sale. ¶

(11) The Holder of an easement must conduct all operations within the authorized area in a manner that conserves fish and wildlife habitat; protects water quality; and does not contribute to soil erosion, or the introduction or spread of noxious weeds or pests. Upon completion of construction, disturbed lands shall be reclaimed as specified by the Department. ¶

(12) The Holder of an easement must maintain all buildings, pipelines, cables, and other developments or items placed in or on state-owned land in a good state of repair. ¶

(13) Applicants for an easement may be required to obtain: ¶

(a) Insurance, bond or other guarantees of performance required by the Department in the exercise of its reasonable discretion if, in the opinion of the Department, the use constitutes a risk to other users of the area, to public safety, or to the State of Oregon, or if required by Oregon state law. The Department may: ¶

(A) Request that the applicant for, or the Holder of an easement provide information concerning the use or development to the Risk Management Division of the Oregon Department of Administrative Services, which may assist the Department in determining the appropriate amount of insurance coverage based on the nature of the use, and ¶

(B) Require that the State of Oregon be named as an additional insured party in any such policy. ¶

(b) A surety bond in an amount to be determined by the Department to ensure that the easement Holder will perform in accordance with all terms and conditions of the authorization; or a cash deposit in an amount equal to the amount required for a surety bond. ¶

(14) Easement Holders must inspect the condition of the easement area and the developments placed on it on a frequency to be determined by the Department in consultation with the easement Holder and other interested parties. ¶

(15) Unless otherwise agreed to in writing in the easement, the Holder of an easement which does not have a permanent term must terminate all use and remove any or all developments or uses placed within the easement area upon expiration or cancellation of the easement. If the Holder of the easement refuses to terminate their use or remove their developments, the Department may remove them and charge the Holder for doing so. ¶

(16) The Holder of an easement must indemnify the State of Oregon and the Department against any claim or costs arising from or related to a release of a hazardous substance on or from the authorized area resulting from the actions or negligence of the easement Holder. ¶

(17) A term easement that is exempt from fees may be subject to the future imposition by the Department of a consideration payment, and/or usage fee to be established by the State Land Board as authorized by law.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0080

RULE SUMMARY: Adopting transfer of easement rules for easements on non-trust lands.

CHANGES TO RULE:

141-123-0080

Transfer of Easements

(1) An easement in good standing is transferable. Prior written consent of the Department is required prior to any transfer of the easement. No transfer may increase the burden on the estate or detract from the value of the underlying state land. ¶

(2) The Holder of an easement wanting to transfer their easement must submit to the Department:¶

(a) Notice of proposed transfer on a form provided by the Department at least 60 calendar days prior to the date that the transfer is to occur; and¶

(b) Non-refundable transfer processing fee of \$750 payable to the Department.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0090

RULE SUMMARY: Adopting rules for the termination of an easement for easements on non-trust lands.

CHANGES TO RULE:

141-123-0090

Termination of an Easement

(1) The Department may terminate any easement:¶

(a) If there is no use of, or development placed on the easement area for five consecutive years:¶

(b) If the easement is for a structure or facility necessary for the use of water on state-owned submerged and submersible land and the associated right to use water is cancelled by the Oregon Water Resources Department or abandoned by the easement Holder. Upon such termination, the Department will notify the easement Holder in writing using the last known address reported by the easement Holder to the Department. This notification will state that the easement has terminated, and that the easement Holder will have 30 calendar days from the date of the notice to respond in writing to the Director why the easement should be reinstated. The Director will notify the easement Holder in writing of his/her decision within 60 calendar days of receipt of the request for reinstatement of the easement; or ¶

(c) If the Holder of the easement fails to comply with these rules or the terms and conditions of the easement, or violates other laws covering the use of their authorized area, the Department will notify the Holder of the easement in writing of the default and demand correction within a specified time frame. If the Holder of an easement fails to correct the default within the time frame specified, the Department may:¶

(A) Modify or terminate the easement; ¶

(B) Invoke other remedies as provided in OAR 141-123-0120.¶

(2) Notwithstanding the provision of OAR 141-123-0090(1), the Department will not terminate a term easement if the Holder of the easement is ready, but unable to commence the requested use within the five-year period due to their inability to obtain other required authorizations within the five-year period.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0100

RULE SUMMARY: Adopting rules for Easements for Structures and Facilities Necessary for the Use of Water for easements on non-trust lands.

CHANGES TO RULE:

141-123-0100

Easements for Structures and Facilities Necessary for the Use of Water

(1) Except as otherwise provided in OAR 141-123-0100(2), an easement is required for all structures and facilities placed on Non-Trust Land managed by the Department that are necessary for the use of water.¶

(2) An easement is not required for those parts of structures and facilities necessary for the use of water placed on state-owned submerged and submersible land managed by the Department if the:¶

(a) Owner of the structures and facilities holds a valid right to use the water, and¶

(b) Water is used exclusively for domestic and/or irrigation purposes.¶

(3) Persons who own, use, have placed, intend to place, or have the legal authority to represent the owners or users of structures and facilities necessary for the use of water subject to an easement must apply to the Department for an easement on a form provided by the agency. The applicant must include with the application a non-refundable application fee in the amount of \$125 payable to the Department to cover the administrative costs of processing the application and issuing the easement.¶

(4) An application received by the Department for an easement for a structure or facility necessary for the use of water will be processed pursuant to the provisions of OAR 141-123-0050 and 141-123-0060 (as applicable) of these rules. ¶

(5) The Department will allow a person to include up to three water pipelines and associated fixtures per lot of record on their application for an easement.¶

(6) An easement issued by the Department under this section will have the same term as that of the associated right to use the water as determined by the Oregon Water Resources Department. Land Board approval will not be required for an easement granted under this section.¶

(7) The Department may enter into an agreement with the Oregon Water Resources Department to consolidate the processing of easements for structures or facilities necessary for the use of water with the processing of a right to use water.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0105

RULE SUMMARY: Adopting Rules for Unauthorized Uses and Penalties for easements on non-trust lands.

CHANGES TO RULE:

141-123-0105

Unauthorized Uses and Penalties

(1) Uses and developments not authorized by an easement issued by the Department, or by another agency as a valid existing right of record on land acquired by the Department, constitute a trespass and must be removed as directed unless otherwise authorized in writing by the Department. ¶

(2) In addition to any other penalties provided or permitted by law, the use or placement of any development on state-owned land without the required Department authorization as described in these rules, or which is otherwise not in compliance with these rules, will constitute a trespass and be prosecuted pursuant to governing law.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0110

RULE SUMMARY: Adopting rules for Reconsideration of Decision for easements on non-trust lands.

CHANGES TO RULE:

141-123-0110

Reconsideration of Decision

An applicant or any person adversely affected by the issuance or denial of an easement by the Department may request the Director or the State Land Board, depending on which entity made the decision, to reconsider the decision. A request for reconsideration must be filed in compliance with ORS 183.482 or 183.484.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0120

RULE SUMMARY: Adopting rules for Enforcement Actions; Civil Penalties and Other Remedies for easements on non-trust lands.

CHANGES TO RULE:

141-123-0120

Enforcement Actions; Civil Penalties and Other Remedies

(1) The Department may:

(a) Conduct field inspections to determine if uses of, and developments on, in or over state-owned submerged and submersible land are authorized by, or conform with the terms and conditions of an easement and, if not,

(b) Pursue whatever remedies are available under law to ensure that any use that is in violation of the terms or conditions of an easement is either brought into compliance with the requirements of these rules or other

applicable law, or removed.

(2) In addition to any other penalty or sanction provided by law, for uses subject to easement located on state-owned submerged and submersible land, the Director may assess a civil penalty of not more than \$1,000 per day of violation for the following:

(a) Violations of any provision of OAR 141-123 or ORS 273 or 274; or

(b) Violations of any term or condition of a written authorization granted by the Department under ORS 273 and 274.

(3) The Director will give written notice of a civil penalty incurred under OAR 141-123-0120(2) by registered or certified mail to the person incurring the penalty. The notice will include, but not be limited to the following:

(a) The particular section of the statute, rule or written authorization involved;

(b) A short and clear statement of the matter asserted or charged;

(c) A statement of the party's right to request a hearing within 20 calendar days of the notice;

(d) The time allowed to correct a violation; and

(e) A statement of the amount of civil penalty which may be assessed and terms and conditions of payment if the violation is not corrected within the time period stated.

(4) The person incurring the penalty may request a hearing within 20 calendar days of the date of service of the notice provided in OAR 141-123-0120(3). Such request must be in writing. If no written request for a hearing is made within the time allowed, or if the party requesting a hearing fails to appear, the Director may make a final order imposing the penalty.

(5) In imposing a penalty under OAR 141-123-0120 of these rules, the Director will consider the following factors as specified in ORS 274.994:

(a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation;

(b) Any prior violations of statutes, rules, orders and authorizations pertaining to submerged and submersible land or Trust lands;

(c) The impact of the violation on public trust uses of commerce, navigation, fishing and recreation; and

(d) Any other factors determined by the Director to be relevant and consistent with the policy of these rules.

(6) Pursuant to ORS 183.090(2), a civil penalty imposed under OAR 141-123-0120 will become due and payable 10 calendar days after the order imposing the civil penalty becomes final by operation of law or on appeal.

(7) If a civil penalty is not paid as required by OAR 141-123-0120, interest will accrue at the maximum rate allowed by law from the date first due.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

OAR 141-122 & 141-123 Rulemaking Public Comments

PUBLIC COMMENTS RECEIVED and AGENCY RESPONSE

Commenter:

Patty Cate, ODF

Comment/Response:

“I reviewed the proposed changes to the DSL rules and I noticed under 141-122-0010 (2)(d) your proposing to change guylines to guide lines and tailholds to tail holds.

In logging terminology, guylines are cables used to stabilize the yarder. In cable logging, tailholds are used as anchors at the outer end of the skyline, away from the landing. So I believe the existing terminology in the rule is correct.”

Comment:

DSL Response :

The commenter is correct, DSL will need to revise the proposed rule change to ensure that the original rule language is retained for the terms guylines and tailholds.

Commenter:

Mary Anne Cooper/Public Policy Counsel Oregon Farm bureau

Comment: via e-mail to DSL Rules – rules@dsl.state.or.us

I am trying to get some more information on the Division 122 and 123 rulemaking. Can you let me know who is in charge of it? First, I wanted to see the list of RAC members, as the link online is broken. Second, I was curious if these are brand new rules (where all content is new) or, if not, if there's a track changes version of the changes available.

Thank you for your help!

Mary Anne

DSL Response :

From Gary Cooper via e-mail on August 6, 2018.

I am the POC for the revision of Div. 122 rules, these are not brand new rules. All the information regarding the rulemaking is on the website:

<https://www.oregon.gov/dsl/Laws/Pages/Rulemaking.aspx>

The link has been fixed on our website and the Secretary of State website has our official track changes document. <https://secure.sos.state.or.us/oard/viewRedlinePDF.action?filingRsn=38859>

If you have any other questions please give me a call.

Thanks

Gary D. Cooper, Northern Operations Manager
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Oregon Department of State Lands
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DSL Web site: www.oregon.gov/dsl

No other comments were received and there were not any attendees or comments from the public at the public hearings held in Ontario, OR, Bend, OR, or Salem OR.

**SUMMARY OF OAR 141- 122 & 123 RULEMAKING HEARINGS IN
Locations: Ontario, OR; Bend, OR; and Salem, OR
Dates Respectfully: Aug 21; Aug 22; and Aug 28, 2018**

ATTENDEES:

None

DSL STAFF:

Name: Hearings Officer in Ontario and Bend – Nancy Pustis, Eastern Region Manager

Name: Hearings Officer in Salem – Gary Cooper, Northern Region Manager

TESTIMONY PROVIDED BY: None

The full audio from this rulemaking hearing is available from the Department upon request and is posted on the Department's website:

<http://www.oregon.gov/dsl/Pages/Rulemaking-Activity.aspx>



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Kate Brown, Governor

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State Land Board

State Land Board

**Regular Meeting
December 18, 2018
Agenda Item 5**

Kate Brown
Governor

Dennis Richardson
Secretary of State

Tobias Read
State Treasurer

SUBJECT

Request for approval to sell 0.4 acres of state-owned filled lands in Coos County on Catching Slough to the adjacent riparian property owner.

ISSUE

Whether the State Land Board should authorize the Department to sell the 0.4 acres of state-owned filled land (Appendix A) in a direct land sale

AUTHORITY

Oregon Constitution, Article VIII, Sections 2 and 5; pertaining to the Common School Fund and land management responsibilities of the State Land Board.

ORS 273.055; relating to the power to acquire and dispose of real property.

ORS 273.171; relating to the duties and authority of the Director.

OAR 141-067; relating to the sale, exchange and purchase of state land.

Real Estate Asset Management Plan (REAMP), adopted by the Land Board; February 2012

SUMMARY

In 1988, the Department requested State Land Board approval for the filling and sale of 0.4 acres of submerged state-owned land (Appendix B). The proposed sale was to Crescent City Marine Ways and Drydock, Inc. for lands that extended beyond the company's deeded tideland ownership in Township 25 South, Range 12 West, Section

30 & 31 (which the county assessor has recently moved to Township 25 South, Range 13 West, Section 25 to better align the filled land with the riparian upland). This request to create and sell new lands was approved under Removal-Fill Permit 3341 by the Land Board on July 29, 1988.

In 2016, the waterway lease held by Sause Bros. adjacent to their upland riparian ownership was due for renewal, which included the lands created under the 1988 Removal-Fill permit. As a result of the renewal process, Department staff discovered these filled lands were never in fact purchased by Crescent City Marine Ways and Drydock, Inc.

The applicant, Sause Bros. was also unable to produce a record of conveyance of the filled lands, so the Department informed the applicant that the lands either needed to be purchased or leased under a Special Use Lease. In January 2016, Sause Bros. submitted an application for purchase of these filled lands with a survey of the associated area per the Department's request.

Through the Department's due diligence of the parcel, the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians contacted the Department with some concerns. The Department's archaeologist worked with the Tribes to clear up some misunderstandings on where the filled parcel was located and when the parcel had been filled. The Tribes then withdrew any concerns they had with the land sale. No other comments were received.

Per the filled lands rules, the value of the land is \$3,515.

RECOMMENDATION

The Department recommends that the State Land Board authorize the direct sale of the 0.4 acres of state-owned filled land in Coos County to the adjacent riparian land owner for \$3,515.

APPENDICES

- A. Map of the parcel
- B. 1988 Land Board Agenda item

State of Oregon
Department of State Lands



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EXHIBIT A

58761-LS, New Lands
T25S R13W, Sec. 25; Tax Lot 400
Approx. 0.4 acres
Coos County

-  58761-LS, New Lands
-  Tax Lot 400 (T25S R13W, Sec. 25)

This map depicts the approximate location and extent of a Department of State Lands. Proprietary authorization for use. This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

0 250 500

Feet



Map Projection:
Oregon Statewide Lambert
Datum NAD83
International Feet
State of Oregon
Department of State Lands
775 Summer St NE, Suite 100
Salem, OR 97301
503-988-5200
www.oregon.gov/DSL
Date: 3/2/2018





Division of State Lands

1600 STATE STREET, SALEM, OREGON 97310 PHONE (503) 378-3805

OREGON STATE
LAND BOARD

NEIL GOLDSCHMIDT
Governor

BARBARA ROBERTS
Secretary of State

ANTHONY MEEKER
State Treasurer

S T A T E L A N D B O A R D

Regular Meeting
July 29, 1988

Agenda Item 3 j

SUBJECT

Request to fill state-owned submerged land in Coos County.

ISSUE

Whether the Land Board should approve the request of Crescent City Marine Ways and Drydock Company, Inc. ("Crescent City") to create and purchase 0.40 acres of new lands in Coos Bay by filling upon state-owned submerged land and what the purchase price of the new lands should be.

AUTHORITY

ORS 274.905 - 274.940, providing for Land Board approval of requests to create and purchase new lands on state-owned submerged and submersible lands.

SUMMARY

Crescent City requests Land Board approval to create a fill of 0.40 acres at the confluence of South Coos Bay and Catching Slough near Eastside east of the town of Coos Bay. See map attached as Appendix A. The requested fill is to improve the waterfront so that barges can be moved along a bulkhead in conjunction with a barge construction and repair facility. The project would involve placement of approximately 15,000 cubic yards of material pursuant to the division's removal-fill permit no. 3341 (Appendix B).

Crescent City is a Sause Bros. Ocean Towing Company subsidiary. Stockholders of Sause Bros. also own Willamette Leasing Company, which is the upland (riparian) owner of record at the site to be filled. Although Crescent City will be constructing the fill, the parties involved have requested that the deed be issued to Willamette Leasing Company, which is apparently paying for the fill. See Appendix C.

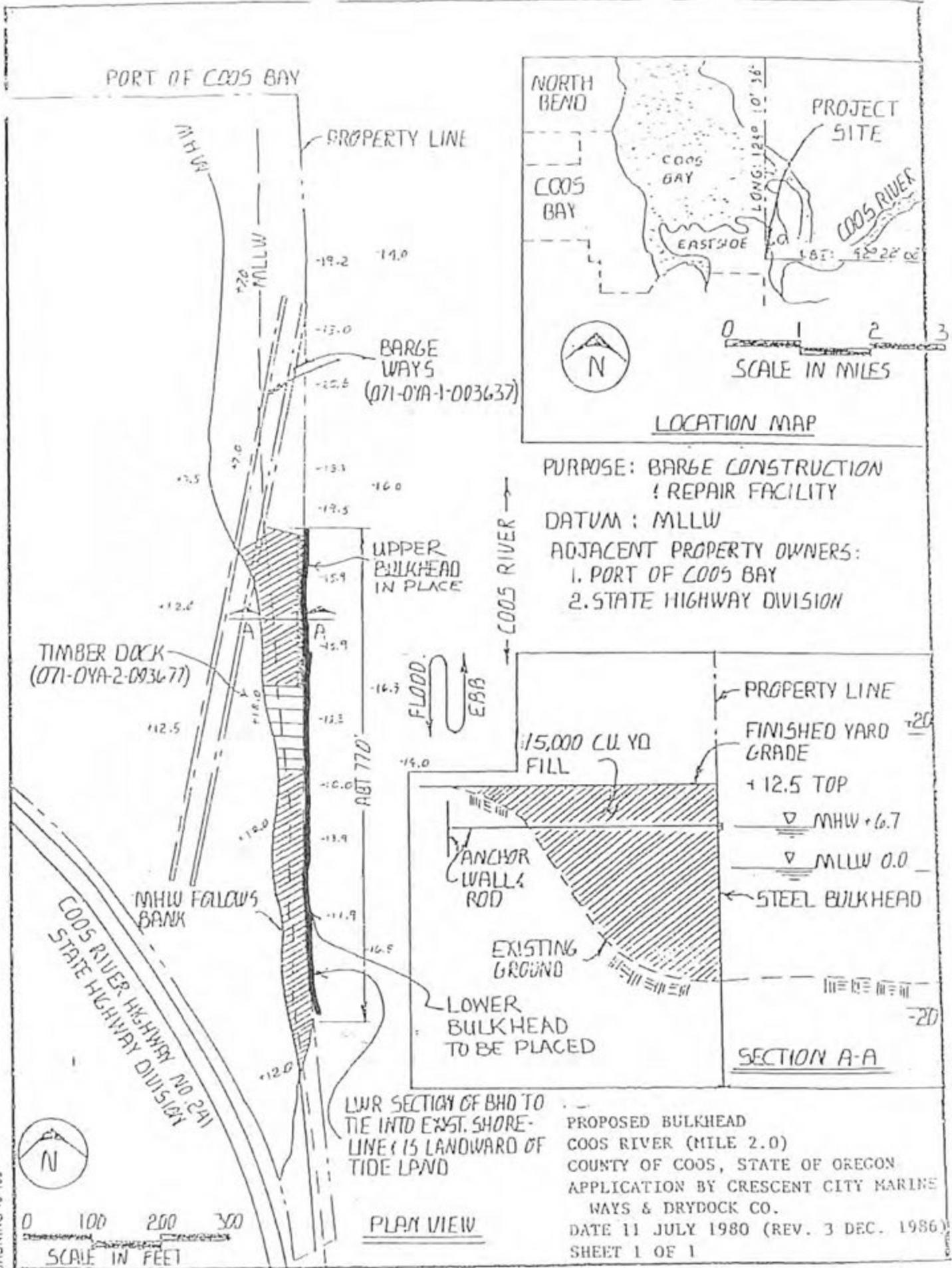
Division staff have calculated a reasonable purchase price for this 0.40 acres of new lands to be approximately \$3,700.00, with the final purchase price to be determined upon survey after completion of the fill. The valuation method is shown in Appendix D. Crescent City has agreed to this value.

RECOMMENDATION

The division recommends that the Land Board approve Crescent City's request to fill and purchase 0.40 acres of new land and that the Land Board issue a deed for the new lands in exchange for payment of approximately \$3,700.00, with the final purchase price to be determined upon survey after completion of the fill.

APPENDICES:

- A. Map
- B. State Fill Permit No. 3341
- C. Letter from Crescent City Marine Ways & Drydock Company, Inc.
- D. Value Determination Worksheet





Oregon

Kate Brown, Governor

Department of State Lands

775 Summer Street NE, Suite 100

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FAX (503) 378-4844

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State Land Board

Kate Brown

Governor

Dennis Richardson

Secretary of State

Tobias Read

State Treasurer

M E M O R A N D U M

Date: December 18, 2018

To: Governor Kate Brown
Secretary of State Dennis Richardson
State Treasurer Tobias Read

From: Vicki L. Walker
Director

Subject: Clarification of the June 14, 2018 Land Board Decision

At the June 14, 2018 Land Board meeting Senior Investment staff from the Oregon State Treasurer's Office and Callan Consultants presented the annual Common School Fund Distribution report. The report recommended that the maximum distribution be updated to 3.5%. After the Board approved this recommendation, questions were raised by stakeholders if this distribution amount included the SB 1566 amount.

Considering the confusion, Department staff reached out to Callan to clarify this issue. Attached is the letter from Janet Becker-Wold, Senior Vice President & Manager for Callan. This memo clearly indicates that the 3.5% does not include the SB 1566 amount.



September 24, 2018

Ms. Jean Straight
Deputy Director, Administrative Services
Oregon Department of Lands
775 Summer Street NE #100
Salem, OR 97301-1279

Dear Ms. Straight

I am responding to your request for clarification on the Oregon Common School Fund distribution rate recommendation presented at the State Land Board meeting June 2018.

The summary conclusions stated that a 3.5% distribution rate is sustainable when incorporating the projected SB 1566 transfers. Meaning the SB 1566 transfer is not included in the 3.5% rate

Let me know if you need anything else

Thank you,

Janet Becker-Wold
Senior Vice President & Manager



Oregon

Kate Brown, Governor

Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

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State Land Board

State Land Board

**Regular Meeting
December 18, 2018
Agenda Item 7**

Kate Brown
Governor

Dennis Richardson
Secretary of State

Tobias Read
State Treasurer

SUBJECT

Elliott State Forest Public Ownership Updates:

Presentations by Potential Public Owners

Declaration regarding the \$100 million in bonding

Review and/or discussion of public comments received regarding Oregon
Consensus Report

Direction from the Land Board on next steps for public engagement

ISSUE

Whether the State Land Board should adopt the Declaration of Preservation of Noneconomic Benefits for the Elliott State Forest and record the declaration against the property in Coos and Douglas Counties.

Whether the State Land Board should direct development of a public engagement plan for the Elliott State Forest Public Ownership Project.

The State Land Board will also receive information from potential public owners of the Elliott State Forest and a summary of public comments regarding the Oregon Consensus Report.

AUTHORITY

Oregon Constitution, Article VIII, Section 5, specifies that the State Land Board is responsible for managing Common School Fund lands.

ORS 273.041 to 273.071 authorizing the Department of State Lands to exercise the administrative functions of the State Land Board relating to the general powers and duties of Department and Board.

House Bill 5006, Enrolled, 2017 Legislative Session.

Senate Bill 5505, Enrolled, 2017 Legislative Session.

SUMMARY

Presentations by Potential Public Owners

In October 2018, the State Land Board asked potential public owners of the Elliott State Forest to indicate their interest to the Department of State Lands, and to come before the Land Board at its December 18, 2018 meeting. Interest letters submitted to DSL are included as Appendix A.

The following parties are in attendance to indicate their interest.

- President Ed Ray, Oregon State University; Anthony Davis, Interim Dean, OSU College of Forestry
- John Sweet, Coos County Commissioner
- Chris Boice, Douglas County Commissioner
- Cow Creek Band of Umpqua Tribe of Indians
- Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians
- Liz Dent, Oregon Department of Forestry
- Wes Ream, Raw Foundation

Declaration of Preservation of Noneconomic Benefits for the Elliott State Forest

The Department is currently working to complete two Interagency Agreements with the Department of Administrative Services and the Department of Forestry, which will allow the \$100 million dollars in bonding approved by the Legislature in 2017 to be issued and the proceeds deposited into the Common School Fund. The bonds are expected to be issued in February 2019.

The bonding statute (ORS 283.085(3)(e), formerly SB 5505 (8)(e)), provides only the following general guidance on the use of the bond money:

- (e) To finance:
 - (A) The release of all or a portion of the Elliott State Forest from restrictions resulting from ownership of that forest by the Common School Fund; or
 - (B) Compensation paid to the Common School Fund for the preservation of noneconomic benefits of the forest through the imposition, transfer or sale of restrictions such as easements, use requirements or other methods that preserve noneconomic benefits of the forest for the public, including recreation, aesthetics, wildlife or habitat preservation or other environmental and quality of life considerations.

Given only this general direction, the State Land Board should take formal action to implement the statute. To date, the State Land Board has taken no action. The Department, with the assistance of the Oregon Department of Justice, proposes the attached Declaration (Appendix C) for the Board's consideration.

Review and/or discussion of public comments received regarding Oregon Consensus Report

The Department engaged Oregon Consensus, a program of the National Policy Consensus Center at Portland State University, as a neutral party to assist with outreach and overall work toward decoupling the Elliott State Forest from the Common School Fund.

In October 2018, Oregon Consensus completed stakeholder interviews regarding decoupling the Elliott State Forest from the Common School Fund and submitted their final report to the Department. The report summarized what was heard in the interviews and discussed key themes, issues, and considerations for successful decoupling.

The Department invited the public to read the final report and provide feedback on report findings. Feedback was accepted from October 9 to November 15. The Department received comments representing feedback from more than 50 individuals and organizations.

As Land Board members are aware, and as the Oregon Consensus Report indicated, perspectives vary widely regarding the future of the Elliott State Forest. Comments received illustrated this range of perspective. Specific comments often offered highly

detailed and nuanced feedback. A more detailed comment summary and comments in their entirety are included as Appendix D.

Briefly, comments included feedback regarding:

Decoupling the Forest from the Common School Fund. Comments reflected a variety of perspectives related to decoupling, compensating the school fund for the value of the Elliott, and ongoing contributions of the forest to education.

Use of \$100 Million. Commenters indicated additional information, discussion, and ultimately resolution of how the \$100 million in bond proceeds will be used is needed.

The Forest's Revenue Potential. Commenters offered specific ideas for revenue generation, related both to purchase of the forest as well as ongoing revenue generation. Included were a harvest tax on timber revenue, carbon credit sales, and timber harvest. Several commenters did not support any solution that required debt to be serviced from commercial logging or noted that the level of logging they would support would not generate significant revenue.

Potential Public Owners. Comments support continued public ownership, with many offering support or concern regarding specific public owners.

The Need for Additional Information. Comments indicated the ongoing decoupling process should be informed by further examination of specific issues and topics, including the forest's carbon potential, role in mitigating climate change, and the non-monetary contributions of the forest to education and future generations. Use of data, facts, and science to support decision-making was mentioned multiple times.

Development of Habitat Conservation Plan. Multiple comments indicated that a Habitat Conservation Plan needs to be developed prior to complete decoupling.

Forest Management Approach. Many commenters offered specific ideas on future management of the forest and indicated a desire to have further information and input regarding a potential public owner's management approach.

Additional Stakeholder and Public Engagement. Many respondents indicated a desire for increased engagement, specifically inclusion of additional perspectives and ongoing opportunities to provide information and comment at decision points. The approach taken to public engagement was also noted as important. Respondents mentioned need for a transparent process, use of engagement strategies that allow all voices to be heard and that will be effective,

desire for engagement to include decoupling and Habitat Conservation Plan development, and a process that reflects the Land Board as the ultimate decisionmaker.

Finally, many respondents shared **their vision for the future of the Elliott State Forest**. These desired outcomes again emphasized that the forest is a special place to Oregonians for many reasons, and that the ultimate solution should be carefully crafted to resonate with many.

Direction from the Land Board on next steps for public engagement

The Oregon Consensus report, as well as the comments on the report, emphasize the importance of continued stakeholder and public engagement to the Elliott State Forest Public Ownership Project. A third phase of public engagement, to include convening an advisory committee, has long been a planned next step.

Given the importance of a well-designed public engagement plan to the success of the overall project, DSL would like to work with Oregon Consensus to draft a plan for Land Board consideration in February. The Department is seeking Land Board feedback on the following high-level outcomes of a public engagement plan, and formal direction on development of a public engagement plan as the next step.

- Engagement should focus on answering remaining questions and resolving remaining issues, rather than revisiting decisions or direction of the Land Board to-date.
- The role of an advisory group must be clearly defined. In the words of one stakeholder, identifying questions needing to be answered and who needs to be at the table to answer them is essential to an effective stakeholder process.
- The public engagement plan should consider all elements of the ownership project, including how the involvement process relates to or may inform development of a Habitat Conservation Plan.
- The recommendations of the Oregon Consensus report and subsequent comments related to ongoing public engagement should be considered in developing the public engagement plan.

RECOMMENDATION

That the State Land Board direct the Department to work with Oregon Consensus to draft a public engagement plan for Board review in February 2019.

The State Land Board approve a Declaration, substantially in the form of the document provided, and delegate to the Director the authority to make any final edits to the

Declaration necessary to correct or clarify the Declaration without changing its scope or purpose and to sign the Declaration on behalf of the Land Board, then record the Declaration against the property in Coos and Douglas Counties.

APPENDICES

- A. Letters of Interest
- B. Senate Bill 5505, Enrolled, 2017 Legislative Session
- C. Declaration of Preservation of Noneconomic Benefits
- D. Oregon Consensus Report Comment Summary and Complete Comments Received



Oregon State
University

Office of the Provost and Executive Vice President
624 Kerr Administration Building
Oregon State University
Corvallis, Oregon 97331
oregonstate.edu

4 December 2018

Vicki Walker
Director of Department of State Lands
Oregon Department of State Lands
775 Summer St. NE, Suite 100
Salem, OR 97301-1279

Dear Director Walker,

I am writing in response to your November 16, 2018 request for an indication of Oregon State University's interest in serving as a potential owner of the Elliott State Forest.

The university remains interested in participating in discussions to determine the future of the forest.

At the same time, the university wants to make clear that OSU is not in a position to provide the \$121 million required to separate the Elliott State Forest from the Common School Fund.

OSU recognizes the importance of forests to Oregon's culture, ecosystems and economy, and believes that an Elliott State Research Forest could be a source of critical information to inform the conservation and management of forests in Oregon and beyond.

As such, we remain interested in engaging in discussions that allow for creation of a world-class research forest that would produce public benefits for Oregon. We are prepared to discuss how to accomplish this vision for a research forest to be managed by Oregon State's College of Forestry. Such a visioning process would include public and stakeholder consultation, and discussions and eventual agreement with the state of Oregon regarding financial matters and the management of the forest. We believe that such a process would assure that the objectives and obligations of the state Land Board and university are met.

We look forward to continuing these very important discussions with you and with the state Land Board on December 18.

Sincerely,

Edward Feser
Provost and Executive Vice President

From: John Sweet <jsweet@co.coos.or.us>
Sent: Friday, November 30, 2018 11:17 AM
To: vicki.walker@state.or.us
Subject: Elliott State Forest

Director Walker:

The purpose of this email is to express Coos County's interest in acquiring the Common School Fund Lands of the Elliott State Forest.

Most of these lands lies within the boundaries of Coos County. Coos County has its own County Forest, 15,000 acres managed on a sustained yield basis by the County Forestry Department. The forest is held open to the public for recreational activities including hiking, mountain bike riding, mushrooming, hunting, motor bike riding, and target practice at a modern firing range. The forest also provides significant financial support to the county through a timber sales program that provides jobs and raw materials to local mills.

We see no reason that the same multiple use management concept cannot be applied to the Elliott. We would expect to implement a harvest rotation considerably longer than that of our current forest lands to meet Land Board assumptions.

Ali Hansen's email of November 16, 2018, asks that interested parties respond to three DSL concerns relative to the forest. Our responses follow:

Funding: Coos County is exploring four funding avenues as itemized below. We believe it will take no longer than one year to secure funding.

- 1) Issuance of bonds
- 2) Partnering with a tribe
- 3) Partnering with Douglas County
- 4) Selling cutting (harvest) rights to a local wood products company

Partner possibilities:

- 1) Douglas County
- 2) Tribal
- 3) Wood products company

Meeting Land Board assumptions:

- 1) Common School Fund responsibility – The county is assuming that the purchase price will be added to the State's \$100 million decoupling payment to the CSF to total the appraised value of the forest established for the recent effort to privatize the forest.
- 2) Complete decoupling – The county anticipates an offer that will be for the entire forest with the intent that management, including public access (except for limitations involving safety and fire), will apply to the entire forest.
- 3) Public ownership and access – See "2)" above.
- 4) Conservation values – The county envisions a harvest plan that provides for strong riparian protection, set aside of important cultural and ecological areas, and an extended harvest rotation to minimize disturbance of the forest floor. A considerable part of the forest will be off limits to any harvest. As we know more about the HCP we understand is currently being put in place, we will be able to refine harvest plans. It is worth mentioning that we do not practice mono-culture on our county forest, and that we are open to continuing this practice. We are firm

in our belief that a harvest plan that provides habitat not only for owls and murrelet but also for deer, elk, songbirds, and smaller forest creatures can be accomplished.

- 5) Working forest features – The management plan will provide for harvest on a long rotation. Harvest is necessary for any of the financing options we are exploring and will compliment forest ecosystem health and fire suppression. The longer rotation envisioned will provide opportunity for forest management research and practice as well.
- 6) Workforce and local community benefit – The Elliott holds particular importance to the citizens of Coos County as an economic, cultural, ecological, and recreational resource. We will implement a management plan that will provide for all these interests. The County is uniquely positioned to do this.
- 7) Tribal engagement – The County is open to partnering with the tribes not only relative to financing and management opportunities but also to protect cultural resources important to them.

Please feel free to contact me to address any questions or concerns we have not covered at this point in the process to decouple the Elliott from the Common School Fund. If you need to visit with me, I can be reached on my cell, 541-217-8135. I will be in Salem Tuesday morning, December 4, and can meet in person then if that would be helpful.

John Sweet
Coos County Board of Commissioners
250 N. Baxter
Coquille, OR 97423
jsweet@co.coos.or.us
541-396-7541 office
541-396-1010fax

December 5, 2018

Via Email: vicki.walker@state.or.us

Vicki Walker, Director
Department of State Lands
775 Summer St. NE, Suite 100
Salem, Oregon, 97301

Re: Statement of Interest of Douglas County to Acquire Elliott State Forest

Dear Director Walker:

Douglas County hereby indicates its interest in acquiring the Elliott State Forest. In accordance with the Department of State Lands' (DSL) November 16, 2018 inquiry, Douglas County provides the following "high level information" regarding how county ownership would meet the Land Board's described outcomes for the Elliott State Forest.

1. Funding

Douglas County intends to acquire the Elliott State Forest with a combination of cash and funds accessed through the county's bonding authorities under ORS Chapters 287A and/or 271. To the extent the Legislature may be considering appropriating additional funds for the purpose of an asset transfer and "decoupling", Douglas County should also be given an opportunity to qualify for state funds on equal footing with any other public entity under consideration as the new forest owner.

2. Land Board "Assumptions" or Goals

Douglas County's interest in acquiring the Elliott State Forest is consistent with the Land Board's desire to "decouple" the forest from the Common School Fund. Douglas County would expect to become the new owner of the forest by buying out the remaining \$120.8 million obligation to the Common School Fund based on the 2016 appraised value.

Douglas County presently manages approximately 4,400 acres of County-owned forestland for sustained yield timber production. The County will utilize its forest management knowledge, experience and capacity to manage the Elliott State Forest for sustained yield timber production under a Habitat Conservation Plan or similar approach that takes into account the Legislature's \$100 million in bonding to preserve and protect conservation values. Public access would also be preserved.

Selecting local entities, such as Douglas County, Coos County, local tribes, or a combination, is by far the Land Board's best choice for ensuring that the Elliott State Forest will be managed in a proactive manner that addresses economic, job and community interests as well as ecosystem health. Douglas County remains fully supportive of the prior proposal that the Cow Creek Band of Umpqua Indians submitted to the State Land Board with Lone Rock Timber Management Company. Since tribes are now being considered "public entities" in this most recent Land Board solicitation, it is unclear why the Cow Creeks' proposal was ever rejected. Regardless, Douglas County is committed to working with Coos County and local tribes to find a solution that works for local communities. Presently, local constituents are very frustrated by the overall lack of management and progress on the Elliott State Forest, as well as its failure to contribute to the local economy. Putting the forest in the hands of local entities will help rebuild public trust.

3. Potential Partners

Potential partners include, but are not limited to, Coos County and the Cow Creek Tribe.

Thank you for soliciting Douglas County's interest in acquiring the Elliott State Forest. The County looks forward to the December 18, 2018 Land Board Meeting. If you have any questions about this letter please feel free to contact me directly.

Sincerely,

A handwritten signature in black ink, appearing to read "C.T. Boice". The signature is fluid and cursive, with a large loop at the end.

Chris Boice, Douglas County Commissioner



COW CREEK BAND OF UMPQUA TRIBE OF INDIANS
GOVERNMENT OFFICES
2371 NE Stephens Street Suite 100
Roseburg OR 97470
Phone: 541-672-9405

To: Vicki Walker, Director, Oregon Department of State Lands

From: Dan Courtney, Chairman, Cow Creek Band of Umpqua Tribe of Indians
Michael Rondeau, CEO, Cow Creek Band of Umpqua Tribe of Indians

Re: Public Ownership of the Elliott State Forest

Date: December 5, 2018

DC ✓
MR

As the record shows, the Cow Creek Band of Umpqua Tribe of Indians (Cow Creek) has been active in the discussions about the future of the Elliott State Forest since 2014, when the issue was first raised about how to meet the State's obligation to maximize revenue for the Common School Fund, while also preserving the core values of conservation, public access, and sustainable forest practices.

The Elliott State Forest is in Douglas and Coos Counties and part of the land base that was taken from Native People more than 150 years ago. Since then, the federal government ignored our Treaty, withdrew our reservation, and eventually terminated us and the other Western Oregon Tribes. Over the last 50 years, Oregon Tribal governments were re-recognized by the federal government through congressional action. But despite this restoration, our Tribe - like others - still struggles to rebuild our culture, lands, and communities.

During the last solicitation of interest by the Department of State Lands (DSL), and as part of our larger effort to rebuild our land base, Cow Creek developed a comprehensive proposal with our fellow Tribe the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (CTCLUSI) for the purchase, public ownership, and management of the Elliott State Forest. Our objective was to partner with CTCLUSI and the State of Oregon to help restore our homeland and diversify our economic base; and to do so in a way that is not only aligned with Oregonians' values of conservation and sustainability but inherent in how Tribes approach and always have approached the management of natural resource assets.

The DSL Board minutes, public records, and media coverage only told part of how this story unfolded. It is unfortunate and offensive that the public narrative suggested that the Tribe was only superficially involved, serving as a front for a private timber company. That was not the case. We carefully chose a private partner who also has a record of sustainable forest management. There was no other means by which any Oregon Tribe could finance a project like this. That story, while false, fueled long-standing feuds between two powerful interest groups and conveniently allowed an off-ramp for the State to change its course on the Elliot.

To be clear, the Cow Creek Tribe is not an interest group.

The Tribe – like the other federally recognized Tribes in Oregon – is a sovereign government. Like the executives of Oregon, our leadership has a moral and fiduciary responsibility to our members to provide social services such as public health care, education, and land management, as well as economic opportunities to advance self-sufficiency and governmental stability.

We appreciate that there is recognition that Tribal ownership of the Elliott Forest meets the standard of public ownership. However, no Tribe has the kind of capital to purchase a land base of this size without private partners. We explored every option more than two years ago and our last proposal reflected the reality of what it would take financially to secure tribal ownership of the forest. That path was rejected, which does not leave many options for Tribes like the Cow Creek with serious interest in the ownership and management of the Elliott Forest—even though our record of innovative and sustainable forest practices make us more than qualified to do so.

We have monitored the discussion about the Elliott since our application. Our interest in the Elliott Forest has not waned. The simple truth is that the Cow Creek alone does not have the capital to purchase the forest. We also remain skeptical about dedicating time and money, as we did once before, to develop a proposal if there is another vision by DSL for how this land would transition to public ownership and management.

For example, if one path is to create a public research forest, the Tribe has many ways it could potentially participate given the innovative approaches to forest management it has demonstrated and continues to advance. But if there are other ideas for a solution, any opportunity for the Tribe to participate must be meaningful and not symbolic for public perception sake. Any participation on our part must lead to further collaboration with the State on our long-term goal to restore our land base and our mission of cultural preservation and self-sufficiency.

Thank you for your time and we are available to discuss our past experience as well as other ideas for the future of forest management and Tribal partnerships at any time.



**CONFEDERATED TRIBES OF
COOS, LOWER UMPQUA & SIUSLAW INDIANS**

1245 Fulton Ave. Coos Bay, OR 97420
Phone (541) 888-9577 or 1-888-280-0726
Fax (541) 888-2853

December 5, 2018

Vicki Walker
Director
Oregon Department of State Lands
775 Summer St. NE, Suite 100
Salem, OR 97301-1279

Re: Letter of Interest to Acquire the Elliott

Dear Director Walker:

I write on behalf of The Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians (“Tribe”) to advise the Oregon Department of State Lands of the Tribe’s interest to become the next public owner of the Elliott State Forest (the “Elliott”). The Elliott lies at the heart of our Tribe’s ancestral territory, which encompasses approximately 1.6 million acres of resource-rich lands lying along the Oregon coast, from Tenmile Creek (Lane County) in the north to between the mouths of Whiskey Run Creek and Cut Creek (Coos County) in the south, and extending inland to encompass the Coast Range. In terms of both historical justice and modern technical capability, it is both appropriate and fitting that our Tribe resume our ancestors’ stewardship role over the Elliott.

We offer the following high-level information regarding how the Tribe’s ownership of the Elliott would meet the Land Board’s desired outcomes:

1. How the Tribe Would Secure Funding Necessary to Compensate the Common School Fund for the Value of the Forest, and the Approximate Timeline for Securing Funding.

The Tribe anticipates securing funding from multiple sources both public and private, including but not limited to:

- a. Partnering with other Oregon federally-recognized Indian tribes
- b. Federal grant funding;
- c. Private grant funding;
- d. Private financings, and
- e. “Public” financings, including financing from other federally-recognized Indian tribes.

If the Land Board confirms that the Tribe is a viable candidate, the Tribe will explore each of these funding opportunities in earnest, building on the Tribe’s relationships developed during the course of the Tribe’s participation in prior efforts to decouple the Elliott from the Common School Fund.

2. How the Tribe Would Ensure Land Board Assumptions are Met.
 - a. **Common School Fund Responsibility.** The Tribe proposes complete decoupling accomplished by a cash sale for the full appraised value.

- b. **Complete Decoupling.** Upon payment of the appraised value, title to the Elliott would be transferred either to the Tribe as sole owner, or to an entity owned by one or more Oregon federally-recognized Indian tribes.
- c. **Public Ownership and Access.** Either the Tribe solely, or the Tribe as part of an intertribal entity, would hold title to the Elliott. Part of the \$100 million in state legislative bonds would be utilized to fund conservation easements and public access management.
- d. **Conservation Values.** The Tribe shares the Land Board's commitment to an outcome that secures conservation values for the Elliott. Part of the \$100 million in state legislative bonds would be utilized to fund conservation easement management to ensure protection of the Elliott's ecologically important areas and species.
- e. **Working Forest Features.** The Elliott would be managed for sustainable timber harvests that are consistent with conservation values and applicable environmental laws, including but not limited to the Endangered Species Act and Cultural Resource laws.
- f. **Workforce and Local Community Benefit.** As an integral part of the local community, the Tribe has a demonstrated history of extending economic opportunities to its neighbors: whether through hiring local, or through buying local. The Tribe will extend this customary practice to all economic opportunities related to harvest and management of the Elliott.
- g. **Tribal Engagement.** The Tribe expects to partner with at least one other Oregon federally recognized Indian tribe – either as a co-owner or as a co-holder of conservation easements. Further, the Tribe is open to partnering with one or more federally-recognized Indian tribes to secure financing to facilitate the cash purchase.

3. What Partners the Tribe Has or Anticipates Having in Ownership or Management.

The Tribe anticipates having at least one other Oregon federally recognized Indian tribe as either a co-owner or are a co-holder of conservation easements. Additionally, the Tribe anticipates partnering with one or more locally-owned timber management companies to assist in timber harvests and timber management activities. Finally, the Tribe anticipates partnerships with environmental organizations and academic institutions to assist in forest management research, education and development of sustainable harvesting and public access, and best management practices.

Thank you for this opportunity to express the Tribe's desire to become the next public owner of the Elliott. Please do not hesitate to contact me if you have any questions.

Respectfully,

/s

Alexis Barry

Chief Executive Officer



Oregon

Kate Brown, Governor

Department of Forestry

State Forester's Office
2600 State Street
Salem, OR 97310-1336
503-945-7200
FAX 503-945-7212
www.oregon.gov/ODF



"STEWARDSHIP IN FORESTRY"

December 5, 2018

Department of State Lands
Attn: Interim Director Vicki Walker
775 Summer Street NE
Salem, OR 97301

Dear Director Walker,

The Board of Forestry and Department of Forestry (ODF) have a rich history with the Elliott State Forest. In 1912, Francis Elliott - Oregon's first state forester - approached Governor Oswald West with the notion of creating Oregon's first state forest. Their vision was realized in 1930 after years spent assessing and finally identifying a viable land base, getting support and approval of the state legislature, and successfully negotiating federal acts in Congress. This vision took time, leadership, and a long-term view with an eye towards the purposes of those lands. We remain interested in working with the State Land Board, Department of State Lands, Oregon's federally recognized tribes, landowners, universities, non-profits, communities and other interested parties to pursue a long-term solution for managing the Elliott State Forest.

Over the last 60 years, the long-standing partnership between ODF and Department of State Lands to manage the Elliott transformed a fire-devastated landscape to a healthy, productive, and biologically diverse forest. The forest is now home to native fish and wildlife including Northern spotted owls, marbled murrelets, and Oregon Coast coho – all listed as threatened under the U.S. Endangered Species Act. While providing these environmental benefits, management of the Elliott has also provided over \$600 million in revenue for the Common School Fund, benefiting multiple generations of Oregon's school children. The State Land Board's strong leadership and commitment has maintained this forest asset as a priority for the state of Oregon, and today Oregonians recognize that the Elliott holds a distinct position within our forested landscape.

ODF has a long history of managing the Elliott and we remain interested in being a part of the long-term solution. We have earned standing as a leader in professional forestry and have an established tradition of fostering relationships, recognizing community interests, and honoring public values. We are committed to continuous improvement and innovation. A core principle is that forest management policies and programs should be evaluated and appropriately adjusted based on new information, research, and monitoring. A successful outcome for the Elliott will hinge on collaboration, partnerships, and the type of expertise that ODF has developed through decades of managing public forests for public benefits.

The Board of Forestry's *2011 Forestry Program for Oregon* outlines goals and values that are the underpinnings of the Board's policy direction. Forest management decisions are anchored to these core values, many of which are pertinent to our interests in the Elliott solution.

- The intrinsic value of Oregon forest resources. We believe that while Oregon's native forests, plants, animals, and ecosystems provide economic, scientific, cultural, recreational, and aesthetic values, their existence alone warrants their stewardship and enhancement.
- Meeting current and future needs. We believe forest resources should be used, developed, and protected at a rate and in a manner that enables people to meet their current environmental, economic, and social needs, and also provides that future generations can meet their own needs.
- Forests that contribute to quality of life. Oregon's forests and the state's rural and urban populations are interdependent. We believe Oregon's forests play a significant role in providing all Oregonians a high quality of life, including products, jobs, water and other ecosystem services, recreation, tax revenues for community well-being, and a quality environment.
- Healthy rural Oregon. We believe a healthy rural Oregon, which relies on working landscapes, is vital to the quality of life enjoyed by all Oregonians. Forests contribute to this healthy rural economy through generating traditional forest sector jobs and tax revenue and also through a healthy environment that supports associated trades such as salmon fisheries and forest recreation.

We look forward to working with the State Land Board, Department of State Lands, Oregon's federally recognized tribes, landowners, universities, non-profits, communities and other interested parties to pursue a long-term solution for managing the Elliott State Forest.

Sincerely,



Peter Daugherty
Oregon State Forester



Tom Imeson
Chair, Oregon Board of Forestry

Elliot Forest Land Sale

Summary

By: Raw Foundation

Including 27 auxiliaries throughout Oregon

Christian Ministries

Oregon Department of Forestry
2600 State Street
Salem, OR 97310

November 30, 2018

RE: Elliot Forest Lands

This summary is in regard to the 82,500.00 acres of forest land for sale in the amount of \$220.8 million. We are interested in purchase of the property, not for the purposes of logging. We want to sustain the lands as they are, we would like to use part of the lands for recreation. Hunting will continue to be regulated by the state gaming commission, fishing allowed during season.

We will hire 40 workers to maintain the acreage generally, recreational grounds, clean up if any, general management of the lands. Logging will be maintained to a minimum of 500 acres a year, spread out so as not to leave damage to the forest. If in the case that a forester advises us differently, we will act accordingly. Proceeds to fund maintenance of property, taxes and expenses. Our goal is to maintain the lands as natural forest land.

We are prepared to offer by donation, totaling \$320.8 million.

The 27 auxiliary ministries are not 501©3's.

If you have any questions or ideas regarding our intentions or offer, please call us.

Wes Ream
503-829-9589

79th OREGON LEGISLATIVE ASSEMBLY--2017 Regular Session

Enrolled
Senate Bill 5505

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Oregon Department of Administrative Services)

CHAPTER

AN ACT

Relating to state financial administration; creating new provisions; amending ORS 283.085 and 286A.833; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. The amounts authorized, as provided by ORS 286A.035, for issuance of general obligation bonds of the state during the 2017-2019 biennium, notwithstanding section 10, chapter 705, Oregon Laws 2013, are as follows:

GENERAL OBLIGATION BONDS**General Fund Obligations**

- | | | |
|---|----|------------|
| (1) Higher Education Coordinating Commission (Art. XI-G): | | |
| (a) Oregon Institute of Technology, Center for Excellence in Engineering and Technology/Cornett Hall Renovation..... | \$ | 2,050,000 |
| (b) Oregon State University: | | |
| (A) Quality Foods and Beverage Center | \$ | 9,100,000 |
| (B) Gilkey Hall Renovation | \$ | 2,050,000 |
| (c) Portland State University, Graduate School of Education Facility..... | \$ | 36,485,000 |
| (d) University of Oregon, Campus for Accelerating Scientific Impact..... | \$ | 50,620,000 |
| (e) Western Oregon University: | | |
| (A) Information Technology Center Renovation | \$ | 540,000 |
| (B) Oregon Military Building Renovation | \$ | 540,000 |
| (f) Blue Mountain Community | | |

	College, Facility for Agricultural Resource Management.....	\$ 5,115,000
(g)	Chemeketa Community College, Agricultural Complex.....	\$ 6,125,000
(h)	Clackamas Community College:	
(A)	DeJardin Building Addition...	\$ 8,140,000
(B)	Student Services and Community Commons.....	\$ 8,140,000
(i)	Clatsop Community College, Marine Science Center Renovation and Expansion....	\$ 8,135,000
(j)	Columbia Gorge Community College, Middle College Prototype Facility	\$ 7,400,000
(k)	Lane Community College, Health Care Village Facility..	\$ 8,140,000
(L)	Linn-Benton Community College, Student Advising and Campus Safety Center ...	\$ 7,635,000
(m)	Mt. Hood Community College, Maywood Park Center.....	\$ 8,140,000
(n)	Oregon Coast Community College, Workforce Education and Resiliency Center	\$ 8,140,000
(o)	Portland Community College, Health Technology Building Renovation.....	\$ 8,140,000
(p)	Rogue Community College, Elk Building Science Facility Renovation and Expansion....	\$ 6,125,000
(q)	Southwestern Oregon Community College, Dellwood Hall Remodel and Expansion.....	\$ 2,805,000
(r)	Treasure Valley Community College, Workforce Vocational Center	\$ 2,865,000
(s)	Umpqua Community College, Industrial Technology Building.....	\$ 8,140,000
(2)	Department of Environmental Quality (Art. XI-H)	\$ 10,300,000
(3)	Oregon Business Development Department (Art. XI-M)	\$ 101,180,000
(4)	Oregon Business Development Department (Art. XI-N).....	\$ 20,430,000
(5)	Department of Education (Art. XI-P)	\$ 100,985,000
(6)	Oregon Department of Administrative	

Services (Art. XI-Q):	
(a) Department of Corrections:	
(A) Capital Improvements and Renewal.....	\$ 26,770,000
(B) Technology Infrastructure....	\$ 12,445,000
(b) Department of Education, Oregon School for the Deaf Facility Improvements.....	
	\$ 4,365,000
(c) Department of Human Services, ONE Integrated Eligibility and Medicaid Eligibility System.....	
	\$ 34,045,000
(d) Department of Justice, Child Support Enforcement Automated System.....	
	\$ 16,585,000
(e) Department of Revenue, Core Tax Revenue Systems Replacement.....	
	\$ 4,855,000
(f) Department of Veterans' Affairs:	
(A) Lebanon Veteran's Home Parking Lot.....	
	\$ 1,345,000
(B) The Dalles Veterans' Home Capital Improvements.....	
	\$ 1,195,000
(C) Roseburg Veterans' Home	
	\$ 10,720,000
(g) Housing and Community Services Department, Local Innovation and Fast Track Housing Program.....	
	\$ 81,090,000
(h) Higher Education Coordinating Commission:	
(A) Public Universities Capital Improvement and Renewal ...	
	\$ 50,620,000
(B) Eastern Oregon University, Loso Hall Renovation	
	\$ 5,575,000
(C) Oregon Institute of Technology:	
(i) Center for Excellence in Engineering and Technology/ Cornett Hall Renovation	
	\$ 38,475,000
(ii) Oregon Manufacturing Innovation Center, Research and Development Facility	
	\$ 3,940,000
(D) Oregon State University:	
(i) Cordley Hall Renovation	
	\$ 15,250,000
(ii) Fairbanks Hall Renovation ...	
	\$ 11,220,000
(iii) Gilkey Hall Renovation	
	\$ 1,045,000
(iv) Cascades Expansion Site Reclamation	
	\$ 9,145,000
(E) Portland State University, Graduate School of Education Facility.....	
	\$ 9,145,000

(F)	Southern Oregon University, Central Hall Capital Improvements.....	\$	6,125,000
(G)	Western Oregon University:		
(i)	Information Technology Center Renovation	\$	5,070,000
(ii)	Oregon Military Building Renovation	\$	7,335,000
(i)	Legislative Administration Committee, Capitol Accessibility, Maintenance, and Safety	\$	13,960,000
(j)	Oregon Judicial Department:		
(A)	Lane County Courthouse	\$	5,115,000
(B)	Multnomah County Courthouse.....	\$	102,495,000
(C)	Oregon Supreme Court Building Renovation.....	\$	6,125,000
(k)	Oregon Military Department:		
(A)	Grants Pass Armory Service Life Extension.....	\$	3,330,000
(B)	Regional Armory Emergency Enhancement Project	\$	8,675,000
(C)	Regional Training Institute ..	\$	6,630,000
(D)	Resiliency Grant Fund.....	\$	5,070,000
(E)	Youth Challenge Armory	\$	5,095,000
(L)	Oregon Youth Authority:		
(A)	Capital Improvements.....	\$	17,450,000
(B)	MacLaren West Cottages Renovation	\$	15,450,000
(C)	Rogue Valley Facility Improvements	\$	7,095,000
(m)	State Department of Fish and Wildlife.....	\$	10,215,000
(n)	State Forestry Department, Toledo Facility Replacement.	\$	774,225
	<u>Dedicated Fund Obligations</u>		
(7)	Department of Veterans' Affairs (Art. XI-A).....	\$	120,000,000
(8)	Higher Education Coordinating Commission (Art. XI-F(1)):		
(a)	Portland State University:		
(A)	Land Acquisition for University Center Building ...	\$	15,260,000
(B)	12th & Market Residence Hall.....	\$	54,225,000
(C)	Graduate School of Education Facility.....	\$	6,080,000
(D)	Corbett Building Purchase....	\$	5,100,000
(b)	Oregon Institute of Technology, Student Recreation Center	\$	5,115,000

(c) Eastern Oregon University, Track and Field Facilities Restoration	\$	790,000
(9) Department of Environmental Quality (Art. XI-H)	\$	10,000,000
(10) Housing and Community Services Department (Art. XI-I(2))	\$	25,000,000
(11) Oregon Department of Administrative Services (Art. XI-Q):		
(a) Portland State Office Building Improvements.....	\$	13,360,000
(b) State Forestry Department, Toledo Facility Replacement.	\$	1,075,775
Total General Obligation		
Bonds	\$	1,257,310,000

SECTION 2. The amounts authorized, as provided by ORS 286A.035, for issuance of revenue bonds of the state during the 2017-2019 biennium are as follows:

REVENUE BONDS

Direct Revenue Bonds

Housing and Community Services Department.....	\$	300,000,000
Oregon Business Development Department.....	\$	30,000,000
Oregon Department of Administrative Services, Lottery Revenue Bonds	\$	199,860,000
Total Direct Revenue		
Bonds	\$	529,860,000

Pass-Through Revenue Bonds

Oregon Business Development Department, Industrial Development Bonds.....	\$	400,000,000
Oregon Business Development Department, Beginning and Expanding Farmer Loan Program	\$	10,000,000
Oregon Facilities Authority..	\$	1,350,000,000
Housing and Community Services Department.....	\$	325,000,000
Total Pass-Through Revenue		
Bonds	\$	2,085,000,000
Total Revenue Bonds	\$	2,614,860,000

SECTION 3. The amount authorized, as provided by ORS 286A.035, for issuance of certificates of participation and other financing agreements of the state during the 2017-2019 biennium for the Oregon Department of Administrative Services is \$110,985,000.

