



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

**Tuesday, October 13, 2015
10:00 am – Noon**

**Oregon Department of State Lands
Land Board Room
775 Summer St NE
Salem, Oregon**

State Land Board

Kate Brown
Governor

Jeanne P. Atkins
Secretary of State

MEETING AGENDA

Ted Wheeler
State Treasurer

CONSENT AGENDA

1. a. Request for approval of the minutes from the August 13, 2015 State Land Board meeting.
- b. Request for approval to grant a permanent easement to the City of Portland for a crossing at 33rd Avenue over the northern segment of Columbia Slough in Multnomah County.
- c. Request for approval to grant a permanent easement to the City of Portland for a crossing at 33rd Avenue over the southern segment of Columbia Slough (aka Buffalo Slough) in Multnomah County.
- d. Request for approval to grant a permanent easement to Tillamook County for a bridge crossing the South Fork of the Nehalem River.
- e. Request for approval to initiate the review and determination of the potential sale of the surface and subsurface estate for 0.6 acres of trust land in Marion County.
- f. Request for approval to initiate the review and determination of the potential sale of approximately 132 acres of state-owned land in Clatsop County.

ACTION AGENDA

2. Request for adoption of the administrative rules governing the issuance of geothermal leases.
3. Request for approval of the direct sale of five (5) parcels of land in Gilliam, Grant and Wheeler Counties.
4. Request for approval of appointments to the Oregon Ocean Science Trust.
5. Appointment of interim director.
6. Other.

How to Provide Comments

Comments may be presented to the Land Board at the meeting either orally or in writing. If you want to present your input orally, you will need to sign in when you arrive. Due to time limitations, not everyone who wants to speak may be able to do so. Therefore, you are encouraged to bring ten (10) written copies of your comments and they will be made part of the official record.

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 Lorna Stafford at (503) 871-4323 or lorna.stafford@state.or.us at least two working days prior to the meeting.



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State Land Board

State Land Board

Kate Brown

Governor

Regular Meeting

October 13, 2015

Agenda Item 1b

Jeanne P. Atkins

Secretary of State

Ted Wheeler

State Treasurer

SUBJECT

Request for approval of a permanent easement for an existing bridge on NE 33rd Drive in Portland crossing the northern segment of Columbia Slough in Multnomah County (Appendix A).

ISSUE

Whether the State Land Board should approve a request from the City of Portland, Office of Transportation, for a permanent easement to operate, maintain repair, and replace an existing road bridge across the northern segment of Columbia Slough in Multnomah County.

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 City submitted a complete easement application for the bridge crossing. The application was circulated to adjoining property owners, various state and federal

resource and permitting agencies, and tribal entities. No significant comments were received from the circulation.

The described bridge on NE 33rd Drive has been in place since at least June of 1920 without authorization. The Columbia Slough is tidally influenced, therefore, state-owned. This type of use on or over a state-owned waterway requires an easement.

The City completed and returned the signed Certificate of Approval and Conveyance for the draft easement (Appendix B).

Pursuant to OAR 141-122-0060(7), a compensatory payment of \$100 is required for the easement area, which was paid on December 22, 2014.

RECOMMENDATION

The Department recommends that the State Land Board approve the permanent easement to the City of Portland Office of Transportation to operate, maintain, repair and replace a bridge on, over, under or across the Columbia Slough in Multnomah County.

APPENDICES

- A. Site map
- B. Draft easement (55874-EA)

State of Oregon
Department of State Lands



55874-EA
Columbia Slough Bridge at NE 33rd

Source: Esri, DigitalGlobe, GeoEye, I-cubed, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community, Esri, HERE, DeLorme, MapmyIndia, © OpenStreetMap contributors, Esri, HERE, DeLorme, TomTom, MapmyIndia, © OpenStreetMap contributors, and the GIS user community

0 70 140
Feet
1:1,500
Map Projection:
Oregon Statewide Lambert
Datum NAD83
International Feet

Vicinity Map

Legend
 Authorization Area

This map depicts the approximate location and extent of a Department of State Lands, Department of State Lands authorization for use and/or property transaction. 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
775 Summer St. NE, Suite 100
Salem, OR 97301
503-986-5200
www.oregon.gov/DSL
Date: 9/17/2015

DRAFT
STATE OF OREGON
Department of State Lands

EASEMENT NO. 55874-EA
RWA #7530
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:
City of Portland
Office of Transportation

ADDRESS:
1120 SW 5th Avenue, Rm 800
Portland, OR 97204-1914

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

An easement 100 feet wide, over, upon, and across state-owned submerged and submersible land of the northern segment of Columbia Slough, located in Section 12, Township 1 North, Range 1 East of the Willamette Meridian, said easement being 50 feet on each side from the center line more particularly described as follows:

Commencing at an iron rod at the southeast corner of Lot 15 along the westerly line of NE 33rd Drive as described in the duly recorded Plat of "Ayers Addition", situated in Sections 12 and 13, T1N, R1E, W.M., in the City of Portland, County of Multnomah, State of Oregon;

thence 40 feet east to the center line of said NE 33rd Drive to the Point of Beginning;

thence in a northerly direction following said center line approximately 1,050 feet, more or less, to a point 30 feet west of an iron pipe at the northwest corner of Lot 31 in said Plat of "Sunderland Acres".

Containing 0.25 acres, 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 non-conflicting 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: N/A.
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.

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.

CERTIFICATE OF APPROVAL OF CONVEYANCE
(ORS 93.808)

_____, Grantee, hereby approves and accepts, pursuant to ORS 93.808, the grant of an interest in real property from _____, 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__.

_____,
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 _____, 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

State Land Board

**Regular Meeting
October 13, 2015
Agenda Item 1c**

Kate Brown
Governor

Jeanne P. Atkins
Secretary of State

Ted Wheeler
State Treasurer

SUBJECT

Request for approval of a permanent easement for an existing bridge on NE 33rd Drive in Portland crossing the southern segment of Columbia Slough, sometimes also known as Buffalo Slough, in Multnomah County (Appendix A).

ISSUE

Whether the State Land Board should approve a request from the City of Portland Office of Transportation for a permanent easement to operate, maintain repair, and replace an existing road bridge across the southern segment of Columbia Slough in Multnomah County.

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 City submitted a complete easement application for the bridge crossing. The application was circulated to adjoining property owners, various state and federal

resource and permitting agencies, and tribal entities. No significant comments were received from the circulation.

The described bridge on NE 33rd Drive has been in place since at least June of 1920 without authorization. The Columbia Slough is tidally influenced and therefore, state-owned. This type of use on or over a state-owned waterway requires an easement.

The City completed and returned the signed Certificate of Approval and Conveyance for the draft easement (Appendix B).

Pursuant to OAR 141-122-0060(7), a compensatory payment of \$100 is required for the easement area, which was paid on December 22, 2014.

