



Oregon

Kate Brown, Governor

Department of State Lands

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State Land Board

The State Land Board met in regular session on May 9, 2017, in the Land Board Room at the Department of State Lands, 775 Summer Street NE, Salem, Oregon.

Present were:

Kate Brown
Dennis Richardson
Tobias Read

Governor
Secretary of State
State Treasurer

Kate Brown
Governor

Dennis Richardson
Secretary of State

Land Board Assistants

Jason Miner
Steve Elzinga
Chelsea Brossard

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

Tobias Read
State Treasurer

Department Staff

Jim Paul Bill Ryan Cyndi Wickham Julie Curtis Chris Castelli
Nancy Pustis Lorna Stafford Sabrina Foward 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.

Director Paul announced that the meeting would be the first Land Board meeting to be streamed live, over the Internet and that future meetings will also be streamed live via YouTube.

STATE LAND BOARD AWARDS

Prior to the start of the regular meeting, the Board presented its annual awards. Two Stream Project Awards were presented for the Catherine Creek Fish Habitat Restoration project and the Wallowa River/6 Ranch Habitat Restoration project. Both projects are located in northeast Oregon. Photos were taken of the award recipients with the Board members.

In addition to the awards ceremony, the Board presented Board Secretary Lorna Stafford with a letter of appreciation for her years of service to the Board and the State of Oregon.

CONSENT AGENDA

1. a. **Request for approval of the minutes of the February 14, 2017 State Land Board meeting.**
- b. **Request for approval to initiate the review and determination of the direct sale of 0.4 acres of state-owned new lands in Coos County.**

Director Paul reviewed the items on the consent agenda. He explained that the Coos County item dates back to 1988, when the Board approved the sale of filled lands. Recently, during the renewal of a waterway lease for the property, it was discovered that the sale was never completed. He said Board approval of item 1b will allow the Department to conduct due

diligence to determine whether or not to recommend the sale. The item would come back to the Board for final approval, if deemed appropriate for sale.

Treasurer Read made a motion to approve the consent agenda. There were no objections to his motion. The consent agenda was approved.

Action Items

2. Request for approval of the release of 46 acres of mineral and geothermal rights in Wheeler County.

Director Paul said the Department received an application in August 2016, for the release of mineral rights. Since that time, the land has changed ownership, but the new owner would like to proceed with the mineral release. The Department has received a review from the Department of Geology and Mineral Industries (DOGAMI), which determined there was no or little potential for minerals of value on the 46 acres. The applicant will pay the standard ten dollars per acre fee, along with half the cost of the DOGAMI assessment for a total of \$1,885.

Treasurer Read moved to approve the staff recommendation. There was no other discussion or objection to the motion. The item was approved.

3. Request for approval of the release of 1 acre of mineral and geothermal rights in Jackson County.

Director Paul explained that the one acre of mineral rights for this request is made up of two pieces of land – one that is on an island in the Rogue River, and one that is on the bank of the river. He said that the lands were not in the middle and adjacent to the river at statehood, but the river has moved over time. The Department requested a review from DOGAMI, which determined that there was no or low potential for minerals of value on the property. Director Paul stated that since the normal ten dollar per acre charge would result in a very low fee for this transaction, the Department negotiated a minimum charge of \$250 to compensate the Common School Fund. In addition, the applicant has agreed to pay the full cost of the DOGAMI review for a total of \$2,853.76.

Treasurer Read made a motion to approve the staff recommendation for the approval of the release of one acre of mineral and geothermal rights in Jackson County. There was no further discussion or objection to the motion. The item was approved.

4. Request for approval to grant a 20-year easement for a fiber optic communication cable across state-owned submerged and submersible lands in the Territorial Sea in Tillamook County.

Director Paul said this request is similar to the one the Board approved at their February meeting to install a fiber optic cable system at Pacific City. The application has been through the public review process, which received only one comment from the Oregon Department of Fish and Wildlife in regards to the potential migration area for the state endangered gray whale. The applicant has addressed these concerns and is working with the Oregon Fishermen's Cable Committee (OFCC) to address any other issues with the project. The applicant will pay \$300,000 for the 20-year easement.