SECTION 4. The amounts allocated for private activity bonds, as provided in ORS 286A.615, are as follows:

- (1) For calendar year 2018,
the amount of \$409,346,500

is allocated as follows:

- (a) Oregon Business Development Department, Industrial Development Bonds..... \$ 40,000,000
 - (b) Oregon Business Development Department, Beginning and Expanding Farmer Loan Program..... \$ 5,000,000
 - (c) Housing and Community Services Department..... \$125,000,000
 - (d) Private Activity Bond Committee..... \$239,346,500
- (2) For calendar year 2019, the amount of \$409,346,500 is allocated as follows:
- (a) Oregon Business Development Department, Industrial Development Bonds..... \$ 40,000,000
 - (b) Oregon Business Development Department, Beginning and Expanding Farmer Loan Program..... \$ 5,000,000
 - (c) Housing and Community Services Department..... \$125,000,000
 - (d) Private Activity Bond Committee..... \$239,346,500
- (3) If an increase in this state's population, a sufficient increase in the region's Consumer Price Index or a change in federal law allows the private activity bond limit as set by the Internal Revenue Code of 1986, as amended, to exceed \$409,346,500 during the 2018 calendar year or \$409,346,500 during the 2019 calendar year, the increase is allocated to the Private Activity Bond Committee.

SECTION 5. (1) For purposes of Article XI-F(1), section 1, of the Oregon Constitution, the Legislative Assembly determines that the projects authorized to be financed pursuant to section 1 (8) of this 2017 Act with bonds issued under Article XI-F(1) of the Oregon Constitution will benefit higher education institutions or activities.

(2) For purposes of Article XI-G, section 1, of the Oregon Constitution, the Legislative Assembly determines that the projects authorized to be financed pursuant to section 1 (1) of this 2017 Act with bonds issued under Article XI-G of the Oregon Constitution will benefit higher education institutions or activities or community colleges authorized by law to receive state aid.

SECTION 6. Bonds authorized under section 1 (1) of this 2017 Act may not be issued until the constructing authority certifies that the constructing authority has matching funds available for the same or similar purposes as the Article XI-G bonds that will fund the grant to the constructing authority, that the match funds are not proceeds of indebtedness incurred by the state under any other article of the Oregon Constitution, and that the match funds are available to the constructing authority in an amount at least equal to the amount of indebtedness incurred by the state through the issuance of the Article XI-G bonds.

SECTION 7. ORS 286A.833 is amended to read:

286A.833. (1) In accordance with the applicable provisions of this chapter, the State Treasurer, with the concurrence of the [*Director of the Oregon Department of Administrative Services*] **Higher Education Coordinating Commission**, may issue Article XI-F(1) bonds **for the benefit of a public university** if:

(a) The [*Higher Education Coordinating Commission*] **Director of the Oregon Department of Administrative Services** requests that bonds be issued for the purposes specified in Article XI-F(1) of the Oregon Constitution, plus an amount determined by the State Treasurer to pay estimated bond-related costs;

(b) The issuance does not exceed the budget authorization for bond issuance established under ORS 286A.035; and

(c) A loan agreement is executed under ORS 286A.836 prior to sale of the bonds.

(2) The State Treasurer may issue Article XI-F(1) bonds for the purpose of refunding Article XI-F(1) bonds, with the concurrence of a public university that received proceeds of Article XI-F(1) bonds to be refunded.

(3) The State Treasurer shall deposit the net proceeds of Article XI-F(1) bonds in one or more project funds established in the State Treasury or with a third party under contract with the Oregon Department of Administrative Services and approved by the State Treasurer. Net proceeds of Article XI-F(1) bonds must be expended for the purposes described in the commission's budget authorization.

(4) If at any time the department and the commission jointly determine that the net proceeds of Article XI-F(1) bonds deposited in a project fund pursuant to subsection (3) of this section exceed the cost of the project described in the commission's budget authorization, the department may allocate and transfer the excess amount as determined by the department to other project funds, the Article XI-F(1) Bond Fund established under ORS 286A.839 or the Article XI-F(1) Bond Administration Fund established under ORS 286A.842. Before transferring an excess amount under this subsection, the department shall consult with the public university for whose benefit the Article XI-F(1) bonds were issued, but the department may transfer an excess amount without the approval of the public university. Excess amounts may not be transferred to a project fund for the project of another public university unless the applicable loan agreements and loan repayment schedules are amended to reflect the transfer.

(5) Article XI-F(1) bonds are direct general obligations of the State of Oregon and must contain a direct promise on behalf of the State of Oregon to pay the principal of, the interest on and the premium, if any, on the Article XI-F(1) bonds. The State of Oregon shall pledge its full faith and credit and taxing power to the payment of the principal of, the interest on and the premium, if any, on Article XI-F(1) bonds, and the ad valorem taxing power of the State of Oregon may be pledged to pay Article XI-F(1) bonds.

SECTION 8. ORS 283.085 is amended to read:

283.085. As used in ORS 283.085 to 283.092:

(1) "Available funds" means funds appropriated or otherwise made available by the Legislative Assembly to pay amounts due under a financing agreement for the fiscal period in which the payments are due, unexpended proceeds of the financing agreement and reserves or other amounts that have been deposited in trust to pay amounts due under the financing agreement.

(2) "Credit enhancement agreement" means any agreement or contractual relationship between the state and any bank, trust company, insurance company, surety bonding company, pension fund or other financial institution providing additional credit on or security for a financing agreement or certificates of participation authorized by ORS 283.085 to 283.092.

(3) "Financing agreement" means a lease purchase agreement, an installment sale agreement, a loan agreement or any other agreement:

(a) To finance real or personal property that is or will be owned and operated by the state or any of its agencies;

(b) To finance infrastructure, including but not limited to telecommunications systems, systems for water, sewage, electricity, steam or natural gas and other equipment or improvements that are necessary or appropriate to support a facility that is, or will be, owned or operated by the state;

(c) To finance infrastructure components that are, or will be, owned or operated by a local government agency of this state if the Director of the Oregon Department of Administrative Services determines that financing the infrastructure facilitates the construction or operation of an adult or juvenile corrections facility or a public safety training facility owned or operated by the state or any of its agencies;

(d) To finance all or a portion of the state's pension liabilities for retirement, health care or disability benefits, in an amount that produces net proceeds that do not exceed the State Treasurer's estimate of those liabilities based on information provided to the State Treasurer by the Public Employees Retirement System; *[or]*

(e) To finance:

(A) The release of all or a portion of the Elliott State Forest from restrictions resulting from ownership of that forest by the Common School Fund; or

(B) Compensation paid to the Common School Fund for the preservation of noneconomic benefits of the forest through the imposition, transfer or sale of restrictions such as easements, use requirements or other methods that preserve noneconomic benefits of the forest for the public, including recreation, aesthetics, wildlife or habitat preservation or other environmental and quality of life considerations; or

[(e)] **(f) To refinance previously executed financing agreements.**

(4) "Financing costs" means costs or expenses that the director determines are necessary or desirable in connection with entering into financing agreements and maintaining the certificate of participation program, including but not limited to payment of:

(a) Amounts due under financing agreements;

(b) Costs and obligations the director or any other agency of the state incurs in connection with the exercise of a power granted by ORS 283.085 to 283.092; and

(c) Amounts due in connection with the investment of proceeds of financing agreements.

(5) "Personal property" means tangible personal property, software and fixtures.

(6) "Property rights" means, with respect to personal property, the rights of a secured party under ORS chapter 79, and, with respect to real property, the rights of a trustee or lender under a lease authorized by ORS 283.089 (1)(e).

(7) "Software" means software and training and maintenance contracts related to the operation of computing equipment.

SECTION 9. (1) A community college for which one project to be funded with general obligation bonds authorized to be issued under Article XI-G of the Oregon Constitution is approved in this 2017 Act may not request approval of an additional project to be funded with general obligation bonds authorized to be issued under Article XI-G of the Oregon Constitution until the beginning of the regular session of the Legislative Assembly held in 2021, unless the community college withdraws the project approved under this 2017 Act.

(2) A community college for which two projects to be funded with general obligation bonds authorized to be issued under Article XI-G of the Oregon Constitution is approved in this 2017 Act may not request approval of an additional project to be funded with general obligation bonds authorized to be issued under Article XI-G of the Oregon Constitution until the beginning of the regular session of the Legislative Assembly held in 2025, unless the community college withdraws a project approved under this 2017 Act.

SECTION 10. (1) Out of the amount specified in section 1 (6)(j)(A) of this 2017 Act, the State Treasurer may issue Article XI-Q bonds in an amount not to exceed \$5,000,000 of net proceeds for the purposes and in the manner specified in section 8, chapter 705, Oregon Laws 2013, plus an amount estimated by the State Treasurer to pay estimated bond-related costs.

(2) Out of the amount specified in section 1 (6)(j)(B) of this 2017 Act, the State Treasurer may issue Article XI-Q bonds in an amount not to exceed \$92,600,000 of net proceeds for the purposes and in the manner specified in section 8, chapter 705, Oregon Laws 2013, plus an amount estimated by the State Treasurer to pay estimated bond-related costs.

(3) For purposes of sections 8 and 9, chapter 705, Oregon Laws 2013, and section 64, chapter 723, Oregon Laws 2013, bonds issued pursuant to this section are considered to be bonds issued pursuant to section 8, chapter 705, Oregon Laws 2013.

(4) Bonds may not be issued out of the amounts specified in section 1 (6)(j)(A) and (B) of this 2017 Act except as provided in this section.

SECTION 11. (1) As used in this section:

(a) “Apprentice” has the meaning given that term in ORS 660.010.

(b) “Apprenticeable occupation” has the meaning given that term in ORS 660.010.

(c) “Apprenticeship training program” means the total system of apprenticeship that a particular local joint committee, as defined in ORS 660.010, operates, including the local joint committee’s registered standards and all other terms and conditions for qualifying, recruiting, selecting, employing and training apprentices in an apprenticeable occupation.

(d) “Minority individual” has the meaning given that term in ORS 200.005.

(e) “Qualified contracts” means contracts that:

(A) Are for improvements to real property in connection with the University of Oregon Campus for Accelerating Scientific Impact;

(B) Have a cost that, at the time the contract is executed, is estimated to be greater than \$200,000; and

(C) Are to be paid from proceeds of bonds issued under Article XI-G of the Oregon Constitution.

(f) “Woman” has the meaning given that term in ORS 200.005.

(2) The University of Oregon, in all qualified contracts, shall require contractors to:

(a) Employ apprentices to perform 15 percent of the work hours that workers in apprenticeable occupations perform under the contract, in a manner consistent with the apprentices’ respective apprenticeship training programs;

(b) Establish and execute a plan for outreach, recruitment and retention of women and minority individuals to perform work under the contract; and

(c) Require any subcontractors engaged by the contractors to abide by the requirements set forth in paragraphs (a) and (b) of this subsection.

(3) On or before February 1 of each year, the University of Oregon shall report to the Joint Committee on Ways and Means or Joint Interim Committee on Ways and Means on the amount of work performed by apprentices, women and minority individuals under qualified contracts.

SECTION 12. This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect July 1, 2017.

Passed by Senate July 6, 2017

.....
Lori L. Brocker, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House July 7, 2017

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2017

Approved:

.....M,....., 2017

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2017

.....
Dennis Richardson, Secretary of State

Space above this line for Recorder’s use

AFTER RECORDING RETURN TO:

DECLARATION OF RELEASE OF RESTRICTIONS AND PRESERVATION OF NONECONOMIC BENEFITS

THIS DECLARATION OF RELEASE OF RESTRICTIONS AND PRESERVATION OF NONECONOMIC BENEFITS (this “Declaration”) is made on this ____ day of _____, 2019, by the Oregon State Land Board (the “Board”), acting by and through the Oregon Department of State Lands (“DSL”).

RECITALS

A. Approximately 82,500 acres of the 91,000 acre Elliott State Forest (the “Property”), is a land asset of the Common School Fund (the “CSF”), as more particularly described on Exhibit A. Article VIII, Section 2 of the Oregon Constitution provides that, among other things, income derived from assets of the CSF shall be applied to the support of primary and secondary education as prescribed by law.

B. Pursuant to Article VIII, Sections 2 and 5 of the Oregon Constitution, the Board manages certain lands, including the Property, held by the CSF with the objective of obtaining the greatest benefit for the people of the state of Oregon (the “State”), consistent with the conservation of these resources under sound techniques of land management.

C. In 2017, the Oregon Legislature authorized the issuance of certificates of participation in an amount to produce \$100,000,000 pursuant to ORS 283.085(3)(e) (2017 Oregon Laws, chapter 570, section (8)(e)):

- (e) [t]o finance:
 - (A) The release of all or a portion of the Elliott State Forest from restrictions resulting from ownership of that forest by the Common School Fund; or
 - (B) Compensation paid to the Common School Fund for the preservation of noneconomic benefits of the forest through the imposition,

transfer or sale of restrictions such as easements, use requirements or other methods that preserve noneconomic benefits of the forest for the public, including recreation, aesthetics, wildlife or habitat preservation or other environmental and quality of life considerations.

D. The State issued its Certificates of Participation, 2019 Series A (Taxable) (the “COPs”) on _____, 2019.

E. Pursuant to (i) an Interagency Agreement between the Department of Administrative Services and Oregon Department of Forestry (“ODF”) dated _____, 201_, and (ii) an Interagency Agreement between ODF and DSL dated _____, 201_, the proceeds of the COPs have been deposited with DSL as of this date.

F. The Board will transfer such proceeds into the corpus of the CSF for the purposes described herein and to memorialize such transfer in this Declaration to be recorded against the Property.

DECLARATIONS

NOW THEREFORE, the Board declares as follows:

1. Pursuant to ORS 283.085(3)(e)(A), the State issued the COPs, and the Board will deposit the proceeds of the COPs in the amount of \$100,000,000, into the corpus of the CSF to release a portion of the Property from restrictions resulting from ownership by the CSF by mitigating the Board’s duty to manage the Property to the benefit of the CSF.
2. The deposit of the COP proceeds in the CSF, and investment pursuant to Article VIII, Section 2(2) of the Oregon Constitution, will advance the Board’s obligations to the CSF with respect to the Property and shall serve as partial decoupling of the Property from the CSF.
3. Alternatively, the \$100,000,000 deposit of the COP proceeds to the CSF will serve as compensation to the CSF for the preservation of the noneconomic benefits of the Property pursuant to ORS 283.085(3)(e)(B). The specifics of such management to preserve the noneconomic benefits shall be determined by the Board and implemented by DSL under direction from the Board and must include a method articulated under ORS 283.085(3)(e)(B) and approved by the Oregon Department of Justice.

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Legal Description
Department of State Land Properties
Elliott State Forest

Township 22 South, Range 10 West of the Willamette Meridian, Douglas County, Oregon

All of Sections 18, 19, 20, 26, 27, 28, 29, 30, 31, 32, 33 and 34.

Section 7:

Lots 1, 2, 3, 6, 7, 8 and 9, Excepting therefrom those portions conveyed for highway purposes by Book 140, Page 330 and by Recorder's Nos. 4617, 48086, and 106556, all of Deed Records of Douglas County, Oregon;

The SW1/4 of the NE1/4; SE1/4 of the NW1/4; E1/2 of the SW1/4; W 1/2 of the SE 1/4; SE1/4 of the SE1/4.

Section 8:

Lot 5, excepting therefrom that portion within State Highway No. 38.

Lot 7.

Section 14:

Lot 9 and the SE1/4 of the SW1/4.

Section 15:

The SE1/4 of the SE1/4; and

Government Lot 10, excepting therefrom that part conveyed to Douglas County, Oregon, for road purposes, by deed recorded in Volume 84, page 7, Deed Records of Douglas County, Oregon, and also excepting therefrom that part conveyed to State of Oregon, by and through its State Highway Commission, for road purposes, by deed recorded in Volume 201 of the Deed Records of Douglas County, Oregon, Recorder's No.131667.

Section 17:

All that portion of the following described premises that lies Southerly of the State of Oregon Highway No. 38 right of way, it being understood that said State of Oregon Highway right of way extends 75 feet Southerly from the centerline of said right of way, to-wit:

Lots 6, 7, 8, 10 and the Northeast quarter of the Southwest quarter of, Township 22 South, Range 10 West, Willamette Meridian, Douglas County, Oregon. Excepting, however, that portion acquired by the State of Oregon, by and through its State Highway Commission, by Circuit Court Case No.19977, being 6.2 acres immediately Westerly of Charlotte Creek and same being a rock quarry, together with limited access provisions contained therein;

Lots 5, 11, 12, 13, 14, 15, the SE1/4 of the SW1/4 and the SW1/4 of the SE1/4, excepting therefrom that portion within State Highway No. 38.

Section 21:

All of Section 21, excepting therefrom that portion within State Highway No. 38.

Section 22:

All of Section 22, excepting therefrom that portion within State Highway No. 38.

Subject to the rights of fishing, navigation and commerce to the State of Oregon, the Federal Government, and the public in and to that portion thereof lying below the ordinary high water mark of Mill Creek, including any ownership rights which may be claimed by the State of Oregon below the high water mark.

Section 23:

Lots 5, 6, 7, 8, 9, 10 and 11; the SW1/4 of the NE1/4, E1/2 of the NW1/4, NE1/4 of the SW1/4, and the N1/2 of the SE1/4.

Subject to the rights of fishing, navigation and commerce to the State of Oregon, the Federal Government, and the public in and to that portion thereof lying below the ordinary high water mark of Mill Creek, including any ownership rights which may be claimed by the State of Oregon below the high water mark.

Township 22 South, Range 11 West of the Willamette Meridian, Douglas County, Oregon

All of Sections 12, 13, 14, 21, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35.

Section 1:

Lots 5, 9, 10, 11, 12, 13 and 14, excepting therefrom that portion within State Highway No. 38.

Section 2:

The SW1/4 of the NE1/4, S1/2 of the NW1/4, NE1/4 of the SW1/4 and the N1/2 of the SE1/4;
Lots 5, 6, 7, 8 and 9.

Section 3:

Lot 1, the NW1/4 of the NE1/4, SE1/4 of the NE1/4, E1/2 of the SE1/4, less and excepting therefrom that portion of State Highway 38.

And:

Beginning at a point in the center of an existing road on the north boundary of the

Southwest quarter of the Northeast quarter (SW1/4NE1/4) of Section 3, Township 22 South, Range 11 West, Willamette Meridian, said point being North 89° 43' 26" West 459.6 feet from the Northeast corner of said subdivision; thence along the north boundary of said subdivision North 89° 43' 26" West 39.9 feet to a point at the toe of the fill slope of said road; thence continuing along the toe of the main body of said fill slope South 20° 02' East 131.0 feet to a point; thence South 33° 28' East 100.1 feet to a point; thence South 23° 36' West 70.9 feet to a point; thence South 53° 28' East 131.7 feet to a point; thence South 26° 34' West 53.7 feet to a point; thence South 54° 28' West 68.8 feet to a point; thence South 2° 27' East 96.2 feet to a point; thence South 45° 25' West 105.6 feet to a point; thence South 43° 00' East] 57.8 feet to a point; thence South 69°27' East 85.4feet to a point; thence North 72° 49' East 101.5 feet to a point; thence North 83° 31' East 208.9 feet to a point at the toe of the fill slope of said road, said point being on the east boundary of said subdivision South 1° 33' 54" East 697.8 feet from the Northeast corner of said subdivision; thence North 1° 33' 54" West 697.8 feet to the Northeast corner of said subdivision; thence North 89° 43' 26" West 459.6 feet to the point of beginning, containing 7.06 acres, with the tenements, hereditaments and appurtenances, situated in the County of Douglas and State of Oregon.

Section 10:

A parcel of land situated in the Southwest quarter of the Northeast quarter (SW1/4NE1/4) of Section 10, Township 22 South, Range 11 West, Willamette Meridian, with the tenements, hereditaments and appurtenances situated in the County of Douglas and State of Oregon, said parcel of land being forty (40) feet in width, twenty (20) feet on each side of a center line described as follows, to-wit:

Beginning at a point on the Easterly right of way boundary of the Deans Creek County Road, said point being 1273.5 feet South and 1933.8 feet West of the Northeast corner of Section 10, Township 22 South, Range 11 West, Willamette Meridian, thence South 88° 38' East 610.4 feet, more or less, to a point on the East boundary of the Southwest quarter of the Northeast quarter (SW¼NE¼) of Section 10, Township 22 South, Range 11 West, Willamette Meridian, as acquired by Clifford Leach and Wilma Leach, husband and wife, by that certain deed dated October 11, 1952, recorded in Volume 214, page 641, Deed Records, Douglas County, Oregon, in which Robert Holmstedt and Nellie Holmstedt, husband and wife, were grantors.

And :

A parcel of land situated in the Southeast quarter of the Northeast quarter (SE1/4NE1/4) of Section 10, Township 22 South, Range 11 West, Willamette Meridian, with the tenements, hereditaments, and appurtenances situated in the County of Douglas and State of Oregon, said parcel of land being forty (40) feet in width, twenty (20) feet on each side of a center line described as follows, to-wit:

Beginning at a point on the West boundary of the Southeast quarter of the Northeast quarter (SE¼NE¼) of Section 10, Township 22 south, Range 11 West, Willamette Meridian, said point being 1288.1 feet South and 1323.6 feet West of the Northeast corner of said Section 10; thence South 88° 38' East 392.0 feet; thence North 58° 08' East 95.7 feet, more or less, to a point on the North boundary of said Southeast quarter of the Northeast quarter (SE¼NE¼), said point being 1242.8 feet South and 844.0 feet West of the Northeast corner of said Section 10.

And:

Beginning at a point on the Section line between Sections 10 and 11, Township 22 South, Range 11 West, Willamette Meridian, said point being South 0° 12' East 797.1 feet from the Northeast corner of said Section 10; thence South 0° 12' East 80.5 feet to a point on said section line; thence South 14° 11' West 126.3 feet to a point; thence along the arc of a 31° 11' 31" curve to the right, the long chord of which bears South 55° 11' West 241.0 feet to a point; thence North 83° 49' West 78.1 feet to a point; thence North 64° 29' West 190.4 feet to a point; thence North 57° 53' West 70.6 feet to a point; thence along the arc of a 114° 52' 33" curve to the left, the long chord of which bears South 78° 18' West 69.1 feet to a point; thence South 34° 29' West 43.5 feet to a point; thence South 45° 08' West 265.2 feet more or less to a point on the south boundary of the Northeast one quarter of the Northeast one quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section 10; thence Westerly on said boundary 92.3 feet to a point; thence North 58° 08' East 67.2 feet more or less to a point; thence North 45° 08' East 260.5 feet to a point; thence North 34° 29' East 38.8 feet to a point; thence along the arc of a 57° 22' 08" curve to the right, the long chord of which bears North 44° 44' East 35.6 feet to a point; thence South 35° 01' East 10.0 feet to a point; thence along the arc of a 63° 45' 06" curve to the right, the long chord of which bears North 75° 29' East 63.0 feet to a point; thence North 5° 59' East 10.0 feet to a point; thence along the arc of a 57° 22' 08" curve to the right, the long chord of which bears South 70° 57' East 45.2 feet to a point; thence South 57° 53' East 67.7 feet to a point; thence South 64° 29' East 123.3 feet to a point; thence South 25° 31' West 10.0 feet to a point; thence South 64° 29' East 57.4 feet to a point; thence South 83° 49' East 71.3 feet to a point; thence along the arc of a 39° 52' 30" curve to the left, the long chord of which bears North 55° 11' East 188.6 feet to a point; thence North 14° 11' East 282.3 feet to a point on the section line between Sections 10 and 11, Township 22 South, Range 11 West, Willamette Meridian; thence South 0° 12' East 80.5 feet to the point of beginning, containing 1.24 acres.

Section 11:

The NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Lot 1, 3, 4, 5, 6 and 7.

Excepting therefrom: Beginning at the Northeast corner of the Northwest quarter of the Southwest quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 11, Township 22 South, Range 11 West, Willamette Meridian; thence South 0° 06' 02" East 409.0 feet along the East boundary of the Northwest quarter of the Southwest quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$) of said Section 11, to an iron pipe; thence North 78° 25' West 239.9 feet to an iron pipe; thence North 79° 35' West 134.3 feet to an iron pipe; thence North 38° 17' West 155.9 feet to an iron pipe; thence North 48° 16' West 132.2 feet to an iron pipe; thence North 34° 03' West 150.1 feet to a galvanized iron pipe on the North boundary of the Northwest quarter of the Southwest quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$) of said Section 11; thence North 89° 51' 04" East 645.7 feet along the North boundary of the Northwest quarter of the Southwest quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$) of said Section 11, to the point of beginning.

In addition thereto: All that portion of the Northwest quarter of the Southeast quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 11, Township 22 South, Range 11 West, Willamette Meridian, described as follows:

Beginning at the Northwest corner of the Northwest quarter of the Southeast quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 11, Township 22 South, Range 11 West, Willamette Meridian;

thence North 89° 51 ' 04" East 1280.9 feet to the Northeast corner of the Northwest quarter of the Southeast quarter (NW1/4SE1/4) of said Section 11, thence South 0° 10' 33" West 635.3 feet to the North boundary of a strip of land conveyed to the STATE OF OREGON, acting by and through its Board of Forestry,
thence traversing along the North boundary of said strip of land,

thence South 85° 03' West 27.5 feet;
thence North 86° 24' West 320.6 feet;
thence South 75° 59' West 29 L 9 feet;
thence South 60° 39' West 97.4 feet;
thence leaving said strip of land,

North 52° 22' West 109.2 feet to an iron pipe;
thence North 32° 55' West 201.3 feet to an iron pipe;
thence North 41° 12' West 338.9 feet to an iron reinforcing rod;
thence North 29° 26' West 279.9 feet to the point of beginning;

Beginning at Engineers Station 0+00 on the section line between Sections 10 and 11, said point being South 0° 12' East 797.1 feet from the Northeast corner of Section 10, Township 22 South, Range 11 West, Willamette Meridian; thence along the centerline of said strip of land forty (40) feet in width, twenty (20) feet on each side of centerline,

North 14° 11' East 23.2 feet,
thence North 28° 25' East 57.5 feet,
thence North 72° 29' East 60.6 feet to a point on the North boundary of the South half of the Northwest one quarter (SW1/4NW1/4) of said Section 11, said point being 705.8 feet South and 93.6 feet East of the Northeast corner of said Section 10.

Also beginning at a point on the North boundary of the Southwest one quarter of the Northwest one quarter (SW1/4NW1/4) of Section 11, Township 22 South, Range 11 West, Willamette Meridian, said point being 705.6 feet south and 110.9 feet East of the Northeast corner of Section 10; thence along the centerline of said strip of land forty (40) feet in width, twenty (20) feet on each side of centerline,

South 65° 02' East 208.0 feet,
thence South 38° 21' East 135.7 feet,
thence South 21° 20' East 138.3 feet to Station 6+41.8; thence along the centerline of said strip of land fifty (50) feet in width, twenty (20) feet on the right and thirty (30) feet on the left of centerline,

South 21° 20' East 90.0 feet,
thence South 68° 02' East 30.0 feet to Station 7+61.8; thence along the centerline of said strip of land forty (40) feet in width, twenty (20) feet on each side of centerline,

South 68° 02' East 264.3 feet,
thence South 34° 32' East 261.2 feet,
thence South 41° 04' East 100.0 feet to Station 13+87.3;
thence along the centerline of said strip of land fifty (50) feet in width, twenty (20) feet
on the right and thirty (30) feet on the left of centerline,

South 41° 04' East 83.2 feet,
thence South 52° 04' East 66.8 feet to Station 15+37.3; thence along the centerline of
said strip of land forty (40) feet in width, twenty (20) feet on each side of centerline,
South 52° 04' East 191.7 feet,
thence South 40° 42' East 263.5 feet,
thence South 32° 22' East 91.5 feet to a point on the South boundary of said Southwest
one quarter of the Northwest one quarter (SW1/4NW1/4), said point being 2015.0 feet
South and 1434.9 feet East of the Northeast corner of said Section 10.

A parcel sixty (60) feet in width, thirty (30) feet on each side of the following described center line:

Beginning at a point on the North boundary of the Northwest quarter of the Southwest quarter
(NW1/4SW1/4) of Section 11, Township 22 South, Range 11 West, Willamette Meridian, said point
being South 89° 51' 04" West 148.5 feet from the Northeast corner to the Northwest quarter of the
Southwest quarter (NW1/4SW1/4) of said Section 11;

thence South 32° 22' East 45.6 feet to Station 21+33.2;
thence South 32° 22' East 83.0 feet;
thence South 69° 23' East 65.5 feet;
thence South 80° 41' East 18.8 feet to a point on the East boundary of the Northwest quarter
of the Southwest quarter (NW1/4SW1/4) of said Section 11, said point being South 0° 06'
02" East 135.1 feet from the Northeast corner of the Northwest quarter of the Southwest
quarter (NW1/4SW1/4) of said Section 11.

A parcel forty (40) feet in width, twenty (20) feet on each side of the following described center line:

Beginning at Station 21+33.2 in the above described parcel;

thence South 37° 08' West 376.8 feet to a point on the South boundary of the above
described parcel, said pipe being 339.2 feet South and 351.6 feet West of the Northeast
corner of the Northwest quarter of the Southwest quarter (NW1/4SW1/4) of Section 11,
Township 22 South, Range 11 West, Willamette Meridian.

Also beginning at a point on the West boundary of the Northeast one quarter of the Southwest one
quarter (NE1/4SW1/4) of Section 11, Township 22 South, Range 11 West, Willamette Meridian, said
point being 2149.7 feet South and 1583.5 feet East of the Northeast corner of Section 10, Township
22 South, Range 11 West, Willamette Meridian; thence along the centerline of said strip of land fifty
(50) feet in width, thirty (30) feet on the right and twenty (20) feet on the left of centerline,

South 80° 41' East 168.3 feet,
thence South 88° 36' East 242.6 feet,
thence South 89° 56' East 240.2 feet to Station 29+51.6; thence along the centerline of said

strip of land fifty (50) feet in width, twenty (20) feet on the right and thirty (30) feet on the left of centerline,

South 73° 07' East 254.2 feet,
thence South 45° 44' East 80.0 feet to Station 32+85.8; thence along the centerline of said strip of land fifty (50) feet in width, thirty (30) feet on the right and twenty (20) feet on the left of centerline,

South 45° 44' East 139.1 feet,
thence South 36° 26' East 171.8 feet to Station 35+96.7; thence along the centerline of said strip of land fifty five (55) feet in width, thirty five (35) feet on the right and twenty (20) feet on the left of centerline,

South 73° 24' East 301.8 feet,
thence South 73° 03' East 155.5 feet to Station 40+54.0; thence along the centerline of said strip of land sixty five (65) feet in width, thirty five (35) feet on the right and thirty (30) feet on the left of centerline,

South 57° 28' East 184.9 feet,
thence South 83° 18' East 89.1 feet,
thence North 60° 39' East 62.6 feet to Station 43+90.6; thence along the centerline of said strip of land forty (40) feet in width, twenty (20) feet on each side of centerline,

North 60° 39' East 86.2 feet,
thence North 75° 59' East 293.2 feet,
thence South 86° 24' East 319.2 feet,
thence North 85° 03' East 27.3 feet to Station 51+16.5 on the East boundary of the Northwest one quarter of the Southeast one quarter (NW1/4SE1/4) of Section 11, said Township and Range, said Station 51+16.5 being 2385.6 feet North and 1264.2 feet West of the section corner common to Sections 11, 12, 13 and 14, said Township and Range.

Also beginning at Station 35+96.7 on the above described centerline in said Northeast one quarter of the Southwest one quarter (NE1/4SW1/4) of Section 11, said station being 2500.7 feet North and 2706.5 feet West of the section corner common to Sections 11, 12, 13 and 14, Township 22 South, Range 11 West, Willamette Meridian; thence along the centerline of a strip of land forty (40) feet in width, twenty (20) feet on each side of centerline,

South 29° 15' East 81.3 feet,
thence South 15° 38' East 294.9 feet,
thence South 4° 52' East 431.4 feet to a point on the South boundary of said subdivision, said point being 1716.0 feet North and 2550.8 feet West of the section corner common to said Sections 11, 12, 13 and 14.

Section 15:

The South 1/2 of the Northeast 1/4; the East 1/2 of the Southeast quarter of Section 15, Township 22 South, Range 11 West of the Willamette Meridian.

SAVE AND EXCEPT: Beginning at an iron pipe which bears 2925.70 feet North and 1758.50 feet West of the Southeast corner of Section Fifteen (15), Township Twenty-two (22) South, Range Eleven (11) West of the Willamette Meridian, Douglas County, Oregon; thence North 51° 53' West, 226.01 feet; thence North 16° 46' West, 86.45 feet; thence North 1° 43' West, 70.27 feet; thence North 7° 00' West, 167.87 feet; thence North 18° 29' East, 137.33 feet; thence North 30° 18' East, 215.91 feet; thence North 39° 13' East, 269.27 feet to the North boundary of the Southwest quarter (SW 1/4) of the Northeast quarter (NE 1/4) of said Section 15; thence East along said North boundary of the SW 1/4 the NE 1/4, 100 feet to the center line of Dean Creek; thence Southwesterly along the center line of Dean Creek to a point which bears North 13° 34' East, 136.47 feet from the point of beginning; thence South 13° 34' West, 37 feet to an iron pipe on the left bank of Dean Creek; thence continuing South 13° 34' West, 99.47 feet to the point of beginning;

The SW 1/4 and the West 1/2 of the SE 1/4.

Section 17:

Lots 5, 6 and 7;

The Southeast quarter of the Northwest quarter, the Southwest quarter of the Northeast quarter, the North half of the Southwest quarter, the Northwest quarter of the Southeast quarter, the Southeast quarter of the Southwest quarter, the Southwest quarter of the Southeast quarter.

Section 19:

The Northeast quarter of the Northeast quarter (NE1/4NE1/4);

The South half of the Northeast quarter;

The Southeast quarter;

Lots 1, 2, 3 and 4.

Section 20:

Lot 1 and the Northwest quarter of the Northeast quarter;

The Southeast quarter of the Northwest quarter, the East half of the Southwest quarter, and the Southwest quarter of the Southeast quarter;

The Southwest quarter of the Northwest quarter and the West half of the Southwest quarter;

Lots 2, 3 and 4, the Southwest quarter of the Northeast quarter and the Northwest of the Southeast quarter.

Section 22:

All of Section 22, except the NE 1/4 of the NE 1/4.

Section 23:

All of Section 23, except the N 1/2 of the NW 1/4.

Township 22 South, Range 12 West of the Willamette Meridian, Douglas County, Oregon

Section 24:

Lot 2, Lot 3, and Lot 4 and the SW 1/4 of the NE 1/4, the SE 1/4 of the NW 1/4, the E 1/2 of the SW 1/4, and the W 1/2 of the SE 1/4.

Section 25:

Lot 4 and the S 1/2 of the SW 1/4 and the SW 1/4 of the SE 1/4.

Section 26:

The N 1/2 of the SE 1/4 and the SE 1/4 of the SE 1/4.

Section 35:

The NE 1/4 of the NE 1/4.

The SW 1/4 of the NE 1/4.

Beginning at the Northeast corner of Lot 4 of Section 35, Township 22 South, Range 12 West, Willamette Meridian, Douglas County, Oregon, said point being marked by a 1986 Oregon State Board of Forestry brass cap; thence along the east line of said Section 35, South 4° 19' 53" East 80.49 feet to a point marked by a 3/4 inch aluminum rod and cap; thence leaving said East line, South 43° 04' 05" West 256.94 feet to a point on top of a spur ridge, said point being marked by a 3/4 inch aluminum rod and cap; thence Northwesterly along the top of said ridge as follows: North 24° 33' 21" West 368.04 feet to a point marked by a 3/4 inch aluminum rod and cap; thence North 19° 4' 23" West 254.56 feet to a point marked by a 3/4 inch aluminum rod and cap; thence North 16° 32' 39" West 327.93 feet to a point marked by a 3/4 inch aluminum rod and cap; thence leaving said ridge top, North 14° 59' 00" East 274.44 feet to a point marked by a 3/4 inch aluminum rod and cap; thence North 53° 14' 36" East 429.26 feet to the West quarter corner of Section 36, said point being referenced by a 1974 Oregon State Board of Forestry brass cap witness corner; thence along the West line of Section 36, South 4° 19' 53" East 1146.08 feet to the point of beginning, all in Douglas County, Oregon.

Section 36:

All of Section 36.

Township 23 South, Range 10 West of the Willamette Meridian, Douglas County, Oregon

All of Section 3, Section 10, Section 15, Section 22, Section 23, and Section 27.

Section 2:

Lots 1 through 13 and Lots 16 through 21.

Section 11:

Lot 1.

Lot 4, Lot 5, Lot 8, and Lot 9 and the SE 1/4 of the NW 1/4, the E 1/2 of the SW 1/4, and the SE 1/4.

Section 14:

N 1/2 of the NE 1/4 and the NW 1/4.

Section 24:

The Northwest quarter of Section 24, Township 23 South, Range 10 West, W.M.

Excepting therefrom, the South 330 feet of the Southwest quarter of the Northwest quarter of Section 24, Township 23 South, Range 10 West, W.M.

Section 26:

The SW 1/4.

Township 23 South, Range 10 West of the Willamette Meridian, Coos County, Oregon

All of Sections 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 28, 29, and 30, all in Township 23 South, Range 10 West of the Willamette Meridian, Coos County, Oregon.

Section 31:

Lot 1, Lot 2, Lot 3, Lot 4, and Lot 5 and the NE 1/4, E 1/2 of the NW 1/4, NE 1/4 of the SW 1/4, and the NW 1/4 of the SE 1/4.

That portion of Government Lot 6 of Section 31, Township 23 South, Range 10 West of the Willamette Meridian lying West of the West edge of Elliott State Forest Road No. 1000 (also known as Elk Ridge Road), all in Coos County, Oregon.

Section 32:

The NE 1/4 of the NE 1/4, the W 1/2 of the NE 1/4, the NW 1/4, and the NW 1/4 of the SE 1/4.

Section 33:

The W 1/2 of the NE 1/4, the NW 1/4, and the NW 1/4 of the SW 1/4.

All that portion of the Northwest one-quarter (NW1/4) of the Northeast one-quarter (NE 1/4) of the Northeast one-quarter (NE1/4) of Section 33, Township 23 South, Range 10 West of the Willamette Meridian, lying West of the center of Cedar Creek, all in Coos County, Oregon.

Township 23 South, Range 11 West of the Willamette Meridian, Coos County, Oregon

All of Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 27, 28, 29, 31, 32, 33, 34, 35, and 36.

Section 7:

Lot 2, Lot 3, and Lot 4 and the E 1/2 of the NW 1/4, E 1/2 of the SW 1/4, and the E 1/2.

Section 18:

Lot 1 and Lot 2 and the NE 1/4, the E 1/2 of the NW 1/4, and the N 1/2 of the SE 1/4.

Section 19:

Lot 2, Lot 3, and Lot 4 and the NE 1/4 of the NE 1/4, the S 1/2 of the NE 1/4, the SE 1/4 of the NW 1/4, the E 1/2 of the SW 1/4, and the SE 1/4.

Section 26:

The E 1/2 of the NE 1/4, the NW 1/4 of the NE 1/4, the W 1/2 of the NW 1/4, the W 1/2 of the SW 1/4, the SE 1/4 of the SW 1/4, and the SE 1/4.

The East half of the Northwest quarter (E1/2NW1/4), the Southwest quarter of the Northeast quarter (SW1/4NE1/4), and the Northeast quarter of the Southwest quarter (NE1/4SW1/4) of Section 26 , Township 23 South, Range 11 West, Willamette Meridian;

EXCEPT a portion of said SW 1/4 of the NE 1/4 and said E 1/2 of the NW 1/4 of said Section 26, described as follows:

Beginning at a point North 38° 30' East 307.8 feet from a pipe and brass cap marked C1/4, S26, OSBF 1968, RS359; thence North 86° 30' West 690 feet to the East Bank of the West Fork of the Millicoma River; thence North 8° 46' West 353 feet along the East bank of said river; thence South 86° 30' East 320 feet; thence South 3° 30' West 75 feet; thence South 86° 30' East 445 feet; thence South 3° 30' West 270 feet to the point of beginning.

Section 30:

Lot 1 and the N 1/2 of the NE 1/4, and the NE 1/4 of the NW 1/4.

Lot 3 and Lot 4 and the E 1/2 of the SW 1/4, and the SE 1/4.

Township 23 South, Range 12 West of the Willamette Meridian, Coos County, Oregon

Section 1:

Lot 1, Lot 2, Lot 3, and Lot 4.

Section 11:

A strip of land of varying widths located in the South Half of the Southeast Quarter (S1/2SE1/4), Section 11, Township 23 South, Range 12 West of the Willamette Meridian, which strip of land is more particularly described as follows:

Beginning at a point on the North and South center line of Section 11, Township 23 South, Range 12 West of the Willamette Meridian, said point being 495.1 feet North of the one-quarter corner common to Sections 11 and 14, said Township and Range:

- (a) thence along the center line of a sixty (60) foot wide strip of land along the arc of a 92° curve to the right the sub chord of which bears South 88° 12' East 7.9 feet,
thence South 84° 32' East 50.2 feet,
thence North 61° 51' East 51.1 feet,
thence North 20° 32' East 72.2 feet,
thence North 28° 51' East 44.6 feet,
thence North 47° 01' East 51.0 feet,
thence along the arc of a 92° curve to the right the long chord of which bears
South 85° 14' East 92.2 feet,
thence South 37° 28' East 8.0 feet,
thence South 33° 22' East 126.0 feet,
thence South 52° 00' East 72.2 feet,
thence South 44° 29' East 82.6 feet,
thence South 28° 15' East 126.0 feet,
thence South 34° 49' East 54.9 feet,
thence South 87° 42' East 74.0 feet,
thence North 62° 24' East 67.9 feet,
thence North 74° 07' East 67.6 feet,
thence North 86° 43' East 52.5 feet,
thence North 88° 27' East 56.0 feet,
thence North 75° 47' East 70.4 feet,
thence North 66° 55' East 148.1 feet,
thence North 70° 29' East 59.2 feet,
thence North 76° 27' East 66.6 feet,
thence North 71° 53' East 53.0 feet,
thence North 83° 16' East 42.0 feet,
thence North 77° 15' East 77.5 feet,
thence along the arc of a 29° curve to the right the long chord of which bears
North 83° 45' East 44.7 feet,
thence South 89° 45' East 253.1 feet;

(b) thence continuing along the center line of an eighty (80) foot wide strip of land
South 89° 45' East 130.4 feet,
thence along the arc of a 29° curve to the left the long chord of which bears
North 84° 45' East 37.9 feet,
thence North 79° 15' East 13.4 feet,
thence along the arc of a 48° curve to the right the long chord of which bears
South 71° 15' East 117.6 feet;

(c) thence continuing along the center line of a sixty (60) foot wide strip of land
South 41° 45' East 92.5 feet,
thence along the arc of a 72° curve to the left the long chord of which bears
South 78° 45' East 95.8 feet,
thence along the arc of a 73° curve to the right the long chord of which bears
South 88° 45' East 71.3 feet,
thence South 61° 45' East 400.5 feet,
thence South 84° 01' East 6.5 feet more or less to a point on the Section line between
Sections 11 and 12, said point being 337.8 feet North and 4.2 feet East of the Section
comer common to Sections 11, 12, 13 and 14, Township 23 South, Range 12 West of the
Willamette Meridian, Coos County, Oregon.

Section 25:

The E 1/2 of the SE 1/4.

Section 27:

The SE 1/4 of the SE 1/4.

Section 34:

The E 1/2 of the NE 1/4 and the E 1/2 of the SE 1/4.

The S 1/2 of the SW 1/4 and the SW 1/4 of the SE 1/4.

Section 35:

The NW 1/4 of the NW 1/4, the S 1/2 of the NW 1/4, and the N 1/2 of the SW 1/4.

Section 36:

The North half of the Northeast quarter (N1/2NE1/4) of Section 36, Township 23 South, Range 12 West of the Willamette Meridian, excepting therefrom the North half of the Southwest quarter of the Northeast quarter of the Northeast quarter (N1/2SW1/4 NE1/4NE1/4) of said Section 36.

The North half of the Southwest quarter of the Northeast quarter of the Northeast quarter (N1/2SW1/4 NE1/4NE1/4) of Section 36, Township 23 South, Range 12 West of the Willamette Meridian.

The South one half of the Northeast one quarter (S1/2NE1/4) and the North one half of the Southeast one quarter (N1/2SE1/4) of Section 36, Township 23 South, Range 12 West of the Willamette Meridian.

Except that portion described as follows:

Beginning at the Southeast corner of the Southeast one quarter of the Northeast one quarter (SE1/4NE1/4) of Section 36, Township 23 South, Range 12 West of the Willamette Meridian;

thence North 00° 14' 12" East 465.53 feet;
thence South 90° 00' 00" West 1852.52 feet;
thence North 00° 00' 00" West 400.00 feet;
thence South 90° 00' 00" West 870.38 feet;
thence South 00° 10' 42" West 985.78 feet;
thence South 65° 39' 11" East 283.95 feet;
thence South 25° 36' 37" East 463.46 feet;
thence South 45° 02' 23" East 378.04 feet;
thence North 86° 23' 50" East 158.12 feet;
thence North 46° 07' 05" East 219.73 feet;
thence North 40° 25' 11" East 363.41 feet;
thence North 70° 20' 45" East 1033.54 feet;
thence South 69° 36' 36" East 399.90 feet;
thence North 90° 00' 00" East 98.08 feet;
thence North 00° 06' 48" West 275.16 feet to the point of beginning.

Township 24 South, Range 10 West of the Willamette Meridian, Coos County, Oregon

Section 6:

Lot 1, Lot 2, Lot 3, Lot 4, Lot 8, Lot 9, Lot 10, and Lot 11.

Township 24 South, Range 11 West of the Willamette Meridian, Coos County, Oregon

All of Section 1, Section 2, Section 5, Section 6, Section 7, Section 8, and Section 18.

Section 3:

Lot 1, Lot 2, Lot 3, and Lot 4 and the S 1/2 of the NE 1/4, the SE 1/4 of the NW 1/4, the E 1/2 of the SW 1/4, and the SE 1/4.

Subject to the rights of fishing, navigation and commerce to the State of Oregon, the Federal Government, and the public in and to that portion thereof lying below the ordinary high water mark of Millicoma River, including any ownership rights which may be claimed by the State of Oregon below the high water mark.

The Southwest quarter of the Northwest quarter (SW1/4NW1/4) of Section 3 in Township 24 South, Range 11 West of the Willamette Meridian.

The W 1/2 of the SW 1/4 of Section 3, Township 24 South, Range 11 West of the Willamette Meridian, Coos County, Oregon.

Excepting from the above description:

That portion in the W 1/2 of the SW 1/4 of Section 3; and the E 1/2 of the SE 1/4 of Section 4, Township 24 South, Range 11 West, of the Willamette Meridian described as follows:

Beginning at the section corner common to Sections 3, 4, 9 and 10, Township 24 South, Range 11 West, Willamette Meridian, thence South 89° 42' 32" East 1340.31 feet along the section line between Sections 3 and 10 to the southeast corner of the W1/2SW1/4 of Section 3, Township 24 South, Range 11 West, Willamette Meridian,

thence North 17° 06' 27" West 122.17 feet;

thence North 17° 14' 06" West 135.10 feet;

thence South 89° 37' 29" West 335.06 feet;

thence North 62° 43' 31" West 79.90 feet.;

thence North 25° 51' 37" West 126.76 feet;

thence North 75° 49' 00" West 71.26 feet;

thence North 46° 19' 19" West 98.05 feet;

thence North 20° 29' 28" West 386.85 feet;

thence North 00° 45' 36" West 481.62 feet;

thence North 11° 02' 24" West 367.51, feet;

thence North 27° 42' 21" West 291.17 feet;

thence South 48° 54' 26" West 394.34 feet;

thence South 37° 32' 00" East 219.10 feet;

thence South 27° 07' 03" East 242.02 feet;

thence South 03° 52' 47" East 258.68 feet;

thence South 17° 05' 02" West 370.00 feet;

thence North 82° 03' 04" West 116.93 feet;

thence North 45° 40' 09" West 331.53 feet to a point referred to in the easement description below as the "road bearing point";

thence North 25° 15' 52" West 169.12 feet;

thence South 68° 09' 41" West 176.41 feet;

thence South 19° 19' 55" West 136.24 feet;

thence South 03° 41' 11" East 176.11 feet;

thence South 10° 53' 08" East 161.15 feet;

thence South 84° 02' 21" East 369.19 feet;

thence South 06° 04' 51" East 512.14 feet to the point of beginning.

Easement Description Provided per Reference in the Above Described Exception

Grantors reserve and retain a perpetual non-exclusive easement and right-of-way for purposes of ingress to and egress from the parcel of land excepted from the foregoing conveyance as set forth above, said easement and right-of-way shall be 60 feet in width, being 30 feet on each side of the centerline of the existing road leading from the end of the county road to the excepted property, said centerline being more particularly described as follows:

Beginning at a point which lies South 37° 42' 47" East 1729.81 feet from the NE corner of Section 9, Township 24 South, Range 11 West of the Willamette Meridian, Coos County,

Oregon. Thence North 18° 14' 13" West 180.76 feet; thence on a 30 degree curve to the right through a central angle of 26° 05' 07" for an arc distance of 86.953 feet; thence North 07° 50' 54" East 170.48 feet; thence on a 16 degree curve to the right through a central angle of 44° 08' 33" for an arc distance of 275.892 feet, thence North 51° 59' 27" East 239.86 feet; thence on a 40 degree curve to the right through a central angle of 29° 44' 46" for an arc distance of 74.367 feet; thence North 81° 44' 15" East 68.12 feet; thence on a 48 degree curve to the left through a central angle of 38° 41' 57" for an arc distance of 80.626 feet; thence North 43° 02' 18" East 225.65 feet; thence on a 14 degree curve to the left through a central angle of 57° 12' 09" for an arc distance of 408.594 feet; thence North 14° 09' 51" West 422.51 feet; thence on a 4 degree curve to the right through a central angle of 03° 09' 39" for an arc distance of 79.021 feet; thence North 11° 00' 12" West 241.97 feet; thence on a 22 degree curve to the right through a central angle 32° 12' 10" for an arc distance of 146.379 feet; thence North 21° 11' 58" East 63.64 feet; thence on a 56 degree curve to the right through a central angle 45° 17' 20" for an arc distance of 80.87 feet; thence North 66° 29' 18" East 67.69 feet; thence on a 56 degree curve to the right through a central angle of 85° 24' 06" for an arc distance of 152.497 feet; thence South 28° 06' 36" East 193.94 feet to the property line boundary at a point which lies South 45° 40' 09" East a distance of 99.43 feet from the point on the property line boundary which is designated as the road bearing point in the description of the excepted parcel hereinabove.

Subject to the rights of fishing, navigation and commerce to the State of Oregon, the Federal Government, and the public in and to that portion thereof lying below the ordinary high water mark of Millicoma River,

Section 4:

Lot 1, Lot 2, Lot 3, and Lot 4 and the S 1/2 of the NW 1/4, the SW 1/4, the W 1/2 of the SE 1/4.

The E 1/2 of the SE 1/4 and the S 1/2 of the NE 1/4 of Section 4 in Township 24 South, Range 11 West of the Willamette Meridian, Coos County, Oregon.