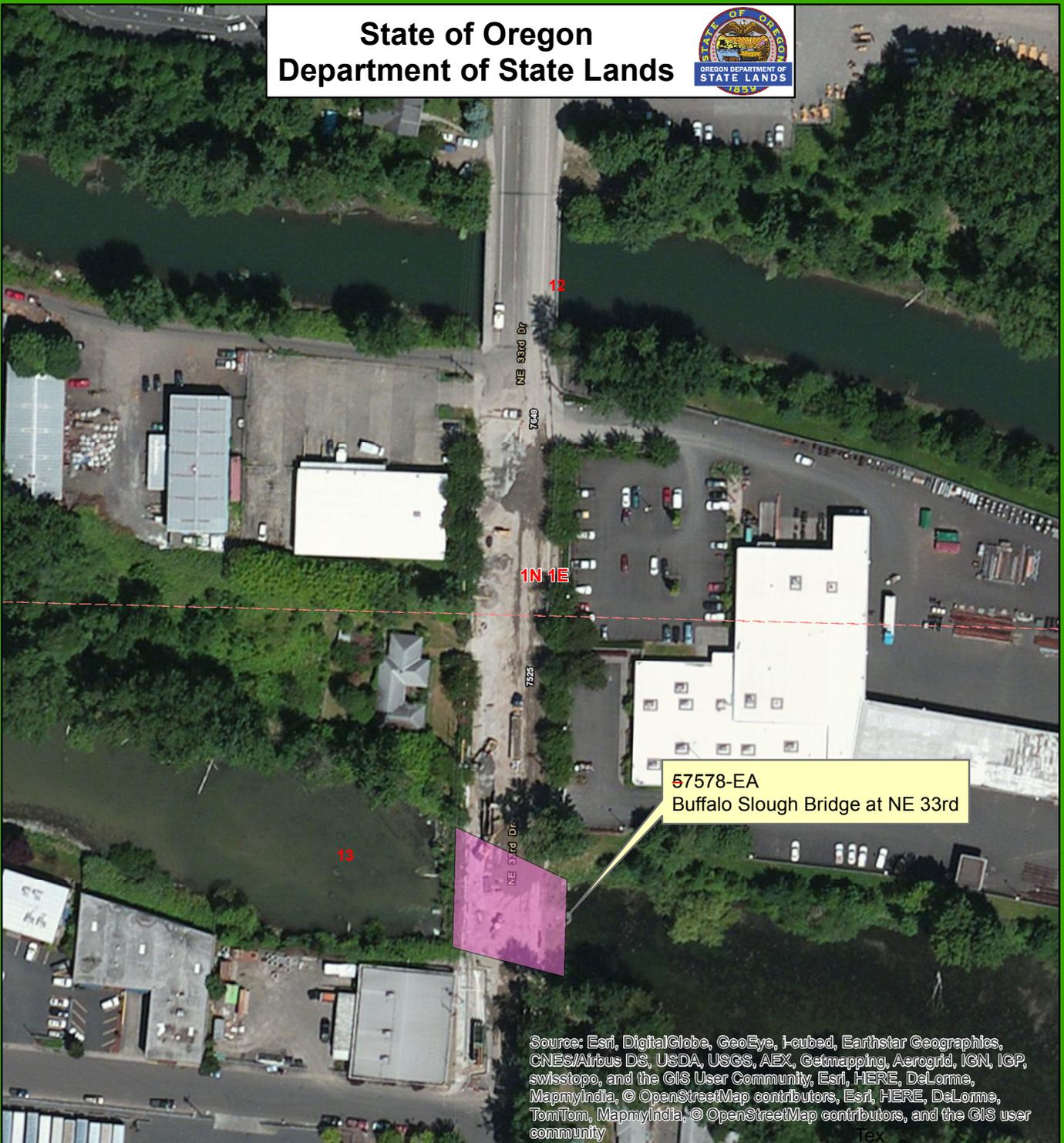
RECOMMENDATION

The Department recommends that the State Land Board approve the permanent easement to the City of Portland Office of Transportation to operate, maintain, repair and replace a bridge on, over, under or across the Columbia Slough in Multnomah County.

APPENDICES

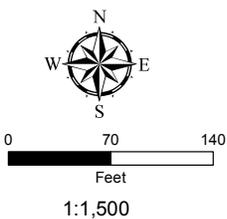
- A. Site map
- B. Draft easement (57578-EA)

State of Oregon Department of State Lands

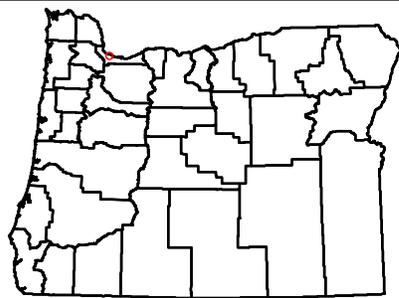


57578-EA
Buffalo Slough Bridge at NE 33rd

Source: Esri, DigitalGlobe, GeoEye, I-cubed, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community, Esri, HERE, DeLorme, MapmyIndia, © OpenStreetMap contributors, Esri, HERE, DeLorme, TomTom, MapmyIndia, © OpenStreetMap contributors, and the GIS user community



Map Projection:
Oregon Statewide Lambert
Datum NAD83
International Feet



Vicinity Map

Legend
 Authorization Area

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Date: 9/17/2015

DRAFT
STATE OF OREGON
Department of State Lands

EASEMENT NO. 57578-EA
RWA #7530
S & S Bridge

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City of Portland
Office of Transportation

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

An easement 100 feet wide, over, upon, and across state-owned submerged and submersible land of the southern segment of Columbia Slough, also sometimes known as Buffalo Slough, located in Section 13, Township 1 North, Range 1 East of the Willamette Meridian, said easement being 50 feet on each side from the center line more particularly described as follows:

Commencing at an iron rod at the southeast corner of Lot 15 along the westerly line of NE 33rd Drive as described in the duly recorded Plat of "Ayers Addition", situated in Section 13, T1N, R1E, W.M., in the City of Portland, County of Multnomah, State of Oregon;

thence 40 feet east to the center line of said NE 33rd Drive to the Point of Beginning;

thence in a northerly direction following said center line approximately 1,050 feet, more or less, to a point 30 feet west of an iron pipe at the northwest corner of Lot 31 in said Plat of "Sunderland Acres".

Containing 0.25 acres, 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:

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 - 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: N/A.
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.

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.

WITNESS the seal of the Department of State Lands affixed this _____ day of _____, 20__.



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

DSL Authorized Signature/Printed Name

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)

_____, Grantee, hereby approves and accepts, pursuant to ORS 93.808, the grant of an interest in real property from _____, 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__.

_____,
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 _____, 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

State Land Board

**Regular Meeting
October 13, 2015
Agenda Item 1d**

Kate Brown
Governor

Jeanne P. Atkins
Secretary of State

Ted Wheeler
State Treasurer

SUBJECT

Request for approval to grant a permanent easement for a bridge on Miami-Foley Road, crossing the Nehalem River in Tillamook County (Appendix A).

ISSUE

Whether the State Land Board should approve a request from Tillamook County for a permanent easement to operate, maintain, repair, and replace a bridge across the Nehalem River in Tillamook County, near Nehalem, Oregon.

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

Tillamook County will be replacing an existing bridge and submitted a complete easement application for the bridge crossing. The application was circulated to adjoining neighbors, various state and federal resource and permitting agencies, and tribal entities. No adverse comments were received from the circulation.