Lincoln County Commissioner Terry Thompson provided comments to the Board. He told the Board that the advantage of the proposed cable is that it connects New Zealand, Australia and the Pacific Islands with the United States to create markets for those countries. Commissioner Thompson also discussed the relationship between the OFCC and the cable companies and how the cooperation and communication between the two entities has resulted in improved safety for fishermen and addressed other environmental concerns.

Secretary Richardson moved to accept the staff recommendation to grant a 20-year easement for a fiber optic communication cable across state-owned submerged and submersible land in the territorial sea in Tillamook County. There was no further discussion and no objection to the motion. The item was approved.

5. Status report on the Elliott State Forest Ownership Transfer Opportunity.

Director Paul reported that the Department has been proceeding with negotiating with the proposers under the Elliott Protocol. Additionally, work has been proceeding towards consideration of a public ownership option. The Department has been providing information and materials, as appropriate, in consideration of that work.

Treasurer Read noted that it is important to be clear to the proposers and the public that the Board has decided to pursue a public option. He said he appreciated the other Board members' recent public announcements indicating their position and thoughts on the issue.

Jason Miner, Natural Resource Policy Manager for Governor Brown and Liz Dent, State Forests Division Chief for the Department of Forestry (ODF) provided information related to the Governor's plan for a public ownership option. It includes \$100 million in bonding to accomplish a trust land transfer to remove a portion of the forest from its obligation to produce revenue for the Common School Fund; and a multi-species habitat conservation plan (HCP) for the remaining acres that will allow for continued harvest. Mr. Miner added that the public ownership option does not foreclose a role for Oregon's sovereign tribal governments. The proposal can work with other entities owning, operating, collaborating or cooperating on a portion or the entirety of the forest. Mr. Miner stated that the Governor is also interested in continuing the conversation of returning land to tribal ownership.

Ms. Dent discussed previous attempts to obtain an HCP. She explained that the difference today from that of previous attempts is related to the \$100 million in bond capacity, which would signal to the federal services that the state is committed to conserving threatened and endangered species and their habitat. Additionally, both the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) have stated that the proposed HCP framework outlines a reasonable approach to manage the forest with strategies for conserving areas occupied by listed species, while meeting the state's goals of timber harvest and recreation.

Treasurer Read asked if the work to be done on the Elliott HCP could be used in other Department of Forestry work.

Ms. Dent said the strategies they have been exploring apply to forest management for endangered species up and down the coast range. She added that Board of Forestry lands are quite different than the Elliott, but some strategies might be applicable.

Treasurer Read noted that if the work is applicable, perhaps a portion of the cost could be shared by the Department of Forestry.

Secretary Richardson asked how much it was going to cost to pay back the \$100 million bond over twenty-five years.

Mr. Miner said the cost would be approximately \$15-16 million a biennium over fourteen years.

Secretary Richardson said he thought the period to pay the money back was twenty-five years, which works out to \$200 million. He said the expectation is to generate enough money to pay back the loan and the Elliott will need to generate \$7-8 million a year in revenue.

Mr. Miner said the total pay back amount will depend on the bonding vehicle, which hasn't been determined, yet. He said it is important to note that the cost of financing the bonding is born by

the general fund and any revenue generated from the forest would continue to be obligated to the Common School Fund, not to paying back the bonding. He said there are many different ways to set up the bonding and those details still need to be discussed.

Governor Brown asked why there is more hope for an HCP this time around.

Ms. Dent explained that the previous attempt to obtain an HCP was a very holistic approach that included not only listed species, but 30-40 other species that weren't listed. This required a very in-depth set of strategies and analysis to determine if the needs of all of those species were truly being met. She said another reason is due to the prior work that has been done with the federal services.