Excepting from the above description:

That portion in the W 1/2 of the SW 1/4 of Section 3; and the E 1/2 of the SE 1/4 of Section 4, Township 24 South, Range 11 West, of the Willamette Meridian described as follows:

Beginning at the section corner common to Sections 3, 4, 9 and 10, Township 24 South, Range 11 West, Willamette Meridian, thence South 89° 42' 32" East 1340.31 feet along the section line between Sections 3 and 10 to the southeast corner of the W1/2SW1/4 of Section 3, Township 2 South, Range 11 West, Willamette Meridian,
thence North 17° 06' 27" West 122.17 feet;
thence North 17° 14' 06" West 135.10 feet;
thence South 89° 37' 29" West 335.06 feet;
thence North 62° 43' 31" West 79.90 feet.;
thence North 25° 51' 37" West 126.76 feet;
thence North 75° 49' 00" West 71.26 feet;
thence North 46° 19' 19" West 98.05 feet;
thence North 20° 29' 28" West 386.85 feet;
thence North 00° 45' 36" West 481.62 feet;

thence North 11° 02' 24" West 367.51, feet;
thence North 27° 42' 21" West 291.17 feet;
thence South 48° 54' 26" West 394.34 feet;
thence South 37° 32' 00" East 219.10 feet;
thence South 27° 07' 03" East 242.02 feet;
thence South 03° 52' 47" East 258.68 feet;
thence South 17° 05' 02" West 370.00 feet;
thence North 82° 03' 04" West 116.93 feet;
thence North 45° 40' 09" West 331.53 feet to a point referred to in the easement description below as the "road bearing point";
thence North 25° 15' 52" West 169.12 feet;
thence South 68° 09' 41" West 176.41 feet;
thence South 19° 19' 55" West 136.24 feet;
thence South 03° 41' 11" East 176.11 feet;
thence South 10° 53' 08" East 161.15 feet;
thence South 84° 02' 21" East 369.19 feet;
thence South 06° 04' 51" East 512.14 feet to the point of beginning.

Grantors reserve and retain a perpetual non-exclusive easement and right-of-way for purposes of ingress to and egress from the parcel of land excepted from the foregoing conveyance as set forth above, said easement and right-of-way shall be 60 feet in width, being 30 feet on each side of the centerline of the existing road leading from the end of the county road to the excepted property, said centerline being more particularly described as follows:

Beginning at a point which lies South 37° 42' 47" East 1729.81 feet from the NE corner of Section 9, Township 24 South, Range 11 West of the Willamette Meridian, Coos County, Oregon. Thence North 18° 14' 13" West 180.76 feet; thence on a 30 degree curve to the right through a central angle of 26° 05' 07" for an arc distance of 86.953 feet; thence North 07° 50' 54" East 170.48 feet; thence on a 16 degree curve to the right through a central angle of 44° 08' 33" for an arc distance of 275.892 feet, thence North 51° 59' 27" East 239.86 feet; thence on a 40 degree curve to the right through a central angle of 29° 44' 46" for an arc distance of 74.367 feet; thence North 81° 44' 15" East 68.12 feet; thence on a 48 degree curve to the left through a central angle of 38° 41' 57" for an arc distance of 80.626 feet; thence North 43° 02' 18" East 225.65 feet; thence on a 14 degree curve to the left through a central angle of 57° 12' 09" for an arc distance of 408.594 feet; thence North 14° 09' 51" West 422.51 feet; thence on a 4 degree curve to the right through a central angle of 03° 09' 39" for an arc distance of 79.021 feet; thence North 11° 00' 12" West 241.97 feet; thence on a 22 degree curve to the right through a central angle 32° 12' 10" for an arc distance of 146.379 feet; thence North 21° 11' 58" East 63.64 feet; thence on a 56 degree curve to the right through a central angle 45° 17' 20" for an arc distance of 80.87 feet; thence North 66° 29' 18" East 67.69 feet; thence on a 56 degree curve to the right through a central angle of 85° 24' 06" for an arc distance of 152.497 feet; thence South 28° 06' 36" East 193.94 feet to the property line boundary at a point which lies South 45° 40' 09" East a distance of 99.43 feet from the point on the property line boundary which is designated as the road bearing point in the description of the excepted parcel hereinabove.

Subject to the rights of fishing, navigation and commerce to the State of Oregon, the Federal Government, and the public in and to that portion thereof lying below the ordinary high water mark

of Millicoma River, including any ownership rights which may be claimed by the State of Oregon below the high water mark.

Section 9:

The NE 1/4 of the NE 1/4 of Section 9 in Township 24 South, Range 11 West of the Willamette Meridian, Coos County, Oregon.

The NW 1/4 of the NE 1/4, the S 1/2 of the NE 1/4, the NW 1/4, the N 1/2 of the SW 1/4, the SW 1/4 of the SW 1/4, the W 1/2 of the W 1/2 of the SE 1/4 of the SW 1/4, the NW 1/4 of the SE 1/4, the E 1/2 of the SW 1/4 of the SE 1/4, and the E 1/2 of the W 1/2 of the SW 1/4 of the SE 1/4.

Subject to the rights of fishing, navigation and commerce to the State of Oregon, the Federal Government, and the public in and to that portion thereof lying below the ordinary high water mark of Millicoma River, including any ownership rights which may be claimed by the State of Oregon below the high water mark.

Section 10:

The NW 1/4.

The NE 1/4 of the SE 1/4.

The Northeast one quarter (NE 1/4) of Section 10, Township 24 South, Range 11 West of the Willamette Meridian.

Subject to the rights of fishing, navigation and commerce to the State of Oregon, the Federal Government, and the public in and to that portion thereof lying below the ordinary high water mark of Millicoma River, including any ownership rights which may be claimed by the State of Oregon below the high water mark.

Section 11:

The N 1/2 and the N 1/2 of the SE 1/4 of Section 11.

The North half of the Southwest quarter (N1/2SW1/4) of Section 11, Township 24 South, Range 11 West, Willamette Meridian.

Section 12:

The N 1/2 of the NE 1/4, the SE 1/4 of the NE 1/4, and the NW 1/4.

The Southwest quarter of the Northeast quarter (SW1/4NE1/4) of Section 12 in Township 24 South, Range 11 West of the Willamette Meridian

Section 15:

The W 1/2 of the SW 1/4.

Section 16:

The E 1/2 of the SW 1/4.

Section 17:

Lot 1, Lot 2, and Lot 3 and the W 1/2 of the NE 1/4, the NW 1/4, the N 1/2 of the SW 1/4, and the NW 1/4 of the SE 1/4.

That portion of U. S. Government Lot 4 of Section 17 lying South and West of the West Fork Millicoma River, in Township 24 South, Range 11 West of the Willamette Meridian.

Section 19:

The North half of the Northeast quarter of Section 19, Township 24 South, Range 11 West of the Willamette Meridian, Coos County, Oregon.

EXCEPT that portion deeded to the State of Oregon as described in Volume 281; Page 284, Deed Records of Coos County, Oregon.

ALSO EXCEPTING the following described parcel:

Beginning at an iron pipe on the West boundary of the Northwest quarter of the Northeast quarter of Section 19, Township 24 South, Range 11 West of the Willamette Meridian, 444.43 feet North of the Southwest corner of the said Northwest quarter of the Northeast quarter; thence South 79° 23' 30" East, 207.50 feet to an iron pipe; thence North 23° 35' East, 222.35 feet to an iron pipe on the Southwest boundary of the West Fork County Road; thence North 55° 12' West, 275.04. feet to the center of Totten Creek; thence South 29° 38' 24" West downstream along the center line of Totten Creek, 140.73 feet to the West boundary of the Northwest quarter of the Northeast quarter of said Section 19; thence South. 0° 43' 33" East along the West boundary of the said Northwest quarter of the Northeast quarter, 200.35 feet to the point of beginning. Being a portion of the Northwest quarter of the North-east quarter of Section 19, Township 24 South, Range' 11 West of the Willamette Meridian, Coos County, Oregon.

ALSO EXCEPTING that part deeded to Coos County by deed recorded May 20, 1976 as No. 76-5-7458.

All that portion of the Northwest one-quarter of the Northwest one-quarter of the Northeast one-quarter (NW1/4NW1/4NE1/4) of Section 19, Township 24 South, Range 11 West, Willamette Meridian, lying West of the West or right bank of Totten Creek and North of the Northerly right-of-way line of the county road, all in Coos County, Oregon.

Section 20:

Lot 2.

Lot 4, Lot 5, and Lot 6.

The NE 1/4 of the SE 1/4.

That portion of U. S. Government Lot 1 and the East half of the Northeast quarter (E1/2NE1/4) of Section 20 lying South of the West Fork Millicoma River, all in Township 24 South, Range 11 West of the Willamette Meridian.

Section 21:

The NE 1/4 of the NW 1/4 and the SW 1/4 of the NW 1/4.

The Northwest quarter of the Northwest quarter (NW1/4NW1/4) of Section 21, all in Township 24 South, Range 11 West of the Willamette Meridian.

Government Lot 3 of Section 21 in Township 24 South, Range 11 West of the Willamette Meridian.

Section 27:

Northwest quarter of the Northwest quarter of the Southwest quarter, Southwest quarter of the Northwest quarter of the Southwest quarter, and North Half of the Northwest quarter of the Southwest quarter of the Southwest quarter, Section 27, Township 24 South, Range 11, West of the Willamette Meridian, Coos County, Oregon, reserving to Coos County a 60 foot in width right of way though said premises.

Section 29:

Lot 3 and Lot 4.

Section 30:

That portion of U. S. Government Lot 1 of Section 30, Township 24 South, Range 11 West of the Willamette Meridian, described as follows:

Beginning at the Northeast corner of U. S. Government Lot 1 of Section 30, Township 24 South, Range 11 West of the Willamette Meridian;
thence South 00° 19' 00" West 1368.15 feet to a 5/8 inch iron rod at the Southeast corner of said Lot 1;
thence South 89° 11' 30" West 654.84 feet along the South line of said Lot 1 to a 3/4 inch iron pipe set by R.E. Stuntzner;
thence North to a point on the section line between Sections 19 and 30;
thence easterly along said section line to the point of beginning, all in U. S. Government Lot 1 of Section 30, Township 24 South, Range 11 West of the Willamette Meridian.

Section 33:

The West half of the Northwest quarter Section 33, Township 24, South, Range 11 West of the Willamette Meridian, Coos County Oregon.

Township 24 South, Range 12 West of the Willamette Meridian, Coos County, Oregon

All of Section 11, Section 12, and Section 13.

Section 1:

Lot 5, Lot 6, the SW 1/4 of the NE 1/4, and the SE 1/4 of the NW 1/4.

Government Lots 1, 2, 3, 4 and the West half of the Southwest quarter (W1/2SW1/4) of Section 1 in Township 24 South, Range 12 West of the Willamette Meridian, excepting therefrom the Southeast quarter (SE1/4) of Government Lot 1 and Northeast quarter (NE1/4) of Government Lot 4 of said Section 1.

The Northeast quarter (NE1/4) of Government Lot 4, the Southeast quarter of the Southwest quarter (SE1/4SW1/4) and Southwest quarter of the Southeast quarter (SW1/4SE1/4) of Section 1, Township 24 South, Range 12 West of the Willamette Meridian.

The Southeast quarter (SE1/4) of Government Lot 1 of Section 1, Township 24 South, Range 12 West of the Willamette Meridian.

Section 2:

Lot 2, Lot 3, Lot 4, Lot 7 and the SE 1/4 of the SW 1/4.

Government Lot 6, Northeast quarter of the Southwest quarter (NE1/4SW1/4) and Southeast quarter (SE1/4) of Section 2 in Township 24 South, Range 12 West of the Willamette Meridian.

Section 3:

The SE 1/4 of the SE 1/4.

Government Lots 1, 2, 3 and North half of the Southeast quarter of the Northwest quarter (N1/2SE1/4NW1/4) of Section 3 in Township 24 South, Range 12 West of the Willamette Meridian.

Government Lot 4, the Southwest quarter of the Northwest quarter (SW1/4NW1/4) and Northwest quarter of the Southwest quarter (NW1/4SW1/4) of Section 3, Township 24 South, Range 12 West of the Willamette Meridian, Coos County, Oregon, excepting therefrom that portion of the Northwest quarter of the Southwest quarter (NW1/4SW1/4) of said Section 3 lying South and West of a line described as follows:

Beginning at the one quarter corner common to Sections 3 and 4, Township 24 South, Range 12 West, Willamette Meridian, Coos County, Oregon, thence easterly along the center line of said Section 3 to the point of intersection with the westerly boundary of the forty (40) foot width of the easement from Albert C. Lane, et ux, to the State of Oregon, dated December 30, 1965 and recorded December 31, 1965 as No. 65-12-4819, Book of Records, Coos County, Oregon, thence southeasterly along said westerly boundary of said easement to the northerly right of way boundary of Haynes Slough County Road No. 16,

thence easterly along said County Road right of way boundary to the point of intersection with the east line of said legal subdivision.

The S 1/2 of the SE 1/4 of the NW 1/4 of Section 3, Township 24 South, Range 12 West of the Willamette Meridian, Coos County, Oregon.

The E 1/2 of the NE 1/4 of the SW 1/4 of Section 3, Township 24 South, Range 12 West of the Willamette Meridian, Coos County, Oregon.

That part of the W 1/2 of the NE 1/4 of the SW 1/4 lying North and West of Haynes Slough County Road, in Section 3, Township 24 South, Range 12 West of the Willamette Meridian, Coos County, Oregon.

NW 1/4 of SE 1/4; W 1/2 of the NE 1/4 of the SE 1/4 and the SW 1/4 of the NE 1/4 of Section 3, Township 24 South, Range 12 West of the Willamette Meridian, Coos County, Oregon.

The East half of the Northeast quarter of the Southeast quarter (E 1/2 NE 1/4 SE 1/4) of Section 3, Township 24 South, Range 12 West of the Willamette Meridian.

The W 1/2 of the SE 1/4 of the NE 1/4 of Section 3, Township 24 South, Range 12 West of the Willamette Meridian, Coos County, Oregon.

The E 1/2 of the SE 1/4 of the NE 1/4 of Section 3, Township 24 South, Range 12 West of the Willamette Meridian, Coos County, Oregon.

The Southeast quarter of the Southwest quarter; the Southwest quarter of the Southeast quarter, save and except therefrom the Northeast quarter of said Southwest quarter of the Southeast quarter, all in Section 3, Township 24 South, Range 12 West of the Willamette Meridian, Coos County, Oregon.

The North half of the Northeast quarter of the Southwest quarter of the Southeast quarter of Section 3, Township 24 South, Range 12 West of the Willamette Meridian, Coos County, Oregon.

A parcel of land lying Southeast of Haynes Slough County Road located in the NW 1/4 of the SW 1/4 and the W 1/2 of the NE 1/4 of the SW 1/4 of Section 3, Township 24 South, Range 12 West of the Willamette Meridian, Coos County, Oregon, more specifically described as follows:

Beginning at a 1-1/2 inch iron pipe at the SW 1/16th corner of said Section 3; thence South 89°22'35" West 534.51 feet along the South line of the NW 1/4 of the SW 1/4 of said Section 3; thence North 38°32'09" West 39.27 feet to a 5/8 inch iron rod; thence continuing North 38°32'09" West 185.64 feet to a 5/8 inch iron rod on the Easterly right of way of the Haynes Slough County Road; thence Northeasterly along said County Road to its intersection with the East line of the W 1/2 of the NE 1/4 of the SW 1/4 of said Section 3; thence South 6°49'05" East 1000 feet, more or less, along said East line to the CESW 1/64th corner; thence South 89°22'35" West 664.31 feet to the point of beginning.

That portion of the NW 1/4 of the SW 1/4 of Section 3, Township 24 South, Range 12 West of the Willamette Meridian, Coos County, Oregon, lying South and West of a line described as follows:

Beginning at the one quarter corner common to Sections 3 and 4, Township 24 South, Range 12 West of the Willamette Meridian, Coos County, Oregon; thence Easterly along

the center line of said Section 3 to the point of intersection with the westerly boundary of the 40 foot wide easement to the State of Oregon, recorded December 31, 1965 as bearing Microfilm Reel No. 65-12-4819, Records of Coos County, Oregon; thence Southeasterly along said westerly boundary of said easement to the northerly right of way boundary of Haynes Slough County Road No. 16 and North and West of Haynes Slough County Road No. 16.

A parcel of land located in the SW 1/4 of the SW 1/4 of Section 3, Township 24 South, Range 12 West of the Willamette Meridian, Coos County, Oregon, more specifically described as follows:

All that portion of the above described parcel lying West of the Haynes Slough County Road.

Section 4:

The NE 1/4 of the SE 1/4 and the SE 1/4 of the Northeast quarter of Section 4, Township 24 South, Range 12 West of the Willamette Meridian, Coos County, Oregon.

Section 9:

The SE 1/4 of the SE 1/4.

Section 10:

Lot 1, Lot 2, Lot 3, Lot 4, Lot 5, Lot 6, and Lot 7 and the SW 1/4 of the NE 1/4, the N 1/2 of the SW 1/4, and the NW 1/4 of the SE 1/4.

A parcel of land located in the NW 1/4 of the NW 1/4 of Section 10, Township 24 South, Range 12 West of the Willamette Meridian, Coos County, Oregon, more specifically described as follows:

All that portion of the above described parcel lying West of the Haynes Slough County Road.

Section 14:

The NE 1/4, S 1/2 of the NW 1/4, the N 1/2 of the SE 1/4, and the SE 1/4 of the SE 1/4.

The North half of the Northwest quarter (N1/2 NW1/4) of Section 14 in Township 24 South, Range 12 West of the Willamette Meridian, Coos County, Oregon.

The Southwest quarter (SW1/4) and Southwest quarter of the Southeast quarter (SW1/4SE1/4) of Section 14 in Township 24 South, Range 12 West of the Willamette Meridian, excepting therefrom the North half of the Northwest quarter of the Northeast quarter of the Southwest quarter (N1/2NW1/4NE1/4SW1/4), West half of the Northwest quarter of the Southwest quarter (W1/2NW1/4SW1/4) and South half of the Southeast quarter of the Northwest quarter of the Southwest quarter (S1/2SE1/4NW1/4SW1/4) of said Section 14.

The West half of the Northwest quarter of the Southwest quarter (W1/2NW1/4SW1/4) of Section 14, Township 24 South, Range 12 West, Willamette Meridian, Coos County, Oregon.

The South half of the Southeast quarter of the Northwest quarter of the Southwest quarter (S1/2SE1/4NW1/4SW1/4) of Section 14, Township 24 South, Range 12 West of the Willamette Meridian.

Section 15:

Lot 1 and the NE 1/4 of the NW 1/4.

The S 1/2 of the NE 1/4 and the SE 1/4.

The North half of the Northeast quarter (N1/2 NE1/4) of Section 15; and beginning at the Northwest corner of Lot 2 of Section 15, thence South 208 feet, thence East 208 feet, thence North 208 feet, thence West 208 feet to the place of beginning, being a portion of Lot 2 of Section 15, all in Township 24 South, Range 12 West of the Willamette Meridian, Coos County, Oregon.

That portion of the Southeast one quarter of the Southwest one quarter (SE1/4SW1/4) of Section 15, Township 24 South, Range 12 West of the Willamette Meridian, described as follows:

Beginning at the one quarter corner common to Sections 15 and 22, Township 24 South, Range 12 West of the Willamette Meridian;
thence South 89° 25' 06.0" West 215.88 feet along the South line of said Section 15;
thence North 15° 51' 40.8" East 107.26 feet ;
thence North 6° 58' 46.1" West 73.15 feet;
thence North 28° 19' 10.0" East 185.90 feet;
thence North 17° 30' 47.3" West 274.10 feet;
thence North 5° 28' 30.3" West 138.84 feet;
thence North 9° 53' 47.9" East 139.33 feet;
thence North 5° 38' 41.0" West 94.04 feet;
thence North 8° 06' 20.8" West 62.79 feet;
thence North 48° 55' 22.0" East 261.13 feet to a point on the East line of said legal subdivision;
thence South 0° 00' 51.0" East 1201.43 feet along said East line to the point of beginning.

Section 16:

The N 1/2 of the NE 1/4 and the SE 1/4 of the NE 1/4.

Section 22:

The NW 1/4 of the NE 1/4.

Including therein, a parcel of state-owned property lying in the Northwest quarter of the Northeast quarter of Section 22, Township 24 South, Range 12 West, Willamette Meridian, Coos County, Oregon, located within the following described parcel:

Beginning at an iron pipe located South 47°26'50" East a distance of 1471.65 feet from the iron pipe at the North quarter corner of Section 22, Township 24 South, Range 12 West, Willamette Meridian, Coos County, Oregon;

thence South 37°20'30" West a distance of 175.00 feet to an iron pipe;

thence South 52°39'30" East a distance of 175.00 feet to an iron pipe;
thence North 37°20'30" East a distance of 175.00 feet to an iron pipe;
thence North 52°39'30" West a distance of 175.00 feet to the TRUE POINT OF
BEGINNING.

Section 23:

The NE 1/4 of the NE 1/4.

The SE 1/4 of the SW 1/4, the NE 1/4 of the SE 1/4, and the S 1/2 of the SE 1/4.

The Northwest quarter of the Northeast quarter of the Northwest quarter (NW1/4NE1/4NW1/4) of Section 23, Township 24 South, Range 12 West, Willamette Meridian.

The West half of the Northeast quarter (W1/2NE1/4), Southeast quarter of the Northeast quarter (SE1/4NE1/4), East half of the Northwest quarter (E1/2NW1/4), Northeast quarter of the Southwest quarter (NE1/4SW1/4) and Northwest quarter of the Southeast quarter (NW1/4SE1/4) of Section 23 in Township 24 South, Range 12 West of the Willamette Meridian, excepting therefrom the Southeast quarter of the Southeast quarter of the Northeast quarter (SE1/4SE1/4NE1/4), Northwest quarter of the Northeast quarter of the Northwest quarter (NW1/4NE1/4NW1/4) and Northeast quarter of the Northwest quarter of the Southeast quarter (NE1/4NW1/4SE1/4) of said Section 23.

The Northeast quarter of the Northwest quarter of the Southeast quarter (NE1/4NW1/4SE1/4) of Section 23 Township 24 South, Range 12 West, Willamette Meridian.

Section 24:

Lot 1 and Lot 2 and the NE 1/4 of the NE 1/4, the W 1/2 of the NE 1/4, the S 1/2 of the NW 1/4, the SW 1/4, the W 1/2 of the SE 1/4, and the SE 1/4 of the SE 1/4.

The Southeast quarter of the Northeast quarter of Section 24, Township 24 South, Range 12 West, of the Willamette Meridian, except the South 200 feet thereof and except the East 532.9 feet of the North 1120 feet thereof, County of Coos and State of Oregon.

Section 25:

Lot 2 and the NE 1/4, SW 1/4 of the NW 1/4, and the W 1/2 of the SW 1/4.

Excepting therefrom, all that portion of the south half of the Southwest quarter of the Northwest quarter lying South of the center of the Kentuck Creek and the West half of the Southwest quarter and the South half of the Northeast quarter of Section 25, Township 24 South, Range 12 West, W.M.

Government Lot 1 and the Southeast quarter of the Northwest quarter (SE1/4NW1/4) of Section 25, all in Township 24 South, Range 12 West of the Willamette Meridian.

Comment Summary: Oregon Consensus report on the Elliott State Forest

The Oregon Department of State Lands (Department) engaged Oregon Consensus, a program of the National Policy Consensus Center at Portland State University, as a neutral party to assist with outreach and overall work toward decoupling the Elliott State Forest from the Common School Fund.

In October 2018, Oregon Consensus completed stakeholder interviews regarding decoupling the Elliott State Forest from the Common School Fund and submitted their final report to the Department. The report summarized what was heard in the interviews and discussed key themes, issues, and considerations for successful decoupling.

The Department invited the public to read the final report and provide feedback on report findings.

Feedback was accepted from October 9 to November 15, 2018. The Department received comments representing feedback from more than 50 individuals and organizations.

As the Oregon Consensus Report indicated, perspectives regarding the future of the Elliott State Forest vary widely. Comments received illustrated this range of perspective. Though specific comments often offered highly detailed and nuanced feedback, general themes within the comments include:

Decoupling the Forest from the Common School Fund. Comments reflected a variety of perspectives related to decoupling, compensating the school fund for the value of the Elliott, and ongoing contributions of the forest to education. Themes within the comments included:

- The school fund needs to be fully compensated for the forest. Multiple commenters noted concerns with the current appraisal undervaluing the forest, and with previous approaches or litigation devaluing the forest. Some commenters indicated that funding schools should be the primary driver for any solution.
- Potential for forest to continue to contribute to Oregon schools. Perspectives ranged from not supporting decoupling at all, to interest in developing some kind of ongoing monetary contribution to the school fund, to finding non-monetary ways the forest can benefit education.
- Support for decoupling. Most comments supported decoupling. Several indicated partial decoupling as desirable. Commenters that did not support decoupling indicated multiple reasons, including a process that does not adequately consider the non-monetary values of the forest, loss of potential ongoing revenue, a false sense of urgency for decoupling, and an undervalued appraisal.

Use of \$100 million. Commenters indicated additional information, discussion, and ultimately resolution of how the \$100 million in bond proceeds will be used is needed. Specific feedback mentioned use of the \$100 million:

- To preserve non-economic benefits.
- To preserve assets not protected by the Habitat Conservation Plan or Endangered Species Act.
- To preserve critical habitats.
- To protect specific forest parcels.

- Needs to be prioritized to decouple land unavailable for logging under a Habitat Conservation Plan or Incidental Take Permit, and then applied to specific parcels.

The Forest's Revenue Potential. Commenters offered specific ideas for revenue generation, related both to purchase of the forest as well as ongoing revenue generation. Included were a harvest tax on timber revenue, carbon credit sales, and timber harvest. Several commenters did not support any solution that required debt to be serviced from commercial logging, or noted that the level of logging they would support would not generate significant revenue.

Comments regarding timber harvest varied widely. Perspectives ranged from, no logging should be allowed, to commercial log sale only as a byproduct of thinning, to supporting harvest within specific parameters.

Potential Public Owners. Comments support continued public ownership, with many offering support or concern regarding specific public owners. Generally:

- Some commenters indicated that ongoing transparency, public accountability and involvement, and oversight by elected officials would not be possible with some public owners.
- Some commenters indicated concern with ownership that emphasized financial returns, experimental research, or that included ties to timber companies.
- Some commenters indicated an ownership/management partnership by multiple public entities as a possible solution, with different roles/oversight of different areas of the forest.

Need for additional information. Comments indicated the ongoing decoupling process should be informed by further examination of specific issues and topics, including:

- The forest's carbon potential and carbon market value.
- The forest's role in mitigating climate change.
- The non-monetary values of the forest, particularly to education institutions and communities and other benefits to future generations.
- Context regarding related education funding issues.

Use of data, facts, and science to support decision-making was mentioned multiple times, specifically on issues of climate change, carbon, recreational use, and timber production and employment.

Several commenters also noted the need for outstanding litigation to be settled in order for a permanent solution to be reached.

Development of Habitat Conservation Plan. Multiple comments indicated that a Habitat Conservation Plan needs to be developed prior to complete decoupling. Reasons varied, but included:

- HCP has impacts on multiple remaining decoupling issues.
- An incomplete HCP process opens any decoupling solution to litigation.
- A future public owner should play a role in development of a Habitat Conservation Plan.

Forest Management Approach. Many commenters offered specific ideas on future management of the forest, and indicated a desire to have further information and input regarding a potential public owner's management approach. Themes within the comments included:

- The forest could be a model for emerging or alternative management approaches.
- Management could allow for multiple uses of the forest, including recreation, habitat, conservation, preservation of old growth, and harvest (though perspectives on harvest vary. See discussion in Revenue Potential).
- State agencies may have an ongoing role to play, either in an advisory capacity or economic development capacity.
- Climate change, carbon must be considered in management.
- Solutions must consider the realities around how the forest can be managed.
- Concern regarding private or for-profit business involvement.

Additional stakeholder and public engagement. Many respondents indicated a desire for increased engagement, specifically:

- Inclusion of additional perspectives. Specifically mentioned were tribes, environmental groups, scientists, labor, communities of color, state agencies such as health, labor & industry, and tourism, the global warming commission, carbon scientists and economists, recreation groups, and education groups.
- Ongoing opportunities to provide information regarding remaining issues and comment at decision points.

The approach taken to public engagement was also noted as important. Respondents mentioned:

- A transparent process.
- A process that allows the public a voice in any final decision.
- Use of engagement strategies that allow all voices an opportunity to be heard.
- Desire for the engagement process to include decoupling as well as Habitat Conservation Plan development. Creation of a multi-agency technical team to advise the Habitat Conservation Plan development process was mentioned.
- If an advisory committee is formed, the voice of the committee must be heard by the Land Board. The unlikelihood of advisory committee agreement on some issues was also mentioned.
- The process should reflect that the Land Board is the ultimate decisionmaker.

Finally, many respondents shared **their vision for the future of the Elliott State Forest**. These desired outcomes again emphasized that the forest is a special place to Oregonians for many reasons and that the ultimate solution should be carefully crafted to resonate with many. Desired outcomes mentioned included:

- An Elliott State Forest that is beautiful, wild, and preserved in its natural state.

- An Elliott State Forest that supports study and cultivation of natural forest practices, modern forest management, forest carbon, sustainable and environmentally appropriate timber harvest practices, endangered species management, and other topics.
- An Elliott State Forest that is managed to provide multiple benefits to people, species, and environments.
- An Elliott State Forest where habitat is provided and protected.
- An Elliott State Forest where recreational and educational opportunities abound.
- An Elliott State Forest that sets the standard for how to manage and maintain public forest land.
- An Elliott State Forest that is preserved for the wide-ranging legacies it provides to our children and our planet.
- An Elliott State Forest that benefits all Oregonians.

Complete Comments Received	
1	<p>Robert “Bob” Main Organization/Affiliation: Chair, Coos County Board of Commissioners</p> <p>Having the majority of the Elliott in Coos County I find it unacceptable to not interview myself. (board chair) and Coos County Commissioner Melissa Cribbins! Also, only one of the three county commissioners from Douglas County was interviewed.</p>
2	<p>Kevin Strong</p> <p>I am hopeful that the State Land Board will fulfill its fiduciary duty to manage the Elliott State Forest to maximize revenue for Oregon's schools.</p> <p>The Elliott State Forest, when managed well, can provide jobs, products, renewable energy, recreation, environmental benefits and revenue for Oregon schools for many generations to come.</p> <p>Please make Oregon schools a priority. Thank you!</p>
3	<p>Ramona Garrison</p> <p>The Elliott State Forest should continue to contribute to the Common School Fund. Coos and Douglas Counties have provided more timber land to our state and nation than any other region nationwide. Promises were made that need to be kept regarding school funding. These regions (Douglas & Coos) have gone from prosperous regions in Oregon to now generational poverty that will continue without strong schools. The Elliott State Forest should not become yet another unkept promise.</p>
4	<p>John Rexford</p> <p>The Common School Fund must receive full appraised value in return for transfer of the Elliott Forest away from supporting schools. The current proposal cheats school children by under compensating the Common School Fund.</p>
5	<p>Scott Mills Organization/Affiliation: OSBA, Columbia Conservation Association, IUPAT, VFW,</p> <p>Do not allow the forest to be sold off ever</p>
6	<p>Barb Shamet Organization or affiliation: West Fork Millicoma coalition</p> <p>As per DSL request, my comment regarding the next steps in the Elliot forest school fund decoupling project is as follows: please do it. Also, regarding the 100 million Kate Brown secured from Oregon's 2017 legislature earmarked specifically for and ONLY for the preservation of critical habitat which includes native stands 80 years and older. This is the critical aspect of the entire</p>

project, proposal and controversy. Revenues can be generated from the plantations already in operation. Approximately 50% of the Elliot is a natural native forest and must be left intact securing the survival of the salmon species, the carbon sequestration balancing our present climate crisis as well as the preservation of threatened and endangered species, and the prevention of major catastrophic flooding. It is imperative to conserve what remains in the Elliott's native stands. With the \$100 million intended for just this purpose, we shall accept no other option except to preserve what is left that has been untouched. To enter any other agreement is a breach of the 60 year contract agreed upon by the Dept of Forestry and State Land Division. Recent climate crisis litigation assures us of a rule in favor of conservation as opposed to extraction for profit. Whom ever assumes the responsibility of the Elliott must be made aware of these non negotiable terms, thank you. It's a matter of simple preservation, Barb Shamet

Additional comment:

Since the US forest service is interested in rejoining the Siuslaw National forest with the Elliott State forest, as it originally once was, and its primary focus is CONSERVATION, the state would not even have to use the \$100 mill to secure the old trees, the critical habitat for which it was intended. A lot of well informed, educated people I I have talked to think this is the way to go. A second option would be to split the forest in half, preserving and protecting the old growth in carbon credit storage and critical habitat protection for the salmon species which is all standing fir 80 years and older. Scientific research proves these old trees sequester more carbon than any new plantation growth. This half could be placed in state park status, national park status, monument status, whatever is the most viable means of protecting and preserving these old trees. The plantations which make up roughly the other 50% can be managed for revenues as it has been, and people suggest thinning this half. I don't trust OSU or the tribes only because their bottom line is money or experimental research. But if the half we are trying to save is PROTECTED for all time in an effort to stop massive fires, sequester carbon, and save species facing extinction, then it does not matter who manages the plantations, but we hope it will be without massive clear cuts and poisonous chemical sprays. We have worked long and hard to find solutions, I call DeFazio, Wyden and Merkely and could work on them helping secure the USFS in the federal capacity if you choose. What ever you think is best, but know that if we don't save that half of the Elliott which has never been logged, but is a native biodiverse ecologically sensitive and supremely unique forest on the planet, well, there will be a lot of tree sitting in the woods, in peace always, I pray we find the right solution for everyone, thank you so very much for all your time, your work and your efforts regarding this irreplaceable piece of Oregon, on a global spectrum. sincerely, Barb Shamet, Allegany, 541-269-2147. Ps, there are really no salmon yet this year running by my house, I saw maybe four sore backs coming up to spawn, we have no rain, we have to have a forest to have a rain forest. I hope you understand.

7 Alan Bartl

I would like to see the Elliot forest preserved for future generations and not used as logging revenue.

8 Ron Wallace

Organization or affiliation: Many Rivers Group of the Sierra Club , Executive Committee Member

I support the decoupling of the Elliott State Forest from the Common School Fund.

<p>I believe that this forest will become an asset in Oregon's Carbon Sequestering portfolio as well as a respite for salmon and other threatened wildlife.</p> <p>I would also encourage OSU's involvement as a research forest, but stipulating that any harvest be limited to thinning with no clear cutting at all.</p> <p>Thank you for your work thus far on this project. Ron Wallace</p>
<p>9 Barbara Taylor Organization or affiliation: Ms.</p> <p>A partnership between OSU, SSNERR, and one or more of the five western Oregon tribes may be the best option for successful public ownership and management of the Elliott. I oppose county ownership, and I feel that ODF already had their turn.</p>
<p>10 Patricia Phillips</p> <p>The Elliott Forest lands, being pretty contiguous, are very important ecologically for salmon, as well as some other important species. Earlier generations' timber harvest levels in the area were unsustainable. Hopefully the future timber harvests can be put under a 100+ year cycle and rather than clear cuts, have selective harvests.</p> <p>The tribal history of the area is well known, it is just that tribal descendants are split between multiple confederations today. Much of the Elliott is part of Hanis (Coos) territory, with the northern bit Quuiich (Lower Umpqua). Most Hanis Coos and Lower Umpqua descendants are part of the Conf. Tribes CLUS but some are in Conf. Tribes Siletz.</p>
<p>11 Alan Baas Organization or affiliation: 1944</p> <p>Frankly, I feel the issues around the Elliott Forest continue to be way more murky than need be. PLEASE protect that forest into perpetuity for its legacy value. I am disgusted, and am a retired educator and so that disgust is deep, by our state school board assn pushing to sell forests today to give a pittance of relative cash to kids today at the expense of tomorrow's kids. FAR Better I wld have that OSBA perhaps get its act together and encourage its membership to speak directly to the issue of what kind of planet are we leaving those kids we keep claiming us educators are here to serve and protect! Whatever your latest intents are, pls just keep the darn forest as it is and get on with developing a realistic, deep-systems-oriented conversation around how are we in our aging generation really looking to our children's future----way beyond all the political misinformations. Pls excuse the crankiness--I am aging and getting more weary and disenchanting with govt these days.....ab</p>
<p>12 Patt Komar Organization or affiliation: David Douglas School District</p> <p>This seems like quite a defeat for education. If I am reading correctly, your bonding is \$120M less</p>

than the appraised value? Someone is getting a deal at the expense of education. When we are discussing the continual need for funding for education and the inability to meet sustainability in times when revenues are good, how can we even consider something like this? Who actually is benefiting from this deal? It surely doesn't seem like schools will.

13 David Petrie

Organization or affiliation: Indigenous person - Coos

I am adamantly opposed to decoupling the Elliot State Forest from the Common School Fund. Observing the dominant cultures lack of understanding, as an indigenous person of Coos heritage, it's evident the current Governor, and other State Land Board officials, lack understanding of the unintended, or intended, consequences of this effort. The OR State Forestry Departments outdated management policies are what's driven special interest groups to lockup this land base, for no benefit to students educational needs. Institutions conducting future research projects within this land base will only benefit a few academics while producing data that isn't already available...threatened species will continue to be threatened...nothing has changed for the past 40-years to ensure specie survival...humans included.

Until the dominant culture recognizes a holistic approach to timber management and harvest practices is implemented all species are at risk. Keep in mind the dominant culture arrived in our traditional territory September 1853, and since that arrival the environment is 90 + % compromised. Isn't it time to consider both Traditional Indigenous Knowledge and contemporary science when managing our landscapes. Taking this forestland out of production isn't a benefit to any specie...but adjusting stewardship practices will ensure future generations some hope of survival...instead of this continued nonsensical exercise of people educated beyond their intelligence thinking they can solve problems.

14 Pamela Driscoll

I have been following the research and latest science on the carbon our forests in western Oregon sequester and hold and climate change across the globe for over 20 years. The Elliott State Forest is one of the MOST important forests in the world as it is much less likely to experience forest fires as we encounter hotter and dryer conditions due to climate change/global warming. As habitats become more and more stressed, the Elliott State Forest may hold some of the last and best habitats for many endangered and soon to be endangered species. Water filtration and holding water is also extremely important. I am hoping the logging industry takes a back seat on any final decisions on how we care for the Elliott. I say "care for" because this is a state/national/global treasure that should be protected. About 47% of the carbon stored in the forest is in the soil. So ANY disturbance/type of logging will release vast amounts of carbon. Please consider what the Elliott State Forest is doing for wildlife habitat, water filtration, carbon sequestration, hunters, fishers, etc. and keep the forest intact and restore it for all the important ecosystem services it provides as other forests will inevitable burn, be logged and will not grow back due to increases in drought and higher temperatures.

15 Elizabeth A Lockwood

Organization or affiliation: Cascadia Wildlands; OSU alumna

As a former student at Oregon State, I can think of no better caretaker of the Elliott Forest than

<p>Oregon State University. With their extensive programs in forestry, fish and wildlife, and natural resources, they would be much more acquainted with preserving forest health. In addition, OSU is not run by the political forces that seek to pit people against each other. Please strongly allowing OSU to acquire this beautiful and wild part of the Oregon landscape.</p>
<p>16 Helgaleena Healingline Organization or affiliation: White Rabbit Grove RDNA</p> <p>Among the options being considered is a possible acquisition of the Elliott State Forest by Oregon State University. Cascadia Wildlands will be meeting with OSU officials in December to gain a better understanding of what an ownership under the school means for this treasured forest.</p> <p>Please take heed of what Cascadia Wildlands proposes.</p>
<p>17 William O'Brien Organization or affiliation: Mazamas</p> <p>The consensus of the voters in Oregon wanted to keep the Elliot State Forest in public hands not with logging interests. The Elliot State Forest should be managed in a sustainable best practices method allowing for recreational use and a refuge for old growth forest,wildlife, some on the endangered species list, and clean water for salmon and trout.The Elliot SF could become a model for how we manage the other state forests in Oregon.</p>
<p>18 Benton Elliott</p> <p>I support conserving the Elliott State Forest in its natural state for future generations. It should be preserved and enjoyed by all Oregonians, not managed as a money tree for schools, government, and industry.</p>
<p>19 Jen Velinty</p> <p>Thank you for taking comments on the decisions for the ELLIOTT Forest in Oregon.</p> <p>Essential steps.</p> <ol style="list-style-type: none"> 1. Keep the Elliott Forest intact. Minimal logging to preserve the natural habitat. Ownership of the Elliott Forest must be public with no areas owned outright by adjacent counties. <p>No government agencies such as Fish and Wildlife or BLM should be involved.</p> <p>De-couple the tie between OR Schools and clear cut timber harvesting.</p> <p>Forests are perfect educational sites to teach children about preserving carbon sinks, clean air and water. Youth involvement of observing bird life and animals native to the area.</p> <ol style="list-style-type: none"> 2. Make the buy down bonds available to the general public.

<p>3. Include the Tribes for their historical views of preservation of what the earth provides. Tribal oversight could be considered.</p> <p>4. Save the Marbled Murrelet from extinction. No fish hatchery activity permitted. No hunting permitted for safety of the general public and youth education. No businesses or concessions permitted.</p> <p>5. Decommission as many roads as possible in the Elliott Forest. No motorized recreational vehicles permitted. Thank you for your efforts to preserve the Elliot Forest for public education.</p>
<p>20 Elizabeth Watts</p> <p>It's horrible and undignified to pit school funding and the environment against each other.</p>
<p>21 Joseph Metzler</p> <p>Organization or affiliation: OOHA, Cape Arago Audubon, Backcountry Hunters and Anglers, Trout Unlimited</p> <p>The Elliott State Forest and public lands like it should be first and foremost kept in public ownership. Conflicts about how to utilize our public lands should never compromise the priority of maintaining ownership of our public lands. Please do your best to find a solution that maintains Public ownership and access to all our beloved State Forests and Parks. User groups and extraction industries will change and come and go over time. But the Land shall remain in Public Hands, preserved and managed for future generations of Oregonians and all visitors.</p> <p>I believe the the Elliott State Forest could be used as a research forest for OSU to find best logging practices and endangered species management. With ODFW, ODF, helping to find best management practices using peer reviewed science. Wood products generated in the Elliott and other State Forest should be promoted and certified as Wildlife and Fish friendly and sustainability harvested. Then sold at a premium as Organic and Sustainable.</p> <p>Recreational trails and Public use should be promoted. Sustainable logging should also be promoted. All watersheds should be protected and managed for native fish.</p> <p>Thank you all for doing your best to find a solution to keeping Our Elliott State forest intact for all future generations. I am willing to help promote and establish trails and public use of the Elliott, and help in any way to keep Public Lands in Public Hands.</p>
<p>22 Kian Daniel</p> <p>Oregon's 82,500-acre Elliott State Forest was and always should be LEFT ALONE and not touched by businesses for profit (i.e. the effort by timber companies to make it private). This land is and always should be left as is - a wild and beautiful area not touched by human greed. Please keep this land as wild and beautiful as it is. If we lose this beautiful piece of wild, we will never be able to get it back.</p> <p>Thank you, Kian Daniel</p>

23 Michael Friedmann	Please do what is good, and kind, for the trees, animals, and environment. Thank You
24 Philip Ratcliff	The Oregon Consensus Report outlined a number of possible paths forward to sever the Elliott's archaic tie to schoolchildren in Oregon. Once resolved, Oregonians will no longer have to pit school children against our environment. Among the options being considered is a possible acquisition of the Elliott State Forest by Oregon State University. That would be a positive solution. I'm hopeful that the forest will remain intact, won't be privatized, and serves as a good example for the maintenance of Oregon's public land.
25 RF	Dear DSL, State Land Board Oct. 18 2018 meeting was not held? Did the Oct. 18 SLB meeting get rescheduled? We can possibly not comment to Oregon Consensus Report for Elliott State Forest Common School Fund Decoupling if we do not see resulting minutes from the cancelled Oct. 18, 2018 SLB meeting. Or, can you send a copy of minutes from OCT 18 SLB or from the date this meeting was rescheduled to. Arin is out until Nov 13, and Anne is not responding. Thanks, Rana.
26 Gary L. Johnson	<p>Organization or affiliation: retired forester/independent</p> <p>The Elliott State Forest has been undervalued by the appraisal of \$220 million. It is worth at least \$425 million. The value of standing timber and growth potential make it one of the most valuable chunks of land in the State. If sold, the Common School fund should get what it is worth, not a token amount. The only public entity in Oregon capable of managing the Elliott forest is the Oregon State Department of Forestry. No other State agency has the capacity to handle the job. I began my career as a forester on the Elliott State Forest, so I do have some knowledge to back up my statements.</p>
27 Marguery Lee Zucker	The Elliot is a gem, a pleasure, a peaceful place, and rare for its degree of intactness. It is not acceptable to damage, reduce, or compromise its pristine nature in any way: It is a public treasure and must remain so at any cost. De-coupling it from any obligation to produce revenue for the State is vital.
28 Sue Craig	<p>Organization or affiliation: Sierra Club, 350.org, InterFaith Earthkeepers Eugene/Springfield</p> <p>To the Oregon State Lands Board,</p> <p>Thank you for beginning the process of saving Elliot Forest for future generations. This was a very positive step forward for which I am grateful, along with my grandchildren!</p>

I just finished reading the Oregon consensus report: Next Steps. I am rather taken aback by it's rather shallow review and process to determine "Next Steps".

There were many errors, not the least was concerning the vital idea that Elliot is indeed a huge carbon sequestering operation, without anyone having to do anything! This was not really even given a cursory thought. One of the statements in the report was on page 14, alluding to old trees not being able to sequester carbon at the level that younger growth does. This is not correct. Aged trees sequester much better than younger ones. So of course we need as many mature trees as we can get!

The second point that I wish to make is very simple.

I lived in Colorado for 26 years. I hiked with my young family mostly around the area of Estes Park. We also drove to many isolated areas in Colorado. The observation that I wish to share is this: Colorado is extremely dry. It has been dry for eons, tho now is experiencing a bit more moisture. When the trees burn, or are cut in Colorado, they take literally 100s of years to grow back. We would see forests that had been burned 70 or 80 years past, that were just burned over, dead debris. The trees had not even begun to grow back.

So please consider this. I live near Eugene. We have had so little rain, and none in sight. It will not take long for our trees (which are already stressed) to be blown over in a wind storm since the roots are very dry and very shallow. Once they are gone, it will be very hard to restore them. It takes a lot of water, and since I am on a well, I do worry. Though my well is 90 feet, it produces only 9 gallons a minute;

One of my neighbors encouraged me to take with me, hiking, emergency supplies, just in case. In those supplies, he told me to take a candle and matches, because he explained "it takes a lot to start a campfire in Oregon, because everything is wet and damp".

What I am feeling, is that it is no longer wet and damp. And when you clear-cut a forest, and scrape it clean, and spray it, I will bet that new seedlings will be hard pressed to grow at all!

Please take some time to consider how much we could benefit from using the Elliot old growth as a great carbon sink that we could have California, or even Oregon use as carbon credits with the money going to buy out the rest of the forest.

Thank you Sue Craig

29 James Nielsen

Organization or affiliation: I am a member of the Coos Chapter - Society of American Foresters
After reading the consensus report I have the following comments:

!) The background & context section should include a discussion of the critical need for funds that our public school systems have. I have read that Oregon schools as a group do not rate very high nationally. One of the reasons for this is that PERS is taking a large amount of funds that would otherwise go to improving education for our children. This need for funds must be a driver for any

decision made regarding the Elliott State Forest

2) I believe that a major reason the Land Board made a decision to decouple the Elliott from its obligation to provide funds to the school fund was to reduce "pressure" on the environmental preservationists (EP) from their efforts to reduce or stop timber harvest on the Elliott State Forest. This should be stated as background for this consensus report.

3) The value of the Elliott to the School Fund should be based on the average income from timber sales up until the latest shutdown due to lawsuits by the EP. I like others believe the 2016 assessed value is low.

4) I must have missed it, somewhere, but what is the CTCLUSI tribe??

30 **Haley Lutz**

Organization or affiliation: Coos Watershed Association

November 13, 2018 Department of State Lands
775 Summer St. NE, Ste. 100
Salem, OR 97301

RE: Public Comment on the Oregon Consensus Assessment Report for the Elliott State Forest.

To our partners at the Oregon Department of State Lands,

The Coos Watershed Association (CoosWA) is a nonprofit organization established by diverse stakeholders in 1993 to help landowners and communities work together to improve watershed health- always with the goal to support environmental integrity and economic stability.

The Common School Fund (CSF) lands within the Elliott State Forest are ecologically critical to the health of the Coos Watershed and the species that depend on its function. The Coos basin contains 48% of the Elliott State Forest (44% CSF lands) and 95 miles of fish-bearing streams running through the Forest, making it the highest density basin of fish streams within the Elliott.

Our Association began implementing restoration projects on land within the Elliott State Forest in the mid-1990's. Since then, in collaboration with our partners, we have invested more than \$3 million of on-the-ground restoration projects to improve watershed conditions within the Elliott. Additionally, the CoosWA professional staff have conducted extensive aquatic inventory and road surveys throughout the entire Elliott State Forest, as well as continuously monitored water quality and quantity of the West Fork Millicoma River, the main drainage basin within the Elliott.

The CoosWA has also worked with a wide variety of partners including Oregon Department of Forestry, Oregon Department of Fish & Wildlife, Weyerhaeuser Timber Company, Oregon Department of State Lands, and Oregon State University to identify and prioritize approximately \$10 million worth of potential restoration work to be completed in the future. Our Association is committed to continuing this critical work in the Elliot State Forest and looks forward to partnering with any new landowner.

Thank you for the opportunity to comment.

Haley Lutz
Executive Director

31 Howard Saxion

November 14, 2018
Governor Kate Brown
Secretary of State Dennis Richardson
State Treasurer Tobias Read
State Capitol Building Salem, OR 97310

Honorable members of the State Land Board:

I have reviewed the report from Oregon Consensus (OC) entitled “Elliott State Forest: Next Step Considerations for Decoupling from Oregon’s Common School Fund,” (OC Report) dated October 2018 and presented to the State Land Board (SLB). I appreciate the opportunity to provide comments on the next steps in fully decoupling the Elliott State Forest (ESF) from the Common School Fund (CSF).

Application of Decoupling: The term and concept of “decoupling” should apply to the entire Elliott State Forest under the ownership of the CSF.

Public Ownership: Public ownership should be limited to a state or federal agency. In this context, ownership by a federally recognized tribe directly or in trust by the U.S. Bureau of Indian Affairs or county government is not public ownership. Otherwise, such ownership would lack public transparency, oversight, and accountability.

Habitat Conservation Plan: The SLB should consider the HCP/ITP process as a precursor to complete decoupling. After completion of the HCP, it will be known which CSF lands on the ESF are still jeopardized by the constitutional requirements of the CSF.

Revenue: The OC report makes several statements regarding revenue as factual without citing references or attribution. Of particular concern is the discussion on “carbon” which minimizes this potential ESF revenue stream. There is recent research indicating that large, old growth forests capture more carbon than younger forests. Obviously, forest dynamics are complex. The OC report should be revised to delete such perfunctory statements or at least provide citations to support similar statements. Carbon offset markets are relatively new and verification processes are evolving. However, the OC report should not minimize the possibility of using the ESF as a potential carbon offset revenue source. Carbon offsets in Oregon will increase in importance as the Legislature and local governments enact greenhouse gas reduction requirements.

Threatened and Endangered Species: In addition to the ESA-listed northern spotted owl, marbled murrelet and coho salmon, there are other species that inhabit the ESF that may eventually come under ESA protection. One is the red tree vole, which relies extensively on older forests. The ESF is also in the historical range of the fisher, an imperiled mammal.

Remaining Funding to Decouple ESF: I support the comments submitted by Mr. Andy Kerr, et. al.,

regarding the remaining approximately \$121 million needed to fully decouple the ESF from the CSF. I urge the SLB to not accept a funding mechanism that requires debt to be serviced from commercial logging on the forestlands that remain unaffected by the final HCP/ITP. The volume of commercial logs from such management would not be enough to materially contribute to the debt service of the remaining \$121 million.

Thank you for consideration of these comments.

Sincerely,
Howard Saxion, Ph.D.

32 Peggy Lynch

Organization or affiliation: League of Women Voters of Oregon

Response to Oregon Consensus on Elliott State Forest Report

November 14, 2018

Amy, Peter and Brett:

Thank you for a comprehensive report on the challenges and decision points for the State Land Board (SLB). The report seems to clearly share multiple interests and possible steps forward. My comments will draw on past official League testimony. In 2015, our letter said: The best transition scenario, and the best management strategy, decouples old-growth clearcutting from school funding, protects the Elliott's remaining native forests, wild salmon and imperiled wildlife, safeguards the Elliott drinking water, public recreational and educational opportunities, and promotes timber jobs by restoratively thinning the second-growth tree farms. We continue to believe that scenario.

We believe in the need that any process selected should continue to be transparent and allow the public a voice in any final decisions. If an advisory committee will help AND the final decisionmakers, the State Land Board, clearly hears these voices, then we would support. The key for us is transparency and access to comment on all the decisions along the way. We understand that there are multiple interests that often are at odds. That won't change whether or not an advisory committee is chosen. They won't go away. So selecting a method to allow all voices to be heard is a very important one for the SLB. If the SLB goes forward with an advisory committee, we support your recommendations on pages 32-33 of this report.

The League believes in the importance of preserving our public lands for future generations and keeping them in public hands. Oregonians recognize that, when the Elliott became a Common School Fund asset in 1930, it was a different time. With the ESA and at least three species finding the Elliott home, the Elliott as a funding asset has become more challenging. But it is still an asset for Oregonians of all ages. We supported the \$100 million in bonding to help bridge those two issues. That money should "buy" assets not otherwise protected by the ESA and any HCP.

We support continuation of the HCP—an HCP that can be upheld in court. We believe strongly in the reality of climate change (and have filed a brief to support Our Children's Trust so that governments actively address this issue). The SLB cannot ignore the current court decision rejecting the 2014 sale, so we can hope that any Supreme Court decision is quick! Until that decision is made, it will be perilous for continued SLB action around divestment.

Although no state agency has the money to “buy out” the rest of the current assessed value, we continue to believe that they might have a role to play, from Parks to Fish & Wildlife to Education (outdoor school potential) to OWEB grants among others. Those agencies might provide some of the important family wage jobs that were a part of the original discussions around the Elliott. We certainly support a multi-agency technical team to advise the HCP process. The 9,000 acres of Board of Forestry lands within the Elliott needs to be a part of any final decision. So discussions should occur with the BOF to find a reasonable solution.

Since the reason we are here is the lack of funding to the CSF and the amount of harvest that has been available due to the many circumstances that have changed how the Forest can be managed, that issue will continue no matter what public entity owns the Forest. That fact should not be lost in developing a final answer. The League is NOT supportive of connecting the South Slough with the Elliott discussion. As the first National Estuarine Research Reserve and its value for research with climate change, it seems unnecessary to try to link these two important properties.

These comments are mine and not official League of Women Voters of Oregon comments. But I believe you can be assured that LWVOR’s voice can be heard in these comments.

Thank you again for your work in listening to so many voices and for clearly framing the complicated issues surrounding this very special place.

Peggy Lynch, LWVOR Natural Resources Coordinator

33 **Fergus Mclean**

Organization or affiliation: Many Rivers Sierra Club

At your May 2017 meeting the State Land Board directed the Division of State Lands to analyze various possible methods for decoupling management of the Elliott State Forest from the Common School Fund. To carry out this mission, DSL contracted with Oregon’s public policy conflict resolutions program, Oregon Consensus, which produced the October, 2018 report Elliott State Forest: Next Step Considerations for Decoupling from Oregon’s Common School Fund. Though a good effort on the part of staff, the Decoupling report falls short in that it fails to address key and developing conditions or to bring us closer to a satisfactory outcome for the Elliott, and so responsibility for guiding the process of transitioning the Elliott away from the Common School Fund of necessity must come back to the Land Board.