The Nehalem River is tidally influenced and therefore state-owned. This type of use on or over a state-owned waterway requires an easement. The existing bridge has not been previously covered by a state easement from the Department of State Lands.

Tillamook County has accepted the draft easement (Appendix B) through email notification.

Pursuant to OAR 141-122-0060(2)(a), no compensatory payment is required of state and county-owned bridges outside city limits.

RECOMMENDATION

The Department recommends that the State Land Board approve a permanent easement for Tillamook County to operate, maintain, repair, and replace a bridge on, over, under or across the Nehalem River in Tillamook County.

APPENDICES

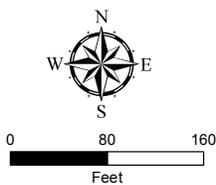
- A. Site map
- B. Draft easement (57309-EA)

State of Oregon
Department of State Lands

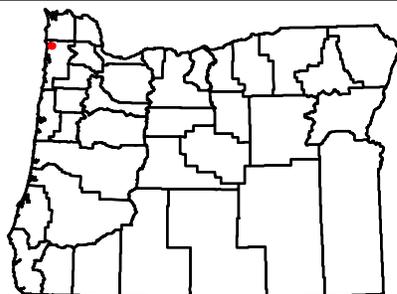


Source: Esri, DigitalGlobe, GeoEye, i-cubed, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community, Esri, HERE, DeLorme, MapmyIndia, © OpenStreetMap contributors, Esri, HERE, DeLorme, TomTom, MapmyIndia, © OpenStreetMap contributors, and the GIS user community

Tex



Map Projection:
Oregon Statewide Lambert
Datum NAD83
International Feet



Vicinity Map

Legend

 Authorization Area

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www.oregon.gov/DSL

Date: 9/17/2015

DRAFT
STATE OF OREGON
Department of State Lands

EASEMENT NO. 57309-EA
S&S Bridge

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:
 Tillamook County

ADDRESS:
 503 Marolf Loop
 Tillamook, OR 97141

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

A variable strip of land lying in Section 36, Township 3 North, Range 10 West, Willamette Meridian, Tillamook County, Oregon; the said parcel being all state-owned submerged and submersible land lying between the lines of Ordinary High Water of the South Fork of the Nehalem River included in a strip of land varying in width, Westerly and Easterly of the center line of the Miami-Foley Road, which center is described as follows:

Beginning at Engineer's eastbound center line Station 0+0.00, said station being 2,374.6 feet North and 233.2 feet West from a found Brass disk marking the Corner of Section 36, Township 3N, Range 10W; Section 1, Township 2N, Range 10W; Section 31, Township 3N, Range 10W; and Section 6, Township 2N, Range 10W

thence on a curve right (the long chord of which bears South 28° 49' 46" West, 124.8 feet) 129.2 feet; thence South 02° 59'46" East, 2,277.5 feet to the point of terminus

The width in feet of said strip of land is as follows:

Station	to	Station	Width on West Side of Center Line
7+90.00		10+50.00	126.0 feet in a straight line to 109.0 feet
Station	to	Station	Width on East Side of Center Line
6+45.00		9+25.00	58.5 feet in a straight line to 93.0 feet

Bearings are Oregon State Plane Coordinates - North Zone (International Feet), NAD83 (CORS96) (EPOCH 2002), NAVD88 (GEOID09)

Containing 1.15 acres or 49,965 square feet, more or less, and as shown on the attached Exhibit "A".

TO HAVE AND TO HOLD the same unto GRANTEE for 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, except as necessary to maintain integrity of the bridge and for sight distance for the travelling public, 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 \$0.00 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: every 5 years.
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.

CERTIFICATE OF APPROVAL OF CONVEYANCE
(ORS 93.808)

_____, Grantee, hereby approves and accepts, pursuant to ORS 93.808, the grant of an interest in real property from _____, 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__.

_____,
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 _____, 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

State Land Board

Kate Brown

Governor

Regular Meeting

October 13, 2015

Agenda Item 1e

Jeanne P. Atkins

Secretary of State

Ted Wheeler

State Treasurer

SUBJECT

Request for approval to initiate the review and determination for a potential sale of a 0.6-acre isolated parcel adjacent to the Willamette Slough in Marion County.

ISSUE

Whether the Land Board should authorize the Department to initiate the formal due diligence phase for the potential sale of a 0.6-acre isolated parcel of trust lands adjacent to the Willamette Slough in Marion County (Appendix A).

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

This property was acquired as a Common School Fund trust property on June 14, 1844, in a Marion County Sheriff's foreclosure sale (Appendix A). The property is located west of the Burlington Northern Railroad line next to the Willamette Slough near Leffelle Street South and South River Road in Salem.

The property has two permanent sewer pipeline easements impacting the property and cannot be developed. The property is steeply sloped and has no legal or physical access. The property is zoned RS-Single Family Residential and would be acquired in fee simple, subject to easements, as the property lies within city limits.

The property now lies within the Minto Brown Park boundaries and has been leased by the City of Salem as park open space for \$1,000 per year, with the expressed intent to submit an application to purchase the property. The City of Salem filed an application in fall of 2014 to purchase the land. Eventually the City intends to use the property as part of a pedestrian/bike path for the park.

Agency Review

Any significant concerns offered by any interest over this parcel will be thoroughly evaluated and thoughtfully considered prior to moving forward with any disposal (sale) process.

The tract has been evaluated against the factors listed in the disposal criteria matrix of the 2012 Real Estate Asset Management Plan. The principal factors influencing disposal are:

- Low income-generating potential
- Poor physical attributes for revenue enhancement
- Limited or no access
- Small isolated in-holding

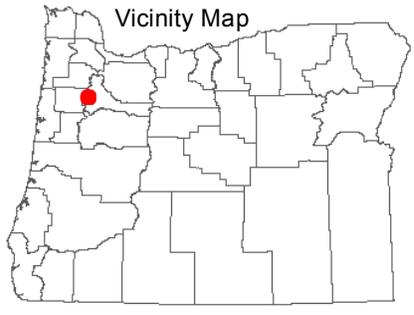
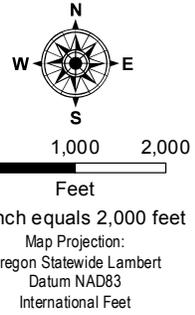
RECOMMENDATION

The Department recommends that the State Land Board authorize the Department to initiate the review and determination of the sale of the 0.6-acre tax lot in Marion County.

APPENDIX

A. Site map

State of Oregon Department of State Lands



Or. Dept. of State Lands Property

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.

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Date: 7/6/2015



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State Land Board

Kate Brown

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Jeanne P. Atkins
Secretary of State

Ted Wheeler
State Treasurer

State Land Board

**Regular Meeting
October 13, 2015
Agenda Item 1f**

SUBJECT

Request for approval to initiate the review and determination for a potential sale of approximately 132 acres of state-owned filled lands at South Tongue Point in Clatsop County.

ISSUE

Whether the Land Board should authorize the Department to initiate the formal due diligence phase for the potential sale of three (3) parcels of filled lands totaling about 132 acres in Clatsop County (Appendix A).