Governor Brown asked if approval is given on an HCP, what the annual harvest is expected to be.

Ms. Dent said that prior to the listing of the Northern spotted owl, harvest levels were at 50 million board feet (mmbf) per year. With an HCP for the spotted owl, harvest was at 25 mmbf per year. So, she estimated that by adding the marbled murrelet and Coho to the HCP, harvest levels would be about 21 mmbf per year. She said it will take significant analysis once the strategies are developed and approved to get a more precise estimate.

Secretary Richardson asked what happens if an HCP is not approved.

Mr. Miner responded that a comprehensive appraisal was performed to establish a market value for the forest that wasn't available during prior conversations with the federal services. Now, expectations are more realistic around harvest levels based on that appraisal. In addition, the bonding proposal has changed the perspective of the services, since the focus will no longer be solely on timber harvest, but will also include conservation efforts. He added that the possibility of the forest no longer being under public ownership is also of concern to the federal services.

Director Paul introduced Dmitri Palmateer, Chief of Staff for Treasurer Read; Oregon State University (OSU) President Ed Ray; and Thomas Maness, Dean of OSU College of Forestry to discuss Treasurer Read's proposal of having Oregon State University own and manage the Elliott State Forest for education and research.

Mr. Palmateer explained that the Treasurer's proposal has three elements: 1) the development and implementation of a near-term management approach to protect the forest's underlying value for future generations; 2) development of a longer-term research and monitoring framework that includes a strong collaboration between ODF and OSU College of Forestry; and 3) pursue a purchase option with OSU that will allow for the establishment of a multiuse research forest that benefits the entire state.

Mr. Palmateer said that the \$100 million in bonding from the Governor's proposal would act as a down payment of sorts to the Common School Fund from the state to meet the Fund's obligation to its beneficiaries. Oregon State University would have the right, not the obligation, to exercise a purchase option for the remaining \$120.8 million.

President Ray discussed the possibility of OSU owning the Elliott State Forest. He noted that OSU has the 2nd ranked college of forestry in the world. He expressed his concern with finding the money to complete the purchase. He also expressed the importance of obtaining an HCP in order to continue revenue production from the forest to pay the remaining \$120.8 million.

Dean Maness explained that timber is a \$12 billion industry for western Oregon that employs 70,000 people. He said that there has been no research related to the Northern Spotted Owl and forest management. He said there is no other location in the state where long-term research can be conducted to understand how active management impacts listed and other

species' habitat. He said the research performed on the forest will help support the HCP. He added that the opportunity for OSU to own the Elliott would be transformational.

Governor Brown asked if harvesting would still be done and how it would impact the local communities.

Dean Maness said harvesting would still occur, but with possibly different management strategies to address environmental and economic issues.

Treasurer Read thanked the panel members for their assistance and willingness to engage in the effort.

Secretary Richardson added that no matter who ends up owning the forest, OSU should be allowed access for research activities.

Director Paul introduced Bob Zybach and Wayne Geisey to present their proposal. Mr. Geisey explained that their proposal would divide the forest into thirds, where a third would be managed by the environmental community, a third set aside for timber harvest, and a third protected for riparian areas.

Mr. Zybach discussed the proposal of using the Elliott as a demonstration forest to show how federal lands could be managed. This project would last approximately 20 years, at which time the forest could again be examined for sale. He said it is estimated that this proposal would generate \$460 million over the 20-year period, creating 445 full-time, direct and indirect jobs. He said the forest would be set up for research by anyone. 35,000 acres would be set aside for murrelets and spotted owls; and riparian areas would be managed separately to enhance Coho populations and recreation. Mr. Zybach told the Board that all options considered should be analyzed using the set of eight (8) principles laid out by Secretary Richardson.

Secretary Richardson discussed his eight criteria: 1) put education first; 2) protect the environment by incorporating good forest stewardship practices; 3) create jobs; 4) recreational access throughout the year; 5) keep the promise to restore ownership of ancestral homelands to tribal peoples who have protected them for generations; 6) generational equality to ensure that future generations are not held accountable for debt acquired today; 7) public ownership retained; and 8) preserve the state's reputation and ability to negotiate agreements in good faith.