The Consensus Report presents an interesting snapshot of the opinions of a somewhat limited study population. Researchers failed to interview DEQ, the Global Warming Commission and the Oregon Climate Change Research Institute. This could explain their trivialization of the topic of carbon sequestration and markets for forest carbon credits. Had the authors of the Global Warming Commission’s Forest Carbon Accounting Project Report to Oregon Department of Forestry been interviewed, the Consensus Report would have reached far different conclusions about forest carbon, and about the economic potential of the Elliott.

Tremendous developments in the science of forest carbon were taking place even while the Consensus Report was being prepared, developments which are summarized in the GWC’s Forest Carbon Accounting Project 2019 Report to ODF.

Prior to 2016 data was inadequate to permit quantifying the carbon contained in Oregon's forests. Since then we have learned that our forests constitute one of planet earth's greatest carbon storehouses, as shown in this image from the Accounting Project report:

Oregon's south coast is very special; its forests capture more biomass than almost anywhere else on earth. It is pure folly to consider future management of the Elliott without taking this enormous resource into consideration, yet the Consensus Report trivializes and dismisses serious consideration of the Land Board's responsibility for stewarding one of planet earth's greatest storehouses of carbon.

All indications are that the 2019 legislature will pass a cap and trade system, with a goal of reducing the state's carbon footprint by around a million and a half tons of carbon a year. New US Forest Service Forest Inventory Analysis data shows that our state's total carbon reduction target through 2035 is only about 5% of the carbon stored in our forests, so that carbon management of our forests must play an crucial role in our global warming policies, and we must have a specialized institution to carry out the basic science and also lead the state in its development of the capacity for measuring and storing forest carbon.

As the Accounting Project's report to ODF make clear, the study of forest carbon is a young science far beyond the institutional or educational capacity of ODF to explore. The Elliott Forest can be home to a new forest science institution consistent with our preeminent forest carbon resources and one which can also address the other key goals of the forests' founders: sound scientific forestry as well as public education and recreation.

It would be appropriate to levy a harvest tax of \$2/thousand board feet on timber harvested in Oregon to meet the payments on the \$100 million Elliott bonds, and suggest a unique new combined forest research and management institution which could be called the Elliott Forest Carbon and Wildfire Institute to explore not only basic forest carbon science and wildfire mitigation strategies but also to address the entrenched arguments over forest management which have plagued and hampered forest resource management policy and taxation since the days of free-wheeling cutting of old growth timber petered out in the '70s. Here's what the Oregon Climate Change Research Institute has to say about the need for research on forests and carbon:

Management principles to foster resilience to disturbance while conserving ecosystem services include: 1) managing dynamically and experimentally through a sustained commitment to adaptive management, 2) managing for ecological processes and functional characteristics instead of specific structures and species compositions, 3) considering trade-offs and conflicts that include ecological and socioeconomic sensitivities, 4) prioritizing choices that are likely to work within a range of possible futures and in crucial areas that are most exposed to changing disturbance regimes, 5) managing for realistic outcomes by focusing on a broader set of ecosystem services, and 6) treating disturbance as a management opportunity for applying adaptation strategies (Seidl et al., 2016).

The Global Warming Commission's Forest Carbon Accounting Project draft report contains a host of complex scientific questions which are far beyond the capacity of ODF to address. OSU has the world's leading forest carbon scientists. These are the researchers who should be given a hand in a new institution for the brand-new science of forest carbon they are already creating, along with the Global Warming Commission and the Oregon Climate Change Research Institute.

An intriguing industry-oriented experimental approach being suggested for management of the Elliott State Forest, called the Giesy Plan. This plan has been around for decades, and has served as a template for major forest management laws. Under the Giesy Plan, riparian areas are set aside and protected, and the remaining timberland is divided in two pieces, with half being managed for maximum industrial logging production and the other half set aside as a reserve. When modified to include the value of carbon offsets, the Giesy Plan can generate a self-funding strategy for a research institution based in the Elliott State Forest, and at the same time address with good science many of the fundamental disagreements about forest management which have polarized and paralyzed advances in forest policy and science.

A modified Giesy Plan for the Elliott, after setting aside enough of the land base to serve as riparian reserves to protect coho salmon, would divide the remaining forest into three rather than two pieces, with 25,000 acres used for maximum timber production on a 30-year rotation; a 25,000 acre block of older forest including key owl and murrelet habitat set aside as a carbon reserve; and 25,000 acres dedicated to experimental forestry on a 100-year rotation, to carry out the kinds of experimental, adaptive management called for but never carried through under the North West Forest Plan. Careful harvest design and meticulous monitoring of the economic and ecological impacts of various harvest practices will develop a scientifically sound basis for forest management, and make Oregon the global leader in forest carbon research.

I support support the proposals of Wayne Giesy and Dr Bob Zybach for a needed research capacity on the Elliott, and also endorse the great work Dr Zybach has done with Southwestern Oregon Community College in developing an ambitious recreation plan for the Elliott. Even though we may have quite different philosophies about forestry, and different beliefs about the best way to go about forest management and even argue about what the best techniques for maximizing forest carbon are, we are fully agreed that forest policy should be based on sound science, and the the Elliott is the perfect place to create such an institution to carry out that exploration of scientific adaptive management, promised but never followed through under the NorthWest Forest Plan.

The economics of combining elements of high-intensity logging with long-term carbon offset sales is very powerful. Research of the carbon offset rules of the California Air Resources will show that states may register and sell state-owned forest carbon credits in the California offset market. In stands with a carbon density which exceeds that of a normal 60-year old stand that excess may be sold as carbon credits. Here's how it could pencil out with Oregon selling Elliott Forest carbon credits:

Harvest on 15,000 acres of the 25,000 acre industrial block, 30-year rotation:
 $500 \text{ acres/year} \times 35,000 \text{ board feet/acre} = 17.5 \text{ million board feet/year}$
 $17.5 \text{ mmbf} \times \$265/\text{thousand} = \$4.6 \text{ million net revenue/year}$

Create a 25,000 acre carbon reserve in the North/NorthWest portion of the forest. All carbon reserves above the level of those on a 60-year old stand are eligible for sale in the California carbon market. If we assume an average of 400 excess tons of CO₂e/acre, that would provide 10 million tons of CO₂e, worth \$150 million today. (At the carbon price Canada has announced they will set by 2022, \$50/ton CO₂e, those Elliott carbon credits would be worth half a billion dollars, far more than the \$120 million needed to finish purchasing the Elliott from the Common School Fund.)

Harvest in experimental block:

15,000 acres out of 25,000 harvested on 100-year rotation = 150 acres/year
 150 acres X 35,000 board feet/acre = 5.2 million board feet
 5.2 mmbf X \$265 = \$1.4 million/year

Ongoing annual Carbon Credit sales from 25,000 acres @ 5 tons/acre/year
 125,000 tons carbon credits/year
 @ \$15/ton = \$1.9 million/year
 @ \$50/ton = \$6.2 million/year

So an Elliott Forest Carbon and Wildfire Institute could theoretically generate an initial \$150 million (enough to finish paying off the Common School Fund and completing the decoupling process) and in addition generate between \$8 and \$12 million a year in revenue while making Oregon the global leader in carbon science and providing unique educational and recreational opportunities to Oregon's citizens and our visitors.

The broad base of public sentiment which opposed privatizing the Elliott can be drawn upon to support the increase in the harvest tax to retire the initial Elliott bonds, an increase which would still leave Oregon's timber taxed at a much lower rate than timber harvested in either California or Washington.

I support the Land Board in your duty and privilege of being in the position of leadership in preserving and enhancing Oregon's crown jewel- the Elliott State Forest- for present and future generations of Oregonians and the world.

34 Amber Gayle Thalmayer

I appreciate the efforts made in this report to hear a variety of voices and to find consensus for this precious forest. I hope decision makers will keep in mind the long term benefits of protecting a place valued by so many, compared to the very small, and very short term gains to made by logging. Schools must be funded more sustainably in Oregon, whatever that takes. Schools are not a luxury, they are a necessity, and should never have been linked to timber funds. This mistake has to be rectified now.

Sincerely,
 Dr. Amber Gayle Thalmayer

35 Greg Stone

Organization or affiliation: Several, but my comment are my own.

The State Land Board really screwed up years ago when you didn't defend your own forest management plan on the Elliott against threats of litigation. You spent millions of dollars over the years to develop that plan that includes justification for conservative harvest levels and resources protection measures beyond requirements in the forest practice act. The notion that you 'decouple' school lands may be unconstitutional, but then you can have the spineless AG who wouldn't defend your forest plan defend you. Shame on you!

36 Cathy Seitz

I am one of the people who submitted a letter of interest during the proposed sale of the Elliott. I applaud the land board for the decision to keep the Elliott in public hands. I have a suggestion, if no one comes forward with the remaining money to buy out the school fund obligation. That would be placing the uncut areas under roadless or Wilderness status, and keeping the remaining areas in the school fund, assigning each section to whatever state agency would oversee them.

The sections which have been logged could remain in the school fund, but without any obligation to produce revenue. If revenue results, beyond maintenance and reasonable costs, in the future the school fund would receive it. Instead of heavily leaning on the forest for timber, I am proposing an approach to logging which would be gentle on the forest, but would still produce revenue, although it might not get much to start. It is referred to as ecosystem-based forestry, ecoforestry or ecostery. The way the Cow Creek tribe talked in their proposal, I wonder if they might have something like this in mind. I apologize that time prevents me from contacting them and would be happy to discuss this with them in the future.

I have contacted the leading Eco-Forester on the west coast, Herb Hammond. Hammond has been designing ecosystem-based forest management for many years on large parcels, and is very interested in working with us. Ecoforestry focuses on maintaining and restoring ecological integrity in a forest. Timber is a byproduct of this management focus. Under ecoforestry, as the trees get older and larger, ecosystem services, like air purification, carbon sequestration and storage, water conservation, and biological diversity all increase. In addition, the value of the timber (and other forest products like mushrooms or game) also increases. Some timber may be removed throughout the process, the sale of which provides forestry and logging jobs for the local community, and furnishes wood products for local manufacturing. Areas in the Elliott that currently require thinning would constitute priority areas to apply ecoforestry.

Ecoforestry maintains a continuous forest cover by using single-tree and small group selection systems in cutting trees in the forest. Roads have small footprints and are carefully fit into stable portions of the terrain. Ecoforestry often includes the use of small mills, often portable sawmills. All of the approaches to ecoforestry are labour intensive, guaranteeing employment opportunities for the local community.

On the unlogged portions, I suggest leaving some or all of the existing roads in place, while adding hiking and horseback trails, which could connect to the parks near Lakeside and the Dunes reserves on the ocean, and the Siuslaw National forest just to the north. This would make a long trail which would attract backpackers. I understand that the Pacific Crest Trail (north to south borders backpacking) is now being heavily used, so a new trail would likely be welcome.

The Elliott might be too steep for bicycles, as their use may erode any trails, particularly in wet conditions. The Elliott is both remote and in competition with a nearby tourist destination--the ocean--so developing it as a campground etcetera would not be likely to pay off. Existing campgrounds near the beach are easier to get to and on flatter ground. Most of the Elliot is extremely steep and hard to reach.

I understand that OSU may make an offer to acquire the Elliott. If this happens, I would transfer the idea of ecoforestry to them. I assume they will be held to the standards which were imposed when the sale idea was proposed, including protection of the old growth forest. In fact, I propose that the old growth not be transferred to them unless it is also protected by wilderness or roadless area

level standards.

The Consensus Report said some people were concerned that environmental standards could be changed by the approach taken in the Elliott. I hope they are, and that they become more protective. This is in the interest of the greater good. In particular, I want to increase protection for standing trees on the entire forest. While some thinning may be appropriate for fire avoidance, that thinning must be guided by the priority of protecting, and where necessary, restoring ecological integrity. This will ensure the protection of vital ecosystem services.

One often ignored reason to protect intact forests is their value in holding water and cooling the surrounding areas. We face increasing summer temperatures, droughts, and fires. Many call for heavy thinning of forests because of fire, but a growing body of scientists caution against excessive reduction of forest cover along the world's coasts. Even replanting needs assessment to be sure that any replanting focuses on re-establishing natural forest composition, structure, and function. Also, young trees need large amounts of water to get established.

On the coasts, water is taken into the clouds from the ocean and dropped as precipitation, primarily rain, on the forest, incorporated into trees and other plants through photosynthesis, and then released to the atmosphere where it is taken up again by clouds which move inland. Because very large trees pump thousands of gallons of water into the atmosphere, coastal forests are responsible for water supplies far inland. The high humidity in these old coastal forests, coupled with multi-layered canopies, canopy gaps, and the very thick bark of many old-growth trees make these forests very resistant to fire. Ecoforestry aims to maintain this type of forest structure, providing both fire resistant forests, and water supplies.

One of the issues I know you face is the likelihood of lawsuits. My suggestion would avoid two potential suits in the future...from environmentalists, and from the schools, some of whose representatives are not happy with the current arrangement. It is possible that a third lawsuit could be avoided by including Lone Rock Timber and the Cow Creek tribe in the harvest process, if they would be interested in ecoforestry. I note that Lone Rock claims to log sustainably, but Sustainably Harvested Certification does not represent adequate forest protection for forest integrity, in my view. The tribe, as I said above, may have ideas that are more in line with true sustainability for the forest.

Our Oregon forests will not continue producing timber indefinitely with current logging practices. With so much clear cutting or near clear cutting on short rotation cycles and so much spraying of pesticides, the soil will become exhausted. Soil is being degraded structurally from too few remaining old roots, internally from the loss of fungi and microorganisms which forests need to regenerate. Some of our forests already are not coming back as they should, due to overharvesting. Other areas in the world such as the Middle East which were once forested are now largely deserts. This could happen here as well. This is why we need to drastically improve our forestry practices (and start using less new wood, reusing and recycling old houses and lumber).

We have already suffered numerous years of drought on the West Coast, and do not know if that is over. In 1930, when the Elliot was pledged to fund the schools, Oregon, Washington, and California had many more large trees than they do today. Our two neighboring coast states both have more protected forests than Oregon. We can get smarter about this, and change our ways to maintain healthy forests in the face of climate change, which could include producing bigger, healthier trees.

I have written this paper with added input from Herb Hammond to be sure that what I am saying falls in line with the approach he could help us carry out.

Cathy Seitz

Relevant websites:

Herb Hammond's Ecosystem Based Conservation Planning: <http://www.silvafor.org/> Article from French biodiversity association Envol-Vert, entitled Forests and Rainfall: <http://envol-vert.org/en/forests-services-2/role-forests/2015/06/forests-and-rainfall/> "The forest creates fresh water runoff for the streams and rivers, and helps pull rainfall in coastal areas inland. In India, deforestation has caused a 30% drop in rainfall...forests play the role of natural pumps, sending precipitation which gathers in coastal areas further inland."

A report on a study on the Science Direct website, entitled Trees, Forests and Water: Cool insights for a Hot World: <https://www.sciencedirect.com/science/article/pii/S0959378017300134> "Forests and trees must be recognized as prime regulators within the water, energy and carbon cycles. If these functions are ignored, planners will be unable to assess, adapt to or mitigate the impacts of changing land cover and climate. Our call to action targets a reversal of paradigms, from a carbon-centric model to one that treats the hydrologic and climate-cooling effects of trees and forests as the first order of priority." (from abstract) and "Precipitation is recycled by forests and other forms of vegetation and transported across terrestrial surfaces to the other end of continents."

Article from Yale School of Forestry and Environmental Studies entitled Rivers in the Sky: How Deforestation Is Affecting Global Water Cycles: <https://e360.yale.edu/features/how-deforestation-affecting-global-water-cycles-climate-change> "A growing body of research suggests that this hitherto neglected impact of deforestation could in many continental interiors dwarf the impacts of global climate change. It could dry up the Nile, hobble the Asian monsoon, and desiccate fields from Argentina to the Midwestern United States."

World Wildlife Fund 200 most outstanding and representative areas of global biodiversity: <https://www.worldwildlife.org/ecoregions/na0510> They specifically mention the Elliott as "among 31 proposed high priority reserves that together cover 5,065 km², or over 23 percent of the Oregon Coast Range Bioregion...The high priority areas must be linked and insulated by reserves under slightly less strict protection and by multiple-use buffer zones. Together, these three classes of reserves would form a continuous network through the Coast Range."

37 Cristina Hubbard

Organization or affiliation: Forest Web of Cottage Grove

November 15, 2018

To: Oregon Department of State Lands

Elliott State Forest Project, 775 Summer St. NE, Ste. 100, Salem OR 97301

RE: The Elliott State Forest: Next Step Considerations for Decoupling from Oregon's Common School Fund Report

Writing on behalf of over 2,100 supporters, Forest Web of Cottage Grove is submitting the

following comments on The Elliott State Forest: Next Step Considerations for Decoupling from Oregon's Common School Fund report released in October 2018.

Our main requirement for the Elliott State Forest is that well established guidelines are in place for protection of all old-growth and late successional habitat as well as riparian areas with significant buffers established for these ecosystems. There should also be connectivity maintained between these habitats with no large gaps created by logging. Also, we strongly recommend that logging should be restricted to thinning and restoration projects in mature second-growth stands.

We agree a federal Habitat Conservation Plan (HCP) needs to be developed as soon as possible to achieve these goals. However, we have concerns with the associated Incidental Take Permit as this gives leeway to timber companies regarding the death of any individual members of an ESA-listed species that occur during logging operations.

The legislation specifically directed the \$100 million be used to preserve non-economic benefits of Elliott State Forest. This report leaves us with concerns as to how that will be accomplished as it also states the funds will be used as a "buy-down" of the School Fund. While we support the funds going to the School Fund, it needs to be clear that the preservation of the non-economic values of the Elliott State Forest be at the forefront of all planning decisions. Under Cap-and-Harvest (Section 2, Subsection 2.2) it also states: the \$100 million is meant to define the state's contribution to achieving conservation, recreation, and non-revenue values on Elliott State Forest. Whether retained by DSL and managed as a School Fund asset, or owned and managed by another entity through decoupling, the \$100 million would be applied towards achieving these values.

However, this subsection also states: The remainder of Elliott State Forest would be placed under timber management. This would seem to be taking us back to how the issue of saving the Elliott State Forest began, treating it as a commercial enterprise rather than valuing it for its critical environmental benefits. Yes, logging should be a component of management and restoration, which will generate income, but the focus of these projects should be the rehabilitation of the second-growth stands. Logging should not continue to be the driving force in managing the Elliott State Forest.

As for future ownership of the Elliott State Forest, the report cites both the ability to manage the forest as well as to raise the remaining cash reserves for the School Fund to be the primary criteria. Of all the options listed in the report, only the United States Forest Service (USFS) currently meets those requirements. The report states: As an adjacent landowner and manager, the United States Forest Service (USFS) indicated interest in seeing the Elliott State Forest consolidated into and managed as part of the Siuslaw National Forest. The similar forest type and proximity were seen as advantages, as well as the historic connection between acreage on the Elliott State Forest and National Forest lands. It was also noted that the USFS would likely need a congressional appropriation to pay the School Fund. It should be noted that with the results of the recent election, the new Congress might well be willing to approve this.

Under Carbon (Section 4, Subsection 4.5) the report states: Among the constraints cited were the relatively large and older class of trees already on Elliott State Forest, which reduces their potential carbon uplift and, therefore, value on the carbon market. This statement is not accurate nor based on current science. Recent studies show old-growth trees are rich and valuable carbon sinks, continuing to sequester carbon throughout their life-cycles. We have included an excerpt from one

study as well as the full text of the abstract for another study below:

"The Role of Old-Growth Forests in Carbon Sequestration"

26 JULY 2016 Geoffrey Craggs, JP, Research Analyst, Northern Australia and Land Care "...Until recently it was believed only young forests sequestered atmospheric carbon in early growth and that old-growth forests were only sinks in which the carbon was stored. Recent studies, however, have identified that intact old-growth forests continue to take up carbon from the atmosphere even past the point at which they reach maturity. By measuring growth rates, researchers have identified that carbon sequestration in trees increases continuously because the overall leaf area increases as they grow, enabling bigger trees to absorb more carbon from the atmosphere. Older, larger deciduous trees reproduce more new leaves, thus capturing the most carbon from the atmosphere..." <http://www.futuredirections.org.au/publication/role-old-growth-forests-carbon-sequestration/>

"Old-growth forests as global carbon sinks"

Sebastiaan Luyssaert, E. -Detlef Schulze, Annett Börner, Alexander Knohl, Dominik Hessenmöller, Beverly E. Law, Philippe Ciais & John Grace
Nature volume 455, pages 213–215 (11 September 2008)

Abstract

"Old-growth forests remove carbon dioxide from the atmosphere^{1,2} at rates that vary with climate and nitrogen deposition³. The sequestered carbon dioxide is stored in live woody tissues and slowly decomposing organic matter in litter and soil⁴. Old-growth forests therefore serve as a global carbon dioxide sink, but they are not protected by international treaties, because it is generally thought that ageing forests cease to accumulate carbon^{5,6}. Here we report a search of literature and databases for forest carbon-flux estimates. We find that in forests between 15 and 800 years of age, net ecosystem productivity (the net carbon balance of the forest including soils) is usually positive. Our results demonstrate that old-growth forests can continue to accumulate carbon, contrary to the long-standing view that they are carbon neutral. Over 30 per cent of the global forest area is unmanaged primary forest, and this area contains the remaining old-growth forests⁷. Half of the primary forests (6 × 10⁸ hectares) are located in the boreal and temperate regions of the Northern Hemisphere. On the basis of our analysis, these forests alone sequester about 1.3 ± 0.5 gigatonnes of carbon per year. Thus, our findings suggest that 15 per cent of the global forest area, which is currently not considered when offsetting increasing atmospheric carbon dioxide concentrations, provides at least 10 per cent of the global net ecosystem productivity⁸. Old-growth forests accumulate carbon for centuries and contain large quantities of it. We expect, however, that much of this carbon, even soil carbon⁹, will move back to the atmosphere if these forests are disturbed." <https://www.nature.com/articles/nature07276>

Missing from the report was any mention of Climate Change or the role the Elliott State Forest could play in mitigating this global crisis. With our federal government taking little or no action on this critical issue it is imperative Oregon, with its vast forestlands, lead the way in providing solutions. According to the most current scientific studies and reports, forests are the key to saving our planet.

The Intergovernmental Panel on Climate Change (IPCC) recently released their latest report on Climate Change in September 2018. The report, drafted in response to a request by the United Nations Framework Convention on Climate Change (UNFCCC), evaluates the differences between a 1.5°C and a 2°C future and whether different emissions trajectories can achieve a future with less

warming. It makes clear that we need a global commitment to move away from fossil fuels and focus on the removal of carbon dioxide already in the atmosphere (not just reduction of future emissions) to prevent irreversible effects that would have devastating consequences across the globe. Such an approach is especially vital to the ocean, where achieving a 2°C future (the official goal of the Paris Accord) would still result in destructive changes to the ocean and coastal areas around the world.

The IPCC report is comprised of three years of work by more than 130 authors, synthesizing over 6,000 scientific references and fielding over 42,000 comments during the extensive peer review process. The IPCC report confirms the vital role of forests as an essential climate change solution. Link to IPCC Summary: http://report.ipcc.ch/sr15/pdf/sr15_spm_final.pdf Link to all IPCC documents: <http://www.ipcc.ch/report/sr15/>

Global Forest Watch, which monitors deforestation in real time, estimates that between 2001 and 2017, 800 million acres of tree cover was lost. Much of that was driven by agriculture, logging, and cattle ranching. Oregon must reprioritize how it manages our public forests, making conservation the primary focus. To emphasize this point, we also submit the following information on how forests, including the Elliott State Forest, are critical to combatting Climate Change.

The following is from the Food and Agriculture Organization of the United Nations: "Roles of forests in climate change" "As more scientific information about global warming accumulates, climate change is emerging as perhaps the greatest environmental challenge of the twenty-first century. What is more, a virtual Pandora's box of major global threats, such as hunger, poverty, population growth, armed conflict, displacement, air pollution, soil degradation, desertification and deforestation are intricately intertwined with and all contribute to climate change, necessitating a comprehensive approach to a solution. Rising to this challenge will entail unprecedented cooperation among the world's nations and strong support from international organizations concerned. FAO is particularly implicated, as its domain encompasses major sources of greenhouse gases, major potential victims of climate change, and major mitigation potentials through carbon pools and "sinks".

Forests have four major roles in climate change: they currently contribute about one-sixth of global carbon emissions when cleared, overused or degraded; they react sensitively to a changing climate; when managed sustainably, they produce woodfuels as a benign alternative to fossil fuels; and finally, they have the potential to absorb about one-tenth of global carbon emissions projected for the first half of this century into their biomass, soils and products and store them - in principle in perpetuity." <http://www.fao.org/forestry/climatechange/53459/en/>

"The Great American Stand: US Forests & The Climate Emergency" "Standing forests are the only proven system that can remove and store vast amounts of carbon dioxide from the atmosphere at the scale necessary to keep global temperature rise below 1.5 degrees Celsius this century. It is therefore essential to not only prevent further emissions from fossil fuels, deforestation, forest degradation, and bioenergy, but also to expand our forests' capacity to remove carbon from the atmosphere and store it long-term. If we halted deforestation, protected existing forests, and expanded and restored degraded forests, we could reduce annual emissions by 75 percent in the next half a century.

If fossil fuels were rapidly phased out during this same time period, we could reduce the amount of

carbon in the atmosphere, meet the goals of the Paris Agreement and avoid catastrophic climate change. But, we cannot solve the climate crisis without a major scale-up in forest protection and restoration across the planet. We must not only protect remnant primary, intact forests, but also conserve and restore less pristine landscapes." <https://www.dogwoodalliance.org/wp-content/uploads/2017/03/The-Great-American-Stand-Report.pdf>

Since 2011, Forest Web of Cottage Grove has campaigned on behalf of the Elliott State Forest, organizing hikes and providing educational information to the public on its diverse habitat and the value of its ecological resources. We have attended and testified at numerous State Land Board meetings and provided written comments on its management, working in cooperation with other environmental organizations to promote its protection.

We acknowledge the issues included in this report regarding the Elliott State Forest report: how to decouple the forest from the School Fund; how to provide the remainder of the funds to the School Fund; and who will manage the forest in the future. But what we manage this forest for is the most critical issue to be addressed, and Climate Change must be included in this discussion when making any management decisions for the Elliott State Forest.

Thank you for your time and consideration.
Cristina M. Hubbard, Executive Director
Forest Web of Cottage Grove

38 Jennifer Haynes

I support the environmental group's letter (Cascadia Wildlands, Oregon Wild, Portland Audubon), with this added concern:

I do not want the Elliott to be sold to OSU because the public needs oversight into what happens. The Administrative Procedures Act (APA) allows for that oversight, but only if an agency is in charge of management. I am also concerned that because OSU gets so much money from timber companies, they may have an incentive to misuse the Elliott and/or skew their research to support timber priorities (this makes me very sad because I attended OSU). I think the problem really is the "old school" leadership in the Department of Forestry.

Thank you so much for considering my comments, Jennifer

39 John Charles

Organization or affiliation: Cascade Policy Institute

A fundamental problem with the report is that it treats the 2016 ESF valuation of \$220.8 million as a meaningful number. The fact is, the moment Gov. Brown brought down the gavel last year to void the 2015 ESF Sale Protocol, the appraisal connected with that protocol also disappeared.

The appraisal process was governed by the four limitations embedded in the protocol, all of which acted to diminish the market value to the forest. Those constraints are no longer in effect; therefore appraisal of \$220.8 million is null and void.

Previous appraisals had estimated the ESF to be worth far more than \$220.8 million - possibly

100% more, depending on various factors. This means that the \$100 million loan will "buy down" much less of the forest than assumed by many legislators when they approved it.

Moreover, there is no obvious way to determine how to best spend the loan funds, since the majority of the forest would remain in SLB ownership even after spending \$100 million. This is especially the case given the parallel process of adopting an HCP. Previous efforts took 10 years of negotiation, and in the end the state walked away with nothing. Why will things be different now? How will that affect the "de-coupling" process?

Finally, the SLB has a fiduciary responsibility to manage the Trust Lands for the benefit of public schools and students of those schools. Borrowing \$100 million and then paying \$199 million in debt service to bond holders for the next 25 years by diverting income tax revenues from other purposes harms the very families the Board is mandated to help. The only morally or legally defensible way to dispose of Trust Lands is to sell them to private parties, something the Land Board voted to do in 2015 and then reversed in 2017. The Board has now boxed itself in; the ESF is no longer a productive asset, it's a liability, and the Board is at risk of being sued for breach of fiduciary trust by adversely affected beneficiary groups.

The Board should indefinitely delay the February bond sale and re-consider selling the ESF and other under-performing Trust assets to private parties, in order to meet its fiduciary obligations.

40 **Lon Otterby**

Organization or affiliation: Many Rivers Group Sierra Club

Attention: Oregon State Lands Board

Regarding: Oregon Consensus Report: Next Steps

From: Lon Otterby

Chair Many Rivers Group Sierra Club

The Many Rivers Group of the Oregon Sierra Club (MRG) represents a little over 3000 members in Coos, Douglas and Lane Counties. We have been actively participating in exploring the Elliott State Forest (ESF) with our membership and our allies for the last several years. We have also been participants in the SLB's efforts to find solutions to the management challenges of the ESF. The onsite field trips sponsored by the DSL and the SLB have been most helpful in understanding the landscape of the forest, the local economic challenges, and local indigenous people's historical relationship with the Elliott State Forest.

I am very disappointed in the lack of hard information and the limited scope of interviewees in this report. It may be this is what the Department of State Lands (DSL) and the State Lands Board (SLB) had asked for, but there is very little here to be helpful moving ahead with the ownership and management of the Elliott State Forest (ESF) and possibly other state forests. The majority of the those interviewed are the usual suspects primarily paid but also some volunteer lobbyists that show up and testify at the SLB hearings on the dilemmas facing the Common School Fund (CSF) and the DSL. The interview list is populated primarily with lobbyists from groups and businesses in the Portland-Salem area. There was almost no representation from the scientific community or from labor. The communities of color were only represented by the Tribes in the ESF area and the former member of the Coalition of Communities of Color in Portland.

I am very unhappy with this report because the Oregon Consensus staff only attempted to interview two labor groups while interviewing several management groups in education and timber business folks. We were pleased to see Laurie Wimmer, the Oregon Education Association, interviewed. It would have been good to know what her responses to the questions were. Jeff McGillivray, Secretary Treasurer of the Building Trades Council in Curry, Coos, Douglas and Lane Counties, would have been a good addition since he represents much of the labor force that benefits from keeping the ESF in public ownership.

Oregon Consensus interviewed several state agencies especially those connected to timber harvest. We would have liked to read what Curt Melcher and the rest of the folks from the Oregon Department of Fish and Wildlife had to say about the status of wildlife in the ESF with different management plans. Oregon Consensus did not interview the folks at the Global Warming Commission, the Department of Health, Oregon Department of Labor and Industry, or Travel Oregon. That is a large group of agencies to ignore. It is no wonder that there is very limited information about the huge carbon sequestration and recreational benefit of the ESF

There was a lack of independent scientists and economists interviewed. The experts from OSU like Beverly Law, Mark Harmon, and Kim Nelson were not included. The scientists at the Hatfield Marine Science Center at Newport and Oregon Institute of Marine Biology at Charleston were left out of the interview process. So, we do not have information for the very important Land Sea Connection in the Coos Bay region of Oregon. 30% of Oregon's Coho Salmon spawn in the ESF. We do not hear about this valuable economic and natural asset for Oregon The Lamprey Eels that migrate from and back to the ESF are left out. The multi-decadal weather and ocean cycles that influence upwelling and forest fire patterns are not here. The local and migratory marine mammals and birds are dependent on the nutrients from the ESF. This is why you cannot move forward without an adequate HCP.

The Oregon Consensus Assessment Report had several vague references to numbers of respondents and a lack of inclusion of several key stakeholders in our opinion. The common references to who said what are described with terms such as many, some, a few, etc. The level of mistrust of the SLB and DSL is not spelled out, and we think exaggerated. There is a huge difference between mistrust and unhappiness with different outcomes of the process.

Also, the Oregon Consensus group plowed forward without a Habitat Conservation Plan in place. We are not sure who you can do a plan for how to use the \$100 Million Bonding or how you can plan to decouple the Common School Fund from the ESF

The outdated assumption that timber was the driving economic force for paying off the Common School Fund. Timber has for several years been a declining economic driver in Oregon. In Lane County for instance Timber has to be combined with Mining and together they still do not represent 1% of the employment opportunities in Lane Count. Meanwhile recreation use of our forests is booming. The three recreational groups, Oregon Hunters, Rocky Mountain Elk, and Trout Unlimited were very good interviewees. We were not told what they had to say. There are many non-extractive forms of recreation in the ESF that the Oregon Consensus other than the Oregon Parks and Recreation Department did not investigated in their interview process. Hiking, mountain biking, off highway vehicle, and camping groups especially local to the ESL area were not interviewed, nor were the questions asked pertaining to these groups' use of the ESF.

We were happy to see that Forest Economist, Brent Davies from Eco-Trust, was included in the process, we were greatly disappointed that knowledgeable economists like Wayne Giesy and Ernie Niemi were not included in the interview process.

There is scant information about the possible management of the forest by Oregon State University. The educational value of the ESF driven by the Tribes, the K-12 School systems, the Community Colleges, and Oregon's universities was missing. The CSF has never taken responsibility for the educational value of the Elliott. The Fund and the school board groups have just stood there with their hands out looking for dollars. The CSF did not join with the teacher associations, universities and labor groups in lobbying for programs like outdoor education, forestry skills classes, building a carbon credit policy and program, and understanding the forestry science with climate change. The fact that the ESF was undervalued is the Common School Boards responsibility for being absentee landlords.

Finally, the carbon value of the Elliott is huge not only monetarily but for the health of the land, the wildlife, and the people. The scientific community of Oregon State and other scientific experts were not included in the process. Those would be Beverly Law & Mark Harmon at OSU School of Forestry, land use expert Paul Engelmeyer, manager of the Ten Mile Creek Conservancy for Portland Audubon, James Johnston, history and future of forest fire expert from OSU,

This Oregon Consensus Report is of little to no use. Please call on the scientific community to inform the DSL and the SLB, please listen to the Global Warming Commission and please finish the HCP so that we have something to work with to manage this impressive forest.

Thankyou,
Lon Otterby
Chair Many Rivers Group Sierra Club

41 Samuel Schwarz

Organization or affiliation : Stakeholder in the Elliott

Nov 15, 2018

Oregon Department of State Lands,

I believe the consensus report to offer very helpful and valid information that will assist us, as stakeholders in the Elliott, to ensure that this forest continue to be a vital asset to the entire State of Oregon.

I look forward to hearing what OSU might present in December. The Elliott is so diverse in its forest ecology and it has so much to offer for study and cultivation of more natural forest practices. Opportunity for field research and facilities in the Elliott are phenomenal. Native salmon population should be a key factor in this conversation. Tribal interests are extremely important and are key to restoring this lost connection to the natural world. Watching log barge after barge from Tribal Lands, being loaded and exported from Coos Bay to markets overseas is difficult to witness. With strong leadership, I believe that Tribal influence in the Elliott should shift from resource extraction and focus on native tradition and culturally enriching opportunities. Survival skills training, hunting, fishing and medicinal knowledge be revitalized for the youth and prosperity of

Native Heritage.

There are a great deal many potential directions still ahead (many undiscovered) and decisions that need to be made concerning one of Oregon's most valuable assets. I don't believe we are there yet. The future health of this region depends on strong leadership, not just business as usual. These opportunities lend to more creative avenues yet to be explored.

As a lifelong resident of Allegany and having been fully engaged throughout the process that has led to the decoupling of the CSF from the ESF, I am pleased to continue shaping the future of our unique and diverse emerald forest. Far long have we removed precious resource from this land, striving to maintain a sustainable harvest, pressured by the timber industries desire to increase yield in order to maximize monetary gain. I state here, in my comment, that as a local inhabitant of this coastal region, that I will forever act as steward of the Elliott State Forest and ensure just and intelligent decisions be made by any said owner or manager of this land. I am of this land and I stand for this land. I stand as a voice for the natural world, that is all too often ignored.

Sincerely,

Samuel J Schwarz

Ford Family Fellow

Bachelor of Arts, U of O

SAMIO Lighting, Patented Lighting Device

F/V Nor' Gale LLC, Commercial Fishery

42 Kaola Swanson

Organization or affiliation: Pacific Forest Trust

November 9, 2018

To the Oregon State Land Board regarding the Elliott State Forest Project,

The Pacific Forest Trust (PFT) is grateful for the opportunity to support the process and conclusions outlined by the Oregon Consensus Center's Assessment Report "Elliott State Forest: Next Step Considerations for Decoupling from Oregon's Common School Fund." Expediency in decoupling should be balanced with the proper time and consideration needed to meet multiple objectives. As outlined by the report, these multiple objectives include meeting fiduciary responsibilities to the School Fund, managing the forest for revenue production as well as conservation, cultural, and public values; local community benefit; and tribal engagement. Further, public ownership and access as well as complete decoupling are identified as goals of this project.

PFT would like to remain engaged as a stakeholder, though we do not intend to submit either a letter of interest or a formal proposal for ownership. However, we would like to encourage the State Land Board to consider the potential of a Working Forest Conservation Easement (WFCE) to meet the many goals outlined for the Elliott State Forest. In particular, this tool could help a public landowner to partner with conservation entities to lower the costs associated with complete decoupling, and if carefully structured, meet the goals of an HCP on a shorter timeline.

Working Forest Conservation Easements are legally binding agreements that permanently protect forests as forests for all their values, including habitat, climate, and cultural values, in addition and complementary to forest management for economic return. While conservation easements are

often focused on preventing development or avoiding subdivision of a parcel of land, working forest easements add another layer of responsibility by guiding future management to achieve desired outcomes. Annual monitoring and reporting by a third party is required for compliance with the terms of the easement and the associated management plan, granting the public regular insight into the management of their asset and its appreciation over time.

A WFCE would benefit the Elliott State Forest in several ways:

- Creates public trust in the permanent protection of the land for its multiple values,
- allows for ongoing forest management which includes economic returns and local jobs,
- an easement would maximize the investment from the \$100 million bond, as it would buy the public trust values, reducing the market value of the land while keeping it in desired productive use.
- Finally, easements are a flexible tool that can work in conjunction with any potential future public owner and can be used as the foundation for an ongoing adaptive management plan.

PFT currently holds WFCEs on approximately 10,000 acres of working, productive forest land in Oregon and more than 100,000 acres in California. These properties are managed for timber production and profit as well as benefits to climate, wildlife, and water. Forest managers, loggers, truck drivers, as well as monitoring and conservation staff are all employed as part of meeting the terms of the easement and each landowner's objectives. We'd welcome the opportunity to discuss this tool further with the Land Board, potential public owners, and interested stakeholders. Please feel free to contact me by phone or email at your convenience.

Sincerely,
Kaola Swanson

November 14, 2018

Governor Kate Brown
Secretary of State Dennis Richardson
State Treasurer Tobias Read
State Capitol Building
Salem, OR 97310

Honorable members of the State Land Board.

The undersigned organizations have reviewed the report from Oregon Consensus (OC) entitled “Elliott State Forest: Next Step Considerations for Decoupling from Oregon’s Common School Fund,” (OC Report) dated October 2018 and presented to the State Land Board (SLB). Several of our organizations engaged with Oregon Consensus during their process and found it helpful. We are taking this public comment opportunity to share with you our views as to the next steps in fully decoupling the Elliott State Forest (ESF) from the Common School Fund (CSF).

We are including our views on the habitat conservation plan (HCP) and incidental take permit (ITP) under the federal Endangered Species Act (ESA) process in which the Oregon Department of State Lands (ODSL) is beginning to engage with NOAA Fisheries and the U.S. Fish and Wildlife Service.

1. *Application of Decoupling.* The term and concept of “decoupling” should apply to the entire Elliott State Forest under the ownership of the CSF.
2. *Public Ownership.* The ESF should be placed in the hands of a public state or federal agency where there is direct public accountability through oversight by elected officials.
3. *Use of the \$100 Million.* The \$100 million of bonds to be issued in February 2019 to buydown the revenue-producing requirements for the CSF ESF lands should be linked to specific parcels (“Parcelization” as described in the OC Report) of lands, not just a general relief of that obligation. This is consistent with the language adopted by the Oregon Legislative Assembly (([Sec. 124, H.B. 5006 enrolled](#))). We recommend that the State Land Board (SLB) temporarily treat the \$100 million as a buydown, giving time for the HCP process to be completed. Upon such completion, the \$100 million should be specifically spent to decouple specific high-value conservation parcels (e.g. older forest, streamside areas, etc.) that are otherwise excluded from being logged due to the requirements of the finalized and accepted HCP/ITP. In the interim, interest on the \$100 million should go to the CSF.
4. *Prioritizing Use of the \$100 Million.* We strongly recommend that the SLB not treat the \$100 million as a “cap-and-harvest” (again in the parlance of the OC Report). We do not anticipate the HCP and ITP to fully embrace all of the older (mature and old-growth) forest and streamside areas of the CSF’s ESF lands. The social license to log—via clearcutting or otherwise—previously unlogged native forest with large trees on the ESF, as well as along stream sides of fish-bearing waterways with ESA-listed species, has expired. In addition, allocation of the \$100 million should be prioritized to first decouple the underlying “bare land” value of those lands made unavailable for logging under an HCP/ITP. The 2016 appraisal

estimated 42,255 acres of CSF ESF would be unavailable for logging under an HCP and valued the underlying non-timber value of those lands to be ~\$6 million. The remaining ~\$94 million should be used to decouple specific parcels of the remaining older forest stands (beginning with the oldest) and along streams (beginning with those that are fish-bearing).

5. *The Habitat Conservation Plan Process.* The SLB should consider the HCP/ITP process as a precursor to complete decoupling. After completion of the HCP, it will be known which CSF lands on the ESF are still jeopardized by the constitutional requirements of the CSF. The \$100 million should then be applied per (4) above.

6. *Advisory Group.* While we are happy to sincerely and constructively engage in an advisory group to make recommendations to the SLB as how to proceed, in the end the decision is that of the SLB, not an advisory group. We feel obligated to warn you that the chances of the environmental community and the timber industry coming to agreement on how to manage the ESF are very low.

7. *Continued Litigation.* The OC Report addresses concerns about continued litigation that could include the ESF. Such is certainly a possibility. Some of our organizations have been successful in blocking a sale of a portion of the ESF to a private interest (the state has requested the Oregon Supreme Court to review). The more conservative (“conservation-oriented”) the HCP and ITP, the less it is vulnerable to litigation.

8. *Imperiled Species.* In addition to the ESA-listed northern spotted owl, marbled murrelet and coho salmon, there are imperiled species that inhabit the ESF that may eventually come under ESA protection. One is the red tree vole (RTV), which relies extensively on older forests. The North Oregon Coast Range (NOCR) Distinct Population Segment (DPS) has already been found warranted for ESA listing, but precluded by higher priorities. While the ESF is located south of the NOCR DPS for the RTV, it is otherwise in the heart of the range of the RTV and, because of its generally older forest condition, excellent habitat for the species. The RTV is limited to older forests in western Oregon and northwestern California. The ESF is also in the historical range of the fisher and coastal marten, both being imperiled mammals.

9. *South Slough National Estuarine Research Sanctuary.* The OC Report mentions the possibility of involving the South Slough National Estuarine Research Reserve (SSNERR). Though managed by ODSL, the SSNERR is not CSF land and we don’t view it as necessary or desirable to resolving the ESF issue or that of other CSF forestlands in western Oregon

10. *Other Common School Fund Forestlands.* Our interest in CSF forest and range lands being decoupled and the assets managed in the public interest for conservation values is not limited to the ESF. While these CSF lands provide little return to the CSF, much of the lands have high public conservation value or are lands that should be exchanged for lands with high conservation values—all while making the CSF whole. We- and other conservation organizations- stand ready to work with the SLB and other stakeholders to develop a rational and timely strategy for decoupling these lands (or replacement lands) from the CSF while maintaining public ownership.

11. *The Remaining \$120.8 Million.* We are strongly committed to helping the SLB obtain the remaining ~\$120.8 million to fully decouple the ESF from the CSF. In regard to this, we urge the SLB to not accept a funding mechanism that requires debt to be serviced from commercial logging on the forestlands that remain unaffected by the final HCP/ITP. Such forests are in two categories: (1) natural forest stands of any age that have not been logged; and (2) monoculture plantations established after clear-cutting natural forest. As the public will not accept logging of the former, these stands are best dedicated to conservation. The latter stands should not be allocated to timber production neither via traditional production (industrial) forestry nor ecological forest management. Rather the plantations should be put on a course to again be naturally diverse and older forest stands. Such a course is best achieved by the application of scientifically sound ecological restoration thinning that also results in a very significant byproduct of commercial logs for several decades. The net operating revenues from the sale of such logs likely could cover the annual management costs for two or three decades, until no additional plantation treatment is needed. Depending upon market prices for logs and management costs, it may also be possible that a portion of these revenues could be placed in an endowment to aid future management costs. The volume of commercial logs from such management would not be enough to materially contribute to the debt service of ~\$120.8 million.

12. *Carbon Credits.* After completion of the HCP, it may be that the value of not logging natural forest that is allowed by the HCP could be sold into the carbon market. Our initial review suggests this might be a one-time payment of ~\$10 million. While far from the \$120.8 million, it is nonetheless worth doing.

13. *Research Forest.* It has been suggested that ESF could become a research forest with revenues from the sale of timber from experimental logging being used for debt service. As we understand it, the kind of research being suggested centers along the notion of extending timber rotations and/or logging in ways that are less than a clearcut that would also result in the minimal persistence of ESA-listed species. It is further suggested that such research could serve as a model for private timberlands or public forestlands. In the case of the former, the alternative management scheme would conflict with profit maximization especially by disregarding the time-value of money, so would not be of interest to almost all private timberland owners. In the case of the latter, most public forestlands in the Oregon Coast Range are administered as no-logging reserves.

14. *Reappraisal.* Depending how the *Cascadia Wildlands v. Oregon Department of State Lands* litigation turns out, the results of the HCP process and the passage of time, it may be necessary and/or desirable to reappraise the residual values.

Thank you very much for your consideration and continued interest in ensuring that the Elliott State Forest is managed in the best interest of this and future generations.

For the Elliott State Forest,

Andy Kerr, Director, The Larch Company
Bob Sallinger, Conservation Director, Audubon Society of Portland
Cameron La Follette, Executive Director, Oregon Coast Alliance

Rhett Lawrence, Conservation Director, Oregon Sierra Club
Steve Pedery, Conservation Director, Oregon Wild
Noah Greenwald, M.S., Endangered Species Director, Center for Biological Diversity
Josh Laughlin, Executive Director, Cascadia Wildlands

Cc Oregon Department of State Lands (Vicki Walker)
Oregon Consensus (Peter Harkema, Brett Brownscombe, & Amy Delahanty)

Oregon State University School of Forestry (Anthony Davis and Geoff Huntington)
Ecotrust (Brent Davies, Ken Margolis & Lisa Watt)



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November 15, 2018

To:
Oregon Department of State Lands
Governor Kate Brown
Secretary of State Dennis Richardson
State Treasurer Tobias Read
State Capitol Building
Salem, OR 97310

Regarding the Oregon Consensus report: *Elliott State Forest: Next Step Considerations for Decoupling from Oregon's Common School Fund.*

Dear members of the State Land Board,

We have received the report by Oregon Consensus, and appreciate the thorough summary of the issues we all face in moving forward to a solution for the Elliott State Forest. We believe that it will be critical to learn from the Elliott's history if we are to attain a sustainable solution for the forest that can be accepted by a diverse group of stakeholders.

As the local group that lead the Save the Elliott Campaign in the Coos Bay area, we continue to support public ownership options for the Elliott State Forest and the protection of its native forest and endangered species habitat. Having conducted marbled murrelet surveys in old growth stands throughout the Elliott since 2013, we would be happy to share any of our data or knowledge of the forest where it applies. We would like to remain engaged in the Habitat Conservation Plan and decoupling processes, and are continuing to update our supporters at each new juncture.

Sincerely,

A handwritten signature in black ink, appearing to read "Teresa Bird". The signature is fluid and cursive, with a large, sweeping initial letter.

Teresa Bird
Co-director, Coast Range Forest Watch



www.orww.org

To: Oregon State Land Board
 From: Bob Zybach, Secretary, ORWW
 RE: Current PSU *Oregon Consensus* Elliott Decoupling Report
 Date: November 15, 2018

To the Members of Oregon State Land Board:

Oregon Websites and Watersheds Project, Inc. (ORWW), is a nonprofit 501 c(3) corporation based in Philomath that has continuously created and maintained a series of online educational websites for more than 20 years – likely making us the longest continuously operating educational website ever. Since beginning in December 1996, our Mission Statement has been:

Oregon Websites and Watersheds Project, Inc. shows students how to use Internet communications and scientific methodology to help manage Oregon's natural and cultural resources. Students are encouraged to use computer technology, historical documentation, scientific reasoning, community outreach, environmental enhancement projects, and effective long-term monitoring strategies to help make decisions which affect Oregon's quality of life.

On behalf of myself and the other ORWW Board Members, Russ Sapp (President) and Wayne Giesy (Treasurer), we would like to make the following four statements regarding the October 2018 Portland State University (PSU) *Community Consensus Assessment Report*, “Elliott State Forest: Next Step Considerations for Decoupling from Oregon’s Common School Fund.”

[First, please note that we think this report was very well written and considered and, despite our continued opposition to the decoupling process, believe there is strong value in completing the third phase “advisory committee” of this agreement for informational purposes; whether a decision is ultimately made to decouple or not.]

1. ORWW does not support the proposed decoupling of the Elliott State Forest (“the Elliott”) from the statutory obligation and responsibility of the State Land Board to manage the Elliott for the advantage of Oregon schoolchildren and the Common School Fund. We believe there is a false and unnecessary urgency to adopt this “solution” to effectively and legally manage the Elliott; that the 2016 appraisal of the Elliott for \$220 million grossly underestimates its true timber and land value, and doesn’t adequately consider potential research, education, and recreational values; and that this process – for those two reasons alone – is greatly unfair to Oregon school children, to the Common School Fund, to Oregon taxpayers, and to residents and businesses of Coos and Douglas counties.

2. “Elliott State Educational Forest.” Instead of “decoupling” the State Land Board from its fiscal and legal responsibilities we continue to support adoption of the proposed self-funding, 20-year “Giesy Plan Alternative” for the management of the Elliott at this time. This proposal was first formally presented to the Land Board at the February 14, 2017 meeting and provided with greater detail at the May 9, 2017 meeting. This proposal has also been discussed in detail in a series of public meetings, magazine articles, radio interviews, and newspaper editorials:

http://www.orww.org/Elliott_Forest/Research/Giesy_Plan

The basic design of the Giesy Plan proposal is to first divide the Elliott State Forest into 18 to 24 subbasins, at an average size approaching 5,000 acres. Subbasins would be further separated into contiguous riparian areas containing fish bearing streams, floodplains, roadways, and bridges; which would be managed separately from the upland forest, perhaps in collaboration with local Indian Tribes. One-half of the subbasins, about 40,000 acres, would be managed entirely for “old-growth habitat,” while the other subbasins would be systematically clearcut and reforested at the historical rate of 50 million board feet per year for 20 years. During this time careful records would be kept of nesting and foraging activities of local wildlife populations, carbon sequestration changes, and economic benefits to the Common School Fund and to local communities; and all resulting information would be made publicly available online.

Old-growth Habitat. Would be actively managed to maintain current access roads and viability of older trees. Salvage logging, prescribed fires on culturally significant meadows and berry patches, and considered reforestation would be allowed.

Active Management. These lands would be systematically clearcut on a subbasin basis to provide a direct contrast to the old-growth habitat subbasins, and then carefully reforested. These would be the principal source of the 50 million feet of harvest, supplementing any salvage logging, thinnings, or other prescribed harvest on old-growth and riparian reserves. Reforestation planning, plan implementation, and maintenance would be performed by Oregon students and local Tribes and businesses, based on historical survey patterns, comprehensive cultural resource inventories, and development of native, non-timber resources as meadows, prairies, trails, myrtle groves, cedar stands, etc.

Riparian Zones. These would be defined as a contiguous polygon including all fish bearing streams in the Elliott, and the streamside roads, trails, bridges, and culverts that adjoin them. Management would be in cooperation with local Indian Tribes and public schools.

In this way the Giesy Plan Alternative for managing the Elliott for 20 years would:

- 1) Provide a scientific demonstration as to how to help end the “forest wars” of the past 30 years in order to better manage our federal forest lands for local and wildlife benefits;
- 2) Produce more than 430 full-time local jobs in Coos and Douglas Counties;
- 3) Produce an estimated \$460+ million for the Oregon School Fund over 20 years;

4) Retain (and actively study) more than 40,000 acres of “old-growth habitat” for native animal species;

5) Provide an excellent scientific basis for researching nesting and foraging habitat for marbled murrelets and spotted owls; carbon sequestration measures for differing forest management approaches; and effects of active management on native coho and lamprey populations.

These results would be of direct benefit to Oregon schools, teachers, and students; to western US forest and wildlife managers; to local timber producing communities; and to native wildlife.

3. “Jerry Phillips Heritage Grove.” Jerry Phillips successfully managed the Elliott State Forest for most of his career and was responsible for many of the land transactions that helped build it to its current dimensions. He was also personally responsible for the creation of the Silver Creek Heritage Grove, which has never been formally recognized. David Gould has championed permanent boundaries for the reserve and a name change to honor Phillips’ work and we strongly support this proposal.

http://www.orww.org/Elliott_Forest/History/Phillips

ORWW recommends using the 1000 Line as the northern boundary to the proposed reserve for all of the State land in Section 12, Township 24 S., Range 11 W. (see attached map: 1000 Line is fairly close to historical Indian Trail). This area, about 100 acres in size, should be devoted to actively managing the largest and oldest trees in the Elliott in perpetuity and as an educational demonstration of reforestation, thinning, and salvage logging to achieve those objectives. This land base could be extended further westward to a private ownership interested in promoting recreational use of the Forest and include the North Marlow Ridge clearcut for related educational and recreational purposes.

4. During the past 2 ½ years ORWW has spent a significant amount of donated time and private funding to produce a comprehensive Elliott Forest educational website for the benefit of Oregon students, teachers, researchers, and taxpayers. This process has involved students and instructors from Southwestern Oregon Community College (SWOCC) and the website is currently comprised of multiple local history books, government reports, news articles and editorials, radio interviews, and hundreds of historical maps and photographs -- in addition to documenting six educational field trips and a student written draft plan with recommendations for expanding Elliott Forest recreational opportunities (see attachments):

http://www.orww.org/Elliott_Forest/Recreation

Our interest is to continue building the Elliott website for the direct benefit to Oregon high schools, community colleges, and universities. Other ORWW content and resources can likewise be used and developed into accredited online courses and school-related reports that can be used to correct, supplement, challenge, or further illuminate existing content. Proposed research projects regarding wildlife habitat, economics, and carbon sequestration can likewise be transparently shared and considered by all Oregonians with an interest in these topics.