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

The South Tongue Point parcels are on the deep-water channel of the Columbia River at the eastern end of Astoria. A portion of the north end of the property has a land lease with current annual rent of about \$13,000 for a lease with Clatsop County

Community College. The east side of the property has a dock and small office owned by the Coast Guard. Salmon net pens next to the dock are on leased land for the Clatsop County Economic Development Council.

The parcels were enlarged from 1948-1976 through dredge spoil deposits from the Columbia River and encompass formerly submerged and submersible (statutory) land. The property is zoned "Marine Industrial" which supports water-related industrial uses. The southern portion of the property has never been developed except for an 8.5-acre wetland restoration.

DSL received an application from Warrenton Fiber Company in 2013, to purchase a portion of the property with the intent of creating an expansion area for its fiber wood products production and shipping. The Land Board approved initial due diligence for the potential sale of the property on the undeveloped southern portion at its February 11, 2014 meeting. In conducting the due diligence, DSL sent out notice to public agencies and adjacent property owners in the area notifying them of the potential sale of the property. The Columbia River Estuary Study Taskforce (CREST), which performed the wetland restoration in 2012, to enhance salmon habitat wrote a letter urging DSL not to sell the wetland restoration area. Other comments received from residents near the site also expressed safety concerns related to highway access, as well as general concern over the development of an industrial site at the property.

On March 18, 2015, DSL received a land sale application from Clatsop County Community College to purchase the entire property. While the current lease to the College provides revenue on the seven acres near the north end of the property, the likelihood of an industrial company developing the remainder of the property – either as a lessee or possible future landowner – is uncertain. Further, many of the potential industrial marine leasing uses carry pollution risks, which can be problematic for DSL to monitor as the landowner.

Given this situation, the Department recommends moving forward with conducting due diligence related to the potential sale of the South Tongue Point parcels, to help inform future State Land Board decisions around the future disposition of these parcels. Upon approval of this agenda item, the Department would then move forward with additional due diligence steps to provide information needed towards a potential future decision on whether or not to sell these parcels.

Agency Review

As part of the due diligence, letters will be sent to all adjacent landowners and lessees to inform them of the potential sale of these parcels. Local, state and federal agencies and tribal interests will be notified and asked to offer information concerning their areas of interest. Any significant concerns offered by any interest over a particular parcel will be thoroughly evaluated and thoughtfully considered prior to moving forward with a

recommendation on the sale process. As comments are received from the public and other agencies, and following the additional due diligence work, a final decision will be made on whether or not to recommend the sale of any or all three parcels.

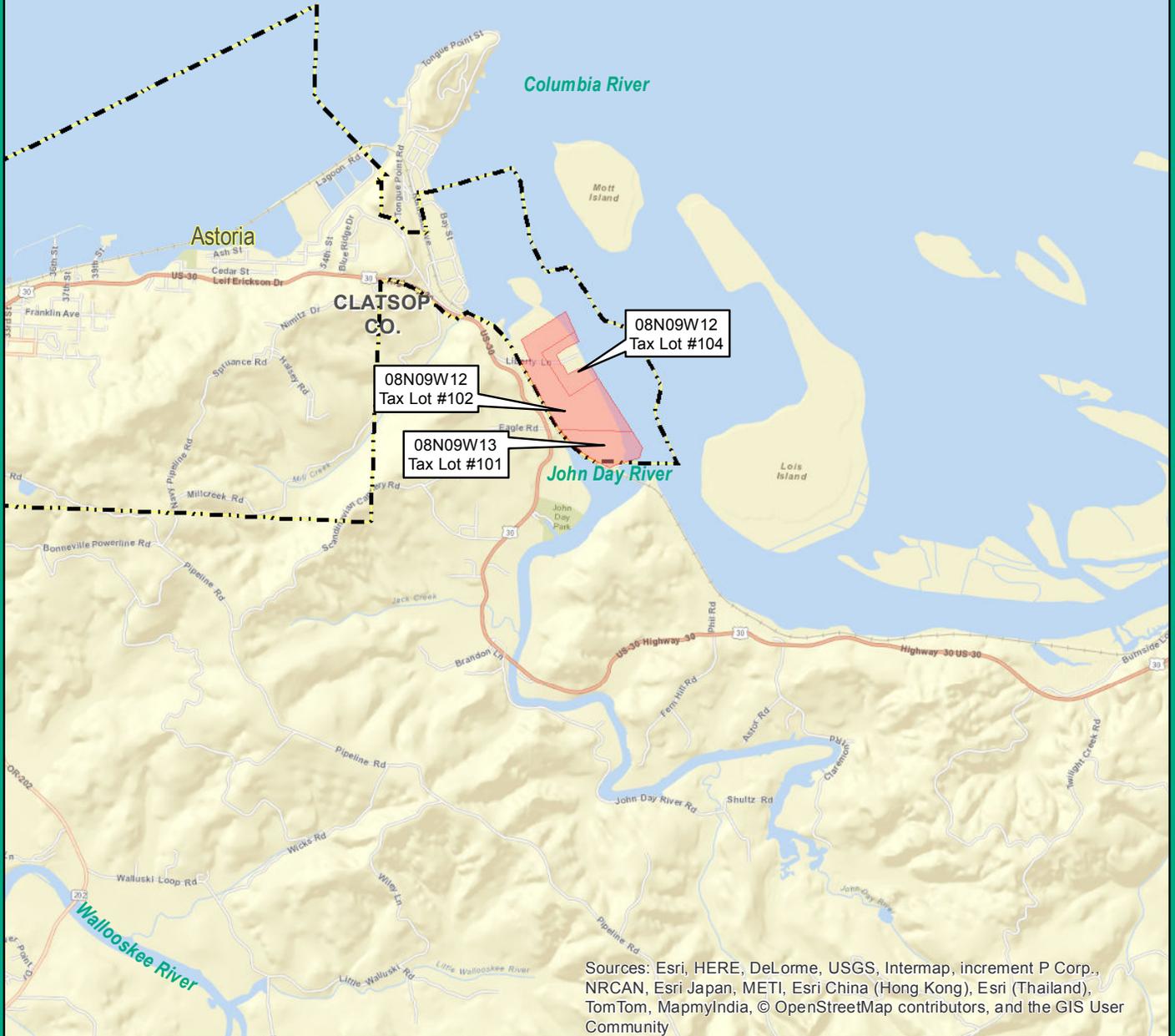
RECOMMENDATION

The Department recommends that the State Land Board authorize the Department to initiate the review and determination of the sale of up to three (3) parcels of filled lands totaling about 132 acres in Clatsop County (Appendix A).

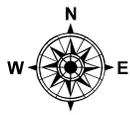
APPENDIX

A. Site map

State of Oregon Department of State Lands



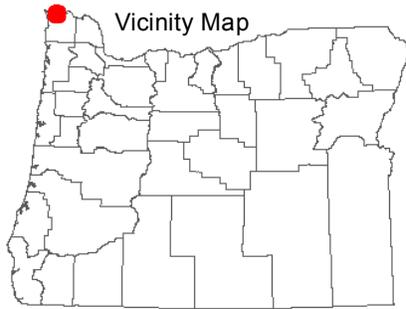
Sources: Esri, HERE, DeLorme, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community



0 2,000 4,000

Feet
1:48,000

Map Projection:
Oregon Statewide Lambert
Datum NAD83
International Feet



Vicinity Map

This map depicts the approximate location and extent of a Department of State Lands, Land Management Division 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.