Secretary Richardson noted that damage has already been done with regards to number eight, but Oregon needs to move forward now. Secretary Richardson expressed his disapproval with borrowing money through bonding to pay for property the state already owns. He believes this method will strap future generations with unnecessary debt.

Secretary Richardson discussed the option of exchanging land with the federal government for land with younger trees that is harvestable and not encumbered with endangered species.

Director Paul introduced Jim Green, Executive Director of the Oregon School Boards Association (OSBA). Mr. Green discussed the recent letter from the OSBA, which expressed its position related to the Board's fiduciary obligation to manage Common School lands to maximize revenue for the Common School Fund. Mr. Green said it doesn't matter what path the Board takes regarding the Elliott, as long as it does not cause the Common School Fund to lose money. Mr. Green said he hopes the Board conducts a net present value analysis of each proposal to determine whether or not they will become a drain on the Common School Fund. Mr. Green also noted that the issue of the Elliott has become very political and that divesting the asset from the Fund makes sense in order to de-politicize it.

Director Paul introduced Michael Rondeau, Chief Executive Officer for the Cow Creek Band of Umpqua Tribe of Indians. Mr. Rondeau discussed the government-to-government relationship

between the Tribe and the State of Oregon and said he is committed to seeing the relationship flourish. Mr. Rondeau said the main reason for the Tribe's interest in submitting a bid to purchase the Elliott was their desire to keep the forest with a local entity that has connection to the land and a history of land management that aligns with Oregon's values of responsible and sustainable forest management. He stated that there are no other entities in the state with stronger credentials in ecologically responsible land management.

Mr. Rondeau said he hopes that lessons can be learned from the past and that trust can be rebuilt in the government-to-government relationship. He said he hopes that the Tribe can work with the state to further understand the needs and advance opportunities for rural Oregon.

Governor Brown thanked Mr. Rondeau for his frankness. Secretary Richardson expressed his disappointment in the lost opportunity for the Tribe to purchase the land.

Mr. Rondeau thanked Secretary Richardson for his sentiments. Mr. Rondeau noted that he is looking at the positive, seeing it as an opportunity to educate the people of greater Oregon to the special needs and talents that are derived from rural Oregon.

Treasurer Read asked if the Tribe was interested in continuing discussions of restoring ancestral lands.

Mr. Rondeau said if there is a way to move forward that makes sense to both parties, they will consider it.

Director Paul stated the staff recommendation, which asked the Board for direction on how to proceed with the potential ownership transfer of the Common School Forest lands within the Elliott State Forest based on the update and discussion of the topic at the meeting.

Public Comment was provided to the Board. Approximately 35 people provided comments to the Board.

Treasurer Read stated that his proposal is in no way a vote of "no confidence" on his part against Lone Rock or the Tribe. He said he admires them for their ability to meet the criteria in the protocol and their willingness to adapt to changing circumstances. He said his goal is to resolve the legal and structural issues that have created so much tension. He hopes that a combination of his and the Governor's proposals can proceed.

Governor Brown noted that the Board members are basically on the same page and believes they can reach a solution that will maintain jobs, preserve critical habitat, and provide recreational and public access to the forest. In addition, ensuring recognition of Oregon's history with the tribes and working to promote tribal justice and restoration will be important moving forward. Governor Brown said it is clear that the Board needs to change the way it owns and manages the forest in order to comply with their fiduciary obligation to the Common School Fund and at the same time protect the Elliott's diverse habitats. She said she believes her plan will help protect the environmental values on the forest while providing for jobs at the same time. She said she is not opposed to marrying the Treasurer's proposal with hers, as well as considering other proposals brought forward.