Thank you for considering these proposals for the future ownership and management of the Elliott State Forest.

Sincerely,

<signature>

Bob Zybach (ORWW Secretary)

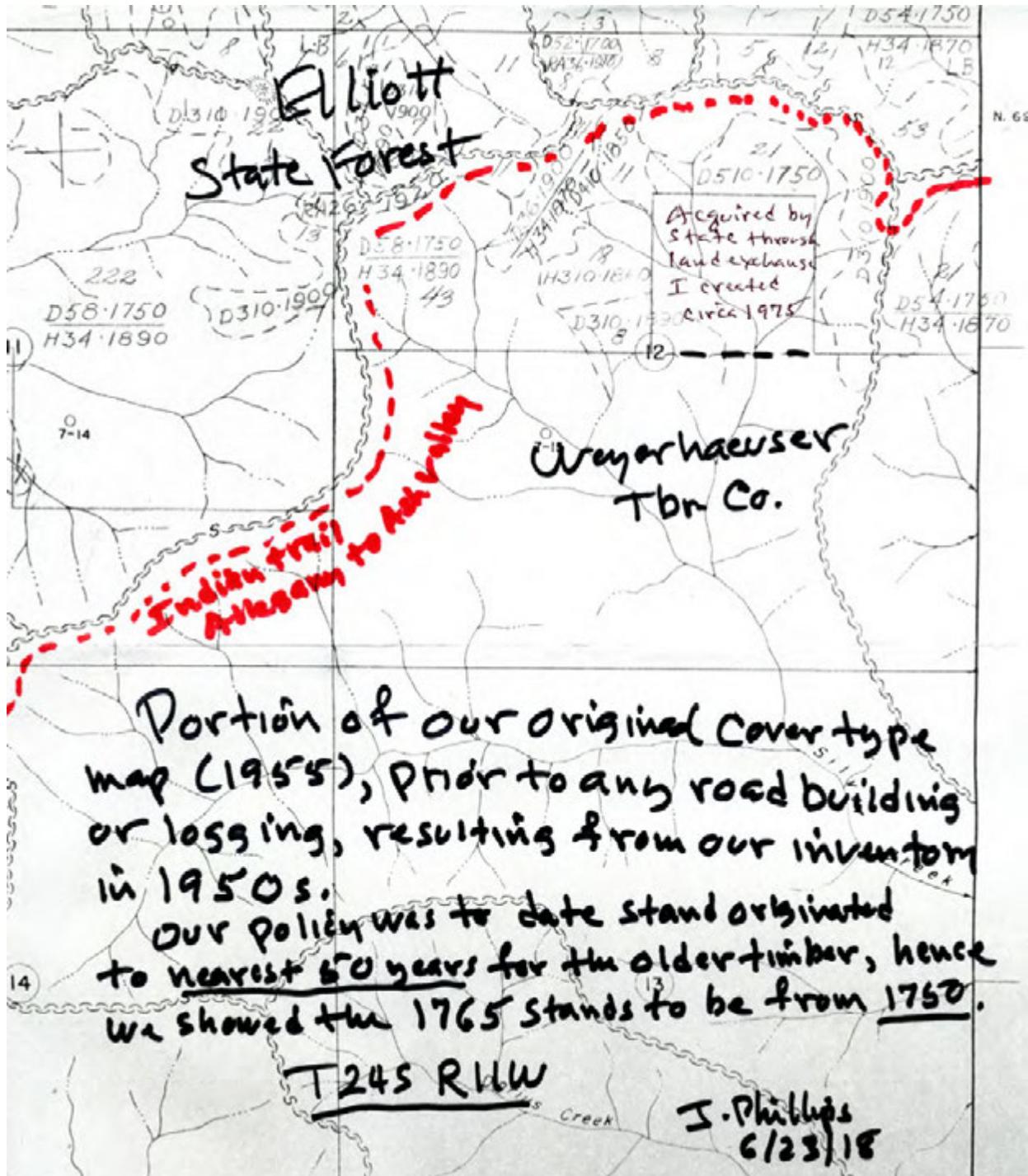
<signature>

Russ Sapp (ORWW President)

<signature>

Wayne Giesy (ORWW Treasurer)

Jerry Phillips' June 23, 2018 historical map of Silver Creek Heritage Grove as 40-acre land exchange from Weyerhaeuser following salvage logging operation. Tsp. 24 S., Rng. 11 W., Sec. 12.



October 28, 2017 Eugene *Register-Guard* editorial by Fergus McLean supporting the Giesy Plan proposal for its potential research value for carbon sequestration income scientifically compared to active management income.

GUEST VIEWPOINT

Make the Elliott a forest carbon research hub

By **FERGUS MCLEAN**
For *The Register-Guard*

The Clean Energy Jobs bill, which will create jobs while reducing Oregon's carbon footprint from 60 million tons a year to 50 million tons by 2025, is percolating in Salem in preparation for the 2018 legislative session.

Work on the bill — Senate Bill 1070 — comes as new survey data reveal that Oregon's forests absorb 36 million tons of carbon dioxide annually, more than half the state's entire previously known carbon footprint. This new recognition of the work of our forest carbon cycle has come as a wake-up call to policy-makers.

It's difficult to exaggerate the possible economic importance for Oregon of the amount of carbon we now know our forests sequester. A crude valuation of 36 million tons per year, based on the California price for

carbon offsets, would mean Oregon's forests absorb half a billion dollars' worth of carbon every year.

How can Oregon monetize this huge value? We have the experts, but they need support to lead us through the shift to a carbon-friendly forest policy.

The Giesy Plan for the Elliott State Forest promises one way that former adversaries can join forces to create a forest research institution in the Elliott and maximize forest revenue through a deeper understanding of the effects of management practices on the forest carbon cycle. Authorization of an Elliott Forest-based research institution can be included in SB 1070 — but that train leaves the station in mid-November, when the draft legislation goes to the Office of Legislative Counsel.

Wayne Giesy is an industry old-timer who first proposed his simple forest management strategy in the 1980s. It has found its

way into timber plans authored by Gov. John Kitzhaber, Rep. Peter Defazio and Sen. Ron Wyden.

An updated Giesy Plan for the Elliott State Forest is gaining traction in Salem, and shares surprising similarities with ecologically based, carbon-oriented proposals for Elliott management policy.

The classic Giesy Plan formula first protects streams and waterways, then divides the remaining forest equally between protected reserves and areas devoted to industrial management.

A carbon-oriented Giesy Plan, after setting aside 20 percent of the Elliott for riparian reserves for coho salmon, would divide the remaining Elliott land into not two, but three 22,000-acre pieces: one for industrial-style logging and a second for expanded older timber reserves surrounding the nests of spotted owls and marbled murrelets, as Giesy suggested.

The third sector should be

dedicated to the study of forest management through the creation of a world-class forest carbon research institution to push the frontiers of understanding of the workings of forest carbon cycles, including production of the highest quality (and highest value) carbon credits, building on Oregon's overwhelming leadership in forest carbon production. This institute would manage the forest's carbon reserves, monitor ecological and economic effects of all management activities, and conduct public education and outreach.

Researchers would investigate job creation opportunities that arise when a forest is managed as a functional ecosystem rather than a single-purpose lumber factory, combine those with creating and monitoring a carbon reserve, and integrate both with a wildland forest fire training academy to create a new kind of forest workers' career path.

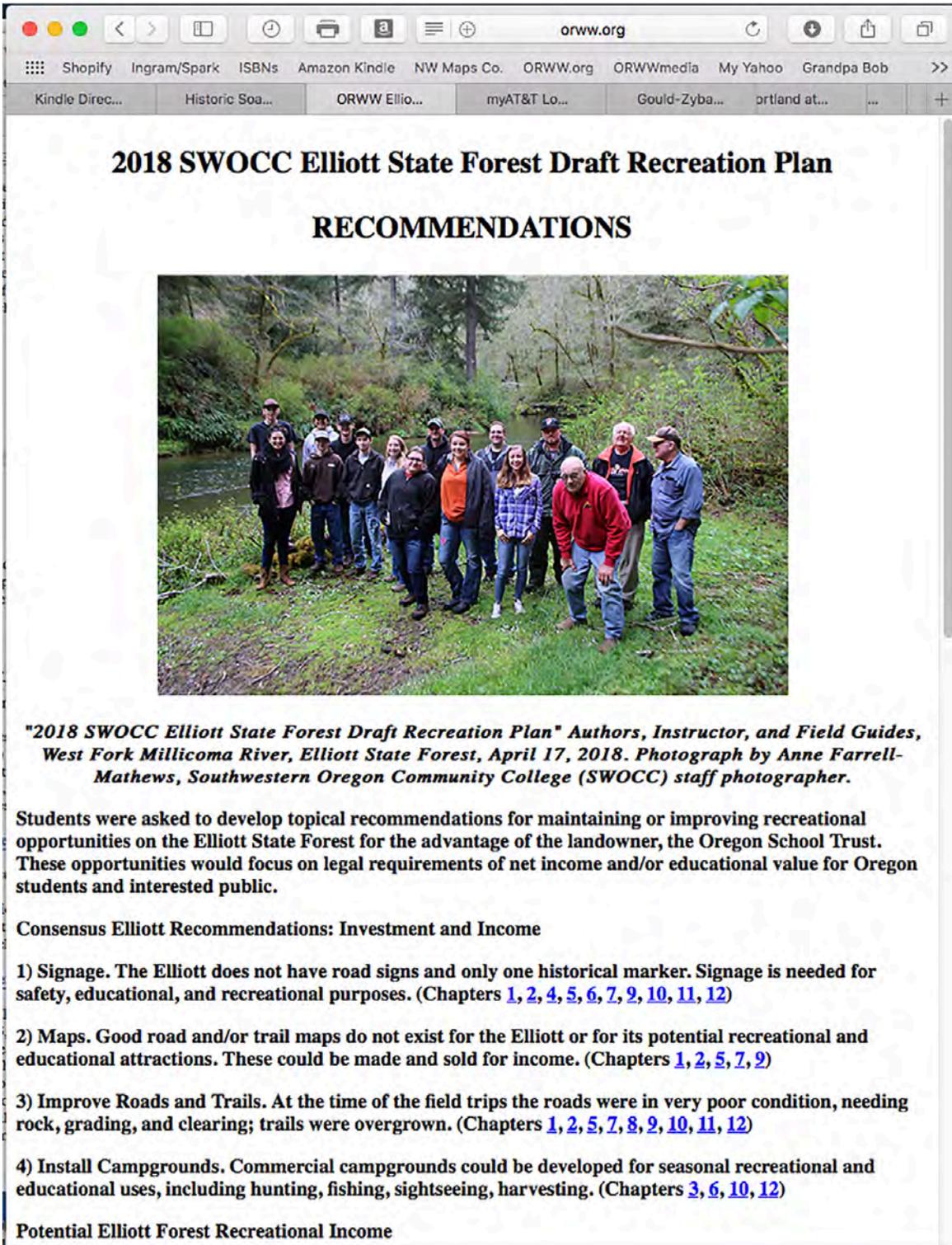
We can call the new institution the Elliott State Educational and Experimental Forest.

Income from logging could cover the annual obligation to the Common School Fund, while the sale of Elliott carbon credits can finance the building of a world-class Oregon forest carbon research institution and, over time, complete the \$120 million buyout of the forest from the Common School Fund.

By authorizing the trading of Elliott Forest carbon credits in the language of SB 1070, lawmakers can launch a brand-new economic paradigm for Oregon's forests.

Fergus McLean of Deater, a retired forester, is a member of the Southwest Willamette Forestry Collaborative. A longer version of this essay can be found at <http://oregon2.sierraclub.org/many-rivers> and <http://world.350.org/eugene>.

This page shows how the 2018 SWOCC Draft Elliott Forest Recreation Plan appears online, including HTML hyper-text “Recommendation” links to individual online chapters authored by student teams. The following page shows how the students’ Recommendations appear in their complete form, as page 47 in the printable PDF format of the Draft Plan.



2018 SWOCC Elliott State Forest Draft Recreation Plan

RECOMMENDATIONS



"2018 SWOCC Elliott State Forest Draft Recreation Plan" Authors, Instructor, and Field Guides, West Fork Millicoma River, Elliott State Forest, April 17, 2018. Photograph by Anne Farrell-Mathews, Southwestern Oregon Community College (SWOCC) staff photographer.

Students were asked to develop topical recommendations for maintaining or improving recreational opportunities on the Elliott State Forest for the advantage of the landowner, the Oregon School Trust. These opportunities would focus on legal requirements of net income and/or educational value for Oregon students and interested public.

Consensus Elliott Recommendations: Investment and Income

- 1) Signage. The Elliott does not have road signs and only one historical marker. Signage is needed for safety, educational, and recreational purposes. (Chapters [1](#), [2](#), [4](#), [5](#), [6](#), [7](#), [9](#), [10](#), [11](#), [12](#))
- 2) Maps. Good road and/or trail maps do not exist for the Elliott or for its potential recreational and educational attractions. These could be made and sold for income. (Chapters [1](#), [2](#), [5](#), [7](#), [9](#))
- 3) Improve Roads and Trails. At the time of the field trips the roads were in very poor condition, needing rock, grading, and clearing; trails were overgrown. (Chapters [1](#), [2](#), [5](#), [7](#), [8](#), [9](#), [10](#), [11](#), [12](#))
- 4) Install Campgrounds. Commercial campgrounds could be developed for seasonal recreational and educational uses, including hunting, fishing, sightseeing, harvesting. (Chapters [3](#), [6](#), [10](#), [12](#))

Potential Elliott Forest Recreational Income

RECOMMENDATIONS

Students were asked to develop topical recommendations for maintaining or improving recreational opportunities on the Elliott State Forest for the advantage of the landowner, the Oregon School Trust. These opportunities would focus on legal requirements of net income, and/or for educational value for Oregon students and interested public.

Consensus Elliott Recommendations: Investment and Income

- 1) Signage. The Elliott does not have road signs and only one historical marker. Signage is needed for safety, educational, and recreational purposes. (Chapters 1, 2, 5, 6, 7, 9, 10, 11, 12)
- 2) Maps. Good road and/or trail maps do not exist for the Elliott or for its potential recreational and educational attractions. These could be made and sold for income. (Chapters 1, 2, 5, 7, 9)
- 3) Improve Roads and Trails. At the time of the field trips the roads were in very poor condition, needing rock, grading, and clearing; trails were overgrown. (Chapters 1, 2, 5, 7, 8, 9, 10, 11, 12)
- 4) Install Campgrounds. Commercial campgrounds could be developed for seasonal recreational and educational uses, including hunting, fishing, sightseeing, harvesting. (Chapters 3, 6, 10, 12)

Potential Elliott Forest Recreational Income

- 5) User Fees. Recreational users of the Elliott could pay access and parking fees for activities such as hunting, fishing, camping, sightseeing, and harvesting. (Chapters 1, 3, 4, 5, 6, 9, 10, 12)
- 6) Strategic Logging. Commercial logging could create and maintain scenic vistas, game foraging areas, berry fields, roads, trails, campgrounds, etc. (Chapters 5, 7, 10, 11, 12)
- 7) Grant Applications. A number of existing sources for installing signage, increasing fish runs, developing wildlife habitat, etc., already exist and can be used. (Chapters 1, 2, 6, 9)
- 8) Local Business Networks. Existing recreational businesses on the perimeter of the Elliott could benefit by increased forest recreations, map and supply sales, etc. (Chapters 2, 7, 9)
- 9) Donations. Another potential source of income could be voluntary donations by people or organizations directly using the Elliott or supporting its uses. (Chapters 2, 4, 7, 9, 12)

Other Recommendations

Chapter 2: 1) Forest “zipline” attraction(s).

Chapter 7: 1) Increase hatchery fish runs; 2) improve hatchery visits; 3) conduct fish research.

Chapter 8: 1) Improve fish habitat.

Chapter 9: 1) Limit access to birds during nesting season; 2) conduct bird research.

Chapter 10: 1) Use of herbicides for vegetation management.

Chapter 12: 1) Install commercial communication towers.



Oregon

Kate Brown, Governor

Department of State Lands

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State Land Board

Kate Brown

Governor

Dennis Richardson

Secretary of State

Tobias Read

State Treasurer

State Land Board

**Regular Meeting
December 18, 2018
Agenda Item 8**

SUBJECT

Request endorsement of Legislative Concept 686 (LC 686). This concept would transfer the administration of Uniform Disposition of Unclaimed Property Act, unclaimed estates and escheating funds from Department of State Lands to State Treasurer.

ISSUE

Whether the State Land Board should endorse LC 686 and authorize the Department of State Lands (DSL) to support LC 686 during the 2019 Legislative Session.

AUTHORITY

ORS 273.041 directing DSL to exercise all of the administrative functions of the State Land Board.

ORS 98.050, 98.302, 98.329, 98.348, 98.352, 98.353, 98.354, 98.356, 98.362, 98.366, 98.372, 98.376, 98.382, 98.384, 98.386, 98.388, 98.392, 98.396, 98.402, 98.412, 98.416, 98.422, 98.424, 98.991, 98.992 relating to unclaimed property.

ORS 112.055, 113.045, 113.075, 113.085, 113.105, 113.235, 113.238, 113.242, 114.325, 114.505, 114.520, 114.535, 116.193, 116.203, 116.243, 116.253, 146.125, 183.635, 273.125, 273.141, 273.183, 287A.474, 293.450, 293.455, 293.460, 293.701 relating to probates and estates.

BACKGROUND

In March 2018, Vicki Walker began serving as Department of State Lands Interim Director. Walker was directed to review the department with an eye towards the core mission and efficient operations. To that end, one of the specific tasks was to evaluate whether Unclaimed Property should continue to reside at State Lands; or, whether there was a more appropriate agency that would better align with the mission of Unclaimed Property.

DSL has since researched the history of Oregon's program, as well as national best practices for unclaimed property programs. In most states, the program is housed in the State Treasurer's Office. Other states, the program resides in a revenue agency or comptroller's office, state auditor or attorney general. North Dakota is the only other state to house unclaimed property in a state lands department.

Working with Treasurer Read's staff, DSL has explored potential for a successful transition of the Unclaimed Property program to the Treasurer's Office. Discussion with stakeholders has largely been positive. They wanted assurances the Unclaimed Property and Estate funds would stay in the Common School Fund, and that will not change; we are simply changing who will manage the program. Treasury consulted with DSL staff and requested a legislative concept, LC 686, for introduction in the 2019 session.

RECOMMENDATION

The Department of State Lands recommends the Land Board endorse LC 686 and approve DSL staff support to assist Treasury in its passage; and, that DSL will work with the State Treasurer's office to assure a collaborative and successful transition if approved by the 2019 Legislative Assembly.

APPENDIX

A. Draft LC 686

LC 686
 2019 Regular Session
 17000-015
 9/13/18 (RLM/ps)

D R A F T

SUMMARY

Transfers administration of Uniform Disposition of Unclaimed Property Act, unclaimed estates and escheating funds from Department of State Lands to State Treasurer.

Eliminates additional requirements for recovering proceeds of unclaimed United States savings bonds.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to administering unclaimed properties; creating new provisions; and amending ORS 60.674, 62.720, 63.674, 65.674, 87.691, 90.425, 97.170, 98.050, 98.302, 98.329, 98.348, 98.352, 98.353, 98.354, 98.356, 98.362, 98.366, 98.372, 98.376, 98.382, 98.384, 98.386, 98.388, 98.392, 98.396, 98.402, 98.412, 98.416, 98.422, 98.424, 98.991, 98.992, 112.055, 113.045, 113.075, 113.085, 113.105, 113.235, 113.238, 113.242, 114.325, 114.505, 114.520, 114.535, 116.193, 116.203, 116.243, 116.253, 146.125, 183.635, 273.125, 273.141, 273.183, 287A.474, 293.450, 293.455, 293.460, 293.701, 314.840, 327.405, 652.405, 657.665, 708A.430, 708A.655, 711.225, 711.230, 711.235, 711.590, 716.905, 716.910, 723.466 and 723.844 and section 2, chapter 91, Oregon Laws 2018, section 2, chapter 95, Oregon Laws 2018, and sections 22 and 23, chapter 105, Oregon Laws 2018; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

TRANSFER OF ADMINISTRATION

SECTION 1. The duties, functions and powers of the Department

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 of State Lands are imposed upon, transferred to and vested in the
2 State Treasurer as they relate to:

3 (1) The Uniform Disposition of Unclaimed Property Act in ORS
4 98.302 to 98.436 and 98.992.

5 (2) Administration of estates as provided in ORS 112.055, 113.085,
6 113.235, 113.238, 113.242 and 114.505 to 114.560 and the duties of an estate
7 administrator as personal representative of an estate under ORS
8 chapters 111, 112, 113, 114, 115, 116 and 117; and

9 (3) Property escheated to the state and held under ORS 112.055,
10 113.085, 113.242, 114.555, 116.193, 116.203, 116.253, 652.405, 708A.430 and
11 723.466, or any other source of escheated property or funds.

12 SECTION 2. (1) The Director of the Department of State Lands
13 shall:

14 (a) Deliver to the State Treasurer all records and property within
15 the jurisdiction of the director that relate to the duties, functions and
16 powers transferred by section 1 of this 2019 Act; and

17 (b) Transfer to the State Treasurer those employees engaged pri-
18 marily in the exercise of the duties, functions and powers transferred
19 by section 1 of this 2019 Act.

20 (2) The State Treasurer shall take possession of the records and
21 property, and shall take charge of the employees and employ them in
22 the exercise of the duties, functions and powers transferred by section
23 1 of this 2019 Act, without reduction of compensation but subject to
24 change or termination of employment or compensation as provided by
25 law.

26 (3) The Governor shall resolve any dispute between the Department
27 of State Lands and the State Treasurer relating to transfers of records,
28 property and employees under this section. The Governor's determi-
29 nation is final.

30 SECTION 3. The transfer of duties, functions and powers to the
31 State Treasurer by section 1 of this 2019 Act does not affect any action,

1 proceeding or prosecution with respect to such duties, functions and
2 powers begun before and pending at the time of the transfer, except
3 that the State Treasurer may be substituted for the Department of
4 State Lands in the action, proceeding or prosecution.

5 **SECTION 4.** (1) Nothing in sections 1 to 6 of this 2019 Act relieves
6 a person of a liability, duty or obligation accruing under or with re-
7 spect to the duties, functions and powers transferred by section 1 of
8 this 2019 Act. The State Treasurer may undertake the collection or
9 enforcement of any such liability, duty or obligation.

10 (2) The rights and obligations of the Department of State Lands
11 under contracts, leases and business transactions executed, entered
12 into or begun before the operative date of section 1 of this 2019 Act
13 with respect to the duties, functions and powers transferred by section
14 1 of this 2019 Act are transferred to the State Treasurer. For the pur-
15 pose of succession to these rights and obligations, the State Treasurer
16 is a continuation of the Department of State Lands and not a new
17 authority.

18 **SECTION 5.** Notwithstanding the transfer of duties, functions and
19 powers by section 1 of this 2019 Act, the rules of the Department of
20 State Lands with respect to such duties, functions or powers trans-
21 ferred under section 1 of this 2019 Act in effect on the operative date
22 of section 1 of this 2019 Act continue until superseded or repealed by
23 rules of the State Treasurer. References in such rules to the Depart-
24 ment of State Lands or an officer or employee of the Department of
25 State Lands are considered references to the State Treasurer or an
26 officer or employee of the State Treasurer.

27 **SECTION 6.** In any uncodified law or resolution of the Legislative
28 Assembly or in any rule, document, record or proceeding authorized
29 by the Legislative Assembly, within the context of the duties, func-
30 tions and powers transferred by section 1 of this 2019 Act, wherever
31 reference is made to the Department of State Lands, or an officer or

1 **employee of the Department of State Lands, whose duties, functions**
2 **or powers are transferred by section 1 of this 2019 Act, the reference**
3 **is considered to be a reference to the State Treasurer or an officer or**
4 **employee of the State Treasurer charged with carrying out such du-**
5 **ties, functions and powers.**

6

7 **UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT**

8

9 **SECTION 7.** ORS 98.302 is amended to read:

10 98.302. As used in ORS 98.302 to 98.436 and 98.992, unless the context
11 otherwise requires:

12 [(1) “Administrator” means the Director of the Department of State
13 Lands.]

14 [(2)] (1) “Apparent owner” means the person whose name appears on the
15 records of the holder as the person entitled to property held, issued or owing
16 by the holder.

17 [(3)] (2) “Business association” means a nonpublic corporation, joint stock
18 company, business trust, partnership, investment company or an association
19 for business purposes of two or more individuals, whether or not for profit,
20 including a financial institution, insurance company or utility.

21 [(4)] (3) “Domicile” means the state of incorporation of a corporation and
22 the state of the principal place of business of an unincorporated person.

23 [(5)] (4) “Financial institution” means a financial institution or a trust
24 company, as those terms are defined in ORS 706.008, a safe deposit company,
25 a private banker, a savings and loan association, a building and loan asso-
26 ciation or an investment company.

27 [(6)] (5) “Holder” means a person, wherever organized or domiciled, who
28 is in possession of property belonging to another, a trustee or indebted to
29 another on an obligation.

30 [(7)] (6) “Insurance company” means an association, corporation, fraternal
31 or mutual benefit organization, whether or not for profit, [which] **that** is

1 engaged in providing insurance coverage, including accident, burial, casu-
2 alty, workers' compensation, credit life, contract performance, dental, fidel-
3 ity, fire, health, hospitalization, illness, life (including endowments and
4 annuities), malpractice, marine, mortgage, surety and wage protection in-
5 surance.

6 [(8)] (7) "Intangible property" includes:

7 (a) Credit balances, customer overpayments, security deposits, refunds,
8 credit memos, unpaid wages, unused airline tickets and unidentified remit-
9 tances;

10 (b) Stocks and other intangible ownership interests in business associ-
11 ations;

12 (c) Moneys deposited to redeem stocks, bonds, coupons, and other securi-
13 ties, or to make distributions;

14 (d) Amounts due and payable under the terms of insurance policies;

15 (e) Amounts distributed from a trust or custodial fund established under
16 a plan to provide health, welfare, pension, vacation, severance, retirement,
17 death, stock purchase, profit sharing, employee savings, supplemental unem-
18 ployment insurance or similar benefits; and

19 (f) Moneys, checks, drafts, deposits, interest, dividends and income.

20 [(9)] (8) "Last-known address" means a description of the location of the
21 apparent owner sufficient for the purpose of delivery of mail.

22 [(10)] (9) "Lawful deduction" means a deduction related to the purpose
23 of an account or deposit, for example, to satisfy unpaid utility bills.

24 [(11)] (10) "Owner" means a depositor in case of a deposit, a beneficiary
25 in case of a trust other than a deposit in trust, a creditor, claimant, or payee
26 in case of other intangible property, or a person, or the person's legal rep-
27 resentative, having a legal or equitable interest in property.

28 [(12)] (11) "Person" means an individual, business association, state or
29 other government or political subdivision or agency, public corporation,
30 public authority, two or more persons having a joint or common interest, or
31 any other legal or commercial entity.

1 [(13)] (12) “Service charge” means fees or charges that are limited to a
2 specific situation and that meet basic contractual and notice requirements.

3 [(14)] (13) “State” means any state, district, commonwealth, territory, in-
4 sular possession or any other area subject to the legislative authority of the
5 United States.

6 [(15)] (14) “Utility” means a person who owns or operates for public use,
7 any plant, equipment, property, franchise or license for the transmission of
8 communications or the production, storage, transmission, sale, delivery or
9 furnishing of electricity, water, steam or gas.

10 **SECTION 8.** ORS 98.329 is amended to read:

11 98.329. A holder, with the written consent of the [*Department of State*
12 *Lands*] **State Treasurer**, and in compliance with rules prescribed by the
13 [*department*] **State Treasurer**, may report and deliver property before the
14 property is presumed abandoned.

15 **SECTION 9.** ORS 98.348 is amended to read:

16 98.348. (1) At any time after property has been paid or delivered to the
17 [*Department of State Lands*] **State Treasurer** under ORS 98.352, another
18 state may recover the property if one or more of the following is true:

19 (a) The property was subjected to custody by this state because the re-
20 cords of the holder did not reflect the last-known address of the apparent
21 owner when the property was presumed abandoned under ORS 98.302 to
22 98.436 and 98.992; and the other state establishes that the last-known address
23 of the apparent owner or other person entitled to the property was in that
24 state and under the laws of that state the property escheated to or was
25 subject to a claim of abandonment by that state.

26 (b) The last-known address of the apparent owner or other person entitled
27 to the property, as reflected by the records of the holder, is in the other state
28 and under the laws of that state the property has escheated to or become
29 subject to a claim of abandonment by that state.

30 (c) The records of the holder were erroneous in that they did not accu-
31 rately reflect the owner of the property and the last-known address of the

1 owner is in the other state and under the laws of that state the property
2 escheated to or was subject to a claim of abandonment by that state.

3 (d) The property was subjected to custody by this state and under the
4 laws of the state of domicile of the holder the property has escheated to or
5 become subject to a claim of abandonment by that state.

6 (e) The property is the sum payable on a traveler's check, money order
7 or other similar instrument that was subjected to custody by this state under
8 ORS 98.309, and the instrument was purchased in the other state and under
9 the laws of that state the property escheated to or became subject to a claim
10 of abandonment by that state.

11 (2) The claim of another state to recover escheated or unclaimed property
12 must be presented in a form prescribed by the [*Department of State Lands*]
13 **State Treasurer**. The [*department*] **State Treasurer** shall decide the claim
14 within 90 days after it is presented.

15 (3) The [*department*] **State Treasurer** shall require a state, before recov-
16 ering property under this section, to agree to indemnify this state and its
17 officers and employees against any liability on a claim for the property.

18 **SECTION 10.** ORS 98.352 is amended to read:

19 98.352. (1) [*Every person holding funds or other property, tangible or in-*
20 *tangible,*] **A holder of property** presumed abandoned under ORS 98.302 to
21 98.436 and 98.992 [*shall report and pay or deliver to the Department of State*
22 *Lands all property presumed abandoned as provided in this section, except*
23 *that*] **shall deliver to the State Treasurer the report described in sub-**
24 **section (2) of this section and shall pay or deliver to the State Treas-**
25 **urer all property presumed abandoned, except that for the following**
26 **funds the holder is not required to deliver the funds presumed aban-**
27 **doned to the State Treasurer:**

28 (a) Funds transferred to the General Fund under ORS 293.455 (1)(a) [*shall*
29 *only be reported to the department*].

30 (b) Funds in the possession of the Child Support Program described in
31 ORS 180.345 [*shall only be reported to the department*].

1 (c) Funds **described in ORS 9.725 (3) or 98.386 (2) that are held in**
2 lawyer trust accounts [*shall only be reported to the department*] **or in the**
3 **possession of the Oregon State Bar.**

4 (2) [*The report shall be verified as to the accuracy of the information con-*
5 *tained and shall*] **A report must** include:

6 (a) Except with respect to traveler's checks and money orders, the name,
7 if known, and address, if known, of each person appearing from the records
8 of the holder to be the owner of any property of value of \$50 or more pre-
9 sumed abandoned under ORS 98.302 to 98.436 and 98.992;

10 (b) In case of unclaimed funds of life insurance corporations, the full
11 name of the insured or annuitant and last-known address according to the
12 life insurance corporation's records;

13 (c) The nature and identifying number, if any, or description of the
14 property and the amount appearing from the records to be due, except that
15 items of value under \$50 each may be reported in aggregate;

16 (d) The date when the property became payable, demandable, or return-
17 able, and the date of the last transaction with the owner with respect to the
18 property; and

19 (e) Other information that the [*department*] **State Treasurer** prescribes
20 by rule as necessary for the administration of ORS 98.302 to 98.436 and
21 98.992.

22 (3) If the [*person holding*] **holder of** property presumed abandoned is a
23 successor to other [*persons who previously held the property for the owner,*]
24 **holders** or [*if the holder*] has had a name change while holding the property,
25 the holder shall file with the report all prior known names and addresses
26 and effective dates of changes [*if known of each holder of the property*].

27 (4) The [*report shall be filed*] **holder shall file the report** after October
28 1, but no later than November 1, of each year for accounts dormant as of
29 June 30. **Upon written request from any person required to file a re-**
30 **port,** the [*department*] **State Treasurer** may postpone the reporting date
31 [*upon written request by any person required to file a report*]. All records are

1 exempt from public review for 12 months from the time the property is re-
2 portable and for 24 months after the property has been remitted to the [*de-*
3 *partment*] **State Treasurer**. All lists of records or property held by a
4 government or public authority under ORS 98.336 [*shall be*] **are** exempt from
5 public review until 24 months after the property is remitted to the [*depart-*
6 *ment*] **State Treasurer**.

7 (5) If the holder of property presumed abandoned under ORS 98.302 to
8 98.436 and 98.992 knows the whereabouts of the owner and if the owner's
9 claim [*has not been*] **is not** barred by the statute of limitations, the holder
10 shall, before filing the [*annual*] report, communicate with the owner and take
11 necessary steps to prevent abandonment from being presumed. The holder
12 shall exercise due diligence to ascertain the whereabouts of the owner.

13 (6) If the property presumed abandoned is a lawyer trust account estab-
14 lished by an attorney or law firm, the report required by this section must
15 indicate that the account is a lawyer trust account [*in addition to providing*
16 *the information required by subsection (2) of this section*].

17 (7) **The holder shall verify the accuracy of the information con-**
18 **tained in the report.** Verification[,] **must be executed by a partner** if
19 made by a partnership, [*shall be executed by a partner;*] **by an officer** if made
20 by an unincorporated association or private corporation[, *by an officer;*] and
21 **by the chief fiscal officer** if made by a public corporation[, *by its chief*
22 *fiscal officer*].

23 **SECTION 11.** ORS 98.353 is amended to read:

24 98.353. (1) The [*Department of State Lands*] **State Treasurer** shall [, *on*
25 *a regular basis,*] **regularly** provide educational or informational materials
26 to persons required to file a report under ORS 98.352. The educational or
27 informational materials [*shall contain, but shall not be limited to,*] **must in-**
28 **clude** information describing:

29 (a) The types of property, tangible and intangible, that are subject to re-
30 porting;

31 (b) Persons who typically hold, knowingly or unknowingly, unclaimed

1 property;

2 (c) Record keeping requirements for persons holding unclaimed property;
3 and

4 (d) Any penalties for failing to comply with the provisions of ORS 98.302
5 to 98.436.

6 (2) Upon request by the [*Department of State Lands, the Department of*
7 *Revenue and the Office of the Secretary of State shall*] **State Treasurer:**

8 [*(a) Assist the Department of State Lands in determining which persons*
9 *are required to file a report under ORS 98.352; and*]

10 [*(b) Allow the Department of State Lands to include information about*
11 *unclaimed property reporting requirements in the regular mailings of the De-*
12 *partment of Revenue.*]

13 **(a) The Department of Consumer and Business Services, the De-**
14 **partment of Revenue and the office of the Secretary of State shall**
15 **assist the State Treasurer in determining which persons are required**
16 **to file a report under ORS 98.352 or who may make a claim under ORS**
17 **98.392; and**

18 **(b) The Department of Consumer and Business Services, the De-**
19 **partment of Revenue, the Employment Department and the office of**
20 **the Secretary of State shall allow the State Treasurer to include in-**
21 **formation about unclaimed property reporting requirements and**
22 **claims in the regular mailings of the departments and office and in**
23 **electronic communications and resources.**

24 **SECTION 12.** ORS 98.354 is amended to read:

25 98.354. (1) Every holder required to file a report under ORS 98.352 as to
26 any property for which the holder has obtained an address of the owner,
27 shall maintain a record of the name and last-known address of the owner and
28 such signature cards and other evidence [*which*] **that** would assist in the
29 identification of the owner for three years after the property has been
30 remitted to the [*Department of State Lands*] **State Treasurer.**

31 (2) Any business association that sells in this state traveler's checks,

1 money orders or other similar written instruments, other than third party
2 bank checks on which the business association is directly liable, or that
3 provides such instruments to others for sale in this state, shall maintain a
4 record of those instruments while they remain outstanding, indicating the
5 state and date of issue, for five years after the date the property has been
6 remitted to the [department] **State Treasurer**.

7 **SECTION 13.** ORS 98.356 is amended to read:

8 98.356. (1) The [Department of State Lands] **State Treasurer** shall publish
9 notice of owners' unclaimed accounts reported under ORS 98.352. The notice
10 shall be published at least twice in a newspaper or other generally circulated
11 periodical published in this state. The [department] **State Treasurer** may
12 publish such notices at intervals to locate owners of accounts received under
13 ORS 98.352 (4) in an expedient manner, but shall complete publication of all
14 such accounts within one year of remittance.

15 (2) The [department] **State Treasurer** is not required to publish in such
16 notice any item of less than \$100 unless the [department] **State Treasurer**
17 deems such publication to be in the public interest.

18 (3) This section is not applicable to sums payable on traveler's checks or
19 money orders presumed abandoned under ORS 98.309.

20 (4) The [department] **State Treasurer** shall undertake reasonable efforts
21 to locate owners of unclaimed property reported to the [department] **State**
22 **Treasurer** under ORS 98.352. The costs of such efforts may be deducted from
23 the proceeds that are paid to the owners when and if an owner is located.
24 The [department] **State Treasurer** shall specify, by rule, a maximum per-
25 centage of costs that may be deducted from a verified claim for unclaimed
26 property.

27 (5) The [Department of State Lands] **State Treasurer** may not disclose
28 to the general public any confidential information provided by the Depart-
29 ment of Revenue from taxpayer returns.

30 **SECTION 14.** ORS 98.362 is amended to read:

31 98.362. (1) The holder of an intangible equity ownership interest presumed

1 abandoned under ORS 98.322 shall deliver a certificate of ownership or other
2 evidence of ownership to the [*Department of State Lands*] **State Treasurer**
3 as follows:

4 (a) The original certificate shall be delivered to the [*department*] **State**
5 **Treasurer** when it is held by the business association, transfer agent,
6 registrar or other person acting on behalf of the business association.

7 (b) A duplicate certificate shall be issued to the [*department*] **State**
8 **Treasurer** when the business association, transfer agent, registrar or other
9 person acting on behalf of the holder does not hold the original.

10 (2) After issuance of a duplicate certificate under subsection (1) of this
11 section, the rights of a protected purchaser of the original certificate [*shall*
12 *be*] **are** governed by ORS 78.4050. In such event, [*recovery by*] the protected
13 purchaser [*shall be*] **may seek recovery** against the [*department*] **State**
14 **Treasurer** to the extent allowed under the Oregon Constitution.

15 **SECTION 15.** ORS 98.366 is amended to read:

16 98.366. (1) Upon the payment or delivery of unclaimed property to the
17 [*Department of State Lands*] **State Treasurer**, the state shall assume custody
18 and [*shall be*] **is** responsible for [*the*] **its** safekeeping [*thereof*]. Any person
19 who pays or delivers unclaimed property to the [*department*] **State Treas-**
20 **urer** under ORS 98.352 is relieved of all liability to the extent of the value
21 of the property [*so*] paid or delivered for any claim [*which*] **that** then exists
22 or [*which thereafter*] may arise [*or be made*] in respect to the property.

23 (2) A holder who has paid money to the [*department*] **State Treasurer**
24 under ORS 98.352 may make payment to any person appearing to the holder
25 to be entitled to payment. The [*department*] **State Treasurer** shall reimburse
26 the holder within 60 days of receiving proof that payment was made to a
27 person who appeared to the holder to be entitled to payment[. *The depart-*
28 *ment shall reimburse the holder for the payment*] without imposing any fee
29 or other charge.

30 **SECTION 16.** ORS 98.372 is amended to read:

31 98.372. The owner is not entitled to receive income or other increments

1 [which] **that** have accrued on the property after the property is paid or de-
2 livered to the [Department of State Lands] **State Treasurer** under ORS
3 98.352.

4 **SECTION 17.** ORS 98.376 is amended to read:

5 98.376. The expiration of any period of time specified by statute or court
6 order, during which an action, suit or proceeding may be commenced or en-
7 forced to obtain payment of a claim for money or recovery of property,
8 [shall] **does** not prevent the money or property from being presumed aban-
9 doned [, nor] **and does not** affect any duty to file a report required by ORS
10 98.352 or to pay or deliver unclaimed property to the [Department of State
11 Lands, provided that] **State Treasurer**. This section [shall] **does** not affect
12 any property interests [which became] **that** vested prior to August 20, 1957.

13 **SECTION 18.** ORS 98.382 is amended to read:

14 98.382. (1)(a) **The State Treasurer shall sell** all unclaimed property
15 [other than money and securities] delivered to the [Department of State
16 Lands] **State Treasurer** under [ORS 98.362 shall be sold by the department]
17 **ORS 98.352, except money and securities,** to the highest bidder at public
18 sale by the method and at the location that the [department] **State Treas-**
19 **urer** determines are the most favorable for receiving the highest price for
20 the property involved. The [department] **State Treasurer** may decline the
21 highest bid and reoffer the property for sale if the [department] **State**
22 **Treasurer** considers the price bid insufficient. The [department] **State**
23 **Treasurer** need not offer any property for sale if, in the [department's] **State**
24 **Treasurer's** opinion, the probable cost of sale exceeds the value of the
25 property.

26 (b) In choosing the most favorable method for the sale of property under
27 this subsection, the [department] **State Treasurer** may consider:

28 (A) A public oral auction;

29 (B) An electronic commerce forum; and

30 (C) Any other method for sale that ensures the highest returns and pro-
31 vides for open, public participation.

1 (c) In choosing the most favorable location for the sale of property under
2 this subsection, the [department] **State Treasurer** may consider:

3 (A) The population of the location;

4 (B) The cost of conducting the sale in the location;

5 (C) The type of property being sold;

6 (D) The public access to the proposed sale location, including parking;

7 and

8 (E) Any other indicator of market potential of the location.

9 (2) For a sale by public oral auction held under subsection (1) of this
10 section, the [department] **State Treasurer** shall publish at least a single
11 notice of the sale at least 10 days in advance of the sale in a newspaper of
12 general circulation in the county where the property is to be sold. For a sale
13 by a method other than public oral auction, the [department] **State Treas-**
14 **urer** shall publish at least a single notice in a newspaper of general circu-
15 lation in Marion County.

16 (3) Securities listed on an established stock exchange shall be sold on the
17 exchange at prices prevailing on the exchange at the time of sale. Other se-
18 curities may be sold over the counter at prices prevailing at the time of sale
19 or by any other method the [administrator] **State Treasurer** considers ad-
20 visable.

21 (4) **The State Treasurer shall sell** all securities and other intangible
22 properties presumed abandoned [under ORS 98.362 and delivered to the de-
23 partment shall be sold by the department] **and received under ORS 98.362**
24 at such time and place and in such manner as [in the department's judgment
25 will] **the State Treasurer determines will** bring the highest return.

26 (5) The [department] **State Treasurer** shall indemnify the holder of se-
27 curities presumed abandoned under ORS 98.322 to the extent allowed by the
28 Oregon Constitution. The [department] **State Treasurer** shall establish pro-
29 cedures by administrative rule to pay the rightful owner proceeds received
30 from securities that were sold before the owner filed a claim to recover such
31 securities.

1 (6) The purchaser at a sale conducted by the [*department*] **State Treas-**
2 **urer** pursuant to this section shall receive title to the property purchased,
3 free from all claims of the owner or prior holder of the property and of all
4 persons claiming through or under them. The [*department*] **State Treasurer**
5 shall execute all documents necessary to complete the transfer of title.

6 **SECTION 19.** ORS 98.384 is amended to read:

7 98.384. If the [*Department of State Lands*] **State Treasurer** determines
8 after investigation that any property delivered under ORS 98.352 has insub-
9 stantial commercial value, the [*department*] **State Treasurer** may destroy
10 or otherwise dispose of the property at any time. No action or proceeding
11 may be maintained against the state or any officer or against the holder for
12 or on account of any action taken by the [*department*] **State Treasurer**
13 pursuant to this section.

14 **SECTION 20.** ORS 98.386 is amended to read:

15 98.386. (1) Except as provided in subsection (2) of this section, all funds
16 received under ORS 98.302 to 98.436 and 98.992, including the proceeds from
17 the sale of unclaimed property under ORS 98.382, shall be deposited by the
18 [*Department of State Lands*] **State Treasurer** in the Common School Fund
19 Account [*with the State Treasurer*]. Before making the deposit, the [*depart-*
20 *ment*] **State Treasurer** shall record the name and last-known address of each
21 person appearing from the holders' reports to be entitled to the unclaimed
22 property and the name and last-known address of each insured person or
23 annuitant, and with respect to each policy or contract listed in the report
24 of a life insurance corporation, its number, the name of the corporation, and
25 the amount due.

26 (2) Any amounts identified as lawyer trust account funds in the report
27 required by ORS 98.352 shall be paid or delivered by the [*person holding the*
28 *amounts*] **holder** to the Oregon State Bar along with a copy of the report.
29 All amounts paid or delivered to the Oregon State Bar under this section are
30 continuously appropriated to the Oregon State Bar[,] and may be used only
31 for the funding of legal services provided through the Legal Services Pro-

1 gram established under ORS 9.572, the payment of claims allowed under ORS
2 98.392 (2) and the payment of expenses incurred by the Oregon State Bar in
3 the administration of the Legal Services Program.

4 (3) Before making a deposit to the credit of the Common School Fund
5 Account, the [*department*] **State Treasurer** may deduct:

6 (a) Any costs in connection with sale of unclaimed property;

7 (b) Any costs of mailing and publication in connection with efforts to
8 locate owners of unclaimed property as prescribed by rule; and

9 (c) Reasonable service charges.

10 **SECTION 21.** ORS 98.388 is amended to read:

11 98.388. There is created from unclaimed property funds an Unclaimed
12 Property Revolving Fund. The moneys in the fund are appropriated contin-
13 uously to the [*Department of State Lands*] **State Treasurer** for the purpose
14 of repaying claims [*as provided*] under ORS 98.396.

15 **SECTION 22.** ORS 98.392 is amended to read:

16 98.392. (1) A person claiming an interest in unclaimed property reported
17 to the [*Department of State Lands*] **State Treasurer** may file a claim to the
18 property or to the proceeds from the sale of the property at any time after
19 the [*person learns that the*] property has been reported to the [*department*]
20 **State Treasurer**. Claims shall be filed on the form prescribed by the [*de-*
21 *partment*] **State Treasurer**. The [*department*] **State Treasurer** may require
22 the person to provide a lost instrument bond if the claim is for securities
23 and the person does not surrender the original certificate to the
24 [*department*] **State Treasurer**.

25 (2) If a claim is filed under this section for amounts identified as lawyer
26 trust account funds in the report required by ORS 98.352, the [*department*]
27 **State Treasurer** shall forward the claim to the Oregon State Bar for review
28 and for payment by the Oregon State Bar if the claim is allowed. The [*de-*
29 *partment*] **State Treasurer** and the Oregon State Bar shall adopt rules for
30 the administration of claims subject to this subsection.

31 **SECTION 23.** ORS 98.396 is amended to read:

1 98.396. (1) The [*Department of State Lands*] **State Treasurer** shall con-
2 sider any claim filed under ORS 98.392 and may hold a hearing and receive
3 evidence concerning the claim. If a hearing is held, the [*department*] **State**
4 **Treasurer** shall prepare findings and a decision in writing on each claim
5 filed, stating the substance of any evidence heard by the [*department*] **State**
6 **Treasurer** and the reasons for the decision. [*The*] **A** decision [*shall be*] **is** a
7 public record.

8 (2) If the claim allowed is for property deposited in the Common School
9 Fund Account, the [*department*] **State Treasurer** shall return the property
10 or make payment of the proceeds of the sale of the property to the claimant.

11 (3) If the claim allowed is for funds deposited in the General Fund, the
12 [*department*] **State Treasurer** shall pay the claim [*and file a request for re-*
13 *imbursement with the State Treasurer. The State Treasurer shall reimburse*
14 *the department within five working days*] from the fund against which the
15 check or order represented in the claim was issued.

16 **SECTION 24.** ORS 98.402 is amended to read:

17 98.402. (1) A person aggrieved by a decision of the [*administrator*] **State**
18 **Treasurer under ORS 98.302 to 98.436** may request a [*hearing regarding the*
19 *decision. The Department of State Lands shall conduct the hearing as a*]
20 contested case [*proceeding*] **hearing** in accordance with ORS 183.413 to
21 183.470.

22 (2) If the [*administrator*] **State Treasurer** fails to act on a claim within
23 120 days after a person files the claim under ORS 98.392, the [*person*]
24 **claimant** may [*file a*] petition **a court** under ORS 183.484 [*to request a*
25 *court*] to compel the [*department*] **State Treasurer** to act [*pursuant to ORS*
26 *183.490*].

27 **SECTION 25.** ORS 98.412 is amended to read:

28 98.412. (1) The [*Department of State Lands*] **State Treasurer** may require
29 a person who has not filed a report **under ORS 98.352** to file a verified re-
30 port stating whether [*or not*] the person [*is holding*] **holds** any unclaimed
31 property reportable or deliverable [*under ORS 98.352*].

1 (2) The *[department]* **State Treasurer** may at reasonable times and upon
2 reasonable notice examine the records of any person to determine whether
3 the person has complied with the provisions of ORS 98.352. The
4 *[department]* **State Treasurer** may conduct the examination even if the
5 person believes it is not in possession of any property reportable or deliver-
6 able under this section.

7 (3) To the extent possible, the *[department]* **State Treasurer** shall enter
8 into agreements with state and federal agencies that regularly examine the
9 records of financial institutions, trust companies, financial holding compa-
10 nies and bank holding companies, as defined in ORS 706.008, and of subsid-
11 iaries of such financial institutions, trust companies, financial holding
12 companies and bank holding companies. Under the agreements, the state and
13 federal agencies shall examine the records of the financial institution, trust
14 company, financial holding company, bank holding company or subsidiary to
15 determine compliance with ORS 98.352. If a state or federal agency does not
16 enter into an agreement with the *[department]* **State Treasurer** under this
17 subsection, the *[department]* **State Treasurer** shall conduct the examination
18 of the records of financial institutions, trust companies, financial holding
19 companies and bank holding companies to determine compliance with ORS
20 98.352.

21 (4) If a holder fails to maintain the records required by ORS 98.354 and
22 the records of the holder available for the periods subject to ORS 98.302 to
23 98.436 and 98.992 are insufficient to permit the preparation of a report, the
24 *[department]* **State Treasurer** may issue a finding that requires the holder
25 to report and pay the amounts that the *[department]* **State Treasurer** rea-
26 sonably estimates from the report and available records. *[The department*
27 *shall include in its finding a notice substantially similar to that specified*
28 *under ORS 183.415. Additionally, the notice shall include]*

29 (5) **In addition to the information required under ORS 183.413 and**
30 **183.415, the State Treasurer shall provide a holder subject to findings**
31 **under subsection (4) of this section with** information about opportunities

1 to resolve disputes through a collaborative dispute resolution process **in lieu**
 2 **of a contested case hearing under ORS 183.413 to 183.470.**

3 *[(5) Any holder subject to examination under this section may request a*
 4 *hearing regarding the findings issued by the department. The department*
 5 *shall conduct a hearing under this subsection as a contested case proceeding*
 6 *in accordance with ORS 183.413 to 183.470.]*

7 **SECTION 26.** ORS 98.416 is amended to read:

8 98.416. (1) *[If any person refuses to deliver property to the Department of*
 9 *State Lands as required under ORS 98.352, the department]* **The State**
 10 **Treasurer** may bring a suit or action in a court of appropriate jurisdiction
 11 to enforce delivery of *[the]* property **not delivered by a holder as required**
 12 **under ORS 98.352.**

13 (2) The *[department]* **State Treasurer** may require *[a person]* **a holder**
 14 who fails to pay or deliver property within the time prescribed by ORS 98.302
 15 to 98.436 and 98.992 to pay interest from the date the *[department]* **State**
 16 **Treasurer** determines interest should have been paid. Interest shall be paid
 17 at the rate set by the Director of the Department of Revenue pursuant to
 18 ORS 305.220 (1) and (3).

19 **SECTION 27.** ORS 98.422 is amended to read:

20 98.422. The *[administrator]* **State Treasurer** is authorized to adopt nec-
 21 essary rules to carry out the provisions of ORS 98.302 to 98.436 and 98.992.

22 **SECTION 28.** ORS 98.424 is amended to read:

23 98.424. (1) The *[Department of State Lands]* **State Treasurer** may enter
 24 into agreements with other states to exchange information needed to enable
 25 this or another state to audit or otherwise determine unclaimed property
 26 that this state or another state may be entitled to subject to a claim of
 27 custody under ORS 98.348. The *[department]* **State Treasurer** may adopt
 28 rules requiring the other states to report information needed to enable com-
 29 pliance with agreements made pursuant to this section and prescribing the
 30 form for making a claim of custody under ORS 98.348.

31 (2) **Before adopting, amending or repealing any rules under this**

1 **section**, to avoid conflicts between the [*department's*] **State Treasurer's**
2 procedures and the procedures of administrators in other jurisdictions that
3 enact an unclaimed property act, [*the department, so far as is*] consistent
4 with the purposes, policies and provisions of ORS 98.302 to 98.436 and 98.992,
5 [*before adopting, amending or repealing rules,*] **the State Treasurer** shall
6 advise and consult with administrators in other jurisdictions that enact a
7 substantially similar unclaimed property act and take into consideration the
8 rules of administrators in other jurisdictions that enact an unclaimed prop-
9 erty act.

10 (3) The [*department*] **State Treasurer** may join with other states to seek
11 enforcement of ORS 98.302 to 98.436 and 98.992 against any person who is
12 or may be holding property reportable under ORS 98.352.

13 (4) At the request of another state, the Attorney General of this state
14 may bring an action in the name of another state to enforce the unclaimed
15 property laws of the other state against a holder in this state of property
16 subject to escheat or a claim of abandonment by the other state, if the other
17 state has agreed to pay expenses incurred by the Attorney General in
18 bringing the action, including attorney fees.

19 (5) The [*department*] **State Treasurer**, through the Attorney General of
20 this state, may request the attorney general of another state or any other
21 person to bring an action in the other state in the name of the
22 [*department*] **State Treasurer** against the holder of property in the other
23 state that is subject to escheat or a claim of abandonment by this state. This
24 state shall pay all expenses including attorney fees in any action under this
25 subsection. Any expenses paid pursuant to this subsection may not be de-
26 ducted from the amount that is subject to the claim by the owner under ORS
27 98.302 to 98.436 and 98.992.

28 (6) The [*Department of State Lands shall*] **State Treasurer** may not dis-
29 close to any other state any confidential information provided by the De-
30 partment of Revenue from taxpayer returns.

31 **SECTION 29.** ORS 98.991 is amended to read:

1 98.991. (1) Any person who willfully fails to render any report or perform
2 other duties required under this Act is guilty of a misdemeanor.

3 (2) Any person who willfully refuses to pay or deliver unclaimed property
4 to the [*Department of State Lands*] **State Treasurer** as required under this
5 Act is guilty of a misdemeanor.