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Date: 4/16/2015



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State Land Board

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State Land Board

Regular Meeting

October 13, 2015

Agenda Item 2

SUBJECT

Request for adoption of drafted amendments to OAR 141-125-0100 through OAR 141-125-0220 (Authorizing Special Uses on State-Owned Land) to include the exploration for and development of geothermal resources (Appendix A). And, request for approval to repeal OAR 141-075-0010 through OAR 141-075-0575 (Geothermal Lease Regulations) upon adoption of the amendments to OAR 141-125.

ISSUE

Whether the State Land Board should adopt the above referenced administrative rule amendments and repeal the existing geothermal lease regulations (OAR 141-075-0010 through OAR 141-075-0575).

AUTHORITY

Oregon Constitution, Article VIII, Section 5

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

With the recent renewed interest in Oregon's geothermal resources, several companies wanting to explore for and develop geothermal resources on state-owned land have contacted the Department.

In reviewing the geothermal rules, both the Department and applicants have found them to be difficult to understand and unduly complicated. Additionally, many of the terms and conditions provided in the rules are inconsistent with those currently used by the Department in other leasing programs.

On June 8, 2010, the State Land Board authorized the Department to initiate rulemaking to amend the administrative rules governing the exploration for and development of geothermal resources. These rules have not been amended since their adoption by the Land Board in 1974.

During the initial phase of rulemaking, staff made the recommendation to incorporate geothermal resources into the Department's Special Use Rules (OAR 141-125) rather than updating the existing geothermal rules. The Special Use Rules already govern the exploration for and development of other types of renewable energy including: wind turbines and wind farms, solar energy installations and biomass generating facilities. In addition, all of the administrative procedures and policies are current in OAR 141-125 (these rules were last amended in 2008). The Department made this recommendation to the State Land Board at the February 11, 2014 meeting, and received approval to add the leasing of geothermal resources to OAR 141-125. The Department completed drafting rule language during the spring of 2014 (Appendix B).

PUBLIC INVOLVEMENT

Public Notice

A notice of this rulemaking effort, which included the Notice of Proposed Rulemaking Hearing and the Statement of Need and Fiscal Impact required by the Oregon Secretary of State, was sent to all current authorization holders, interested parties, and posted on the Department's website.

Public Hearing

The Department held one public hearing at the Department of State Lands Bend office on May 20, 2014 at 5:00 pm. Audio from the public hearing is available from the Department.

PUBLIC COMMENTS RECEIVED and AGENCY RESPONSE

The Department received the following testimony at the May 20th public hearing:

Kyla Grasso, ALTA ROCK Energy Inc. – Ms. Grasso and others at ALTA ROCK Energy Inc. have reviewed the proposed rules and support them.

The Department had two public comment periods for this rulemaking effort. The draft rules were available for review and comment from May 1, 2014 to June 13, 2014 at 5:00PM. No comments were submitted during this public comment period.

Department staff made a presentation on this topic at the Geothermal Resources Council Annual Conference in Portland on September 26, 2014. The Department chose to make the draft rules available for a second public comment period in conjunction with the Geothermal Resources Council Annual Conference. The draft rules were available for review and comment from October 1, 2014 until October 15, 2014. The Department received written comments from:

- **Anna Carter, Geothermal Support Services**
- **Casey Flischer, Ormat Technologies, Inc.**

Written comments are available from the Department. Below are the significant comments and agency responses.

Comment

How do these special use rules relate to the existing rules of Division 73, 75, and others?

Response

The Department intends to incorporate the use of state-owned geothermal resources and the establishment of geothermal energy installations into Division 125. The Department will simultaneously repeal Division 75, geothermal lease regulations. Division 125 already governs the exploration for and development of other types of renewable energy including: wind turbines and wind farms, solar energy installations and biomass generating facilities. In addition, all of the administrative procedures and policies are current in Division 125 (these rules were last amended in 2008). Division 73 is still applicable to the release, sale or exchange of mineral rights (including geothermal resources) should the Department choose to consider the release, sale or exchange of mineral rights. Division 125 governs the leasing of geothermal resources and geothermal energy installations.

Comment

Add “and their related transmission lines” to OAR 141-125-0100(2)(j).

Response

Agreed, transmission lines within the authorized use area of the lease should be included in the lease and the proposed rule has been changed to reflect this comment.

Comment

Consider authorizing a geothermal demonstration project under a lease instead of a license. No geothermal exploration/development company would expend the amount of resources necessary to confirm a geothermal resource without a lease in hand.

Response

Agreed and the proposed rule has been changed to reflect this comment. The Department has attempted to address this for all land based renewable energy projects with the addition of OAR 141-125-0110(12):

The Department may, at its discretion, authorize a demonstration project for a land based renewable energy project as part of a lease with the commercial electrical energy generating installation.

Comment

Will aspects of an application be capable of being held confidential?

Response

No, almost all materials at the Department are public and subject to the applicable public records laws.

Comment

OAR 141-125-0140(10) and OAR 141-125-0170(14): Do NOT say that all the other permits must first be in hand, they just say that all local, state and federal permits must be complied with.

Response

The rule allows for the issuance of an authorization, but states that it is not valid until all other applicable permits are attained. This is the case for all authorizations issued by the Department. No changes were made to the proposed rule based on this comment.

Comment

OAR 141-125-0160: Concern was expressed at how open the compensation section was left for geothermal resource installations.

Response

The Department made the following addition to the proposed rule to address this comment:

The Director shall take into consideration current industry standards for annual comparative compensatory payments by reviewing the current Bureau of Land Management Code of Federal Regulations, current comparative compensatory payments received by other states, and comparative compensatory payments received by private landowners under free market conditions.

Comment

OAR 141-125-0170(10): The holder of a lease will need more than 60 days to decommission an authorized use area, probably a year.

Response

Agreed and the proposed rule has been changed to reflect this comment.

RECOMMENDATION

The Department recommends that the State Land Board:

- 1) Adopt the proposed amendments to the administrative rules for authorizing special uses on state-owned land (OAR 141-125-0100 through OAR 141-125-0220) to include the exploration for and development of geothermal resources; and
- 2) Repeal OAR 141-075-0010 through OAR 141-075-0575 (Geothermal Lease Regulations) upon adoption of the amendments to OAR 141-125.

APPENDICIES

- A. Final draft rule (clean version) for State Land Board consideration
- B. Draft rule (redline version) that was made available for public review and comment

FINAL RULE FOR LAND BOARD CONSIDERATION
--

DEPARTMENT OF STATE LANDS**DIVISION 125****RULES FOR AUTHORIZING SPECIAL USES ON STATE-OWNED TRUST
AND NON-TRUST LAND****141-125-0100****Purpose And Applicability**

(1) These rules:

(a) Apply to the management of state-owned Trust and Non-Trust Land for special uses.