In terms of the \$100 million in bonding, she said there is clear support from the legislature to ensure that the resources are available to decouple at least a portion of the forest from the Common School Fund. She thanked Lone Rock, the Cow Creek Band of Umpqua Tribe of Indians and the other proponents who submitted the proposal to purchase the Elliott for their good faith involvement in the process. She stated that retaining the Elliott in public ownership will best serve the interest of Oregonians over the long term, as well as uphold the Board's commitment to the Common School Fund.

Governor Brown said she believes it is appropriate at this time, to terminate the Elliott protocol and establish key steps for the Department to move forward with.

Treasurer Read moved to terminate the protocol.

Secretary Richardson stated that he voted in February to complete the sale because he felt it was the honorable thing to do. He said it was now obvious that the sale was not going to proceed and he could now vote with his conscience to keep the Elliott under public ownership with public access.

He asked that his option of exchanging lands with the federal government be seriously considered by the Board. He stated that he does not support bonding to purchase property already owned by the state.

The Board voted unanimously to terminate the protocol.

Governor Brown directed the Department to move forward with a public option that: 1) advances public ownership of the Elliott State Forest; 2) decouples the forest from the Common School Fund, either through a trust land transfer or other financial means; 3) continue habitat conservation planning to protect species and allow for harvest off the forest; and 4) further research the forest concept pursuant to Treasurer Read's concept.

Treasurer Read reiterated that he would like the Department to consider his proposal of Oregon State University owning the forest. He said he believes it aligns well with the Board's interests.

Elliott State Forest proposals from Land Board members can be found here:

<http://www.oregon.gov/dsl/Board/Pages/SLBmeetings.aspx>

6. Annual report on Common School Fund investments and distributions.

Director Paul explained that, in addition to the annual report, staff would be presenting information the Board requested last year regarding the Board's distribution policy and asset allocation of the Common School Fund.

Paola Nealon, with the Investment Division of the Oregon State Treasury provided the annual report. She said that, as of December 2016, the Common School Fund (CSF) was valued at \$1.4 billion. She said performance over a five-year period has returned just over 9 percent, which is strong; and that the 10 percent allocation to private equities that was implemented in 2008 has helped. Ms. Nealon said that over ten years, the investment return was almost 4.5 percent. She reminded the Board that the objective of the CSF portfolio is to deliver investment returns that not only meet the distribution requirements, but also allow it to grow in real terms.

Ms. Nealon told the Board that a two-part study was being conducted. One part is an asset allocation study that is currently in progress. The other was a study on the distribution rate to determine if the current policy makes sense.

Janet Becker-Wold and Julia Moriarty with Callan Consulting provided information on the distribution study. Ms. Moriarty said the goal of the study was to identify appropriate long-term distribution and investment policies for the CSF. She explained that the first phase was focused on the distribution policy and the appropriate distribution rate. She explained that appropriate policies should help strike a balance between growth of the corpus of the Fund, and providing for sustainable, stable distributions that result in intergenerational equity for the beneficiaries.

She explained that the results of the study show that the current policy and a flat 5% distribution eventually result in declining values. A flat 4% rate was found to maintain a relatively stable value towards the latter part of the projection period.

Director Paul noted that the next phase of the study will be conducted and the plan is to bring a recommendation or recommendations on the distribution policy to the Board by the end of the

year or early next year for consideration. He asked for any further direction or input the Board may have.

Treasurer Read moved to accept the staff recommendation to continue with the current distribution policy. There was no objection to the motion. The item was approved.

Informational Items

Due to limited time, informational items 7 and 8 were moved to the agenda for the next Land Board meeting.

- 7. Oregon Department of Forestry's annual report on the management of Common School Forest Lands.**
- 8. Annual report on the Common School Fund Real Property program for fiscal year 2016.**

Secretary Richardson asked for an explanation for the dramatic increase in expenses for rangelands.

Governor Brown asked staff to bring this information to the next meeting.

Governor Brown adjourned the meeting at 1:05 p.m.



Kate Brown, Governor



James T. Paul, Director