6 **SECTION 30.** ORS 98.992 is amended to read:

7 98.992. A person who willfully fails to render any report, to pay or deliver
8 property or to perform other duties required by ORS 98.302 to 98.436 and
9 98.992 may be required to forfeit and pay to the State Treasurer to be de-
10 posited in the Common School Fund Account, an amount determined by the
11 [*Department of State Lands*] **State Treasurer** pursuant to ORS 183.745 of not
12 more than \$1,000 for individuals and \$50,000 for corporations. This penalty
13 shall be assessed only after at least one reporting cycle, and only after the
14 [*department*] **State Treasurer** has provided the person with written in-
15 structions, including copies of applicable laws and policies. The
16 [*department*] **State Treasurer** may waive any penalty due under this section
17 with appropriate justification.

18 **ESTATE ADMINISTRATION AND ESCHEATED PROPERTY**

19 **SECTION 31.** ORS 112.055 is amended to read:

20
21 112.055. (1) If, after diligent search and inquiry that is appropriate to the
22 circumstances, taking into account the value of the decedent's estate, no
23 person takes under ORS 112.025 to 112.045, the net intestate estate escheats
24 to the State of Oregon.

25
26 (2) If a devisee or a person entitled to take under ORS 112.025 to 112.045
27 is not identified or found, the share of that person escheats to the State of
28 Oregon.

29 (3) If a devisee or a person entitled to take under ORS 112.025 to 112.045
30 is not identified or found:

31 (a) The [*Department of State Lands*] **State Treasurer** has the same pref-

1 erence as the missing devisee or person for the purpose of appointment as
2 personal representative under ORS 113.085;

3 (b) Title to property of the decedent that would vest in the missing
4 devisee or person under ORS 114.215 vests in the [*Department of State*
5 *Lands*] **State Treasurer**; and

6 (c) The [*Department of State Lands*] **State Treasurer** has all of the rights
7 of the missing devisee or person for the purposes of ORS chapters 111, 112,
8 113, 114, 115, 116 and 117, including but not limited to the following:

9 (A) The right to contest any will of the decedent under ORS 113.075; and

10 (B) The right to information under ORS 113.145.

11 **SECTION 32.** ORS 113.045 is amended to read:

12 113.045. (1) Upon appointment, a personal representative shall deliver or
13 mail to the [*Department of State Lands*] **State Treasurer** a copy of the pe-
14 tition filed under ORS 113.035, and a copy of any last will of the decedent,
15 if the personal representative has not identified and found all heirs and
16 devisees of the decedent. The personal representative shall file proof of the
17 delivery or mailing with the court.

18 (2) If at any time after the appointment of a personal representative it
19 appears that any heir or devisee of the decedent cannot be identified and
20 found, the personal representative shall promptly deliver or mail to the
21 [*Department of State Lands*] **State Treasurer** a notice indicating that an
22 heir or devisee cannot be identified and found. The personal representative
23 shall file proof of the delivery or mailing with the court.

24 (3) This section does not affect the requirements of ORS 113.085 (3).

25 **SECTION 33.** ORS 113.075 is amended to read:

26 113.075. (1) Any interested person may contest the probate of the will or
27 the validity of the will or assert an interest in the estate for the reason that:

28 (a) The will alleged in the petition for probate to be the will of the
29 decedent is ineffective in whole or part;

30 (b) There exists a will that has not been alleged in the petition to be the
31 will of the decedent; or

1 (c) The decedent agreed, promised or represented that the decedent would
2 make or revoke a will or devise, or not revoke a will or devise, or die
3 intestate.

4 (2) An action described in subsection (1) of this section must be com-
5 menced by the filing of a petition in the probate proceedings, except that an
6 action described in subsection (1)(c) of this section may be commenced by the
7 filing of a separate action in any court of competent jurisdiction.

8 (3) An action described in subsection (1) of this section must be com-
9 menced before the later of:

10 (a) Four months after the date of delivery or mailing of the information
11 described in ORS 113.145 if that information was required to be delivered or
12 mailed to the person on whose behalf the action under subsection (1) of this
13 section is filed; or

14 (b) Four months after the first publication of notice to interested persons
15 if the person on whose behalf the action under subsection (1) of this section
16 is filed was not required to be named in the petition for probate as an in-
17 terested person.

18 (4)(a) A person who commences an action under subsection (1) of this
19 section shall give notice of the action to heirs and devisees identified in the
20 petition for probate or amended petition for probate, and to the [*Department*
21 *of State Lands*] **State Treasurer** if the personal representative has delivered
22 or mailed information to the [*department*] **State Treasurer** under ORS
23 113.045.

24 (b) If any devisee under the contested will is a charitable trust as de-
25 scribed in ORS 130.170, a public benefit corporation as defined in ORS 65.001
26 or a religious organization, a person who commences an action under sub-
27 section (1) of this section shall give notice to the Attorney General of the
28 action.

29 (5) A cause of action described in subsection (1)(c) of this section may not
30 be presented as a claim under ORS chapter 115.

31 **SECTION 34.** ORS 113.085 is amended to read:

1 113.085. (1) Except as provided in subsection (3) of this section, upon the
2 filing of the petition under ORS 113.035, if there is no will or if there is a
3 will and it has been proved, the court shall appoint a qualified person the
4 court finds suitable as personal representative, giving preference in the fol-
5 lowing order:

6 (a) The personal representative named in the will.

7 (b) If the surviving spouse of the decedent is a distributee of the estate,
8 the surviving spouse of the decedent or the nominee of the surviving spouse
9 of the decedent.

10 (c) If the person is a distributee of the estate, a person who would be
11 entitled to property of the decedent under intestate succession.

12 (d) Any other distributee of the estate.

13 (e) The Director of Human Services or the Director of the Oregon Health
14 Authority, or an attorney approved under ORS 113.086, if the decedent re-
15 ceived public assistance as defined in ORS 411.010, received medical assist-
16 ance as defined in ORS 414.025 or received care at an institution described
17 in ORS 179.321 (1) and it appears that the assistance or the cost of care may
18 be recovered from the estate of the decedent.

19 (f) The Department of Veterans' Affairs, if the decedent was a protected
20 person under ORS 406.050 (10) and the department has joined in the petition
21 for such appointment.

22 (g) Any other person.

23 (2) Before the court appoints a personal representative under subsection
24 (1)(b) to (g) of this section, the court may require the petitioner to make a
25 reasonable attempt to notify persons of higher priority than the proposed
26 personal representative under subsection (1)(b) to (g) of this section.

27 (3) Except as provided in subsection (4) of this section, the court shall
28 appoint the [*Department of State Lands*] **State Treasurer** as personal rep-
29 resentative if it appears that the decedent died wholly intestate and without
30 known heirs. The Attorney General shall represent the [*Department of State*
31 *Lands*] **State Treasurer** in the administration of the estate. **The State**

1 **Treasurer shall deposit** any funds received by the [*Department of State*
2 *Lands*] **State Treasurer** in the capacity of personal representative [*may be*
3 *deposited*] in accounts, separate and distinct from the General Fund, estab-
4 lished in the State Treasury. Interest earned by such account shall be
5 credited to that account.

6 (4) The court may appoint a person other than the [*Department of State*
7 *Lands*] **State Treasurer** to administer the estate of a decedent who died
8 wholly intestate and without known heirs if the person filing a petition un-
9 der ORS 113.035 attaches written authorization from the [*Department of State*
10 *Lands*] **State Treasurer** approving the filing of the petition by the person.
11 Except as provided by rule adopted by the [*Director of the Department of*
12 *State Lands*] **State Treasurer**, the [*department*] **State Treasurer** may con-
13 sent to the appointment of another person to act as personal representative
14 only if it appears after investigation that the estate is insolvent.

15 **SECTION 35.** ORS 113.105 is amended to read:

16 113.105. (1)(a) Except as provided in subsections (2) to (4) of this section,
17 the personal representative may not act, and letters may not be issued to the
18 personal representative, until the personal representative provides a bond to
19 the clerk of the court. The bond must be for the security and benefit of all
20 interested persons and must be conditioned upon the personal representative
21 faithfully performing the duties of the position. The bond must be executed
22 by a surety qualified under ORCP 82 D to G.

23 (b) The amount of the bond set by the court under this subsection must
24 be adequate to protect interested persons. In setting the amount of the bond,
25 the court shall consider:

26 (A) The nature, liquidity and apparent value of the assets of the estate.

27 (B) The anticipated income during administration.

28 (C) The probable indebtedness and taxes.

29 (2) Subsection (1) of this section does not apply if:

30 (a) The will provides that no bond is required, but the court may, for good
31 cause, require a bond notwithstanding any provision in a will that no bond

1 is required;

2 (b) The personal representative is the sole heir or devisee, but the court
3 may, for good cause, require a bond notwithstanding the fact that the per-
4 sonal representative is the sole heir or devisee; or

5 (c) The personal representative is the [*Department of State Lands*] **State**
6 **Treasurer**, the Department of Veterans' Affairs, the Director of Human
7 Services, the Director of the Oregon Health Authority or [*an attorney*] **a**
8 **person** approved under ORS **113.085 or** 113.086.

9 (3) Upon a request by the personal representative, the court may waive
10 the requirement of a bond if:

11 (a) The request states the reasons why the waiver is requested; and

12 (b) The request describes the known creditors of the estate.

13 (4) The court may waive or reduce the requirement of a bond to the extent
14 that:

15 (a) The personal representative provides written confirmation from a fi-
16 nancial institution that property of the estate is held by the financial insti-
17 tution subject to withdrawal only on order of the court; or

18 (b) The court restricts the sale, encumbrance or other disposition of
19 property of the estate without prior court approval.

20 (5) Nothing in this section affects the provisions of ORS 709.240, relating
21 to a trust company acting as personal representative.

22 **SECTION 36.** ORS 113.235 is amended to read:

23 113.235. The [*Director of the Department of State Lands*] **State Treasurer**
24 shall appoint one or more estate administrators to [*act for the Department*
25 *of State Lands in administration of*] **administer** any estate in which the
26 [*Department of State Lands*] **State Treasurer** is appointed personal repre-
27 sentative. An estate administrator appointed under this section is an em-
28 ployee of the [*Department of State Lands*] **State Treasurer**.

29 **SECTION 37.** ORS 113.238 is amended to read:

30 113.238. (1) A person who has knowledge that a decedent died wholly
31 intestate, that the decedent owned property subject to probate in Oregon and

1 that the decedent died without a known heir shall give notice of the death
2 within 48 hours after acquiring that knowledge to the [*Department of State*
3 *Lands*] **State Treasurer**.

4 (2) Except as provided by ORS 708A.430 and 723.466, a person may not
5 dispose of or diminish any assets of the estate of a decedent who has died
6 wholly intestate, who owned property subject to probate in Oregon and who
7 died without a known heir unless the person has prior written approval of
8 the [*Department of State Lands*] **State Treasurer**. The prohibition of this
9 subsection:

10 (a) Applies to a guardian or conservator for the decedent; and

11 (b) Does not apply to a personal representative appointed under ORS
12 113.085 (4) or to an affiant authorized under ORS 114.520 to file an affidavit
13 under ORS 114.515.

14 (3) For purposes of this section, a known heir is an heir who has been
15 identified and found.

16 **SECTION 38.** ORS 113.242 is amended to read:

17 113.242. (1) An estate administrator of the [*Department of State Lands*]
18 **State Treasurer** appointed under ORS 113.235 may take custody of the
19 property of a decedent who died owning property subject to probate in
20 Oregon upon the [*department*] **State Treasurer** receiving notice that:

21 (a) The decedent died wholly intestate and without a known heir as de-
22 scribed in ORS 113.238 (3); or

23 (b) The decedent left a valid will, but no devisee has been identified and
24 found.

25 (2) For any estate described in subsection (1) of this section, an estate
26 administrator of the [*Department of State Lands*] **State Treasurer** appointed
27 under ORS 113.235 may:

28 (a) Incur expenses for the funeral of the decedent in a manner suitable
29 to the condition in life of the decedent;

30 (b) Incur expenses for the protection of the property of the estate;

31 (c) Incur expenses searching for a will or for heirs or devisees of the

1 decedent;

2 (d) Have access to the property and records of the decedent other than
3 records that are made confidential or privileged by statute;

4 (e) With proof of the death of the decedent, have access to all financial
5 records of accounts or safe deposit boxes of the decedent at banks or other
6 financial institutions; and

7 (f) Sell perishable property of the estate.

8 (3) The reasonable funeral and administrative expenses of the [*Department*
9 *of State Lands*] **State Treasurer** incurred under this section, including a
10 reasonable attorney fee, shall be paid from the assets of the estate with the
11 same priority as funeral and administration expenses under ORS 115.125.

12 **SECTION 39.** ORS 114.325 is amended to read:

13 114.325. (1) Except as provided in subsection (2) of this section, and sub-
14 ject to ORS 113.105, a personal representative has power to sell, mortgage,
15 lease or otherwise deal with property of the estate without notice, hearing
16 or court order.

17 (2) Exercise of the power of sale by the personal representative is im-
18 proper, except after notice, hearing and order of the court, if:

19 (a) The sale is in contravention of the provisions of the will; or

20 (b) The property is specifically devised and the will does not authorize its
21 sale.

22 **(3) Notwithstanding ORS chapters 270, 273 and 274, an estate ad-
23 ministrator of the State Treasurer appointed under ORS 113.235 or the
24 Director of Human Services or Director of the Oregon Health Au-
25 thority serving as a personal representative may deal with property
26 of the estate as a personal representative under this section.**

27 **SECTION 40.** ORS 114.505 is amended to read:

28 114.505. As used in ORS 114.505 to 114.560:

29 (1) "Affiant" means the person or persons signing an affidavit filed under
30 ORS 114.515.

31 (2) "Claiming successors" means:

1 (a) If the decedent died intestate, the heir or heirs of the decedent, or if
2 there is no heir, an estate administrator of the [*Department of State Lands*]
3 **State Treasurer** appointed under ORS 113.235;

4 (b) If the decedent died testate, the devisee or devisees of the decedent;
5 and

6 (c) Any creditor of the estate entitled to payment or reimbursement from
7 the estate under ORS 114.545 (1)(d) who has not been paid or reimbursed the
8 full amount owed such creditor within 60 days after the date of the
9 decedent's death.

10 (3) "Estate" means decedent's property subject to administration in
11 Oregon.

12 **SECTION 41.** ORS 114.520 is amended to read:

13 114.520. (1) If a decedent dies intestate and without heirs, a creditor of
14 an estate who is a claiming successor may not file an affidavit under ORS
15 114.515 unless the creditor has received written authorization from an estate
16 administrator of the [*Department of State Lands*] **State Treasurer** appointed
17 under ORS 113.235. Except as provided by rule adopted by the [*Director of*
18 *the Department of State Lands*] **State Treasurer**, an estate administrator
19 [*shall*] **may not** consent to the filing of an affidavit under ORS 114.515 by
20 a creditor [*only if*] **unless** it appears after investigation that the estate is
21 insolvent.

22 (2) A creditor of an estate who is subject to subsection (1) of this section
23 may give written notice to an estate administrator of the [*Department of*
24 *State Lands*] **State Treasurer** informing the estate administrator that the
25 creditor intends to file an affidavit under ORS 114.515. Upon receiving the
26 notice permitted by this subsection, the estate administrator shall investigate
27 the assets and liabilities of the estate. Within 30 days after receiving the
28 notice required by this subsection, the estate administrator shall either:

29 (a) Give written authorization to the creditor for the filing of an affidavit
30 by the creditor under ORS 114.515; or

31 (b) Inform the creditor that the [*Department of State Lands*] **State**

1 **Treasurer** will file an affidavit as claiming successor under ORS 114.515.

2 (3) If a decedent dies intestate and without heirs, a creditor of an estate
3 who is a claiming successor and who files an affidavit under ORS 114.515
4 must notate at the top of the affidavit that the affidavit is being filed by a
5 creditor of the estate. If the affidavit contains the notation required by this
6 subsection, the clerk of the probate court may not accept the affidavit for
7 filing unless there is attached to the affidavit written authorization for the
8 filing of the affidavit by the creditor from an estate administrator of the
9 [Department of State Lands] **State Treasurer**. The written authorization
10 may be a copy of a memorandum of an interagency agreement between the
11 [Department of State Lands] **State Treasurer** and another state agency.

12 **SECTION 42.** ORS 114.535 is amended to read:

13 114.535. (1) Not sooner than 10 days after the filing of an affidavit under
14 ORS 114.515, the affiant may deliver a certified copy of the affidavit to any
15 person who was indebted to the decedent or who has possession of personal
16 property belonging to the estate. Except as provided in this section, upon
17 receipt of the copy, the person shall pay, transfer, deliver, provide access to
18 and allow possession of the personal property to the affiant.

19 (2) Subject to ORS 114.537, if a copy of an affidavit is delivered under
20 subsection (1) of this section to a person that controls access to personal
21 property belonging to the estate of the decedent, including personal property
22 held in a safe deposit box for which the decedent was the sole lessee or the
23 last surviving lessee, the person shall:

24 (a) Provide the affiant with access to the decedent's personal property;
25 and

26 (b) Allow the affiant to take possession of the personal property.

27 (3) Subject to ORS 114.537, if a copy of an affidavit is delivered under
28 subsection (1) of this section to a person who has received property of the
29 decedent under ORS 446.616, 708A.430, 723.466 or 803.094, or a similar statute
30 providing for the transfer of property of an estate that is not being probated,
31 the person shall pay, transfer, deliver, provide access to or allow possession

1 of the property to the affiant if the person would be required to pay, transfer,
2 deliver, provide access to or allow possession of the property to a personal
3 representative of the estate.

4 (4) Any person that pays, transfers, delivers, provides access to or allows
5 possession of property of a decedent in the manner provided by this section
6 is discharged and released from any liability or responsibility for the prop-
7 erty in the same manner and with the same effect as if the property had been
8 transferred, delivered or paid to a personal representative of the estate of the
9 decedent.

10 (5) A transfer agent of any corporate security registered in the name of
11 the decedent shall change the registered ownership on the books of the cor-
12 poration to the person entitled thereto on presentation of a certified copy
13 of the affidavit filed under ORS 114.515.

14 (6) If a person to whom an affidavit is delivered refuses to pay, deliver,
15 transfer, provide access to or allow possession of any personal property as
16 required by this section, the property may be recovered or payment, delivery,
17 transfer of or access to the property may be compelled upon proof of the
18 transferee's entitlement in a proceeding brought for the purpose by or on
19 behalf of the transferee.

20 (7) If the affidavit was signed by the Director of Human Services, the
21 Director of the Oregon Health Authority or an attorney approved under ORS
22 114.517, the Director of Human Services, the Director of the Oregon Health
23 Authority or the attorney may certify a copy of the affidavit for the purposes
24 described in this section.

25 **(8) Notwithstanding ORS chapters 270, 273 and 274, an estate ad-**
26 **ministrator of the State Treasurer appointed under ORS 113.235 or the**
27 **Director of Human Services or Director of the Oregon Health Au-**
28 **thority serving as an affiant may deal with property of the estate as**
29 **an affiant under this section.**

30 **SECTION 43.** ORS 116.193 is amended to read:

31 116.193. If it appears to the court, at any time after the expiration of four

1 months after the date of the first publication of notice to interested persons,
2 that there is no known person to take by descent the net intestate estate,
3 the court shall order that the estate escheat to the State of Oregon and that
4 the whole of the estate, after payment of claims, taxes and expenses of ad-
5 ministration, be distributed to the [*Department of State Lands*] **State**
6 **Treasurer**. There shall be no further proceeding in the administration of the
7 estate, and the estate shall summarily be closed.

8 **SECTION 44.** ORS 116.203 is amended to read:

9 116.203. If a report filed in the estate proceeding by the personal repre-
10 sentative not less than 30 days after the date of entry of the judgment of
11 distribution shows that payment or delivery of property in the possession of
12 the personal representative or under the control of the personal represen-
13 tative cannot be made to a distributee entitled thereto, either because the
14 distributee refuses to accept the property or because the distributee cannot
15 be found, the court may direct the personal representative to pay or deliver
16 the property to the [*Department of State Lands*] **State Treasurer**, to be
17 placed in the escheat funds of the state. The personal representative shall
18 take the receipt of the [*Department of State Lands*] **State Treasurer** stating
19 from whom the property was received, a description of the property and the
20 name of the person entitled to the property. The person entitled thereto may
21 apply for and recover the property in the manner provided for recovery of
22 escheat funds.

23 **SECTION 45.** ORS 116.243 is amended to read:

24 116.243. A court clerk of any county in which the county court has judi-
25 cial functions, the clerk of any county court that has jurisdiction over pro-
26 bate matters under ORS 111.075 or a court administrator, upon request, shall
27 furnish to the [*Department of State Lands*] **State Treasurer** the titles of
28 estates of decedents that have remained open for more than three years and
29 in which no heirs, or only persons whose right to inherit the proceeds
30 thereof is being contested, have appeared to claim the estate.

31 **SECTION 46.** ORS 116.253 is amended to read:

1 116.253. (1) Within 10 years after the death of a decedent whose estate
2 escheated in whole or in part to the state, or within eight years after the
3 entry of a judgment or order escheating property of an estate to the state,
4 a claim may be made for the property escheated, or the proceeds thereof, by
5 or on behalf of a person not having actual knowledge of the escheat or by
6 or on behalf of a person who at the time of the escheat was unable to prove
7 entitlement to the escheated property.

8 (2) The claim shall be made by a petition filed with the [*Director of the*
9 *Department of State Lands. The claim is considered a contested case as pro-*
10 *vided in ORS 183.310 and there is the right of judicial review as provided in*
11 *ORS 183.480. The petition*] **State Treasurer. The petition** must include:

12 (a) A declaration **by the petitioner** under penalty of perjury in the form
13 required by ORCP 1 E[,] or an unsworn declaration under ORS 194.800 to
14 194.835[,] if the declarant is physically outside the boundaries of the United
15 States[, *and shall state:*];

16 [(a)] (b) The age and place of residence of the claimant by whom or on
17 whose behalf the petition is filed;

18 (c) **A brief description of the property or source of funds believed**
19 **to have been escheated to the state;**

20 [(b)] (d) That the claimant lawfully is entitled to the property or
21 proceeds[, *briefly describing the property or proceeds*];

22 [(c)] (e) That at the time the property escheated to the state the claimant
23 had no knowledge or notice thereof or was unable to prove entitlement to
24 the escheated property and has subsequently acquired new evidence of that
25 entitlement;

26 [(d)] (f) That the claimant claims the property or proceeds as an heir or
27 devisee or as the personal representative of the estate of an heir or devisee,
28 setting forth [*the*] **any** relationship[, *if any, of*] **between** the claimant [*to*]
29 **and** the decedent who at the time of death [*was the owner*] **owned the**
30 **escheated property;**

31 [(e)] (g) That 10 years have not elapsed since the death of the

1 decedent[,] or that eight years have not elapsed since the entry of the judg-
2 ment or order escheating the property to the state; and

3 [(f)] (h) If the petition is not filed by the claimant, the status of the
4 petitioner.

5 (3) If [*it is determined*] **the State Treasurer determines** that the claim-
6 ant is entitled to the property or the proceeds thereof, the [*Director of the*
7 *Department of State Lands*] **State Treasurer** shall deliver the property to
8 the petitioner, subject to and charged with any tax on the property and the
9 costs and expenses of the state in connection therewith.

10 (4) If the person whose property escheated or reverted to the state was
11 at any time a patient of a state institution in Oregon for persons with mental
12 illness or of the Eastern Oregon Training Center, the reasonable unpaid cost
13 of the care and maintenance of the person while a ward of the institution,
14 regardless of when the cost was incurred, may be deducted from, or, if nec-
15 essary, be offset in full against, the amount of the escheated property. The
16 reasonable unpaid cost of care and maintenance shall be determined in ac-
17 cordance with ORS 179.701.

18 (5) For the purposes of this section, the death of the decedent is presumed
19 to have occurred on the date shown in the decedent's certified copy of the
20 death record or in any other similar document issued by the jurisdiction in
21 which the death occurred or issued by an agency of the federal government.

22 (6) **A person aggrieved by a determination of the State Treasurer**
23 **under this section may seek a contested case hearing under ORS**
24 **183.413 to 183.470.**

25

26

CONFORMING AMENDMENTS

27

28 **SECTION 47.** ORS 60.674 is amended to read:

29 60.674. Assets of a dissolved corporation that should be distributed to a
30 creditor, claimant or shareholder of the corporation who cannot be found
31 shall be reduced to cash and, within one year after the final distribution in

1 such liquidation or winding up is payable, deposited with the [*Department*
2 *of State Lands*] **State Treasurer**. The receiver or other liquidating agent
3 shall prepare in duplicate and under oath a statement containing the names
4 and last-known addresses of the persons entitled to such funds. One of the
5 statements shall be filed with the [*Department of State Lands*] **State**
6 **Treasurer** with the cash and another shall be delivered to the office for
7 filing. The [*owner, heirs or personal representatives of the owner,*] **person**
8 **entitled to the distribution** may file a claim with the [*Department of State*
9 *Lands*] **State Treasurer** in the manner provided by ORS 98.392 and 98.396.

10 **SECTION 48.** ORS 62.720 is amended to read:

11 62.720. (1) All intangible [*personal*] property distributable in the course
12 of a voluntary or involuntary dissolution of a cooperative that is unclaimed
13 by the owner within two years after the date for final distribution is pre-
14 sumed abandoned. Such property [*shall be*] **is** subject to the provisions of
15 ORS 98.302 to 98.436 and 98.992, except that with respect to agricultural co-
16 operatives, **a copy of** the report of unclaimed property [*shall be*] filed with
17 the [*Department of State Lands as set forth in*] **State Treasurer under** ORS
18 98.352[. *A copy of the report*] shall also be filed with Oregon State University.

19 (2) All unclaimed property specified in the report required by ORS 98.352
20 shall be **paid or** delivered [*within the time specified in ORS 98.362*] to the
21 [*Department of State Lands which shall assume custody and shall be respon-*
22 *sible for the safekeeping thereof.*] **State Treasurer. Any person that pays**
23 **or delivers unclaimed property to the State Treasurer under this sec-**
24 **tion is relieved of all liability to the extent of the value of the property**
25 **paid or delivered for any claim made in respect to the property.**

26 (3) The [*department*] **State Treasurer** shall reconcile the report to the
27 delivered funds, deduct the costs as provided for in subsection [(3)] (4) of this
28 section[,] and forward the **balance of the** funds to Oregon State University
29 within 14 working days of receipt of the funds. [*Any person who pays or de-*
30 *livers unclaimed property to the Department of State Lands under this section*
31 *is relieved of all liability to the extent of the value of the property so paid or*

1 *delivered for any claim which then exists or which thereafter may arise or be*
2 *made in respect to the property.]*

3 [(3)] (4) All funds received by **Oregon State University** under **sub-**
4 **section (3)** of this section shall be used in such programs related to agri-
5 cultural research as the university may determine except for:

6 (a) The payment of claims [*which*] **that** may be made pursuant to this
7 section; [*and*]

8 (b) The payment of expenses of mailing and publication in connection
9 with any unclaimed property[.];

10 (c) Reasonable service charges; and

11 (d) Expenses of the [*Department of State Lands*] **State Treasurer** in
12 connection with claims made pursuant to ORS 98.392 to 98.402.

13 [(4)] (5) The provisions of ORS 98.392, **98.396** and [*to*] 98.402 are applicable
14 to claims against unclaimed property delivered to Oregon State University
15 pursuant to this section. Oregon State University shall pay such claims from
16 funds delivered to it pursuant to this section within 30 days of receipt of a
17 verified copy of a finding and decision of the [*Department of State Lands*]
18 **State Treasurer** made pursuant to ORS 98.396 or a certified copy of a
19 judgment made pursuant to ORS 98.402.

20 [(5)] (6) As used in this section, [*an*] “agricultural cooperative” [*is*]
21 **means** any cooperative in which farmers act together in producing, pro-
22 cessing, preparing for market, handling or marketing the agricultural pro-
23 ducts of such farmers, and any cooperative in which farmers act together in
24 purchasing, testing, grading, processing, distributing and furnishing farm
25 supplies or farm business services.

26 [(6)] (7) The provisions of this section are applicable with respect to the
27 voluntary or involuntary dissolution of any cooperative, [*which*] **if the** dis-
28 solution **was** commenced on or after January 1, 1970.

29 **SECTION 49.** ORS 63.674 is amended to read:

30 63.674. Assets of a dissolved limited liability company that should be dis-
31 tributed to a creditor, claimant or member of the limited liability company

1 who cannot be found or who is not competent to receive them shall be re-
2 duced to cash and, within six months after the final distribution of such
3 liquidation or winding up is payable, deposited with the [*Department of State*
4 *Lands*] **State Treasurer**. The receiver or other liquidating agent shall pre-
5 pare in duplicate and under oath a statement containing the names and
6 last-known addresses of the persons entitled to such funds. One of the
7 statements shall be filed with the [*Department of State Lands*] **State**
8 **Treasurer** and another shall be delivered to the office for filing. The funds
9 shall then escheat to and become the property of the State of Oregon and
10 shall become a part of the Common School Fund [*of the state*]. The [*owners,*
11 *heirs or personal representatives of the owner*] **person entitled to the dis-**
12 **tribution** may reclaim any funds so deposited in the manner provided in
13 **ORS 116.253** for estates [*which*] **that** have escheated to the state.

14 **SECTION 50.** ORS 65.674 is amended to read:

15 65.674. Assets of a dissolved corporation [*which*] **that** should be trans-
16 ferred to a creditor, claimant or member of the corporation who cannot be
17 found or who is not competent to receive them shall be reduced to cash un-
18 less they are subject to known trust restrictions and deposited with the
19 [*Department of State Lands*] **State Treasurer** for safekeeping. However, in
20 the discretion of the [*Director of the Department of State Lands*] **State**
21 **Treasurer**, property of unusual historic or aesthetic interest may be received
22 and held in kind. The receiver or other liquidating agent shall prepare in
23 duplicate and under oath a statement containing the names and last-known
24 addresses of the persons entitled to such funds. One of the statements shall
25 be filed with the [*Department of State Lands*] **State Treasurer** and another
26 shall be delivered to the Secretary of State for filing. The funds shall then
27 escheat to and become the property of the State of Oregon and shall become
28 part of the Common School Fund [*of the state*]. The [*owner, heirs or personal*
29 *representatives of the owner,*] **person entitled to the transfer** may reclaim
30 any funds so deposited in the manner provided in **ORS 116.253** for estates
31 [*which*] **that** have escheated to the state.

1 **SECTION 51.** ORS 87.691 is amended to read:

2 87.691. (1) After the time specified in the notice given under ORS 87.689
3 expires, if the owner determines, based on the owner's previous experience,
4 that the personal property subject to the lien created by ORS 87.687 has a
5 value of \$300 or less, the owner may dispose of the property at the owner's
6 sole discretion.

7 (2) After the time specified in the notice given under ORS 87.689 expires,
8 if the owner determines, based on the owner's previous experience, that the
9 personal property subject to the lien created by ORS 87.687 has a value of
10 more than \$300, the owner shall cause an advertisement of the sale to be
11 published once a week for two consecutive weeks in a newspaper of general
12 circulation in the city or county in which the self-service storage facility is
13 located. If there is no newspaper of general circulation in the city or county,
14 the advertisement must be posted in not fewer than six conspicuous places
15 in the neighborhood in which the self-service storage facility is located. The
16 advertisement must include:

17 (a) The address of the self-service storage facility, the number, if any, of
18 the space where the personal property is located and the name of the occu-
19 pant.

20 (b) The time, place and manner of the sale.

21 (3) The sale of the personal property may not take place earlier than 15
22 days after the first advertisement, publication or posting concerning the sale.
23 The sale must conform to the terms stated in the advertisement published
24 or posted under this section.

25 (4) The owner may conduct the lien sale without obtaining a license and
26 may offer the personal property for sale on a publicly accessible website that
27 regularly offers personal property for auction or sale, but the owner shall
28 complete the sale of the personal property at the self-service storage facility
29 or at a suitable place closest to where the personal property is held or
30 stored.

31 (5)(a) If the owner does not receive any bids at the public sale held under

1 this section, the owner may dispose of the personal property in another
2 manner at the owner's sole discretion. The owner may satisfy the lien cre-
3 ated by ORS 87.687 and reasonable expenses associated with the disposition
4 from the proceeds of the disposition but shall hold the balance, if any, for
5 delivery on demand to the occupant. If the occupant does not claim the bal-
6 ance of the proceeds within two years after the date of the disposition, the
7 owner shall presume the balance is abandoned and shall report and deliver
8 the balance **to the State Treasurer** as provided in ORS 98.352.

9 (b) The owner, an employee of the owner, an affiliate or relative of the
10 owner or an associate or relative of the employee may not acquire, directly
11 or indirectly, property that is subject to disposal under this section.

12 (6)(a) If personal property that is subject to the lien is a motor vehicle,
13 watercraft or trailer, the owner may have the personal property towed away
14 from the self-service storage facility if:

15 (A) Rent and other charges for storing the personal property at the self-
16 service storage facility remain unpaid for 60 days or more; and

17 (B) The owner sends notice as provided in ORS 87.689.

18 (b) An owner is not liable for damage to personal property that a tower
19 removes from the self-service storage facility once the tower takes possession
20 of the personal property.

21 (c) A tower has a lien on personal property the tower removes from the
22 self-service storage facility for reasonable towing and storage charges as
23 provided in ORS 98.812.

24 (7) Before a sale or other disposition of personal property under this
25 section, the occupant may pay the amount necessary to satisfy the lien and
26 the reasonable expenses incurred under this section and thereby redeem the
27 personal property. Upon receiving payment, the owner shall return the per-
28 sonal property, and thereafter the owner has no liability with respect to the
29 personal property.

30 (8) After a sale under this section, the owner may satisfy the lien created
31 by ORS 87.687 from the proceeds of the sale, but shall hold the balance, if

1 any, for delivery on demand to the occupant. If the occupant does not claim
2 the balance of the proceeds within two years after the date of sale, the owner
3 shall presume that the balance of the proceeds is abandoned and shall report
4 and deliver the balance **to the State Treasurer** as provided in ORS 98.352.

5 (9) A purchaser in good faith of the personal property sold to satisfy a
6 lien created by ORS 87.687 takes the property free of any rights of persons
7 against whom the lien was valid, even if the owner does not comply with the
8 requirements of this section and ORS 87.689.

9 **SECTION 52.** ORS 90.425 is amended to read:

10 90.425. (1) As used in this section:

11 (a) "Current market value" means the amount in cash, as determined by
12 the county assessor, that could reasonably be expected to be paid for a
13 manufactured dwelling or floating home by an informed buyer to an informed
14 seller, each acting without compulsion in an arm's-length transaction occur-
15 ring on the assessment date for the tax year or on the date of a subsequent
16 reappraisal by the county assessor.

17 (b) "Dispose of the personal property" means that, if reasonably appro-
18 priate, the landlord may throw away the property or may give it without
19 consideration to a nonprofit organization or to a person unrelated to the
20 landlord. The landlord may not retain the property for personal use or ben-
21 efit.

22 (c) "Goods" includes those goods left inside a recreational vehicle, man-
23 ufactured dwelling or floating home or left upon the rental space outside a
24 recreational vehicle, manufactured dwelling or floating home, whether the
25 recreational vehicle, dwelling or home is located inside or outside of a fa-
26 cility.

27 (d) "Lienholder" means any lienholder of an abandoned recreational ve-
28 hicle, manufactured dwelling or floating home, if the lien is of record or the
29 lienholder is actually known to the landlord.

30 (e) "Of record" means:

31 (A) For a recreational vehicle that is not a manufactured structure as

1 defined in ORS 446.561, that a security interest has been properly recorded
2 with the Department of Transportation pursuant to ORS 802.200 (1)(a)(A) and
3 803.097.

4 (B) For a manufactured dwelling or recreational vehicle that is a manu-
5 factured structure as defined in ORS 446.561, that a security interest has
6 been properly recorded for the manufactured dwelling or recreational vehicle
7 in the records of the Department of Consumer and Business Services pursu-
8 ant to ORS 446.611 or on a certificate of title issued by the Department of
9 Transportation prior to May 1, 2005.

10 (C) For a floating home, that a security interest has been properly re-
11 corded with the State Marine Board pursuant to ORS 830.740 to 830.755 for
12 a home registered and titled with the board pursuant to ORS 830.715.

13 (f) "Owner" means any owner of an abandoned recreational vehicle,
14 manufactured dwelling or floating home, if different from the tenant and ei-
15 ther of record or actually known to the landlord.

16 (g) "Personal property" means goods, vehicles and recreational vehicles
17 and includes manufactured dwellings and floating homes not located in a
18 facility. "Personal property" does not include manufactured dwellings and
19 floating homes located in a facility and therefore subject to being stored,
20 sold or disposed of as provided under ORS 90.675.

21 (2) A landlord is responsible for abandoned personal property and shall
22 store, sell or dispose of abandoned personal property as provided by this
23 section. This section governs the rights and obligations of landlords, tenants
24 and any lienholders or owners in any personal property abandoned or left
25 upon the premises by the tenant or any lienholder or owner in the following
26 circumstances:

27 (a) The tenancy has ended by termination or expiration of a rental
28 agreement or by relinquishment or abandonment of the premises and the
29 landlord reasonably believes under all the circumstances that the tenant has
30 left the personal property upon the premises with no intention of asserting
31 any further claim to the premises or to the personal property;

1 (b) The tenant has been absent from the premises continuously for seven
2 days after termination of a tenancy by a court order that has not been exe-
3 cuted; or

4 (c) The landlord receives possession of the premises from the sheriff fol-
5 lowing restitution pursuant to ORS 105.161.

6 (3) Prior to storing, selling or disposing of the tenant's personal property
7 under this section, the landlord must give a written notice to the tenant that
8 must be:

9 (a) Personally delivered to the tenant; or

10 (b) Sent by first class mail addressed and mailed to the tenant at:

11 (A) The premises;

12 (B) Any post-office box held by the tenant and actually known to the
13 landlord; and

14 (C) The most recent forwarding address if provided by the tenant or ac-
15 tually known to the landlord.

16 (4)(a) In addition to the notice required by subsection (3) of this section,
17 in the case of an abandoned recreational vehicle, manufactured dwelling or
18 floating home, a landlord shall also give a copy of the notice described in
19 subsection (3) of this section to:

20 (A) Any lienholder of the recreational vehicle, manufactured dwelling or
21 floating home;

22 (B) Any owner of the recreational vehicle, manufactured dwelling or
23 floating home;

24 (C) The tax collector of the county where the manufactured dwelling or
25 floating home is located; and

26 (D) The assessor of the county where the manufactured dwelling or
27 floating home is located.

28 (b) The landlord shall give the notice copy required by this subsection by
29 personal delivery or first class mail, except that for any lienholder, mail
30 service must be both by first class mail and by certified mail with return
31 receipt requested.

1 (c) A notice to lienholders under paragraph (a)(A) of this subsection must
2 be sent to each lienholder at each address:

3 (A) Actually known to the landlord;

4 (B) Of record; and

5 (C) Provided to the landlord by the lienholder in a written notice that
6 identifies the personal property subject to the lien and that was sent to the
7 landlord by certified mail with return receipt requested within the preceding
8 five years. The notice must identify the personal property by describing the
9 physical address of the property.

10 (5) The notice required under subsection (3) of this section must state
11 that:

12 (a) The personal property left upon the premises is considered abandoned;

13 (b) The tenant or any lienholder or owner must contact the landlord by
14 a specified date, as provided in subsection (6) of this section, to arrange for
15 the removal of the abandoned personal property;

16 (c) The personal property is stored at a place of safekeeping, except that
17 if the property includes a manufactured dwelling or floating home, the
18 dwelling or home must be stored on the rented space;

19 (d) The tenant or any lienholder or owner, except as provided by sub-
20 section (18) of this section, may arrange for removal of the personal property
21 by contacting the landlord at a described telephone number or address on
22 or before the specified date;

23 (e) The landlord shall make the personal property available for removal
24 by the tenant or any lienholder or owner, except as provided by subsection
25 (18) of this section, by appointment at reasonable times;

26 (f) If the personal property is considered to be abandoned pursuant to
27 subsection (2)(a) or (b) of this section, the landlord may require payment of
28 removal and storage charges, as provided by subsection (7)(d) of this section,
29 prior to releasing the personal property to the tenant or any lienholder or
30 owner;

31 (g) If the personal property is considered to be abandoned pursuant to

1 subsection (2)(c) of this section, the landlord may not require payment of
2 storage charges prior to releasing the personal property;

3 (h) If the tenant or any lienholder or owner fails to contact the landlord
4 by the specified date, or after that contact, fails to remove the personal
5 property within 30 days for recreational vehicles, manufactured dwellings
6 and floating homes or 15 days for all other personal property, the landlord
7 may sell or dispose of the personal property. If the landlord reasonably be-
8 lieves that the personal property will be eligible for disposal pursuant to
9 subsection (10)(b) of this section and the landlord intends to dispose of the
10 property if the property is not claimed, the notice shall state that belief and
11 intent; and

12 (i) If the personal property includes a recreational vehicle, manufactured
13 dwelling or floating home and if applicable, there is a lienholder or owner
14 that has a right to claim the recreational vehicle, dwelling or home, except
15 as provided by subsection (18) of this section.

16 (6) For purposes of subsection (5) of this section, the specified date by
17 which a tenant, lienholder or owner must contact a landlord to arrange for
18 the disposition of abandoned personal property is:

19 (a) For abandoned recreational vehicles, manufactured dwellings or
20 floating homes, not less than 45 days after personal delivery or mailing of
21 the notice; or

22 (b) For all other abandoned personal property, not less than five days
23 after personal delivery or eight days after mailing of the notice.

24 (7) After notifying the tenant as required by subsection (3) of this section,
25 the landlord:

26 (a) Shall store any abandoned manufactured dwelling or floating home on
27 the rented space and shall exercise reasonable care for the dwelling or home;

28 (b) Shall store all other abandoned personal property of the tenant, in-
29 cluding goods left inside a recreational vehicle, manufactured dwelling or
30 floating home or left upon the rented space outside a recreational vehicle,
31 dwelling or home, in a place of safekeeping and shall exercise reasonable

1 care for the personal property, except that the landlord may:

2 (A) Promptly dispose of rotting food; and

3 (B) Allow an animal control agency to remove any abandoned pets or
4 livestock. If an animal control agency will not remove the abandoned pets
5 or livestock, the landlord shall exercise reasonable care for the animals
6 given all the circumstances, including the type and condition of the animals,
7 and may give the animals to an agency that is willing and able to care for
8 the animals, such as a humane society or similar organization;

9 (c) Except for manufactured dwellings and floating homes, may store the
10 abandoned personal property at the dwelling unit, move and store it else-
11 where on the premises or move and store it at a commercial storage company
12 or other place of safekeeping; and

13 (d) Is entitled to reasonable or actual storage charges and costs incidental
14 to storage or disposal, including any cost of removal to a place of storage.
15 In the case of an abandoned manufactured dwelling or floating home, the
16 storage charge may be no greater than the monthly space rent last payable
17 by the tenant.

18 (8) If a tenant, lienholder or owner, upon the receipt of the notice pro-
19 vided by subsection (3) or (4) of this section or otherwise, responds by actual
20 notice to the landlord on or before the specified date in the landlord's notice
21 that the tenant, lienholder or owner intends to remove the personal property
22 from the premises or from the place of safekeeping, the landlord must make
23 that personal property available for removal by the tenant, lienholder or
24 owner by appointment at reasonable times during the 15 days or, in the case
25 of a recreational vehicle, manufactured dwelling or floating home, 30 days
26 following the date of the response, subject to subsection (18) of this section.
27 If the personal property is considered to be abandoned pursuant to subsection
28 (2)(a) or (b) of this section, but not pursuant to subsection (2)(c) of this sec-
29 tion, the landlord may require payment of removal and storage charges, as
30 provided in subsection (7)(d) of this section, prior to allowing the tenant,
31 lienholder or owner to remove the personal property. Acceptance by a land-

1 lord of such payment does not operate to create or reinstate a tenancy or
2 create a waiver pursuant to ORS 90.412 or 90.417.

3 (9) Except as provided in subsections (18) to (20) of this section, if the
4 tenant, lienholder or owner of a recreational vehicle, manufactured dwelling
5 or floating home does not respond within the time provided by the landlord's
6 notice, or the tenant, lienholder or owner does not remove the personal
7 property within the time required by subsection (8) of this section or by any
8 date agreed to with the landlord, whichever is later, the tenant's, lienholder's
9 or owner's personal property is conclusively presumed to be abandoned. The
10 tenant and any lienholder or owner that have been given notice pursuant to
11 subsection (3) or (4) of this section shall, except with regard to the distrib-
12 ution of sale proceeds pursuant to subsection (13) of this section, have no
13 further right, title or interest to the personal property and may not claim
14 or sell the property.

15 (10) If the personal property is presumed to be abandoned under sub-
16 section (9) of this section, the landlord then may:

17 (a) Sell the personal property at a public or private sale, provided that
18 prior to the sale of a recreational vehicle, manufactured dwelling or floating
19 home:

20 (A) The landlord may seek to transfer ownership of record of the personal
21 property by complying with the requirements of the appropriate state agency;
22 and

23 (B) The landlord shall:

24 (i) Place a notice in a newspaper of general circulation in the county in
25 which the recreational vehicle, manufactured dwelling or floating home is
26 located. The notice shall state:

27 (I) That the recreational vehicle, manufactured dwelling or floating home
28 is abandoned;

29 (II) The tenant's and owner's name, if of record or actually known to the
30 landlord;

31 (III) The address and any space number where the recreational vehicle,

1 manufactured dwelling or floating home is located, and any plate, registra-
2 tion or other identification number for a recreational vehicle or floating
3 home noted on the certificate of title, if actually known to the landlord;

4 (IV) Whether the sale is by private bidding or public auction;

5 (V) Whether the landlord is accepting sealed bids and, if so, the last date
6 on which bids will be accepted; and

7 (VI) The name and telephone number of the person to contact to inspect
8 the recreational vehicle, manufactured dwelling or floating home;

9 (ii) At a reasonable time prior to the sale, give a copy of the notice re-
10 quired by sub-subparagraph (i) of this subparagraph to the tenant and to any
11 lienholder and owner, by personal delivery or first class mail, except that for
12 any lienholder, mail service must be by first class mail with certificate of
13 mailing;

14 (iii) Obtain an affidavit of publication from the newspaper to show that
15 the notice required under sub-subparagraph (i) of this subparagraph ran in
16 the newspaper at least one day in each of two consecutive weeks prior to the
17 date scheduled for the sale or the last date bids will be accepted; and

18 (iv) Obtain written proof from the county that all property taxes and as-
19 sessments on the manufactured dwelling or floating home have been paid or,
20 if not paid, that the county has authorized the sale, with the sale proceeds
21 to be distributed pursuant to subsection (13) of this section;

22 (b) Destroy or otherwise dispose of the personal property if the landlord
23 determines that:

24 (A) For a manufactured dwelling or floating home, the current market
25 value of the property is \$8,000 or less as determined by the county assessor;
26 or

27 (B) For all other personal property, the reasonable current fair market
28 value is \$1,000 or less or so low that the cost of storage and conducting a
29 public sale probably exceeds the amount that would be realized from the sale;
30 or

31 (c) Consistent with paragraphs (a) and (b) of this subsection, sell certain

1 items and destroy or otherwise dispose of the remaining personal property.

2 (11)(a) A public or private sale authorized by this section must:

3 (A) For a recreational vehicle, manufactured dwelling or floating home,
4 be conducted consistent with the terms listed in subsection (10)(a)(B)(i) of
5 this section. Every aspect of the sale including the method, manner, time,
6 place and terms must be commercially reasonable; or

7 (B) For all other personal property, be conducted under the provisions of
8 ORS 79.0610.

9 (b) If there is no buyer at a sale of a manufactured dwelling or floating
10 home, the personal property is considered to be worth \$8,000 or less, re-
11 gardless of current market value, and the landlord shall destroy or otherwise
12 dispose of the personal property.

13 (12) Notwithstanding ORS 446.155 (1) and (2), unless a landlord inten-
14 tionally misrepresents the condition of a manufactured dwelling or floating
15 home, the landlord is not liable for the condition of the dwelling or home
16 to:

17 (a) A buyer of the dwelling or home at a sale pursuant to subsection
18 (10)(a) of this section, with or without consideration; or

19 (b) A person or nonprofit organization to whom the landlord gives the
20 dwelling or home pursuant to subsection (1)(b), (10)(b) or (11)(b) of this sec-
21 tion.

22 (13)(a) The landlord may deduct from the proceeds of the sale:

23 (A) The reasonable or actual cost of notice, storage and sale; and

24 (B) Unpaid rent.

25 (b) If the sale was of a manufactured dwelling or floating home, after
26 deducting the amounts listed in paragraph (a) of this subsection, the landlord
27 shall remit the remaining proceeds, if any, to the county tax collector to the
28 extent of any unpaid property taxes and assessments owed on the dwelling
29 or home.

30 (c) If the sale was of a recreational vehicle, manufactured dwelling or
31 floating home, after deducting the amounts listed in paragraphs (a) and (b)

1 of this subsection, if applicable, the landlord shall remit the remaining pro-
2 ceeds, if any, to any lienholder to the extent of any unpaid balance owed on
3 the lien on the recreational vehicle, dwelling or home.

4 (d) After deducting the amounts listed in paragraphs (a), (b) and (c) of
5 this subsection, if applicable, the landlord shall remit to the tenant or owner
6 the remaining proceeds, if any, together with an itemized accounting.

7 (e) If the tenant or owner cannot after due diligence be found, the land-
8 lord shall deposit the remaining proceeds with the county treasurer of the
9 county in which the sale occurred. If not claimed within three years, the
10 deposited proceeds revert to the general fund of the county and are available
11 for general purposes.

12 (14) The county tax collector shall cancel all unpaid property taxes and
13 assessments owed on a manufactured dwelling or floating home, as provided
14 under ORS 311.790, only under one of the following circumstances:

15 (a) The landlord disposes of the manufactured dwelling or floating home
16 after a determination described in subsection (10)(b) of this section.

17 (b) There is no buyer of the manufactured dwelling or floating home at
18 a sale described under subsection (11) of this section.

19 (c)(A) There is a buyer of the manufactured dwelling or floating home at
20 a sale described under subsection (11) of this section;

21 (B) The current market value of the manufactured dwelling or floating
22 home is \$8,000 or less; and

23 (C) The proceeds of the sale are insufficient to satisfy the unpaid property
24 taxes and assessments owed on the dwelling or home after distribution of the
25 proceeds pursuant to subsection (13) of this section.

26 (d)(A) The landlord buys the manufactured dwelling or floating home at
27 a sale described under subsection (11) of this section;

28 (B) The current market value of the manufactured dwelling or floating
29 home is more than \$8,000;

30 (C) The proceeds of the sale are insufficient to satisfy the unpaid property
31 taxes and assessments owed on the manufactured dwelling or floating home

1 after distribution of the proceeds pursuant to subsection (13) of this section;
2 and

3 (D) The landlord disposes of the manufactured dwelling or floating home.

4 (15) The landlord is not responsible for any loss to the tenant, lienholder
5 or owner resulting from storage of personal property in compliance with this
6 section unless the loss was caused by the landlord's deliberate or negligent
7 act. In the event of a deliberate and malicious violation, the landlord is lia-
8 ble for twice the actual damages sustained by the tenant, lienholder or
9 owner.

10 (16) Complete compliance in good faith with this section shall constitute
11 a complete defense in any action brought by a tenant, lienholder or owner
12 against a landlord for loss or damage to such personal property disposed of
13 pursuant to this section.

14 (17) If a landlord does not comply with this section:

15 (a) The tenant is relieved of any liability for damage to the premises
16 caused by conduct that was not deliberate, intentional or grossly negligent
17 and for unpaid rent and may recover from the landlord up to twice the actual
18 damages sustained by the tenant;

19 (b) A lienholder or owner aggrieved by the noncompliance may recover
20 from the landlord the actual damages sustained by the lienholder or owner.
21 ORS 90.255 does not authorize an award of attorney fees to the prevailing
22 party in any action arising under this paragraph; and

23 (c) A county tax collector aggrieved by the noncompliance may recover
24 from the landlord the actual damages sustained by the tax collector, if the
25 noncompliance is part of an effort by the landlord to defraud the tax col-
26 lector. ORS 90.255 does not authorize an award of attorney fees to the pre-
27 vailing party in any action arising under this paragraph.

28 (18) In the case of an abandoned recreational vehicle, manufactured
29 dwelling or floating home, the provisions of this section regarding the rights
30 and responsibilities of a tenant to the abandoned vehicle, dwelling or home
31 also apply to any lienholder except that the lienholder may not sell or re-

1 move the vehicle, dwelling or home unless:

2 (a) The lienholder has foreclosed its lien on the recreational vehicle,
3 manufactured dwelling or floating home;

4 (b) The tenant or a personal representative or designated person described
5 in subsection (20) of this section has waived all rights under this section
6 pursuant to subsection (26) of this section; or

7 (c) The notice and response periods provided by subsections (6) and (8)
8 of this section have expired.

9 (19)(a) In the case of an abandoned manufactured dwelling or floating
10 home but not including a dwelling or home abandoned following a termi-
11 nation pursuant to ORS 90.429 and except as provided by subsection (20)(d)
12 and (e) of this section, if a lienholder makes a timely response to a notice
13 of abandoned personal property pursuant to subsections (6) and (8) of this
14 section and so requests, a landlord shall enter into a written storage agree-
15 ment with the lienholder providing that the dwelling or home may not be
16 sold or disposed of by the landlord for up to 12 months. A storage agreement
17 entitles the lienholder to store the personal property on the previously
18 rented space during the term of the agreement, but does not entitle anyone
19 to occupy the personal property.

20 (b) The lienholder's right to a storage agreement arises upon the failure
21 of the tenant, owner or, in the case of a deceased tenant, the personal rep-
22 resentative, designated person, heir or devisee to remove or sell the dwelling
23 or home within the allotted time.

24 (c) To exercise the right to a storage agreement under this subsection, in
25 addition to contacting the landlord with a timely response as described in
26 paragraph (a) of this subsection, the lienholder must enter into the proposed
27 storage agreement within 60 days after the landlord gives a copy of the
28 agreement to the lienholder. The landlord shall give a copy of the proposed
29 storage agreement to the lienholder in the same manner as provided by sub-
30 section (4)(b) of this section. The landlord may include a copy of the pro-
31 posed storage agreement with the notice of abandoned property required by

1 subsection (4) of this section. A lienholder enters into a storage agreement
2 by signing a copy of the agreement provided by the landlord and personally
3 delivering or mailing the signed copy to the landlord within the 60-day pe-
4 riod.

5 (d) The storage agreement may require, in addition to other provisions
6 agreed to by the landlord and the lienholder, that:

7 (A) The lienholder make timely periodic payment of all storage charges,
8 as described in subsection (7)(d) of this section, accruing from the com-
9 mencement of the 45-day period described in subsection (6) of this section.
10 A storage charge may include a utility or service charge, as described in
11 ORS 90.532, if limited to charges for electricity, water, sewer service and
12 natural gas and if incidental to the storage of personal property. A storage
13 charge may not be due more frequently than monthly;

14 (B) The lienholder pay a late charge or fee for failure to pay a storage
15 charge by the date required in the agreement, if the amount of the late
16 charge is no greater than for late charges described in the rental agreement
17 between the landlord and the tenant; and

18 (C) The lienholder maintain the personal property and the space on which
19 the personal property is stored in a manner consistent with the rights and
20 obligations described in the rental agreement between the landlord and the
21 tenant.