(b) Establish a process for authorizing such uses through the granting of leases, licenses and, short-term access authorizations (hereafter collectively referred to as a special use authorization).

(c) Do not apply to the granting of proprietary authorizations for uses specifically governed by other Department administrative rules.

(2) A special use is one not governed by other Department administrative rules. Special uses include, but are not limited to, using state-owned land (including historically filled land) for:

(a) Agriculture;

(b) Communications facilities;

(c) Industrial, business, commercial and residential purposes;

(d) Native seed harvesting;

(e) Scientific experiments and demonstration projects;

(f) Conventions, sporting and other events;

(g) Recreational cabins;

(h) Commercial outfitting and guiding services;

(i) Motion picture filming and set construction;

(j) Renewable energy projects including, but not limited to wind turbines and wind farms, solar energy installations, geothermal resources installations and biomass generating facilities, and their related transmission lines within the authorized area;

(k) Removal of semiprecious stones, petrified wood and fossils for commercial purposes;

(l) Parking lots;

(m) Materials and equipment storage;

(n) Warehouses;

(o) Marine service and repair facilities on state-owned upland;

(p) Resorts and recreational facilities;

(q) Golf courses;

(r) Upland quarries;

- (s) Geological investigations;
- (t) Liquefied natural gas receiving plants;
- (u) Grazing on land other than that designated as rangeland;
- (v) Removal of juniper and other trees, plants or biomass for commercial use;
- and
- (w) Removal of sunken logs, woody debris and abandoned pilings for their commercial value.

(3) The Director may determine other uses and developments similar to those specified in OAR 141-125-0100(2) that are also subject to a special use authorization and these rules.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0110

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) All Trust Land will be managed in accordance with the need to maximize long-term financial benefit to the Common School Fund.

(3) The Department will follow the guiding principles and resource-specific management prescriptions contained in the Asset Management Plan, and consider the comments received from federal, state, and local governments and interested persons when determining whether to authorize or condition a special use authorization on state-owned land.

(4) The use of state-owned land for the placement of communications facilities is recognized by the Department as a conditionally allowable use of that land, subject to and consistent with the requirements and provisions of the Telecommunications Act of 1996 and other applicable federal, state, and local laws.

(5) Each individual use of, or development placed on state-owned land will constitute a separate discrete activity subject to payment of compensation as required by these or other applicable Department rules, or as determined by the Director.

(6) Uses of, and developments placed in, on or over state-owned land pursuant to a special use authorization will conform with local (including comprehensive land use planning and zoning ordinance requirements), state, and federal laws.

(7) The Department will not grant a special use authorization if it determines that the proposed use or development would unreasonably impact uses or developments proposed or already in place within the requested area. Such a determination will be made by the Department after consulting with holders of leases, licenses, permits and easements granted by the Department in the requested area, and other interested persons.

(8) All uses subject to these rules must be authorized by a special use authorization issued by the Department. Authorization to occupy state-owned land cannot be obtained by adverse possession regardless of the length of time the use or development has been in existence.

(9) The Department may:

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

(b) Pursue whatever remedies are available under law to ensure that the unauthorized uses subject to a special use authorization are either brought into compliance with the requirements of these rules or removed.

(10) The Department will honor the terms and conditions of any existing valid lease or license for a special use granted by the Department including any that entitle the lessee or licensee to renewal if the holder of the authorization has complied with all terms and conditions of the authorization and applies to the Department for a renewal as prescribed in these rules.

(11) Holders of a license to conduct a demonstration project for a land-based (that is, not on state-owned submerged and submersible land) wind farm geothermal resource installation or solar energy installation will be given the first right to apply for a lease for the area authorized under the license.

(12) The Department may, at its discretion, authorize a demonstration project for a land based renewable energy project as part of a lease with the commercial electrical energy generating installation.

(13) The Department may, at its discretion, deny a special use authorization 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 a special use authorization offered by the Department; or

(b) Use the land applied for in a way that meets the provisions of OAR 141-125-0110.

(14) Notwithstanding the provisions of ORS 274.885, the Department will not allow or authorize the removal of kelp or other seaweed for commercial purposes.

(15) Notwithstanding the provisions of these rules, the Department may:

(a) Initiate projects involving special uses of, or developments in, on or over the land it manages by itself or in conjunction with other persons;

(b) Request proposals for special uses of, or developments on land it manages and select and award a lease through a competitive bid process to develop the use(s) or development(s) based on the policies provided in OAR 141-125-0110; and

(c) Negotiate and accept compensation in the form of services in lieu of monetary payments provided for in these rules.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0120

Definitions

- (1) **“Agriculture”** means the cultivation of land to grow crops or the raising of livestock.
- (2) **“Applicant”** is any person applying for a special use authorization.
- (3) **“Appraised Value”** means an estimate of the current fair market value of property derived by disinterested persons of suitable qualifications, for example, a licensed independent appraiser.
- (4) **“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 State Lands of the Common School Fund’s real estate assets.
- (5) **“Authorized”** is the area of state-owned land defined in the special use authorization for which a use is authorized.
- (6) **“Biomass”** refers to renewable organic matter such as agricultural crops and residue, wood and wood waste, animal and human waste, aquatic plants and organic components of municipal and industrial wastes.
- (7) **“Biomass Generating Facility”** includes, but is not limited to the furnaces, boilers, combustors, digesters, gasifiers, turbine systems and other related equipment used to produce electricity, steam, heat, or biofuel from biomass.
- (8) **“By-Products”** means all commercially valuable products other than heat energy obtained in conjunction with the development of Geothermal Resources excluding oil, hydrocarbon gas, and other hydrocarbon substances.
- (9) **“Commercial”** means a use that results in or is associated with any monetary consideration or gain.
- (10) **“Commercial Electrical Energy Generating Installation”**
 - (a) Is any electrical energy generating facility:
 - (A) Operated as a commercial venture (as contrasted to being operated as a demonstration project);
 - (B) Connected to the regional power grid and used to meet local or regional demand for electricity; or
 - (C) Used to meet all or part of the electricity demand by a person who may otherwise have to purchase the electricity produced by the facility from another source.
 - (b) Does not include any solar, wind or hydroelectric devices operated by a person who uses them to generate electricity for their home and who sells excess self-generated electricity back to a utility under a net metering agreement.
- (11) **“Communications Facility”** consists of the towers, antennas, dishes, buildings and associated equipment used to transmit or receive radio, microwave, wireless communications, and other electronic signals. The roads, pipes, conduits, and fiber optic, electrical, and other cables that cross state-owned land to serve a communications facility, however, are governed by the administrative rules for granting easements on state-owned land.
- (12) **“Comparative compensatory payment”** is the amount of money paid to the 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.

(13) “**Compensation**” or “**Compensatory Payment**” is the amount of money paid for a special use authorization to the Department for the use of Department-managed land.

(14) “**Construction Period**” as applied to wind, geothermal resources and solar energy projects is the time during which construction of the commercial electrical energy generating installation is underway.

(15) “**Cropshare**” is a method of determining the compensation to be paid by a lessee for the use of state-owned land for agricultural purposes in which the owner of the land receives a pre-agreed percentage of the value of the crop at the time it is harvested or sold.

(16) “**Demonstration Project**” is a limited duration activity of less than three years designed primarily to investigate or test the economic and technological viability of a concept or use of state-owned land under a license granted by the Department.

(17) “**Department**” means the Department of State Lands.

(18) “**Development**” is any structure (for example, a communications or cellular tower, shed or barn, fence, irrigation system, wind turbine, solar mirror or recreational cabin) authorized by the Department on an area of state-owned land managed by the Department.

(19) “**Director**” means the Director of the Department of State Lands or designee.

(20) “**Geothermal Resources**” means the natural heat of the earth, the energy, in whatever form, below the surface of the earth present in, resulting from, or created by or which may be extracted from, the natural heat, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases, and steam, in whatever form, found below the surface of the earth, exclusive of helium or of oil, hydrocarbon gas, or other hydrocarbon substances, but including specifically:

(a) All products of geothermal processes, embracing indigenous steam, hot water, and hot brines;

(b) Steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations;

(c) Heat or other associated energy found in geothermal formations; and

(d) Any by-product derived from them.

(21) “**Historically Filled Lands**” means those lands protruding above the line of ordinary high water, whether or not connected with the adjoining or opposite upland or riparian land on the same side of the body of water, which have been created prior to May 28, 1963 upon state-owned submerged and submersible land by artificial fill or deposit, and not including bridges, wharves and similar structures constructed upon state-owned submerged and submersible land by other than artificial fill or deposit.

(22) “**Industrial, Business and Commercial Purpose**” are uses of state-owned land not governed by other Department administrative rules. Such uses include,

but are not limited to office buildings, manufacturing facilities, retail stores, outfitting and guide facilities and restaurants.

(23) “**Lease**” is a written authorization issued by the Department to a person to use a specific area of state-owned land for a special use under specific terms and conditions. The term of a lease is for one to 30 years.

(24) “**Lessee**” refers to any person having a special uses lease granted by the Department authorizing a special use on state-owned land managed by the Department.

(25) “**License**” is a written authorization issued by the Department to a person allowing the non-exclusive, short-term use of a specific area of state-owned land for a specific use under specific terms and conditions. A special use license has a maximum term of less than three years.

(26) “**Licensee**” refers to any person having a special use license granted by the Department authorizing a special use on state-owned land managed by the Department.

(27) “**Materials and Equipment Storage**” means the storage of logs, hay, containers, automobiles, coal, machinery or other items or materials on state-owned land (exclusive of rock, sand, gravel and silt derived from state-owned submerged and submersible land which are governed by other administrative rules).

(28) “**Non-Trust Land**” is land owned or 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.

(29) “**Operation Period**” as applied to wind, solar, geothermal resources and biomass energy projects begins when the delivery of electricity from the commercial electrical generating installation begins.

(30) “**Outfitting and Guiding Services**” include, but are not limited to commercial businesses involved in leading, protecting, instructing, training, packing, guiding, transporting, supervising, interpreting, or otherwise assisting any person in the conduct of outdoor recreational activities. The rental of equipment alone for use in outdoor recreational activities does not constitute commercial outfitting and guiding services.

(31) “**Person**” includes individuals, corporation, 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.

(32) “**Preference Right**” means a riparian property owner’s statutory privilege, as found in ORS 274.040(1), to obtain a lease without advertisement or competitive bid for the state-owned submerged and submersible land that fronts and abuts the riparian owner’s property. The Department will not recognize a claim of lease preference right from a non-riparian owner. A person claiming the right of occupancy to submerged and submersible land under a conveyance recorded before January 1, 1981, has a preference right to the requested area.

(33) “**Preference Right Holder**” means the person holding the preference right to lease as defined in these rules and ORS 274.040(1).

- (34) “**Rangeland**” is state land designated and managed by the Department for rangeland purposes.
- (35) “**Rangeland Purpose**” is the use of rangeland for livestock grazing or conservation use.
- (36) “**Recreational Cabin**” is a dwelling used only periodically or seasonally and is not the principal residence of the owner(s).
- (37) “**Semiprecious Stones**” are gemstones having a commercial value that is less than precious stones such as diamonds, rubies, emeralds and sapphires. Semiprecious stones include, but are not limited to amethyst, garnet, jade, sunstone, topaz, tourmaline and zircon.
- (38) “**Short Term Access Authorization**” is a non-renewable written authorization issued by the Department for a specific length of time determined by the Director that allows a person to enter a specific parcel of state-owned land for a particular purpose as described in OAR 141-125-0205.
- (39) “**Solar Energy Installation**” includes, but is not limited to the photovoltaic panels, mirrors, power towers, heat engines, generators, transformers, inverters, parabolic troughs and other equipment required to produce electricity from solar energy.
- (40) “**Special Use**” is a use of state-owned land not specifically governed by other Department administrative rules. Special uses are listed in OAR 141-125-0100(2) and (3).
- (41) “**Special Use Authorization**” is a lease, license or short-term access authorization issued by the Department to a person to use a specific area of state-owned land for a special use under specific terms and conditions.
- (42) “**State Owned Land**” is land owned or managed by the Department or its agents and includes Trust and Non-Trust Land.
- (43) “**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.
- (44) “**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.
- (45) “**Sunken Log, Woody Debris and Abandoned Piling Salvage**” means the retrieval of sunken logs, woody debris and abandoned pilings lying on, or partially or wholly embedded in state-owned land underlying Oregon’s rivers and lakes that are removed for their commercial value.
- (46) “**Territorial Sea**” has the same meaning as provided in ORS 196.405(6). It includes the waters and seabed extending three geographical miles seaward from the line of mean low water to the extent of state jurisdiction.
- (47) “**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.
- (48) “**Upland Quarry**” is a site on state-owned land from which rock, boulders, sand, gravel, silt or soil is removed for use for commercial and non-commercial purposes.

(49) **“Wind Farm”** is a facility consisting of wind turbines interconnected by an electrical collection system.

(50) **“Wind Turbine”** is a machine that converts the force of the wind into electrical energy. A wind turbine usually consists of one or more moving blades connected to an electrical generator that is mounted on a tower.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0130

Application Requirements for a Lease or License

(1) Any person wanting to use state-owned land for any of the purposes described in OAR 141-125-0100(2) and (3) must:

(a) Apply in writing to the Department for a lease or license using a form provided by the Department; and

(b) Submit a non-refundable application processing fee payable to the Department to cover the administrative costs of processing the application and issuing the authorization.

(2) The application processing fee for a lease or license is \$750.

(3) Unless otherwise allowed by the Director, a fully completed application for a lease or license must be submitted to the Department at least 180 calendar days prior to the proposed use or placement of a development subject to these rules in, on or over state-owned land.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0140

Lease or License Application Review and Approval Process

(1) Upon receipt of an application for a lease or license, the Department will determine:

(a) If the application is complete;

(b) If the subject area is available for the requested use;

(c) What method will be used to determine the amount of compensation payable to the Department pursuant to OAR 141-125-0150 and 0160;

(d) If a lease or license under these rules is the required form of authorization, and

(e) If additional information is required concerning the:

(A) Proposed use of the state land; and

(B) Applicant’s financial status, or past business or management practices, or both.