22 (e) During the term of an agreement described under this subsection, the
23 lienholder has the right to remove or sell the property, subject to the pro-
24 visions of the lien. Selling the property includes a sale to a purchaser who
25 wishes to leave the dwelling or home on the rented space and become a
26 tenant, subject to any conditions previously agreed to by the landlord and
27 tenant regarding the landlord's approval of a purchaser or, if there was no
28 such agreement, any reasonable conditions by the landlord regarding ap-
29 proval of any purchaser who wishes to leave the dwelling or home on the
30 rented space and become a tenant. The landlord also may condition approval
31 for occupancy of any purchaser of the property upon payment of all unpaid

1 storage charges and maintenance costs.

2 (f)(A) If the lienholder violates the storage agreement, the landlord may
3 terminate the agreement by giving at least 90 days' written notice to the
4 lienholder stating facts sufficient to notify the lienholder of the reason for
5 the termination. Unless the lienholder corrects the violation within the no-
6 tice period, the agreement terminates as provided and the landlord may sell
7 or dispose of the dwelling or home without further notice to the lienholder.

8 (B) After a landlord gives a termination notice pursuant to subparagraph
9 (A) of this paragraph for failure of the lienholder to pay a storage charge
10 and the lienholder corrects the violation, if the lienholder again violates the
11 storage agreement by failing to pay a subsequent storage charge, the land-
12 lord may terminate the agreement by giving at least 30 days' written notice
13 to the lienholder stating facts sufficient to notify the lienholder of the reason
14 for termination. Unless the lienholder corrects the violation within the no-
15 tice period, the agreement terminates as provided and the landlord may sell
16 or dispose of the property without further notice to the lienholder.

17 (C) A lienholder may terminate a storage agreement at any time upon at
18 least 14 days' written notice to the landlord and may remove the property
19 from the rented space if the lienholder has paid all storage charges and other
20 charges as provided in the agreement.

21 (g) Upon the failure of a lienholder to enter into a storage agreement as
22 provided by this subsection or upon termination of an agreement, unless the
23 parties otherwise agree or the lienholder has sold or removed the manufac-
24 tured dwelling or floating home, the landlord may sell or dispose of the
25 property pursuant to this section without further notice to the lienholder.

26 (20) If the personal property is a manufactured dwelling or floating home
27 and is considered abandoned as a result of the death of a tenant who was
28 the only tenant and who owned the dwelling or home, this section applies,
29 except as follows:

30 (a) The following persons have the same rights and responsibilities re-
31 garding the abandoned dwelling or home as a tenant:

1 (A) Any personal representative named in a will or appointed by a court
2 to act for the deceased tenant.

3 (B) Any person designated in writing by the tenant to be contacted by the
4 landlord in the event of the tenant's death.

5 (b) The notice required by subsection (3) of this section must be:

6 (A) Sent by first class mail to the deceased tenant at the premises; and

7 (B) Personally delivered or sent by first class mail to any personal rep-
8 resentative or designated person, if actually known to the landlord.

9 (c) The notice described in subsection (5) of this section must refer to any
10 personal representative or designated person, instead of the deceased tenant,
11 and must incorporate the provisions of this subsection.

12 (d) If a personal representative, designated person or other person entitled
13 to possession of the property, such as an heir or devisee, responds by actual
14 notice to a landlord within the 45-day period provided by subsection (6) of
15 this section and so requests, the landlord shall enter into a written storage
16 agreement with the representative or person providing that the dwelling or
17 home may not be sold or disposed of by the landlord for up to 90 days or
18 until conclusion of any probate proceedings, whichever is later. A storage
19 agreement entitles the representative or person to store the personal prop-
20 erty on the previously rented space during the term of the agreement, but
21 does not entitle anyone to occupy the personal property. If such an agree-
22 ment is entered, the landlord may not enter a similar agreement with a
23 lienholder pursuant to subsection (19) of this section until the agreement
24 with the personal representative or designated person ends.

25 (e) If a personal representative or other person requests that a landlord
26 enter into a storage agreement, subsection (19)(c), (d) and (f)(C) of this sec-
27 tion applies, with the representative or person having the rights and re-
28 sponsibilities of a lienholder with regard to the storage agreement.

29 (f) During the term of an agreement described under paragraph (d) of this
30 subsection, the representative or person has the right to remove or sell the
31 dwelling or home, including a sale to a purchaser or a transfer to an heir

1 or devisee where the purchaser, heir or devisee wishes to leave the dwelling
2 or home on the rented space and become a tenant, subject to any conditions
3 previously agreed to by the landlord and tenant regarding the landlord's
4 approval for occupancy of a purchaser, heir or devisee or, if there was no
5 such agreement, any reasonable conditions by the landlord regarding ap-
6 proval for occupancy of any purchaser, heir or devisee who wishes to leave
7 the dwelling or home on the rented space and become a tenant. The landlord
8 also may condition approval for occupancy of any purchaser, heir or devisee
9 of the dwelling or home upon payment of all unpaid storage charges and
10 maintenance costs.

11 (g) If the representative or person violates the storage agreement, the
12 landlord may terminate the agreement by giving at least 30 days' written
13 notice to the representative or person stating facts sufficient to notify the
14 representative or person of the reason for the termination. Unless the rep-
15 resentative or person corrects the violation within the notice period, the
16 agreement terminates as provided and the landlord may sell or dispose of the
17 dwelling or home without further notice to the representative or person.

18 (h) Upon the failure of a representative or person to enter into a storage
19 agreement as provided by this subsection or upon termination of an agree-
20 ment, unless the parties otherwise agree or the representative or person has
21 sold or removed the manufactured dwelling or floating home, the landlord
22 may sell or dispose of the property pursuant to this section without further
23 notice to the representative or person.

24 (21) If the personal property is other than a manufactured dwelling or
25 floating home and is considered abandoned as a result of the death of a
26 tenant who was the only tenant and who owned the personal property, this
27 section applies except as follows:

28 (a) The following persons have the same rights and responsibilities re-
29 garding the abandoned personal property as a tenant:

30 (A) An heir or devisee.

31 (B) Any personal representative named in a will or appointed by a court

1 to act for the deceased tenant.

2 (C) Any person designated in writing by the tenant to be contacted by the
3 landlord in the event of the tenant's death.

4 (b) The notice required by subsection (3) of this section must be:

5 (A) Sent by first class mail to the deceased tenant at the premises;

6 (B) Personally delivered or sent by first class mail to any heir, devisee,
7 personal representative or designated person, if actually known to the land-
8 lord; and

9 (C) Sent by first class mail to the attention of an estate administrator of
10 the [*Department of State Lands*] **State Treasurer**.

11 (c) The notice described in subsection (5) of this section must refer to the
12 heir, devisee, personal representative, designated person or estate adminis-
13 trator of the [*department*] **State Treasurer**, instead of the deceased tenant,
14 and must incorporate the provisions of this subsection.

15 (d) The landlord shall allow a person that is an heir, devisee or personal
16 representative of the tenant, or an estate administrator of the [*department*]
17 **State Treasurer**, to remove the personal property if the person contacts the
18 landlord within the period provided by subsection (6) of this section, com-
19 plies with the requirements of this section and provides the landlord with
20 reasonable evidence that the person is an heir, devisee or personal repre-
21 sentative, or an estate administrator of the [*department*] **State Treasurer**.

22 (e) If [*neither an*] **no** heir, devisee [*nor*] **or** personal representative of the
23 tenant, [*nor an*] **or no** estate administrator of the [*department*] **State**
24 **Treasurer**, contacts the landlord within the time period provided by sub-
25 section (6) of this section, the landlord shall allow removal of the personal
26 property by the designated person of the tenant, if the designated person
27 contacts the landlord within that period and complies with the requirements
28 of this section and provides the landlord with reasonable evidence that the
29 person is the designated person.

30 (f) A landlord who allows removal of personal property under this sub-
31 section is not liable to another person that has a claim or interest in the

1 personal property.

2 (22) If a governmental agency determines that the condition of a manu-
3 factured dwelling, floating home or recreational vehicle abandoned under
4 this section constitutes an extreme health or safety hazard under state or
5 local law and the agency determines that the hazard endangers others in the
6 immediate vicinity and requires quick removal of the property, the landlord
7 may sell or dispose of the property pursuant to this subsection. The landlord
8 shall comply with all provisions of this section, except as follows:

9 (a) The date provided in subsection (6) of this section by which a tenant,
10 lienholder, owner, personal representative or designated person must contact
11 a landlord to arrange for the disposition of the property must be not less
12 than 15 days after personal delivery or mailing of the notice required by
13 subsection (3) of this section.

14 (b) The date provided in subsections (8) and (9) of this section by which
15 a tenant, lienholder, owner, personal representative or designated person
16 must remove the property must be not less than seven days after the tenant,
17 lienholder, owner, personal representative or designated person contacts the
18 landlord.

19 (c) The notice required by subsection (3) of this section must be as pro-
20 vided in subsection (5) of this section, except that:

21 (A) The dates and deadlines in the notice for contacting the landlord and
22 removing the property must be consistent with this subsection;

23 (B) The notice must state that a governmental agency has determined that
24 the property constitutes an extreme health or safety hazard and must be re-
25 moved quickly; and

26 (C) The landlord shall attach a copy of the agency's determination to the
27 notice.

28 (d) If the tenant, a lienholder, owner, personal representative or desig-
29 nated person does not remove the property within the time allowed, the
30 landlord or a buyer at a sale by the landlord under subsection (11) of this
31 section shall promptly remove the property from the facility.

1 (e) A landlord is not required to enter into a storage agreement with a
2 lienholder, owner, personal representative or designated person pursuant to
3 subsection (19) of this section.

4 (23)(a) If an official or agency referred to in ORS 453.876 notifies the
5 landlord that the official or agency has determined that all or part of the
6 premises is unfit for use as a result of the presence of an illegal drug man-
7 ufacturing site involving methamphetamine, and the landlord complies with
8 this subsection, the landlord is not required to comply with subsections (1)
9 to (22) and (24) to (27) of this section with regard to personal property left
10 on the portion of the premises that the official or agency has determined to
11 be unfit for use.

12 (b) Upon receiving notice from an official or agency determining the
13 premises to be unfit for use, the landlord shall promptly give written notice
14 to the tenant as provided in subsection (3) of this section. The landlord shall
15 also attach a copy of the notice in a secure manner to the main entrance of
16 the dwelling unit. The notice to the tenant shall include a copy of the
17 official's or agency's notice and state:

18 (A) That the premises, or a portion of the premises, has been determined
19 by an official or agency to be unfit for use due to contamination from the
20 manufacture of methamphetamine and that as a result subsections (1) to (22)
21 and (24) to (27) of this section do not apply to personal property left on any
22 portion of the premises determined to be unfit for use;

23 (B) That the landlord has hired, or will hire, a contractor to assess the
24 level of contamination of the site and to decontaminate the site;

25 (C) That upon hiring the contractor, the landlord will provide to the
26 tenant the name, address and telephone number of the contractor; and

27 (D) That the tenant may contact the contractor to determine whether any
28 of the tenant's personal property may be removed from the premises or may
29 be decontaminated at the tenant's expense and then removed.

30 (c) To the extent consistent with rules of the Department of Human Ser-
31 vices, the contractor may release personal property to the tenant.

1 (d) If the contractor and the department determine that the premises or
2 the tenant's personal property is not unfit for use, upon notification by the
3 department of the determination, the landlord shall comply with subsections
4 (1) to (22) and (24) to (27) of this section for any personal property left on
5 the premises.

6 (e) Except as provided in paragraph (d) of this subsection, the landlord
7 is not responsible for storing or returning any personal property left on the
8 portion of the premises that is unfit for use.

9 (24) In the case of an abandoned recreational vehicle, manufactured
10 dwelling or floating home that is owned by someone other than the tenant,
11 the provisions of this section regarding the rights and responsibilities of a
12 tenant to the abandoned vehicle, dwelling or home also apply to that owner,
13 with regard only to the vehicle, dwelling or home, and not to any goods left
14 inside or outside the vehicle, dwelling or home.

15 (25) In the case of an abandoned motor vehicle, the procedure authorized
16 by ORS 98.830 for removal of abandoned motor vehicles from private property
17 may be used by a landlord as an alternative to the procedures required in
18 this section.

19 (26)(a) A landlord may sell or dispose of a tenant's abandoned personal
20 property without complying with subsections (1) to (25) and (27) of this sec-
21 tion if, after termination of the tenancy or no more than seven days prior
22 to the termination of the tenancy, the following parties so agree in a writing
23 entered into in good faith:

24 (A) The landlord;

25 (B) The tenant, or for an abandonment as the result of the death of a
26 tenant who was the only tenant, the personal representative, designated
27 person or other person entitled to possession of the personal property, such
28 as an heir or devisee, as described in subsection (20) or (21) of this section;
29 and

30 (C) In the case of a manufactured dwelling, floating home or recreational
31 vehicle, any owner and any lienholder.

1 (b) A landlord may not, as part of a rental agreement, require a tenant,
2 a personal representative, a designated person or any lienholder or owner to
3 waive any right provided by this section.

4 (27) Until personal property is conclusively presumed to be abandoned
5 under subsection (9) of this section, a landlord does not have a lien pursuant
6 to ORS 87.152 for storing the personal property.

7 **SECTION 53.** ORS 97.170 is amended to read:

8 97.170. (1) As used in this section, “indigent person” means a deceased
9 person who does not have a death or final expense benefit or insurance pol-
10 icy that pays for disposition of the deceased person’s body or other means
11 to pay for disposition of the deceased person’s body and:

12 (a) Who does not have a relative or other person with the legal right to
13 direct and the means to pay for disposition of the deceased person’s body;

14 (b) Whose relative, or other person, with the legal right to direct the
15 disposition of the deceased person’s body does not pay or arrange to pay for,
16 or refuses to direct, the disposition of the deceased person’s body within 10
17 days of being notified of the death; or

18 (c) For whom no person other than a person described in paragraph (a)
19 or (b) of this subsection wishes to direct and pay for the disposition of the
20 deceased person’s body.

21 (2) The State Mortuary and Cemetery Board shall maintain a list of in-
22 stitutions that may accept or process bodies for education or research pur-
23 poses.

24 (3)(a) A funeral establishment licensed under ORS 692.146 that takes
25 custody of the unclaimed body of a deceased person shall, within five days
26 after taking custody of the body:

27 (A) Submit a report of death under ORS 432.133;

28 (B) Obtain all contact information known to the medical examiner, a
29 health care facility or law enforcement regarding persons listed in ORS
30 97.130;

31 (C) Attempt to locate and notify the persons listed in ORS 97.130;

1 (D) Arrange with any person listed in ORS 97.130 who will pay the ex-
2 penses to make disposition of the body;

3 (E) If no person listed in ORS 97.130 can be located to pay the expenses
4 to make disposition of the body, arrange with a person or institution not
5 listed in ORS 97.130 that will pay the expenses to make disposition of the
6 body;

7 (F) Determine whether the [*Department of State Lands*] **State Treasurer**
8 or other person is appointed as the personal representative of the deceased
9 person pursuant to ORS 113.085; and

10 (G) Contact the Department of Veterans' Affairs to determine whether the
11 decedent is eligible for any state or federal benefits.

12 (b) If no one claims the body within 10 days after the funeral establish-
13 ment takes custody of the body, or if the persons notified acquiesce, or if the
14 decedent is not eligible for any benefits described in paragraph (a)(G) of this
15 subsection, the funeral establishment may transfer the body to an institution
16 on the list of institutions described in subsection (2) of this section that de-
17 sires the body for education or research purposes.

18 (c) If no person or institution claims the body as provided in paragraphs
19 (a) and (b) of this subsection, the funeral establishment may cremate or bury
20 the body without the consent of persons listed in ORS 97.130 and is indem-
21 nified from any liability arising from having made such disposition. The
22 method of disposition must be in the least costly and most environmentally
23 sound manner that complies with law, and that does not conflict with known
24 wishes of the deceased. If the deceased person is an indigent person, the
25 board shall reimburse the funeral establishment for the costs of disposition
26 under subsection (5) of this section.

27 (4) If the deceased person is a child over whom the Department of Human
28 Services held guardianship at the time of death, the department shall
29 promptly attempt to locate and notify the relatives of the deceased child or
30 any other person who has an interest in the deceased child and shall arrange
31 with any person who will pay the expenses to make disposition of the body.

1 If no relatives or interested persons claim the body, the department may
2 transfer the body to an institution that is on the list maintained by the board
3 under subsection (2) of this section that desires the body for education or
4 research purposes, or may authorize burial or cremation of the body. The
5 department shall pay expenses related to burial or cremation authorized by
6 the department under this subsection.

7 (5) Upon receipt of a qualifying statement as required by the board by
8 rule that the deceased person is an indigent person, the board shall reim-
9 burse a funeral establishment the reasonable costs for disposition of the body
10 of any unclaimed deceased indigent person. The method of disposition must
11 be in the least costly and most environmentally sound manner that complies
12 with law. The board shall adopt rules establishing the requirements and
13 process for reimbursement and setting the amount that may be reimbursed
14 to a funeral establishment under this subsection.

15 **SECTION 54.** ORS 98.050 is amended to read:

16 98.050. (1) The [*administrator*] **State Treasurer** may compile information
17 or data [*in the possession of the Department of State Lands*] into finder's re-
18 ports at the request of any person to assist in finding the owners of aban-
19 doned or unclaimed property.

20 (2) The [*administrator*] **State Treasurer** shall adopt by rule a fee
21 **charged** for copies of finder's reports[. *The fee charged shall be*] **that is**
22 commensurate with preparation costs including production, duplication and
23 staff time involved.

24 [(3) *Any person requesting a copy of a finder's report shall be charged the*
25 *fee.*]

26 [(4) *As used in subsections (1) to (3) of this section:*]

27 [(a) *"Administrator" has the same meaning as given by ORS 98.302.*]

28 [(b) *"Person" includes any natural person, corporation, partnership, firm*
29 *or association.*]

30 [(c) *"Finder's report" means any report prepared by the administrator for*
31 *the benefit of any person to assist in finding the owners of abandoned or un-*

1 *claimed property.*]

2 **SECTION 55.** ORS 146.125 is amended to read:

3 146.125. (1) The medical examiner, medical-legal death investigator, dis-
4 trict attorney or sheriff may temporarily retain possession of any property
5 found on the body or in the possession of the deceased [*which*] **that** in the
6 opinion of the medical examiner, medical-legal death investigator, district
7 attorney or sheriff may be useful in establishing the cause or manner of
8 death or may be used in further proceedings.

9 (2) When a medical examiner, medical-legal death investigator, district
10 attorney or sheriff assumes control or custody of money or personal property
11 found on the body or in the possession of the deceased, the medical examiner,
12 medical-legal death investigator, district attorney or sheriff shall:

13 (a) Make a verified inventory of such money or property.

14 (b) File the inventory in the district medical examiner's office.

15 (c) Deposit the money with the county treasurer to the credit of the
16 county general fund.

17 (3) If personal property is not retained by the medical examiner,
18 medical-legal death investigator, district attorney or sheriff, and is not
19 claimed within 30 days, the inventory shall be filed with the board of county
20 commissioners to be disposed of as follows:

21 (a) If the property has value, the board may order it sold and after de-
22 ducting the cost of sale, shall deposit the proceeds of the sale with the
23 county treasurer to the credit of the county general fund.

24 (b) If the property has no value in the judgment of the board, the board
25 may order the sheriff to destroy such property.

26 (4) Any expenses incurred by the county in transporting or disposing of
27 the body may be deducted from the money or proceeds of the sale of personal
28 property before it is delivered to a claimant.

29 (5) If it appears that the person whose death required investigation died
30 wholly intestate and without heirs, the county whose official has control or
31 custody of the property shall notify an estate administrator of the [*Depart-*

1 *ment of State Lands*] **State Treasurer** appointed under ORS 113.235 within
2 15 days after the death.

3 (6) If a legally qualified personal representative, spouse, [*or*] next of kin
4 **or estate administrator of the State Treasurer:**

5 (a) Claims the money of the deceased, the **county** treasurer shall, subject
6 to the provisions of subsection (4) of this section, deliver such money to the
7 claimant.

8 (b) Within 30 days, claims the personal property of the deceased, the
9 property shall be delivered to such claimant subject to the provisions of
10 subsections (1) and (5) of this section.

11 (7) If money of the deceased is not claimed within seven years, [*and*] **the**
12 **money** is presumed abandoned as provided by ORS 98.302 to 98.436 and
13 98.992[,] **and** the board of county commissioners shall order **the county**
14 **treasurer to deliver and report** the money [*paid*] **to the State Treasurer**
15 as required by [*law*] **ORS 98.352.**

16 **SECTION 56.** ORS 183.635 is amended to read:

17 183.635. (1) Except as provided in this section, all agencies must use ad-
18 ministrative law judges assigned from the Office of Administrative Hearings
19 established under ORS 183.605 to conduct contested case hearings, without
20 regard to whether those hearings are subject to the procedural requirements
21 for contested case hearings.

22 (2) The following agencies need not use administrative law judges as-
23 signed from the office:

24 (a) Attorney General.

25 (b) Boards of stewards appointed by the Oregon Racing Commission.

26 (c) Bureau of Labor and Industries and the Commissioner of the Bureau
27 of Labor and Industries.

28 (d) Department of Corrections.

29 (e) Department of Education, State Board of Education and Superinten-
30 dent of Public Instruction.

31 (f) Department of Human Services for vocational rehabilitation services

1 cases under 29 U.S.C. 722(c) and disability determination cases under 42
2 U.S.C. 405.

3 (g) Department of Revenue.

4 (h) Department of State Police.

5 (i) Employment Appeals Board.

6 (j) Employment Relations Board.

7 (k) Energy Facility Siting Council.

8 (L) Fair Dismissal Appeals Board.

9 (m) Governor.

10 (n) Land Conservation and Development Commission.

11 (o) Land Use Board of Appeals.

12 (p) Local government boundary commissions created pursuant to ORS
13 199.430.

14 (q) Public universities listed in ORS 352.002.

15 (r) Oregon Youth Authority.

16 (s) Psychiatric Security Review Board.

17 (t) Public Utility Commission.

18 (u) State Accident Insurance Fund Corporation.

19 (v) State Apprenticeship and Training Council.

20 (w) State Board of Parole and Post-Prison Supervision.

21 (x) State Land Board.

22 (y) State Treasurer, **except the State Treasurer shall use an admin-**
23 **istrative law judge for contested cases involving claims arising under**
24 **ORS 98.302 to 98.436, 98.992 or 116.253 or any other claim to escheated**
25 **or unclaimed property.**

26 (3) The Workers' Compensation Board is exempt from using administra-
27 tive law judges assigned from the office for any hearing conducted by the
28 board under ORS chapters 147, 654 and 656. Except as specifically provided
29 in this subsection, the Department of Consumer and Business Services must
30 use administrative law judges assigned from the office only for contested
31 cases arising out of the department's powers and duties under:

- 1 (a) ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and ORS chapter 59;
2 (b) ORS chapter 455;
3 (c) ORS chapter 674;
4 (d) ORS chapters 706 to 716;
5 (e) ORS chapter 717;
6 (f) ORS chapters 723, 725 and 726; and
7 (g) ORS chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 743B, 744, 746,
8 748 and 750.

9 (4) Notwithstanding any other provision of law, in any proceeding in
10 which an agency is required to use an administrative law judge assigned
11 from the office, an officer or employee of the agency may not conduct the
12 hearing on behalf of the agency.

13 (5) Notwithstanding any other provision of ORS 183.605 to 183.690, an
14 agency is not required to use an administrative law judge assigned from the
15 office if:

16 (a) Federal law requires that a different administrative law judge or
17 hearing officer be used; or

18 (b) Use of an administrative law judge from the office could result in a
19 loss of federal funds.

20 (6) Notwithstanding any other provision of this section, the Department
21 of Environmental Quality must use administrative law judges assigned from
22 the office only for contested case hearings conducted under the provisions
23 of ORS 183.413 to 183.470.

24 **SECTION 57.** ORS 273.125 is amended to read:

25 273.125. Whenever it appears to the Department of State Lands that any
26 moneys have been erroneously paid to it, the department may make an ap-
27 propriate refund, **or may deliver the moneys to the State Treasurer if**
28 **the moneys appear to have been misdelivered to the department and**
29 **to be unclaimed property described under ORS 98.302 to 98.436 or**
30 **escheated funds, including those described under ORS 116.203, 652.405,**
31 **708A.430 or 723.466.**

1 **SECTION 58.** ORS 273.141 is amended to read:

2 273.141. In order to provide the Department of State Lands with the spe-
3 cialized assistance necessary to its operations and the transaction of its
4 business, and in addition to other agreements that may be entered into under
5 ORS 273.135, the department may enter into written agreements with the
6 state agencies designated in this section for the operation of programs and
7 activities assigned to the department. Subject to final review and approval
8 by the State Land Board:

9 (1) The State Forestry Department may perform the functions assigned
10 by the board that relate to forest resources.

11 (2) The State Department of Geology and Mineral Industries may perform
12 the functions of the Department of State Lands that relate to mineral re-
13 sources.

14 (3) The Department of Veterans' Affairs may perform the functions of the
15 Department of State Lands that relate to investment of funds in mortgages
16 secured by real property.

17 (4) The State Treasurer may perform the functions of the Department of
18 State Lands that relate to investments of funds administered by the Depart-
19 ment of State Lands not described in subsection (3) of this section[, *and that*
20 *relate to escheated property*].

21 (5) The State Department of Agriculture may perform the functions as-
22 signed by the board and the functions pertaining to management and regu-
23 lation of grazing land and other agricultural lands.

24 **SECTION 59.** ORS 273.183 is amended to read:

25 273.183. For the purpose of requesting a state or nationwide criminal re-
26 cords check under ORS 181A.195, the Department of State Lands may require
27 the fingerprints of a person who:

28 (1)(a) Is employed or applying for employment by the department; or

29 (b) Provides services or seeks to provide services to the department as a
30 contractor or volunteer; and

31 (2) Is, or will be, working or providing services in a position:

1 (a) In which the person has direct access to persons under 18 years of age,
2 elderly persons or persons with disabilities;

3 (b) In which the person is providing information technology services and
4 has control over, or access to, information technology systems that would
5 allow the person to harm the information technology systems or the infor-
6 mation contained in the systems;

7 (c) In which the person has access to information, the disclosure of which
8 is prohibited by state or federal laws, rules or regulations or information
9 that is defined as confidential under state or federal laws, rules or regu-
10 lations;

11 (d) That has payroll functions or in which the person has responsibility
12 for receiving, receipting or depositing money or negotiable instruments, for
13 billing, collections or other financial transactions or for purchasing or sell-
14 ing property or has access to property held in trust or to private property
15 in the temporary custody of the state;

16 *[(e) In which the person has responsibility for auditing unclaimed*
17 *property;]*

18 *[(f)]* (e) In which the person has access to personal information about
19 employees or members of the public including Social Security numbers, dates
20 of birth, driver license numbers, personal financial information or criminal
21 background information;

22 *[(g)]* (f) In which the person has access to tax or financial information
23 of individuals or business entities;

24 *[(h)]* (g) That involves the use, possession, issuance, transport, purchase,
25 sale or forfeiture of firearms or munitions, access to firearms or munitions
26 or the training of others in the use or handling of firearms; or

27 *[(i)]* (h) In which the person provides security, design or construction
28 services for government buildings, grounds or facilities.

29 **SECTION 60.** ORS 287A.474 is amended to read:

30 287A.474. (1) The county fiscal officer shall prepare a report of all war-
31 rants and checks issued more than two years prior to July 1 of that year

1 *[which]* **that** have not been paid, pursuant to ORS 98.352.

2 (2) The lawful owner of any warrant or check included in any list referred
3 to in subsection (1) of this section, not presented to the county treasurer for
4 payment and not paid, thereafter may file a claim with the *[Department of*
5 *State Lands]* **State Treasurer** in the manner provided by ORS 98.392 and
6 98.396.

7 **SECTION 61.** ORS 293.450 is amended to read:

8 293.450. (1) Before October 1 of each year, *[the]* **an** agency that maintains
9 an account pursuant to ORS 293.445 shall prepare a report pursuant to ORS
10 98.352 of all checks or orders drawn by it that have been outstanding for a
11 period of more than two years prior to July 1, and that have not been paid
12 by the State Treasurer.

13 (2) The report shall not include checks or orders that have already been
14 paid pursuant to indemnity bonds.

15 (3) The agency shall forward the report to the *[Department of State*
16 *Lands]* **State Treasurer** before November 1.

17 (4) The *[Department of State Lands shall]* **State Treasurer may** not re-
18 quire the Department of Revenue to remit funds being held by the depart-
19 ment *[of Revenue]* prior to January 1, 1994.

20 **SECTION 62.** ORS 293.455 is amended to read:

21 293.455. (1) After October 1, the State Treasurer may refuse payment of
22 the unrepresented checks or orders included in the report referred to in ORS
23 293.450. *[In accordance with procedures developed by the Department of State*
24 *Lands and approved by the State Treasurer, the agency shall instruct the State*
25 *Treasurer to do the following]* **The State Treasurer shall:**

26 (a) Transfer and credit the amounts of the unrepresented checks or orders
27 dedicated for general funding to the General Fund.

28 (b) Transfer all other funds to the *[Department of State Lands for deposit*
29 *in the]* Unclaimed Property Revolving Fund within the Common School Fund
30 Account.

31 (c) Transfer and credit the amounts of the unrepresented checks issued un-

1 der ORS chapters 316 and 317 to the [*Department of State Lands for deposit*
2 *in the*] Unclaimed Property Revolving Fund within the Common School Fund
3 Account.

4 (2) In each instance, the State Treasurer shall issue an official receipt for
5 the amount so transferred or credited.

6 [(3) *If the State Treasurer pays the owner of an unrepresented check or order*
7 *included in the report referred to in ORS 293.450 before the funds are trans-*
8 *ferred to the Department of State Lands, this information shall be reported to*
9 *the Department of State Lands.*]

10 **SECTION 63.** ORS 293.460 is amended to read:

11 293.460. The lawful owner of any check or order included in the report
12 referred to in ORS 293.450[, *not presented to the State Treasurer for*
13 *payment*] and not paid[, *thereafter*] may file a claim with the [*Department of*
14 *State Lands*] **State Treasurer** in the manner provided by ORS 98.392 and
15 98.396.

16 **SECTION 64.** ORS 293.701 is amended to read:

17 293.701. As used in ORS 293.701 to 293.857, unless the context requires
18 otherwise:

19 (1) "Council" means the Oregon Investment Council.

20 (2) "Investment funds" means:

21 (a) Public Employees Retirement Fund referred to in ORS 238.660;

22 (b) Industrial Accident Fund referred to in ORS 656.632;

23 (c) Consumer and Business Services Fund referred to in ORS 705.145;

24 (d) Employment Department Special Administrative Fund referred to in
25 ORS 657.822;

26 (e) Insurance Fund referred to in ORS 278.425;

27 (f) Funds under the control and administration of the Department of State
28 Lands;

29 (g) Oregon Student Assistance Fund referred to in ORS 348.570;

30 (h) Moneys made available to the Commission for the Blind under ORS
31 346.270 and 346.569 or rules adopted thereunder;

- 1 (i) Forest Development Revenue Bond Fund referred to in ORS 530.147
2 and State Forestry General Obligation Bond Fund referred to in ORS 530.280;
- 3 (j) Oregon War Veterans' Fund referred to in ORS 407.495;
- 4 (k) Oregon War Veterans' Bond Sinking Account referred to in ORS
5 407.515;
- 6 (L) World War II Veterans' Compensation Fund;
- 7 (m) World War II Veterans' Bond Sinking Fund;
- 8 (n) Funds in the hands of the State Treasurer that are not required to
9 meet current demands and that are invested in the Oregon Short Term Fund
10 established under ORS 293.728 or in another commingled investment vehicle;
- 11 (o) State funds that are not subject to the control and administration of
12 officers or bodies specifically designated by law;
- 13 (p) Funds derived from the sale of state bonds;
- 14 (q) Social Security Revolving Account referred to in ORS 237.490;
- 15 (r) Public University Fund established by ORS 352.450;
- 16 (s) Local Government Employer Benefit Trust Fund referred to in ORS
17 657.513;
- 18 (t) Elderly and Disabled Special Transportation Fund established by ORS
19 391.800;
- 20 (u) Education Stability Fund established by ORS 348.696;
- 21 (v) Deferred Compensation Fund established under ORS 243.411;
- 22 (w) Trust for Cultural Development Account established under ORS
23 359.405; [and]
- 24 (x) The State Library Donation Fund and the Talking Book and Braille
25 Library Endowment Fund subaccount established under ORS 357.195[.]; **and**
- 26 **(y) Funds in the Unclaimed Property Revolving Fund created in**
27 **ORS 98.388.**
- 28 (3) "Investment officer" means the State Treasurer in the capacity as in-
29 vestment officer for the council.
- 30 **SECTION 65.** ORS 314.840 is amended to read:
31 314.840. (1) The Department of Revenue may:

1 (a) Furnish any taxpayer, representative authorized to represent the tax-
2 payer under ORS 305.230 or person designated by the taxpayer under ORS
3 305.193, upon request of the taxpayer, representative or designee, with a copy
4 of the taxpayer's income tax return filed with the department for any year,
5 or with a copy of any report filed by the taxpayer in connection with the
6 return, or with any other information the department considers necessary.

7 (b) Publish lists of taxpayers who are entitled to unclaimed tax refunds.

8 (c) Publish statistics so classified as to prevent the identification of in-
9 come or any particulars contained in any report or return.

10 (d) Disclose a taxpayer's name, address, telephone number, refund amount,
11 amount due, Social Security number, employer identification number or other
12 taxpayer identification number to the extent necessary in connection with
13 collection activities or the processing and mailing of correspondence or of
14 forms for any report or return required in the administration of any local
15 tax under ORS 305.620 or any law imposing a tax upon or measured by net
16 income.

17 (2) The department also may disclose and give access to information de-
18 scribed in ORS 314.835 to:

19 (a) The Governor of the State of Oregon or the authorized representative
20 of the Governor with respect to an individual who is designated as being
21 under consideration for appointment or reappointment to an office or for
22 employment in the office of the Governor. The information disclosed shall
23 be confined to whether the individual:

24 (A) Has filed returns with respect to the taxes imposed by ORS chapter
25 316 for those of not more than the three immediately preceding years for
26 which the individual was required to file an Oregon individual income tax
27 return.

28 (B) Has failed to pay any tax within 30 days from the date of mailing of
29 a deficiency notice or otherwise respond to a deficiency notice within 30 days
30 of its mailing.

31 (C) Has been assessed any penalty under the Oregon personal income tax

1 laws and the nature of the penalty.

2 (D) Has been or is under investigation for possible criminal offenses un-
3 der the Oregon personal income tax laws. Information disclosed pursuant to
4 this paragraph shall be used only for the purpose of making the appointment,
5 reappointment or decision to employ or not to employ the individual in the
6 office of the Governor.

7 (b) An officer or employee of the Oregon Department of Administrative
8 Services duly authorized or employed to prepare revenue estimates, or a
9 person contracting with the Oregon Department of Administrative Services
10 to prepare revenue estimates, in the preparation of revenue estimates re-
11 quired for the Governor's budget under ORS 291.201 to 291.224, or required
12 for submission to the Emergency Board or the Joint Interim Committee on
13 Ways and Means, or if the Legislative Assembly is in session, to the Joint
14 Committee on Ways and Means, and to the Legislative Revenue Officer or
15 Legislative Fiscal Officer under ORS 291.342, 291.348 and 291.445. The De-
16 partment of Revenue shall disclose and give access to the information de-
17 scribed in ORS 314.835 for the purposes of this paragraph only if:

18 (A) The request for information is made in writing, specifies the purposes
19 for which the request is made and is signed by an authorized representative
20 of the Oregon Department of Administrative Services. The form for request
21 for information shall be prescribed by the Oregon Department of Adminis-
22 trative Services and approved by the Director of the Department of Revenue.

23 (B) The officer, employee or person receiving the information does not
24 remove from the premises of the Department of Revenue any materials that
25 would reveal the identity of a personal or corporate taxpayer.

26 (c) The Commissioner of Internal Revenue or authorized representative,
27 for tax administration and compliance purposes only.

28 (d) For tax administration and compliance purposes, the proper officer or
29 authorized representative of any of the following entities that has or is
30 governed by a provision of law that meets the requirements of any applicable
31 provision of the Internal Revenue Code as to confidentiality:

1 (A) A state;

2 (B) A city, county or other political subdivision of a state;

3 (C) The District of Columbia; or

4 (D) An association established exclusively to provide services to federal,
5 state or local taxing authorities.

6 (e) The Multistate Tax Commission or its authorized representatives, for
7 tax administration and compliance purposes only. The Multistate Tax Com-
8 mission may make the information available to the Commissioner of Internal
9 Revenue or the proper officer or authorized representative of any govern-
10 mental entity described in and meeting the qualifications of paragraph (d)
11 of this subsection.

12 (f) The Attorney General, assistants and employees in the Department of
13 Justice, or other legal representative of the State of Oregon, to the extent
14 the department deems disclosure or access necessary for the performance of
15 the duties of advising or representing the department pursuant to ORS
16 180.010 to 180.240 and the tax laws of the state.

17 (g) Employees of the State of Oregon, other than of the Department of
18 Revenue or Department of Justice, to the extent the department deems dis-
19 closure or access necessary for such employees to perform their duties under
20 contracts or agreements between the department and any other department,
21 agency or subdivision of the State of Oregon, in the department's adminis-
22 tration of the tax laws.

23 (h) Other persons, partnerships, corporations and other legal entities, and
24 their employees, to the extent the department deems disclosure or access
25 necessary for the performance of such others' duties under contracts or
26 agreements between the department and such legal entities, in the
27 department's administration of the tax laws.

28 (i) The Legislative Revenue Officer or authorized representatives upon
29 compliance with ORS 173.850. Such officer or representative shall not remove
30 from the premises of the department any materials that would reveal the
31 identity of any taxpayer or any other person.

1 (j) The Department of Consumer and Business Services, to the extent the
2 department requires such information to determine whether it is appropriate
3 to adjust those workers' compensation benefits the amount of which is based
4 pursuant to ORS chapter 656 on the amount of wages or earned income re-
5 ceived by an individual.

6 (k) Any agency of the State of Oregon, or any person, or any officer or
7 employee of such agency or person to whom disclosure or access is given by
8 state law and not otherwise referred to in this section, including but not
9 limited to the Secretary of State as Auditor of Public Accounts under Article
10 VI, section 2, of the Oregon Constitution; the Department of Human Services
11 pursuant to ORS 412.094; the Division of Child Support of the Department
12 of Justice and district attorney regarding cases for which they are providing
13 support enforcement services under ORS 25.080; the State Board of Tax
14 Practitioners, pursuant to ORS 673.710; and the Oregon Board of
15 Accountancy, pursuant to ORS 673.415.

16 (L) The Director of the Department of Consumer and Business Services
17 to determine that a person complies with ORS chapter 656 and the Director
18 of the Employment Department to determine that a person complies with
19 ORS chapter 657, the following employer information:

20 (A) Identification numbers.

21 (B) Names and addresses.

22 (C) Inception date as employer.

23 (D) Nature of business.

24 (E) Entity changes.

25 (F) Date of last payroll.

26 (m) The Director of the Oregon Health Authority to determine that a
27 person has the ability to pay for care that includes services provided by the
28 Oregon State Hospital, or the Oregon Health Authority to collect any unpaid
29 cost of care as provided by ORS chapter 179.

30 (n) Employees of the Employment Department to the extent the Depart-
31 ment of Revenue deems disclosure or access to information on a combined

1 tax report filed under ORS 316.168 is necessary to performance of their duties
2 in administering the tax imposed by ORS chapter 657.

3 (o) The State Fire Marshal to assist the State Fire Marshal in carrying
4 out duties, functions and powers under ORS 453.307 to 453.414, the employer
5 or agent name, address, telephone number and standard industrial classi-
6 fication, if available.

7 (p) Employees of the [*Department of State Lands*] **State Treasurer** for the
8 purposes of identifying, locating and publishing lists of taxpayers entitled to
9 unclaimed refunds [*as required by the provisions of chapter 694, Oregon Laws*
10 *1993*] **under ORS 98.302 to 98.436**. The information [*shall be*] **is** limited to
11 the taxpayer's name, address and the refund amount.

12 (q) In addition to the disclosure allowed under ORS 305.225, state or local
13 law enforcement agencies to assist in the investigation or prosecution of the
14 following criminal activities:

15 (A) Mail theft of a check, in which case the information that may be
16 disclosed shall be limited to the stolen document, the name, address and
17 taxpayer identification number of the payee, the amount of the check and the
18 date printed on the check.

19 (B) The counterfeiting, forging or altering of a check submitted by a
20 taxpayer to the Department of Revenue or issued by the Department of
21 Revenue to a taxpayer, in which case the information that may be disclosed
22 shall be limited to the counterfeit, forged or altered document, the name,
23 address and taxpayer identification number of the payee, the amount of the
24 check, the date printed on the check and the altered name and address.

25 (r) The United States Postal Inspection Service or a federal law enforce-
26 ment agency, including but not limited to the United States Department of
27 Justice, to assist in the investigation of the following criminal activities:

28 (A) Mail theft of a check, in which case the information that may be
29 disclosed shall be limited to the stolen document, the name, address and
30 taxpayer identification number of the payee, the amount of the check and the
31 date printed on the check.

1 (B) The counterfeiting, forging or altering of a check submitted by a
2 taxpayer to the Department of Revenue or issued by the Department of
3 Revenue to a taxpayer, in which case the information that may be disclosed
4 shall be limited to the counterfeit, forged or altered document, the name,
5 address and taxpayer identification number of the payee, the amount of the
6 check, the date printed on the check and the altered name and address.

7 (s) The United States Financial Management Service, for purposes of fa-
8 cilitating the offsets described in ORS 305.612.

9 (t) A municipal corporation of this state for purposes of assisting the
10 municipal corporation in the administration of a tax of the municipal cor-
11 poration that is imposed on or measured by income, wages or net earnings
12 from self-employment. Any disclosure under this paragraph may be made only
13 pursuant to a written agreement between the Department of Revenue and the
14 municipal corporation that ensures the confidentiality of the information
15 disclosed.

16 (u) A consumer reporting agency, to the extent necessary to carry out the
17 purposes of ORS 314.843.

18 (v) The Public Employees Retirement Board, to the extent necessary to
19 carry out the purposes of ORS 238.372 to 238.384, and to any public employer,
20 to the extent necessary to carry out the purposes of ORS 237.635 (3) and
21 237.637 (2).

22 (w) The Secretary of State for the purpose of initiating or supporting a
23 recommendation under ORS 60.032 (3) or 63.032 (3) to administratively dis-
24 solve a corporation or limited liability company that the Director of the
25 Department of Revenue determines has failed to comply with applicable tax
26 laws of the state.

27 (3)(a) Each officer or employee of the department and each person de-
28 scribed or referred to in subsection (2)(a), (b), (f) to (L), (n) to (q) or (w) of
29 this section to whom disclosure or access to the tax information is given
30 under subsection (2) of this section or any other provision of state law, prior
31 to beginning employment or the performance of duties involving such dis-

1 closure or access, shall be advised in writing of the provisions of ORS 314.835
2 and 314.991, relating to penalties for the violation of ORS 314.835, and shall
3 as a condition of employment or performance of duties execute a certificate
4 for the department, in a form prescribed by the department, stating in sub-
5 stance that the person has read these provisions of law, that the person has
6 had them explained and that the person is aware of the penalties for the
7 violation of ORS 314.835.

8 (b) The disclosure authorized in subsection (2)(r) of this section shall be
9 made only after a written agreement has been entered into between the De-
10 partment of Revenue and the person described in subsection (2)(r) of this
11 section to whom disclosure or access to the tax information is given, pro-
12 viding that:

13 (A) Any information described in ORS 314.835 that is received by the
14 person pursuant to subsection (2)(r) of this section is confidential informa-
15 tion that may not be disclosed, except to the extent necessary to investigate
16 or prosecute the criminal activities described in subsection (2)(r) of this
17 section;

18 (B) The information shall be protected as confidential under applicable
19 federal and state laws; and

20 (C) The United States Postal Inspection Service or the federal law
21 enforcement agency shall give notice to the Department of Revenue of any
22 request received under the federal Freedom of Information Act, 5 U.S.C. 552,
23 or other federal law relating to the disclosure of information.

24 (4) The Department of Revenue may recover the costs of furnishing the
25 information described in subsection (2)(L), (m) and (o) to (q) of this section
26 from the respective agencies.

27 **SECTION 66.** ORS 327.405 is amended to read:

28 327.405. (1) The Common School Fund shall be composed of the proceeds
29 from the sales of the 16th and 36th sections of every township or of any lands
30 selected in lieu thereof; all the moneys and clear proceeds of all property
31 that may accrue to the state by escheat or forfeiture; the proceeds of all

1 gifts, devises and bequests made by any person to the state for common
2 school purposes; the proceeds of all property granted to the state when the
3 purpose of such grant is not stated; all proceeds of the sale of submerged and
4 submersible lands as described in ORS 274.005; all proceeds of the sale of the
5 South Slough National Estuarine Research Reserve as described in ORS
6 273.553 in the event such property is sold; all proceeds of the sale of the
7 500,000 acres of land to which this state is entitled by an Act of Congress
8 approved September 4, 1841, and of all lands selected for capitol building
9 purposes under Act of Congress approved February 14, 1859; and all proceeds
10 derived from the investment of moneys that compose the fund. All such pro-
11 ceeds shall become a part of the fund. Except as otherwise provided by law,
12 the income from the fund shall be applied exclusively to the support and
13 maintenance of common schools in each school district.

14 **(2) The State Treasurer shall audit** all lawful claims for repayment of
15 moneys under [*the provisions of*] ORS 98.302 to 98.436 and 98.992, or out of
16 escheated estates and [*for*] **funds, including** attorney fees and all other ex-
17 penses in any suit or proceeding relating to escheated estates [*shall be au-*
18 *dited by the Department of State Lands*] and [*paid*] **shall pay each lawful**
19 **claim** from the Common School Fund Account.

20 **SECTION 67.** ORS 652.405 is amended to read:

21 652.405. (1) The Commissioner of the Bureau of Labor and Industries shall
22 attempt for a period of not less than three years to make payment of wages
23 collected under ORS 652.310 to 652.414 to the person entitled thereto.

24 **(2) By July 30 of each year,** wages collected by the commissioner under
25 ORS 652.310 to 652.414 and remaining unclaimed for a period of more than
26 three years from the date of collection shall [, *by July 30 of each year, be*
27 *forfeited*] **escheat** to the state and [*shall be paid by*] the commissioner **shall**
28 **pay those wages** to the [*Department of State Lands*] **State Treasurer** for
29 the benefit of the Common School Fund [*of this state*]. The [*department*]
30 **State Treasurer** shall issue a receipt for the money to the commissioner.
31 [*The*] **No later than 10 years after the State Treasurer receives the**

1 **escheated funds, a person entitled to claim** the wages [*or the person's heirs*
2 *or personal representatives may reclaim the wages paid into the Common*
3 *School Fund pursuant to this section within the time and in the manner pro-*
4 *vided for estates which have escheated to the state]* **may file a claim with**
5 **the State Treasurer in the manner provided by ORS 116.253.**

6 **SECTION 68.** ORS 657.665 is amended to read:

7 657.665. (1) Except as provided in subsections (2) to (5) of this section, all
8 information in the records of the Employment Department pertaining to the
9 administration of the unemployment insurance, employment service and
10 workforce and labor market information programs:

11 (a) Is confidential and for the exclusive use and information of the Di-
12 rector of the Employment Department in administering the unemployment
13 insurance, employment service and workforce and labor market information
14 programs in Oregon.

15 (b) May not be used in any court action or in any proceeding pending in
16 the court unless the director or the state is a party to the action or pro-
17 ceeding or unless the proceeding concerns the establishment, enforcement or
18 modification of a support obligation and support services are being provided
19 by the Division of Child Support or the district attorney pursuant to ORS
20 25.080.

21 (c) Is exempt from disclosure under ORS 192.311 to 192.478.

22 (2) The Employment Department shall disclose information:

23 (a) To any claimant or legal representative, at a hearing before an ad-
24 ministrative law judge, to the extent necessary for the proper presentation
25 of an unemployment insurance claim.

26 (b) Upon request to the United States Secretary of Labor. The Employ-
27 ment Department shall disclose the information in a form and containing the
28 information that the United States Secretary of Labor may require. The in-
29 formation disclosed is confidential and may not be used for any other pur-
30 pose.

31 (c) Pursuant to section 303(a)(7) of the Social Security Act, upon request

1 to any agency of the United States charged with the administration of public
2 works or assistance through public employment. Under this paragraph, the
3 Employment Department shall disclose the name, address, ordinary occupa-
4 tion and employment status of each recipient of unemployment insurance
5 benefits and a statement of the recipient's right to further benefits under this
6 chapter. The information disclosed is confidential and may not be used for
7 any other purpose.

8 (d) Pursuant to section 303(c)(1) of the Social Security Act, to the Rail-
9 road Retirement Board. Under this paragraph, the Employment Department
10 shall disclose unemployment insurance records. The information disclosed is
11 confidential and may not be used for any other purpose. The costs of dis-
12 closing information under this paragraph shall be paid by the board.

13 (e) Pursuant to section 303(d) of the Social Security Act, upon request to
14 officers and employees of the United States Department of Agriculture and
15 to officers or employees of any state Supplemental Nutrition Assistance
16 Program agency for the purpose of determining an individual's eligibility for
17 or the amount of supplemental nutrition assistance. The information dis-
18 closed is confidential and may not be used for any other purpose. The costs
19 of disclosing information under this paragraph shall be paid by the United
20 States Department of Agriculture.

21 (f) Pursuant to section 303(e)(1) and (2)(A)(ii) of the Social Security Act,
22 to state or local child support enforcement agencies enforcing child support
23 obligations under Title IV-D of the Social Security Act for the purposes of
24 establishing child support obligations, locating individuals owing child sup-
25 port obligations and collecting child support obligations from those individ-
26 uals. The information disclosed is confidential and may not be used for any
27 other purpose. The costs of disclosing information under this paragraph shall
28 be paid by the child support enforcement agency.

29 (g) Pursuant to sections 303(f) and 1137 of the Social Security Act, to
30 agencies participating in the income and eligibility verification system for
31 the purpose of verifying an individual's eligibility for benefits, or the amount

1 of benefits, under unemployment insurance, temporary assistance for needy
2 families, Medicaid, the Supplemental Nutrition Assistance Program, Supple-
3 mental Security Income, child support enforcement or Social Security pro-
4 grams. The information disclosed is confidential and may not be used for any
5 other purpose. The costs of disclosing information under this paragraph shall
6 be paid by the requesting agency.

7 (h) Pursuant to section 303(h) of the Social Security Act and section
8 3304(a)(16)(B) of the Federal Unemployment Tax Act, to the United States
9 Department of Health and Human Services National Directory of New Hires.
10 The information disclosed is confidential and may not be used for any other
11 purpose. The costs of disclosing information under this paragraph shall be
12 paid by the United States Department of Health and Human Services.

13 (i) Pursuant to section 303(i) of the Social Security Act, to officers and
14 employees of the United States Department of Housing and Urban Develop-
15 ment and to representatives of a public housing agency for the purpose of
16 determining an individual's eligibility for benefits, or the amount of benefits,
17 under a housing assistance program of the United States Department of
18 Housing and Urban Development. The information disclosed is confidential
19 and may not be used for any other purpose. The costs of disclosing informa-
20 tion under this paragraph shall be paid by the United States Department of
21 Housing and Urban Development or the public housing agency.

22 (j) Pursuant to regulations of the United States Secretary of Health and
23 Human Services issued under section 3304(a)(16)(A) of the Federal Unem-
24 ployment Tax Act, and except as required by section 303 of the Social Secu-
25 rity Act, to the state, a political subdivision or a federally recognized Indian
26 tribe that has signed an agreement with the Department of Human Services
27 to administer Part A of Title IV of the Social Security Act for the purpose
28 of determining an individual's eligibility for assistance, or the amount of
29 assistance, under a program funded under Part A of Title IV of the Social
30 Security Act. The information disclosed is confidential and may not be used
31 for any other purpose.

1 (k) Upon request, to the United States Attorney's Office. Under this
2 paragraph, the Employment Department may disclose an individual's em-
3 ployment and wage information in response to a federal grand jury subpoena
4 or for the purpose of collecting civil and criminal judgments, including
5 restitution and special assessment fees. The information disclosed is confi-
6 dential and may not be used for any other purpose. The costs of disclosing
7 information under this paragraph shall be paid by the United States
8 Attorney's Office.

9 (3) The Employment Department may disclose information secured from
10 employing units:

11 (a) To state agencies, federal agencies, local government agencies, public
12 universities listed in ORS 352.002 and the Oregon Health and Science Uni-
13 versity established under ORS 353.020, to the extent necessary to properly
14 carry out governmental planning, performance measurement, program analy-
15 sis, socioeconomic analysis or policy analysis functions performed under ap-
16 plicable law. The information disclosed is confidential and may not be
17 disclosed by the agencies or universities in any manner that would identify
18 individuals, claimants, employees or employing units. If the information dis-
19 closed under this paragraph is not prepared for the use of the Employment
20 Department, the costs of disclosing the information shall be paid by the
21 agency or university requesting the information.

22 (b) As part of a geographic information system. Points on a map may be
23 used to represent economic data, including the location, employment size
24 class and industrial classification of businesses in Oregon. Information pre-
25 sented as part of a geographic information system may not give specific de-
26 tails regarding a business's address, actual employment or proprietary
27 information. If the information disclosed under this paragraph is not pre-
28 pared for the use of the Employment Department, the costs of disclosing the
29 information shall be paid by the party requesting the information.

30 (c) In accordance with ORS 657.673.

31 (4) The Employment Department may:

1 (a) Disclose information to public employees in the performance of their
2 duties under state or federal laws relating to the payment of unemployment
3 insurance benefits, the provision of employment services and the provision
4 of workforce and labor market information.

5 (b) At the discretion of the Director of the Employment Department and
6 subject to an interagency agreement, disclose information to public officials
7 in the performance of their official duties administering or enforcing laws
8 within their authority and to the agents or contractors of public officials.
9 The public official shall agree to assume responsibility for misuse of the in-
10 formation by the official's agent or contractor.

11 (c) Disclose information pursuant to an informed consent, received from
12 an employer or claimant, to disclose the information.

13 (d) Disclose information to partners under the federal Workforce Inno-
14 vation and Opportunity Act for the purpose of administering state workforce
15 programs under the Act. The information disclosed is confidential and may
16 not be used for any other purpose. The costs of disclosing information under
17 this paragraph shall be paid by the requesting partner.

18 (e) Disclose the names and addresses of employing units to the Bureau
19 of Labor and Industries for the purpose of disseminating information to em-
20 ploying units. The names and addresses disclosed are confidential and may
21 not be used for any other purpose. If the information disclosed under this
22 paragraph is not prepared for the use of the Employment Department, the
23 costs of disclosing the information shall be paid by the bureau.

24 (f) Disclose information to the Commissioner of the Bureau of Labor and
25 Industries for the purpose of performing duties under ORS 279C.800 to
26 279C.870, 658.005 to 658.245 or 658.405 to 658.503 or ORS chapter 652, 653 or
27 659A. The information disclosed may include the names and addresses of
28 employers and employees and payroll data of employers and employees. The
29 information disclosed is confidential and may not be used for any other
30 purpose. If the information disclosed under this paragraph is not prepared
31 for the use of the Employment Department, the costs of disclosing the in-

1 formation shall be paid by the bureau.

2 (g) Disclose information required under ORS 657.660 (3) and (4) to the
3 Public Employees Retirement System for the purpose of determining the el-
4 igibility of members of the retirement system for disability under ORS
5 chapters 238 and 238A. The information disclosed is confidential and may not
6 be used for any other purpose. The costs of disclosing information under this
7 paragraph shall be paid by the Public Employees Retirement System.

8 (h) Disclose to the Oregon Business Development Commission and the
9 Oregon Business Development Department information required by the com-
10 mission and the department in performing their duties under ORS 285A.050
11 and 285B.630 to verify changes in employment levels following direct em-
12 ployer participation in department programs or indirect participation
13 through municipalities under ORS 285B.410 to 285B.482. The information
14 disclosed to the commission and the department may include an employer's
15 employment level, total subject wages payroll and whole hours worked. The
16 information disclosed is confidential and may not be used for any other
17 purpose. The commission and the department may not disclose the informa-
18 tion in any manner that would identify an employing unit or employee except
19 to the extent necessary to carry out the commission's and the department's
20 duties under ORS 285A.050 and 285B.630. If the information disclosed under
21 this paragraph is not prepared for the use of the Employment Department,
22 the costs of disclosing the information shall be paid by the commission or
23 the Oregon Business Development Department.

24 (i) Disclose information to the Department of Revenue for the purpose of
25 performing its duties under ORS 293.250 or under the revenue and tax laws
26 of this state. The information disclosed may include the names and addresses
27 of employers and employees and payroll data of employers and employees.
28 The information disclosed is confidential and may not be disclosed by the
29 Department of Revenue in any manner that would identify an employing unit
30 or employee except to the extent necessary to carry out the department's
31 duties under ORS 293.250 or in auditing or reviewing any report or return

1 required or permitted to be filed under the revenue and tax laws adminis-
2 tered by the department. The Department of Revenue may not disclose any
3 information received to any private collection agency or for any other pur-
4 pose. If the information disclosed under this paragraph is not prepared for
5 the use of the Employment Department, the costs of disclosing the informa-
6 tion shall be paid by the Department of Revenue.

7 (j) Disclose information to the Department of Consumer and Business
8 Services for the purpose of performing its duties under ORS chapters 654 and
9 656. The information disclosed may include the name, address, number of
10 employees and industrial classification code of an employer and payroll data
11 of employers and employees. The information disclosed is confidential and
12 may not be disclosed by the Department of Consumer and Business Services
13 in any manner that would identify an employing unit or employee except to
14 the extent necessary to carry out the department's duties under ORS chap-
15 ters 654 and 656, including administrative hearings and court proceedings in
16 which the Department of Consumer and Business Services is a party. If the
17 information disclosed under this paragraph is not prepared for the use of the
18 Employment Department, the costs of disclosing the information shall be
19 paid by the Department of Consumer and Business Services.

20 (k) Disclose information to the Construction Contractors Board for the
21 purpose of performing its duties under ORS chapter 701. The information
22 disclosed to the board may include the names and addresses of employers and
23 status of their compliance with this chapter. If the information disclosed
24 under this paragraph is not prepared for the use of the Employment De-
25 partment, the costs of disclosing the information shall be paid by the board.

26 (L) Disclose information to the State Fire Marshal to assist the State Fire
27 Marshal in carrying out duties under ORS 453.307 to 453.414. The informa-
28 tion disclosed may include the name, address, telephone number and indus-
29 trial classification code of an employer. The information disclosed is
30 confidential and may not be disclosed by the State Fire Marshal in any
31 manner that would identify an employing unit except to the extent necessary

1 to carry out duties under ORS 453.307 to 453.414. If the information disclosed
2 under this paragraph is not prepared for the use of the Employment De-
3 partment, the costs of disclosing the information shall be paid by the office
4 of the State Fire Marshal.

5 (m) Disclose information to the Higher Education Coordinating Commis-
6 sion for the purpose of performing the commission's duties under ORS chap-
7 ter 348 and Title IV of the Higher Education Act of 1965. The information
8 disclosed may include the names and addresses of employers and employees
9 and payroll data of employers and employees. The information disclosed is
10 confidential and may not be disclosed by the commission in any manner that
11 would identify an employing unit or employee except to the extent necessary
12 to carry out the commission's duties under ORS chapter 348 or Title IV of
13 the Higher Education Act of 1965. If the information disclosed under this
14 paragraph is not prepared for the use of the Employment Department, the
15 costs of disclosing the information shall be paid by the commission.

16 (n) Disclose information to the Department of Transportation to assist the
17 Department of Transportation in carrying out the duties of the Department
18 of Transportation relating to collection of delinquent and liquidated debts,
19 including taxes, under ORS 184.610 to 184.665, 184.670 to 184.733 and 805.263,
20 ORS chapter 319 and the Oregon Vehicle Code. The information disclosed
21 may include the names and addresses of employers and employees and payroll
22 data of employers and employees. The information disclosed is confidential
23 and may not be disclosed by the Department of Transportation in any man-
24 ner that would identify an employing unit or employee except to the extent
25 necessary to carry out the Department of Transportation's duties relating to
26 collection of delinquent and liquidated debts or in auditing or reviewing any
27 report or return required or permitted to be filed under the revenue and tax
28 laws administered by the Department of Transportation. The Department of
29 Transportation may not disclose any information received to any private
30 collection agency or for any other purpose. If the information disclosed under
31 this paragraph is not prepared for the use of the Employment Department,

1 the costs of disclosing the information shall be paid by the Department of
2 Transportation.

3 (o) Disclose information to the Department of Human Services and the
4 Oregon Health Authority to assist the Department of Human Services and
5 the Oregon Health Authority in the collection of debts that the Department
6 of Human Services and the Oregon Health Authority are authorized by law
7 to collect. The information disclosed may include the names, addresses and
8 payroll data of employers and employees. The information disclosed is con-
9 fidential and may not be disclosed by the Department of Human Services or
10 the Oregon Health Authority in a manner that would identify an employing
11 unit or employee except to the extent necessary for the collection of debts
12 as described in this paragraph. The Department of Human Services and the
13 Oregon Health Authority may not disclose information received under this
14 paragraph to a private collection agency or use the information for a purpose
15 other than the collection of debts as described in this paragraph. If the in-
16 formation disclosed under this paragraph is not prepared for the use of the
17 Employment Department, the costs of disclosing the information shall be
18 paid by the Department of Human Services or the Oregon Health Authority.

19 (p) Disclose to the Alcohol and Drug Policy Commission information re-
20 quired by the commission in evaluating and measuring the performance of
21 alcohol and drug prevention and treatment programs under ORS 430.242 or
22 the impact of the programs on employment. The information disclosed to the
23 commission may include total subject wages payroll and whole hours worked.
24 The information disclosed under this paragraph is confidential and may not
25 be used for any other purpose. The commission may not disclose the infor-
26 mation in any manner that would identify an employing unit or employee
27 except to the extent necessary to carry out the commission's duties under
28 ORS 430.242. If the information disclosed under this paragraph is not pre-
29 pared for the use of the Employment Department, the costs of disclosing the
30 information shall be paid by the commission.

31 (q) Disclose to any person establishment level information secured pur-

1 suant to this chapter from federal, state and local government agencies,
2 public universities listed in ORS 352.002 or the Oregon Health and Science
3 University established under ORS 353.020. If the information disclosed under
4 this paragraph is not prepared for the use of the Employment Department,
5 the costs of disclosing the information shall be paid by the person requesting
6 the information.

7 (r) Disclose to any person the industrial classification code assigned to
8 an employing unit. If the information disclosed under this paragraph is not
9 prepared for the use of the Employment Department, the costs of disclosing
10 the information shall be paid by the person requesting the information.

11 **(s) Disclose information to the State Treasurer useful for the pur-**
12 **pose of performing the State Treasurer's duties under ORS 98.302 to**
13 **98.436, 98.992 and 116.253 and the role of an estate administrator under**
14 **ORS 113.235. The information disclosed is confidential and may not be**
15 **used by the State Treasurer for any other purpose. If the information**
16 **disclosed is not prepared for the use of the Employment Department,**
17 **the costs of disclosing the information shall be paid by the State**
18 **Treasurer.**

19 (5) The Employment Department may make public all decisions of the
20 Employment Appeals Board.

21 (6) Any officer appointed by or any employee of the Director of the Em-
22 ployment Department who discloses confidential information, except with the
23 authority of the director, pursuant to rules or as otherwise required by law,
24 may be disqualified from holding any appointment or employment with the
25 Employment Department.

26 (7) Any person or any officer or employee of an entity to whom informa-
27 tion is disclosed by the Employment Department under this section who
28 divulges or uses the information for any purpose other than that specified
29 in the provision of law or agreement authorizing the use or disclosure may
30 be disqualified from performing any service under contract or disqualified
31 from holding any appointment or employment with the state agency that

1 engaged or employed that person, officer or employee. The Employment De-
2 partment may immediately cancel or modify any information sharing agree-
3 ment with an entity when a person or an officer or employee of that entity
4 discloses confidential information, other than as specified in law or agree-
5 ment.

6 **SECTION 69.** ORS 708A.430 is amended to read:

7 708A.430. (1) On the death of a depositor of an insured institution, if the
8 deposit is \$25,000 or less, the insured institution, after receiving an affidavit
9 as provided in subsection (3) of this section from a person that claims the
10 deposit, or a declaration from the Department of Human Services or the
11 Oregon Health Authority as provided in subsection (4) of this section, may
12 pay the moneys on deposit to the credit of the deceased depositor, in the
13 following order of priority, to:

14 (a) The surviving spouse at the surviving spouse's demand at any time
15 after the depositor's death;

16 (b) The Oregon Health Authority or the Department of Human Services,
17 if the authority or the department demands the payment not less than 46
18 days and no more than 75 days after the death of the depositor if the
19 depositor does not have a surviving spouse and if the authority or depart-
20 ment has a preferred claim under ORS 411.708, 411.795 or 416.350;

21 (c) The depositor's surviving children 18 years of age or older, if the
22 depositor does not have a surviving spouse and the authority and department
23 do not have a claim;

24 (d) The depositor's surviving parent, if the depositor does not have a
25 surviving spouse or surviving child 18 years of age or older and if the au-
26 thority and department do not have a claim; [or]

27 (e) The depositor's surviving brothers and sisters 18 years of age or older,
28 if the depositor does not have a surviving spouse, surviving child 18 years
29 of age or older or surviving parent and the authority and department do not
30 have a claim[.]; **or**

31 **(f) Any other surviving heir of the depositor, if there is no surviving**

1 **spouse, authority claim, department claim, surviving child 18 years of**
2 **age or older, surviving parent or surviving brothers or sisters 18 years**
3 **of age or older.**

4 (2)(a) An insured institution may not pay moneys on deposit under sub-
5 section (1)(c)[, (d) or (e)] **to (f)** of this section earlier than 46 days after the
6 death of the depositor.

7 (b) An insured institution may not pay moneys on deposit under sub-
8 section (1)(c)[, (d) or (e)] **to (f)** of this section earlier than 76 days after the
9 death of the depositor unless the financial institution obtains prior verbal
10 or written authorization from the Oregon Health Authority or its designated
11 representative and the Department of Human Services or its designated rep-
12 resentative.

13 (3) An affidavit or declaration submitted under this section must:

14 (a) State where and when the depositor died;

15 (b) State that the total deposits of the deceased depositor in all financial
16 institutions in Oregon do not exceed \$25,000;

17 (c) Show the relationship of the affiant or declarant to the deceased
18 depositor; and

19 (d) Embody a promise to pay the expenses of last sickness, funeral ex-
20 penses and just debts of the deceased depositor out of the deposit to the full
21 extent of the deposit if necessary, in the order of priority prescribed by ORS
22 115.125, and to distribute any remaining moneys to the persons that are en-
23 titled to the moneys by law.

24 (4) An insured institution shall accept from the Department of Human
25 Services or the Oregon Health Authority, without additional requirements,
26 a declaration under penalty of perjury meeting the requirements of sub-
27 section (3) of this section. A declaration submitted under this section must
28 be signed by the declarant and must include the following sentence imme-
29 diately above the signature line of the declarant: "I hereby declare under
30 penalty of perjury that I am authorized by the Department of Human Ser-
31 vices or the Oregon Health Authority to make this declaration, that the

1 above statement is true to the best of my knowledge and belief, and that I
2 understand that it is subject to penalty for perjury.”

3 (5) In the event the depositor died intestate without known heirs, an es-
4 tate administrator of the [*Department of State Lands*] **State Treasurer** ap-
5 pointed under ORS 113.235 is the affiant and shall receive the moneys as
6 escheat property.

7 (6) The insured institution shall determine the relationship of the affiant
8 or declarant to the deceased depositor, but paying the moneys in good faith
9 to the affiant or declarant discharges and releases the insured institution
10 from any liability or responsibility for the transfer in the same manner and
11 with the same effect as if the insured institution transferred, delivered or
12 paid the moneys to a personal representative of the estate of the deceased
13 depositor.

14 (7) A probate proceeding is not necessary to establish the right of the
15 surviving spouse, Oregon Health Authority, Department of Human Services,
16 surviving child, surviving parent, surviving brothers and sisters or an estate
17 administrator of the [*Department of State Lands*] **State Treasurer** to with-
18 draw the deposits after filing the affidavit or declaration. If a personal rep-
19 resentative is appointed in an estate where a withdrawal of deposits was
20 made under this section, the person that withdraws the deposits shall ac-
21 count for the deposits to the personal representative.

22 (8) If an insured institution transfers moneys under subsection (1) of this
23 section, the insured institution may require the transferee to furnish the in-
24 sured institution with a written indemnity agreement that indemnifies the
25 insured institution against loss for moneys the insured institution trans-
26 ferred to the extent of the amount of the deposit.

27 (9)(a) Moneys disbursed to the Department of Human Services under
28 subsection (1) of this section may be made payable only to the department.

29 (b) Moneys disbursed to the Oregon Health Authority under subsection
30 (1) of this section may be made payable only to the authority.

31 (10) This section is subject to the rights of other parties in the account

1 under ORS 708A.455 to 708A.515.

2 **SECTION 70.** ORS 708A.655 is amended to read:

3 708A.655. (1) This section applies to the safe deposit box of any person
4 who is the sole lessee or last surviving lessee of the box and who has died.

5 (2) Subject to ORS 114.537, upon being furnished with a certified copy of
6 the decedent's death record or other evidence of death satisfactory to the
7 Oregon operating institution, the Oregon operating institution within which
8 the box is located shall cause or permit the box to be opened and the con-
9 tents of the box examined at the request of an individual who furnishes an
10 affidavit stating:

11 (a) That the individual believes the box may contain the will of the
12 decedent, a trust instrument creating a trust of which the decedent was a
13 trustor or a trustee at the time of the decedent's death, documents pertaining
14 to the disposition of the remains of the decedent, documents pertaining to
15 property of the estate of the decedent or property of the estate of the
16 decedent; and

17 (b) That the individual is an interested person and wishes to open the box
18 to conduct a will search or trust instrument search, obtain documents re-
19 lating to the disposition of the decedent's remains, inventory the contents
20 of the box or remove property of the estate of the decedent pursuant to a
21 small estate affidavit filed under ORS 114.515.

22 (3) For the purpose of this section, "interested person" means any of the
23 following:

24 (a) A person named as personal representative of the decedent in a pur-
25 ported will of the decedent;

26 (b) The surviving spouse or any heir of the decedent;

27 (c) A person who was serving as the court-appointed guardian or
28 conservator of the decedent or as trustee for the decedent immediately prior
29 to the decedent's death;

30 (d) A person named as successor trustee in a purported trust instrument
31 creating a trust of which the decedent was a trustor or a trustee at the time

1 of the decedent's death;

2 (e) A person designated by the decedent in a writing that is acceptable
3 to the Oregon operating institution and is filed with it prior to the
4 decedent's death;

5 (f) A person who immediately prior to the death of the decedent had the
6 right of access to the box as an agent of the decedent under a durable power
7 of attorney;

8 (g) If there are no heirs of the decedent, an estate administrator of the
9 [*Department of State Lands*] **State Treasurer** appointed under ORS 113.235;
10 or

11 (h) A person who is authorized to file an affidavit under ORS 114.515.

12 (4) If the box is opened for the purpose of conducting a will search, the
13 Oregon operating institution shall remove any document that appears to be
14 a will, make a true and correct copy of it and deliver the original will to a
15 person designated in the will to serve as the decedent's personal represen-
16 tative, or if no such person is designated or the Oregon operating institution
17 cannot, despite reasonable efforts, determine the whereabouts of such person,
18 the Oregon operating institution shall retain the will or deliver it to a court
19 having jurisdiction of the estate of the decedent. A copy of the will shall be
20 retained in the box. At the request of the interested person, a copy of the
21 will, together with copies of any documents pertaining to the disposition of
22 the remains of the decedent, may be given to the interested person.

23 (5) If the box is opened for the purpose of conducting a trust instrument
24 search, the Oregon operating institution shall remove any document that
25 appears to be a trust instrument creating a trust of which the decedent was
26 a trustor or trustee at the time of the decedent's death, make a true and
27 correct copy of it and deliver the original trust instrument to a person des-
28 ignated in the trust instrument to serve as the successor trustee on the death
29 of the decedent. If no such person is designated or the Oregon operating in-
30 stitution cannot, despite reasonable efforts, determine the whereabouts of
31 such person, the Oregon operating institution shall retain the trust instru-

1 ment. A copy of the trust instrument shall be retained in the box. At the
2 request of any interested person, a copy of the trust instrument may be given
3 to the interested person.

4 (6) If the box is opened for the purpose of obtaining documents pertaining
5 to the disposition of the decedent's remains, the Oregon operating institution
6 shall comply with subsection (4) or (5) of this section with respect to any
7 will or trust instrument of the decedent found in the box, and may in its
8 discretion either:

9 (a) Make and retain in the box a copy of any documents pertaining to the
10 disposition of the remains of the decedent and tender the original documents
11 to the interested person; or

12 (b) Provide a copy of any documents pertaining to the disposition of the
13 remains of the decedent to the interested person and retain the original
14 documents in the box.

15 (7) If the box is opened for the purpose of making an inventory of its
16 contents, the Oregon operating institution shall comply with subsection (4)
17 or (5) of this section with respect to any will or trust instrument of the
18 decedent that is found in the box, and shall cause the inventory to be made.
19 The inventory must be attested to by a representative of the Oregon operat-
20 ing institution and may be attested to by the interested person, if the inter-
21 ested person is present when the inventory is made. The Oregon operating
22 institution shall retain the original inventory in the box, and shall furnish
23 a copy of the inventory to the interested person upon request.

24 (8) If the interested person is an affiant of a small estate affidavit filed
25 under ORS 114.515 and delivers a certified copy of the affidavit in the man-
26 ner provided by ORS 114.535, the Oregon operating institution shall provide
27 to the affiant access to the decedent's property. The Oregon operating insti-
28 tution shall comply with subsection (4) or (5) of this section if a will or trust
29 instrument of the decedent is found in the box. Subject to ORS 114.537, the
30 Oregon operating institution shall allow the affiant to take possession of the
31 personal property in the box.

1 (9) The Oregon operating institution may presume the truth of any
2 statement contained in the affidavit required to be furnished under this sec-
3 tion or ORS 114.535, and when acting in reliance upon such an affidavit, the
4 Oregon operating institution is discharged as if it had dealt with the per-
5 sonal representative of the decedent. The Oregon operating institution is not
6 responsible for the adequacy of the description of any property included in
7 an inventory of the contents of a box, or for the conversion of the property
8 in connection with actions performed under this section, except for conver-
9 sion by intentional acts of the Oregon operating institution or its employees,
10 directors, officers or agents. If the Oregon operating institution is not sat-
11 isfied that the requirements of this section have been satisfied, the Oregon
12 operating institution may decline to open the box.

13 (10) If the interested person or affiant does not furnish the key needed to
14 open the box, and the Oregon operating institution must incur expense in
15 gaining entry to the box, the Oregon operating institution may require that
16 the interested person or affiant pay the expense of opening the box.

17 (11) Any examination of the contents of a box under this section shall be
18 conducted in the presence of at least one employee of the Oregon operating
19 institution.

20 **SECTION 71.** ORS 711.225 is amended to read:

21 711.225. [(1)] **Six months after the mailing of the written notice de-**
22 **scribed in ORS 711.220 (3), the Oregon stock bank shall deliver a report**
23 **and** all deposits that remain unclaimed [*after six months from the date of the*
24 *written notice mentioned in ORS 711.220 (3), shall be reported and transferred*
25 *by the Oregon stock bank to the Department of State Lands] **to the State**
26 **Treasurer** as unclaimed property under ORS [98.302 to 98.436 and 98.992]
27 **98.352[.]***

28 [(2) A] **and deliver a** copy of the report [*of unclaimed deposits*] filed with
29 the [*Department of State Lands shall be filed with*] **State Treasurer to** the
30 Director of the Department of Consumer and Business Services.

31 **SECTION 72.** ORS 711.230 is amended to read:

1 711.230. (1) Claims of all persons, other than depositors, against the in-
2 stitution shall be presented in writing to the institution within one year af-
3 ter the date of first publication provided for in ORS 711.220, unless barred
4 by an earlier period of limitation. Claims arising out of the expense of liq-
5 uidation may be filed at any time prior to the closing of the liquidation.

6 (2) The board of directors shall, within 30 days after the presentment of
7 a claim, allow or reject the claim, in whole or in part, noting the same in
8 their minutes. The board shall notify the claimants in writing of its action,
9 either by personal service or by mail. Any claim rejected or disallowed is
10 barred unless action to adjudicate the claim is commenced within 60 days
11 after the date of service or mailing of notice of disallowance or rejection.

12 (3) The board of directors may extend the time within which to receive
13 claims and continue the liquidation after the expiration of the time allowed
14 in this section for the filing of claims. Any new claims filed after the time
15 shall be allowed and paid or rejected in the same manner as provided for
16 other claims. If the liquidation is continued, the transfer of unclaimed de-
17 posits to the [*Department of State Lands*] **State Treasurer** may be delayed
18 to such time as designated by the Director of the Department of Consumer
19 and Business Services.

20 **SECTION 73.** ORS 711.235 is amended to read:

21 711.235. (1) After the expiration of the time provided in ORS 711.230 for
22 the filing of claims or if the board of directors has extended the time of
23 liquidation then after the time set by them and after payment of unclaimed
24 deposits to the [*Department of State Lands*] **State Treasurer**, the board of
25 directors shall make a complete report of the liquidation to the Director of
26 the Department of Consumer and Business Services and shall certify to the
27 director that all claims have been paid or finally determined.

28 (2) Any claims received and approved after the report has been filed with
29 the director shall be paid if the remaining assets are sufficient.

30 (3) When the report has been approved by the director the board of di-
31 rectors may proceed to liquidate the remaining assets and distribute them

1 to the stockholders or other persons entitled to receive them according to
2 their respective rights and interests without further report to the director.

3 **SECTION 74.** ORS 711.590 is amended to read:

4 711.590. (1) Two years after the date of the final order closing the liqui-
5 dation of an institution, the Director of the Department of Consumer and
6 Business Services may withdraw any unclaimed deposits or balances re-
7 maining to the credit of dividend accounts, representing the aggregate of
8 undelivered checks or unpaid dividend funds in the possession of the De-
9 partment of Consumer and Business Services, **and report** and pay the funds
10 to the [*Department of State Lands*] **State Treasurer** as unclaimed property
11 [*to be disposed of as provided in ORS 98.302 to 98.436 and 98.992*] **under ORS**
12 **98.352.**

13 (2) The interest earned on the dividend accounts while they remain in the
14 possession of the director shall be paid to the State Treasurer to be credited
15 to the Consumer and Business Services Fund and [*the owner, the heirs or*
16 *personal representative of the owner have no*] **no person entitled to the ac-**
17 **counts has any** claim to the interest.

18 **SECTION 75.** ORS 716.905 is amended to read:

19 716.905. (1) [*Acting under*] **Upon approval of a plan under** ORS
20 716.900, the directors shall [*direct the mailing of a*] **mail** written notice of
21 their intention to close the Oregon nonstock bank to the last-known address
22 of all depositors and other creditors.

23 (2) All deposits and amounts reserved for creditors that remain unclaimed
24 after six months from the date of the written notice required under sub-
25 section (1) of this section shall be reported and transferred by the directors
26 to the [*Department of State Lands*] **State Treasurer** as unclaimed property
27 under ORS [*98.302 to 98.436 and 98.992*] **98.352.**

28 (3) A copy of the report of unclaimed deposits and amounts reserved for
29 creditors filed with the [*Department of State Lands*] **State Treasurer** shall
30 be filed with the Director of the Department of Consumer and Business
31 Services.

1 **SECTION 76.** ORS 716.910 is amended to read:

2 716.910. After the directors of an Oregon nonstock bank have filed their
3 report and deposited the unclaimed funds with the [*Department of State*
4 *Lands*] **State Treasurer** as required under ORS 716.905, the directors shall
5 report their proceedings to the Director of the Department of Consumer and
6 Business Services. Upon filing the report and the petition of the directors
7 with the Director of the Department of Consumer and Business Services, the
8 director shall order the charter surrendered, the directors discharged from
9 liability accruing after the order, and the existence of the Oregon nonstock
10 bank terminated.

11 **SECTION 77.** ORS 723.466 is amended to read:

12 723.466. (1) On the death of a member of a credit union, if the deposit to
13 the credit of the deceased member is \$25,000 or less, the credit union may,
14 upon receipt of an affidavit from a person claiming the deposit as provided
15 in subsection (3) of this section, or a declaration from the Department of
16 Human Services or the Oregon Health Authority as provided in subsection
17 (4) of this section, pay the moneys on deposit:

18 (a) To the surviving spouse on demand of the surviving spouse at any time
19 after the death of the member;

20 (b) If there is no surviving spouse, to the Oregon Health Authority or the
21 Department of Human Services, on demand of the authority or the depart-
22 ment no less than 46 days and no more than 75 days after the death of the
23 member when there is a preferred claim arising under ORS 411.708, 411.795
24 or 416.350;

25 (c) If there is no surviving spouse and no authority or department claim,
26 to the member's surviving children 18 years of age or older;

27 (d) If there is no surviving spouse, authority claim, department claim or
28 surviving child 18 years of age or older, to the member's surviving parents;
29 [*or*]

30 (e) If there is no surviving spouse, authority claim, department claim,
31 surviving child 18 years of age or older or surviving parent, to the member's

1 surviving brothers and sisters 18 years of age or older[.]; **or**

2 **(f) If there is no surviving spouse, authority claim, department**
3 **claim, surviving child 18 years of age or older, surviving parent or**
4 **surviving brothers or sisters 18 years of age or older, to any other**
5 **surviving heir of the member.**

6 (2)(a) A credit union may not pay moneys on deposit under subsection
7 (1)(c)[, (d) or (e)] **to (f)** of this section earlier than 46 days after the death
8 of the [*depositor*] **member**.

9 (b) A credit union may not pay moneys on deposit under subsection
10 (1)(c)[, (d) or (e)] **to (f)** of this section earlier than 76 days after the death
11 of the [*depositor*] **member** unless the financial institution obtains prior
12 verbal or written authorization from the Oregon Health Authority or its
13 designated representative and the Department of Human Services or its des-
14 ignated representative.

15 (3) An affidavit or declaration submitted under this section must:

16 (a) State where and when the member died;

17 (b) State that the total deposits of the deceased member in all financial
18 institutions in this state do not exceed \$25,000;

19 (c) Show the relationship of the affiant or declarant to the deceased
20 member; and

21 (d) Embody a promise to pay the expenses of last sickness, funeral ex-
22 penses and just debts of the deceased member out of the deposit, to the full
23 extent of the deposit if necessary, in the order of priority prescribed by ORS
24 115.125, and to distribute any remaining moneys to the persons who are en-
25 titled to those moneys by law.

26 (4) A credit union shall accept from the Department of Human Services
27 or the Oregon Health Authority, without additional requirements, a decla-
28 ration under penalty of perjury meeting the requirements of subsection (3)
29 of this section. A declaration submitted under this section must be signed
30 by the declarant and must include the following sentence immediately above
31 the signature line of the declarant: "I hereby declare under penalty of per-

1 jury that I am authorized by the Department of Human Services or the
2 Oregon Health Authority to make this declaration, that the above statement
3 is true to the best of my knowledge and belief, and that I understand that
4 it is subject to penalty for perjury.”

5 (5) In the event the member died intestate without known heirs, an estate
6 administrator of the [*Department of State Lands*] **State Treasurer** appointed
7 under ORS 113.235 shall be the affiant and shall receive the moneys as
8 escheat property.

9 (6) The credit union shall determine the relationship of the affiant or
10 declarant to the deceased member. However, payment of the moneys in good
11 faith to the affiant or declarant discharges and releases the transferor from
12 any liability or responsibility for the transfer in the same manner and with
13 the same effect as if the property had been transferred, delivered or paid to
14 a personal representative of the estate of the deceased member.

15 (7) A probate proceeding is not necessary to establish the right of the
16 surviving spouse, Oregon Health Authority, Department of Human Services,
17 surviving children, surviving parents, surviving brothers and sisters or an
18 estate administrator of the [*Department of State Lands*] **State Treasurer** to
19 withdraw the deposits upon the filing of the affidavit or declaration. If a
20 personal representative is appointed in an estate where a withdrawal of de-
21 posits was made under this section, the person withdrawing the deposits
22 shall account for them to the personal representative.

23 (8) When a credit union transfers moneys under subsection (1) of this
24 section, the transferor may require the transferee to furnish the transferor
25 with a written indemnity agreement, indemnifying the transferor against loss
26 for moneys paid to the extent of the amount of the deposit.

27 (9)(a) Moneys disbursed to the Department of Human Services under
28 subsection (1) of this section may be made payable only to the department.

29 (b) Moneys disbursed to the Oregon Health Authority under subsection
30 (1) of this section may be made payable only to the authority.

31 (10) This section is subject to the rights of other parties to the account

1 under ORS 723.474 to 723.498.

2 **SECTION 78.** ORS 723.844 is amended to read:

3 723.844. (1) This section applies to the safe deposit box of any person who
4 is the sole lessee or last surviving lessee of the box and who has died.

5 (2) Subject to ORS 114.537, upon being furnished with a certified copy of
6 the decedent's death record or other evidence of death satisfactory to the
7 credit union, the credit union within which the box is located shall cause
8 or permit the box to be opened and the contents of the box examined at the
9 request of an individual who furnishes an affidavit stating:

10 (a) That the individual believes the box may contain the will of the
11 decedent, a trust instrument creating a trust of which the decedent was a
12 trustor or a trustee at the time of the decedent's death, documents pertaining
13 to the disposition of the remains of the decedent, documents pertaining to
14 property of the estate of the decedent or property of the estate of the
15 decedent; and

16 (b) That the individual is an interested person and wishes to open the box
17 to conduct a will search or trust instrument search, obtain documents re-
18 lating to the disposition of the decedent's remains or inventory the contents
19 of the box or remove property of the estate of the decedent pursuant to a
20 small estate affidavit filed under ORS 114.515.

21 (3) For the purpose of this section, "interested person" means any of the
22 following:

23 (a) A person named as personal representative of the decedent in a pur-
24 ported will of the decedent;

25 (b) The surviving spouse or any heir of the decedent;

26 (c) A person who was serving as the court-appointed guardian or
27 conservator of the decedent or as trustee for the decedent immediately prior
28 to the decedent's death;

29 (d) A person named as successor trustee in a purported trust instrument
30 creating a trust of which the decedent was a trustor or a trustee at the time
31 of the decedent's death;

1 (e) A person designated by the decedent in a writing that is acceptable
2 to the credit union and is filed with it prior to the decedent's death;

3 (f) A person who immediately prior to the death of the decedent had the
4 right of access to the box as an agent of the decedent under a durable power
5 of attorney;

6 (g) If there are no heirs of the decedent, an estate administrator of the
7 [*Department of State Lands*] **State Treasurer** appointed under ORS 113.235;
8 or

9 (h) A person who is authorized to file an affidavit under ORS 114.515.

10 (4) If the box is opened for the purpose of conducting a will search, the
11 credit union shall remove any document that appears to be a will, make a
12 true and correct copy of it and deliver the original will to a person desig-
13 nated in the will to serve as the decedent's personal representative, or if no
14 such person is designated or the credit union cannot, despite reasonable ef-
15 forts, determine the whereabouts of such person, the credit union shall retain
16 the will or deliver it to a court having jurisdiction of the estate of the
17 decedent. A copy of the will shall be retained in the box. At the request of
18 the interested person, a copy of the will, together with copies of any docu-
19 ments pertaining to the disposition of the remains of the decedent, may be
20 given to the interested person.

21 (5) If the box is opened for the purpose of conducting a trust instrument
22 search, the credit union shall remove any document that appears to be a
23 trust instrument creating a trust of which the decedent was a trustor or
24 trustee at the time of the decedent's death, make a true and correct copy of
25 it and deliver the original trust instrument to a person designated in the
26 trust instrument to serve as the successor trustee on the death of the
27 decedent. If no such person is designated or the credit union cannot, despite
28 reasonable efforts, determine the whereabouts of such person, the credit un-
29 ion shall retain the trust instrument. A copy of the trust instrument shall
30 be retained in the box. At the request of any interested person, a copy of the
31 trust instrument may be given to the interested person.

1 (6) If the box is opened for the purpose of obtaining documents pertaining
2 to the disposition of the decedent's remains, the credit union shall comply
3 with subsection (4) or (5) of this section with respect to any will or trust
4 instrument of the decedent found in the box, and may in its discretion either:

5 (a) Make and retain in the box a copy of any documents pertaining to the
6 disposition of the remains of the decedent and tender the original documents
7 to the interested person; or

8 (b) Provide a copy of any documents pertaining to the disposition of the
9 remains of the decedent to the interested person and retain the original
10 documents in the box.

11 (7) If the box is opened for the purpose of making an inventory of its
12 contents, the credit union shall comply with subsection (4) or (5) of this
13 section with respect to any will or trust instrument of the decedent that is
14 found in the box, and shall cause the inventory to be made. The inventory
15 must be attested to by a representative of the credit union and may be at-
16 tested to by the interested person, if the interested person is present when
17 the inventory is made. The credit union shall retain the original inventory
18 in the box, and shall furnish a copy of the inventory to the interested person
19 upon request.

20 (8) If the interested person is an affiant of a small estate affidavit filed
21 under ORS 114.515 and delivers a certified copy of the affidavit in the man-
22 ner provided by ORS 114.535, the credit union shall provide to the affiant
23 access to the decedent's property. The credit union shall comply with sub-
24 section (4) or (5) of this section if a will or trust instrument of the decedent
25 is found in the box. Subject to ORS 114.537, the credit union shall allow the
26 affiant to take possession of the personal property in the box.

27 (9) The credit union may presume the truth of any statement contained
28 in the affidavit required to be furnished under this section and ORS 114.535,
29 and when acting in reliance upon such an affidavit, the credit union is dis-
30 charged as if it had dealt with the personal representative of the decedent.
31 The credit union is not responsible for the adequacy of the description of any

1 property included in an inventory of the contents of a box, or for the con-
2 version of the property in connection with actions performed under this
3 section, except for conversion by intentional acts of the credit union or its
4 employees, directors, officers or agents. If the credit union is not satisfied
5 that the requirements of this section have been satisfied, the credit union
6 may decline to open the box.

7 (10) If the interested person or affiant does not furnish the key needed to
8 open the box, and the credit union must incur expense in gaining entry to
9 the box, the credit union may require that the interested person or affiant
10 pay the expense of opening the box.

11 (11) Any examination of the contents of a box under this section shall be
12 conducted in the presence of at least one employee of the credit union.

13 **SECTION 79.** Section 2, chapter 91, Oregon Laws 2018, is amended to
14 read:

15 **Sec. 2.** (1) As used in this section:

16 (a) “Armed Forces of the United States” has the meaning given that term
17 in ORS 348.282.

18 (b) “Descendant” has the meaning given that term in ORS 111.005.

19 (c) “Military medal” means a medal or decoration awarded to a person for
20 military service in the Armed Forces of the United States and presumed to
21 be abandoned under ORS 98.302 to 98.436.

22 (d) “Service member” means the person to whom a military medal was
23 initially awarded by the Armed Forces of the United States.

24 (2) Notwithstanding ORS 98.382 and 98.384, the [*Department of State*
25 *Lands*] **State Treasurer** may not sell or destroy a military medal. Except
26 as provided in subsection (4) of this section, upon receiving a military medal,
27 the [*department*] **State Treasurer** shall retain the military medal until a
28 claim is filed for the military medal by a service member or by a descendant
29 of a deceased service member.

30 (3) The [*department*] **State Treasurer** may make a photograph or other
31 visual depiction of the military medal available to the public, together with

1 any information in the records of the holder, excluding Social Security
2 numbers, that the [department] **State Treasurer** determines is necessary to
3 facilitate the identification and location of a service member or a descendant
4 of a deceased service member.

5 (4) The [department] **State Treasurer** may deliver a military medal to one
6 of the following custodians if the recipient custodian agrees[,] in writing[,]
7 to retain the military medal for the service member or a descendant of a
8 deceased service member:

9 (a) A military veterans' organization qualified under section 501(c)(19) of
10 the Internal Revenue Code;

11 (b) The agency that awarded the military medal;

12 (c) A state or federal agency; or

13 (d) The Oregon Military Museum established under ORS 396.555.

14 (5) If the [department] **State Treasurer** transfers custody of a military
15 medal as provided in subsection (4) of this section, the [department] **State**
16 **Treasurer** is relieved of any duty to safeguard the military medal.

17 (6) The [department] **State Treasurer** may adopt rules to implement the
18 provisions of this section, including:

19 (a) Identifying procedures the [department] **State Treasurer** must take
20 to reasonably identify a service member or a descendant of a deceased service
21 member.

22 (b) Specifying documentation necessary for a service member or a de-
23 scendant of a deceased service member to submit a claim for a military
24 medal.

25 (c) Prioritizing claims if more than one of a deceased service member's
26 descendants submits a claim for a military medal.

27 **SECTION 80.** Section 2, chapter 95, Oregon Laws 2018, is amended to
28 read:

29 **Sec. 2.** (1) As used in this section, "U.S. savings bonds" or "bonds" means:

30 (a) U.S. savings bonds, series A, B, C, D, E, F, G, H, J and K, and U.S.
31 savings notes, governed by 31 C.F.R. 315;

1 (b) Definitive United States savings bonds, series EE and HH, governed
2 by 31 C.F.R. 353; and

3 (c) Definitive United States savings bonds, series I, governed by 31 C.F.R.
4 360.

5 (2) Notwithstanding any other provision of law, U.S. savings bonds sub-
6 ject to the custody of the State of Oregon as unclaimed property shall
7 escheat to the state *[only]* in accordance with this section.

8 (3) The holder of U.S. savings bonds presumed abandoned under ORS
9 98.302 to 98.436 shall report, and deliver possession of, the bonds to the [*ad-*
10 *ministrator*] **State Treasurer**.

11 (4) After obtaining possession of the U.S. savings bonds under subsection
12 (3) of this section, the [*administrator*] **State Treasurer** shall cause:

13 (a) Each person listed on the face of the bonds, each apparent owner of
14 the bonds and each person otherwise appearing to be an owner of the bonds
15 to be contacted at the last-known address of the person; and

16 (b) Notice of the bonds to be published of the bonds in such form as in
17 the discretion of the [*administrator*] **State Treasurer** is most likely to at-
18 tract the attention of all persons having a legal or beneficial interest in the
19 bonds.

20 (5) The notice required under subsection (4)(b) of this section must con-
21 tain the following information:

22 (a) The name of each person described in subsection (4)(a) of this section;

23 (b) The last-known address or location of each person described in sub-
24 section (4)(a) of this section, if known by the [*administrator*] **State Treas-**
25 **urer**;

26 (c) A statement explaining that the U.S. savings bonds are presumed to
27 be abandoned and have been taken into the protective custody and possession
28 of the [*administrator*] **State Treasurer**;

29 (d) A statement that information about the U.S. savings bonds can be
30 obtained upon inquiry to the [*administrator*] **State Treasurer** at any time
31 by any person having a legal or beneficial interest in the bonds;

1 (e) A statement that a claim for the U.S. savings bonds may be made
2 under ORS 98.392 **and 98.396**;

3 (f) A description of the escheat proceedings under this section; and

4 (g) Any other information the [*administrator*] **State Treasurer** considers
5 appropriate or necessary to locate all persons having a legal or beneficial
6 interest in the bonds.

7 (6) The [*administrator*] **State Treasurer** shall create and maintain on the
8 official website of the [*Department of State Lands*] **State Treasurer** a
9 webpage on which the public may obtain information about U.S. savings
10 bonds in the custody and possession of the [*administrator*] **State Treasurer**
11 as unclaimed property.

12 (7) If no person has been identified as the owner of U.S. savings bonds
13 within three years after the first public notice provided under subsection
14 (4)(b) of this section with respect to the bonds:

15 (a) Title to the bonds shall vest in the State of Oregon; and

16 (b) The [*administrator*] **State Treasurer** may seek an order from the
17 Marion County Circuit Court escheating the bonds to the State of Oregon.

18 (8) The Marion County Circuit Court shall issue an order escheating U.S.
19 savings bonds to the State of Oregon if the court determines that:

20 (a) With respect to the bonds, all provisions of this section have been
21 complied with; and

22 (b) The bonds:

23 (A) Have, within the meaning of the applicable federal regulations,
24 reached the final extended maturity date or the final maturity, or have
25 stopped earning interest;

26 (B) Are in the possession of the state; and

27 (C) Have been abandoned by all persons entitled to payment for the bonds
28 under the applicable federal regulations.

29 (9)(a) Upon issuance of an order of escheat with respect to U.S. savings
30 bonds, the [*administrator*] **State Treasurer** may apply to the United States
31 Treasury for payment to the state for the bonds.

1 (b) ORS 98.386 applies to any payments received by the state pursuant to
2 this subsection.

3 [(10)(a) U.S. savings bonds escheated to the state under this section or the
4 amount of any payments received by the state for the bonds may be recovered
5 by a claim filed by or on behalf of any person having a legal or beneficial
6 interest in the bonds that did not have actual knowledge of the escheat pro-
7 ceedings with respect to the bonds or that at the time of the order of escheat
8 was unable to prove entitlement to the bonds.]

9 [(b) The claim shall be made by a petition filed with the administrator. The
10 claim shall be considered a contested case for purposes of ORS chapter 183 and
11 a person adversely affected or aggrieved by a final order with respect to the
12 claim is entitled to judicial review under ORS 183.480.]

13 [(c) The petition must include a declaration made under penalty of perjury
14 in the form required by ORCP 1 E, or an unsworn declaration under ORS
15 194.800 to 194.835, if the declarant is physically outside the boundaries of the
16 United States, and must state:]

17 [(A) The age and place of residence of the claimant by whom or on whose
18 behalf the petition is filed;]

19 [(B) That the claimant is lawfully entitled to the U.S. savings bonds or the
20 amount of the payments received by the state for the bonds;]

21 [(C) That at the time the bonds escheated to the state, the claimant had no
22 actual knowledge of the escheat proceedings or was unable to prove entitlement
23 to the bonds and has subsequently acquired new evidence of that
24 entitlement;]

25 [(D) That the claimant claims the bonds or the payments received by the
26 state for the bonds as an heir or devisee, or as the personal representative of
27 the estate of an heir or devisee, setting forth the relationship, if any, of the
28 claimant to the decedent who at the time of death was the owner of the bonds;
29 and]

30 [(E) If the petition is not filed by the claimant, the status of the
31 petitioner.]

1 *[(d) If it is determined that the claimant is entitled to the bonds or the*
2 *payments received by the state for the bonds, the administrator shall deliver*
3 *the bonds or the payments received for the bonds to the claimant, after de-*
4 *duction of any costs and expenses of the state in connection with the escheat*
5 *proceedings and the claim hearing.]*

6 *[(e) A claimant is not entitled to payment of interest on payments received*
7 *by the state for the bonds earned during the period in which title to the bonds*
8 *was vested in the State of Oregon in accordance with this section.]*

9 ~~[(11)]~~ **(10)** This section does not apply to a claim of title by the state to
10 U.S. savings bonds as heir to a deceased owner.

11 **SECTION 81.** Section 22, chapter 105, Oregon Laws 2018, is amended to
12 read:

13 **Sec. 22.** (1) On January 1 of each year, the [*Department of State Lands*]
14 **State Treasurer** shall transfer from the Common School Fund Account to
15 the School Districts Unfunded Liability Fund established in section 24, [*of*
16 *this 2018 Act*] **chapter 105, Oregon Laws 2018**, all or part of the interest
17 earned in the previous calendar year from the cumulative unclaimed property
18 deposited in the Common School Fund Account under ORS 98.386 to which
19 the state has not taken title, as described in subsection (2) of this section.

20 (2) The amount made available under subsection (1) of this section may
21 not exceed an amount equal to the proceeds from unclaimed property re-
22 ceived by the Department of **State Lands or State Treasurer** in the pre-
23 vious calendar year, minus:

24 (a) The amount paid for unclaimed property claims under ORS 98.396 in
25 the previous calendar year;

26 (b) The [*department's*] investment expenses **of the department or State**
27 **Treasurer** related to the Common School Fund for the previous calendar
28 year; and

29 (c) Operating expenses that the department **or State Treasurer** is enti-
30 tled to recover for the previous calendar year.

31 **SECTION 82.** Section 22, chapter 105, Oregon Laws 2018, as amended by

1 section 81 of this 2019 Act, is amended to read:

2 **Sec. 22.** (1) On January 1 of each year, the State Treasurer shall transfer
3 from the Common School Fund Account to the School Districts Unfunded
4 Liability Fund established in section 24, chapter 105, Oregon Laws 2018, all
5 or part of the interest earned in the previous calendar year from the cumu-
6 lative unclaimed property deposited in the Common School Fund Account
7 under ORS 98.386 to which the state has not taken title, as described in
8 subsection (2) of this section.

9 (2) The amount made available under subsection (1) of this section may
10 not exceed an amount equal to the proceeds from unclaimed property re-
11 ceived by the [*Department of State Lands or*] State Treasurer in the previous
12 calendar year, minus:

13 (a) The amount paid for unclaimed property claims under ORS 98.396 in
14 the previous calendar year;

15 (b) The investment expenses of the [*department or*] State Treasurer related
16 to the Common School Fund for the previous calendar year; and

17 (c) Operating expenses that the [*department or*] State Treasurer is entitled
18 to recover for the previous calendar year.

19 **SECTION 83.** Section 23, chapter 105, Oregon Laws 2018, is amended to
20 read:

21 **Sec. 23.** Section 22, chapter 105, Oregon Laws 2018, as amended by
22 sections 81 and 82 of this 2019 Act, [*of this 2018 Act*] is repealed on Janu-
23 ary 2, 2027.

24

25

CAPTIONS

26

27 **SECTION 84.** The unit captions used in this 2019 Act are provided
28 only for the convenience of the reader and do not become part of the
29 statutory law of this state or express any legislative intent in the
30 enactment of this 2019 Act.

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OPERATIVE DATES

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SECTION 85. (1) Sections 1 to 6 of this 2019 Act become operative on July 1, 2020.

(2) The amendments to statutes and session law by sections 7 to 80 of this 2019 Act become operative on July 1, 2020.

(3) The amendments to section 22 and 23, chapter 105, Oregon Laws 2018, by sections 81 and 83 of this 2019 Act become operative on January 1, 2021.

(4) The amendments to section 22, chapter 105, Oregon Laws 2018, by section 82 of this 2019 Act become operative on January 1, 2022.

(5) The State Treasurer, the Department of State Lands and the State Land Board may take any actions before the operative dates specified in subsections (1) to (4) of this section necessary to enable the State Treasurer to exercise, on and after the operative dates specified in subsections (1) to (4) of this section, the duties, functions and powers required under this 2019 Act.

EFFECTIVE DATE

SECTION 86. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.



Oregon

Kate Brown, Governor

Department of State Lands

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State Land Board

December 18, 2018

Kate Brown

Governor

RESOLUTION

Dennis Richardson

Secretary of State

Supporting Increased Efficiency to Benefit the Common School Fund

Tobias Read

State Treasurer

Whereas Oregon schoolchildren, both present and future, benefit from the Common School Fund;

Whereas the Land Board is the manager of the Common School Fund and has a responsibility to manage the Common School Fund for the benefit of the K-12 schools;

Whereas the Land Board has identified two opportunities to generate additional money and more efficiently use Common School Fund allocations through structural reform of the Department of State Lands;

Whereas there are opportunities to increase efficiency and generate more revenue by moving Oregon's unclaimed property program to the Oregon State Treasury;

Whereas the South Slough National Estuarine Reserve provides education services and important environmental research, and there are opportunities to increase efficiency and reduce costs to the Common School Fund by identifying an alternative funding source and/or moving management of the Reserve out of the Department of State Lands, where it is costing the Common School Fund approximately \$900,000 per year; now, therefore,

Be It Resolved by the State Land Board:

That we, the members of the State Land Board, call on the Oregon Legislative Assembly to pass legislation moving management of the unclaimed property division from the Department of State Lands to the State Treasury in order to improve efficiency and increase funding for the Common School Fund; and be it further

Resolved, that we, the members of the State Land Board, call on the Oregon Legislative Assembly to pass a bill shifting South Slough management costs from the Common School Fund to other sources, and/or identify alternative management options to avoid continued diversion of these funds from their intended use for the benefit of the school children of Oregon.



Oregon

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State Land Board

Kate Brown

Governor

Dennis Richardson

Secretary of State

Tobias Read

State Treasurer

State Land Board

Regular Meeting December 18, 2018 Agenda Item 10

SUBJECT

Reappointment of one (1) voting member to the Oregon Ocean Science Trust (OOST) by the State Land Board.

ISSUE

Whether the Land Board should reappoint the recommended voting member to the Trust.

AUTHORITY

Oregon Constitution, Article VIII, Section 5

ORS 196.565; regarding appointment of the Ocean Science Trust

ORS 183; regarding administrative procedures and rules of state agencies

ORS 273; regarding the creation and general powers of the Land Board

ORS 274; regarding submerged and submersible lands in general

BACKGROUND

At the October 13, 2015 regular meeting, the Land Board appointed the following five individuals as voting members to the Trust:

- **Laura Anderson** – appointed for a term ending December 31, 2019.
- **Emily Goodwin Martin** – appointed for a term ending December 31, 2018.
- **Louise Solliday** – appointed for a term ending December 31, 2019.

- **Jim Sumich** – appointed for a term ending December 31, 2018.
- **Krystyna Wolniakowski** – appointed for a term ending December 31, 2019.

The terms of Emily Goodwin Martin and Jim Sumich end in December. Mr. Sumich is interested in reappointment to a new 4-year term. Ms. Martin has resigned from the Trust. The Department thanks her for her service and participation on the Trust.

TRUST DUTIES AND VOTING MEMBER REQUIREMENTS

The duties of the Trust include:

1. Promote peer-reviewed, competitive research and monitoring that leads to increased knowledge and understanding of Oregon's ocean and coastal resources;
2. Promote innovative, collaborative, community-oriented, multi-institutional approaches to research and monitoring related to Oregon's ocean and coastal resources;
3. Enhance this state's capacity for peer-reviewed scientific ocean and coastal research; and
4. Subject to available funding, establish and execute a competitive grant program to conduct research and monitoring related to Oregon's ocean and coastal resources.

The Trust is also responsible for submitting a report to the Legislative Assembly by March 31 of each even-numbered year. The report shall describe the progress of the Trust in carrying out its duties, and may include relevant issues and trends of significance, including emerging scientific research and public policy.

Pursuant to the amendments created by SB 1545, the Trust is comprised of seven members. The Land Board is required to appoint the five voting members to the Trust (The President of the Senate and the Speaker of the House appoint one member from each respective chamber).

Voting members need to be residents of this state who demonstrate a commitment and interest in the stewardship of Oregon's ocean and coastal resources; and have not less than five years of experience in competitive granting, marine science, foundations or fiscal assurance.

The term of office of each voting member is four years, but a voting member serves at the pleasure of the Board. Before the expiration of the term of a voting member, the Board shall appoint a successor whose term begins on January 1 next following. A voting member is eligible for reappointment. If there is a vacancy for any cause, the Board shall make an appointment to become immediately effective for the unexpired term.

Section 6 of Senate Bill 737 (Appendix A) directs the appointments to be staggered, with two voting members to serve for a term ending December 31, 2018; and the other three voting members to serve for a term ending December 31, 2019.

TRUST NOMINEES

The following Trust member's term ends on December 31, 2018. Mr. Sumich is interested in reappointment to a new four-year term.

Jim Sumich, Ph.D., retired, former professor of marine biology and zoology at Grossmont Community College (CA), marine mammal expert and marine biology textbook author (Corvallis, OR).

Vacancy

The Trust currently has a vacancy for one voting member. The Department is assisting Executive Director Solliday in the search to fill this vacancy.

RECOMMENDATION

The Department recommends that the State Land Board reappoint the following individual to the Trust as a voting member:

- **Jim Sumich** – recommendation of appointment for a term ending December 31, 2022.

APPENDICES

- A. Oath of Office for Jim Sumich
- B. OOST Vacancy Announcement

Oregon Ocean Science Trust Seeking New Member

The Oregon Ocean Science Trust is seeking a volunteer committed to stewardship of Oregon's ocean and coastal resources to join the seven-member Trust. The new Trust member would be one of five voting members appointed by the State Land Board.

Desired Qualities

- The member must be a resident of Oregon.
- Members must have not less than five years experience in competitive granting, marine science, foundations or fiscal assurance. The Trust is particularly interested in hearing from candidates with experience in foundations and/or fundraising.

Member Commitments

- Members are appointed to four-year terms, but serve at the pleasure of the State Land Board. Members are eligible for reappointment. The Trust meets at least twice per year, typically at the Oregon Department of State Lands offices in Salem.

About the Oregon Ocean Science Trust

In establishing the Trust, the Oregon Legislature created an opportunity for our state to understand how our ocean is changing and to help ensure a thriving coastal environment and economy for future generations. The Trust is charged with:

Connecting the many ways ocean science matters for Oregon. Understanding the changes occurring off our coast matters to many, from communities whose economies depend on fishing to the millions of Oregonians and visitors who explore our shoreline every year. The Trust aims to promote innovative, collaborative, community-oriented approaches to research and monitoring of Oregon's ocean and coastal resources.

Supporting science Oregon can count on. By promoting peer-reviewed competitive research and monitoring, the Trust increases the availability of reliable science that answers priority questions for understanding and managing Oregon's coastal resources.

Investing in essential ocean research for a thriving environment and economy. By establishing a competitive grant program, the Trust will put independent science in the hands of the communities, businesses, and governments that need better information about Oregon's ocean and coastal resources.

For more information, visit www.oregon.gov/dsl/OOST

To Be Considered

Please submit a letter of interest to Trust Executive Director Louise Solliday at OceanScienceTrust@dsl.state.or.us by 5:00 PM, Friday, November 30, 2018. For more information, please contact Senior Policy and Legislative Analyst Chris Castelli at 503-986-5280.