(2) The Department will then advise the applicant of its determination concerning each of the five factors in OAR 141-125-0140(1). Applications determined by the Department to be incomplete, or for an area in which the use would be incompatible will be returned to the applicant with a written explanation of the reason(s) for rejection.

(3) If an application rejected for incompleteness is resubmitted within 90 calendar days from the date the Department returned it to the applicant (as determined by

the date of postmark) with all deficiencies noted by the Department corrected, no additional application fee will be assessed.

(4) If more than one application for a specific area is received by the Department for the same or conflicting uses subject to authorization by a lease, the Department may:

(a) Determine which proposed use best fulfills the policies specified in OAR 141-125-0110, and accept and proceed with that application and deny the others; or

(b) If neither use is determined by the Department to be demonstrably better, make the subject area available to the public by auction.

(5) Upon acceptance by the Department, the application will be circulated to various local, state and federal agencies and other interested persons including tribal governments, adjacent property holders, affected lessees and permittees, and easement holders for review and comment. As a part of this review, the Department will specifically request comments concerning:

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

(b) Conformance of the proposed use with local, state, and federal laws and rules;

(c) Conformance of the proposed use with the local comprehensive land use plan and zoning ordinances;

(d) Conformance with the policies described in OAR 141-125-0110 of these rules; and

(e) Potential conflicts of the proposed use with existing or proposed uses of the requested area.

(6) If the application is for a communications facility, the Department will request comments from the Federal Communications Commission, Public Utility Commission of Oregon, and any other persons owning or leasing communications facilities who advise the Department that they want to receive such applications.

(7) 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.

(8) After receipt of comments concerning the proposed use, the Department will advise the applicant in writing:

(a) If changes in the use or the requested lease or license area are necessary to respond to the comments received;

(b) If 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) If the area requested for the lease or license will be authorized for use by the applicant through a lease or license, and

(d) Whether the subject area will be made available to the public through competitive bidding pursuant to OAR 141-125-0150. Only requests for leases may be subject to competitive bidding.

(9) If the Department decides to issue a lease to the applicant without competitive bidding, or a license, the Department will notify the applicant in writing of:

(a) The amount of compensation pursuant to OAR 141-125-0160 that the applicant must remit to the Department to obtain the authorization;

(b) Any insurance and surety bond required by the Department pursuant to the requirements of OAR 141-125-0180; and

(c) A draft copy of the lease or license.

(10) The Department will not grant a lease or license to an applicant until:

(a) It has received all fees and compensation specified in these rules, and evidence of any required insurance and surety bond; and

(b) The requirements of OAR 141-125-0170(4) of these rules have been met;

(11) In addition to the provisions of OAR 141-125-0140(9), a special use authorization issued by the Department will not be valid until the holder has received all other authorizations required by the Department (such as a Removal-Fill Permit under ORS 196.800 to 196.990) and other applicable local, state, and federal governing bodies to use the state-owned land in the manner requested.

(12) The Director may refer any applications for a lease or license to the Land Board for review and approval.

(13) If an application is received and accepted by the Department for a lease on state-owned submerged and submersible land, the Department will, pursuant to the requirements of ORS 274.040, offer a preference right to lease to the eligible party as defined in OAR 141-125-0120(32) and (33), hereafter referred to as the preference right holder. The Department will take the following steps to offer this preference right:

(a) If the proposed lease area consists of a single parcel, or two or more contiguous parcels owned by the same person, the Department will extend the boundaries of the single parcel or combined group of single-ownership parcels perpendicular to the thread of the stream creating a single lease parcel that fronts and abuts the upland ownership.

(b) If the proposed lease area consists of parcels having different owners, the Department will subdivide the requested lease area into smaller parcels by extending lines perpendicular to the thread of the stream from the boundaries of, or within the boundaries of the adjacent riparian tax lot so that there is a separate lease parcel for each parcel of property that fronts and abuts the lease area.

(c) In accordance with the proposed use(s), the Department will calculate in a manner consistent with OAR 141-125-0160 a minimum annual compensatory payment for each lease parcel.

(d) The Department will notify each preference right holder in writing that a lease application has been approved by the Department and provide 30 calendar days from the date that the letter is postmarked for the preference right holder to

exercise the preference right to take the lease at the established minimum annual compensatory payment.

(e) If the preference right holder has accepted the offer of a preference right to lease and has executed the lease form and all other documents and remitted the required minimum annual lease rental payment within the required 30 calendar day period, the Department will execute the lease.

(f) If the preference right holder does not exercise the preference right to take a lease applied for by another person, the Department will prepare and publish an advertisement for bids pursuant to ORS 274.040 and hold a public auction pursuant to OAR 141-125-0150. The highest qualified bidder will be awarded the lease. The minimum bid amount will be set by the Department.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0150

Competitive Bidding Process

(1) Except as provided in OAR 141-125-0110(10) and OAR 141-125-0140(11), the Department will determine on a case-by-case basis if an area requested for a lease will be offered to the public through competitive bidding. This decision will be made after considering:

(a) Whether the area requested for a lease is for a use located on Trust or Non-Trust Land;

(b) The nature of the use and length of authorization requested;

(c) The availability of reliable data regarding the comparative compensatory payments for the proposed use; and

(d) Whether other applications are received by the Department to use the same area requested for the same or competing uses.

(2) The Department will give Notice of Parcel Availability and provide an opportunity for applications to be submitted if it:

(a) Determines that the greatest public benefit and/or trust obligations of the Department would be best served by offering the subject area through competitive bidding, or

(b) Is required to offer all or part of the subject area for competitive bid because the preference right holder did not exercise their preference right to take a lease.

(3) The Notice of Parcel Availability will state:

(a) The location and size of the subject area;

(b) The use approved by the Department for the subject area;

(c) The type of auction and minimum acceptable bid amount;

(d) What developments, if any, on the subject area the applicant must purchase from the existing lessee, and a general estimate of the present value of said developments as determined by the Department; and

(e) The deadline for submitting a completed application to the Department.

(4) The Notice of Parcel Availability will be:

(a) Published at the applicant's or, if more than one applicant, applicants' expense, with the cost being divided equally among the applicants, not less than

once each week for two successive weeks in a newspaper of general circulation in the county or counties in which the subject parcel is located;

(b) Posted on the Department's internet web site; and

(c) Sent to persons indicating an interest in the subject parcel.

(5) The highest qualified bidder will be awarded the lease at auction subject to satisfaction of the requirements of OAR 141-125-0140(9) and 141-125-0170(4) of these rules. However, the Department will have the right to reject any and all bids submitted.

(6) The Department may offer parcels for which no application has been received to the public through a competitive bidding process. When doing this the Department will follow the competitive bidding process provided in OAR 141-125-0150(3) through (5) and be responsible for the expenses of publishing the required notices.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0160

Compensation

(1) To establish the amount of annual compensation or minimum bid at auction, the Department will:

(a) Adhere to the policies contained in OAR 141-125-0110(1) and (2) of these rules, and

(b) Whenever practicable, base the amount on comparative compensatory payments for publicly or privately-owned parcels located as close as possible to the state-owned land requested by an applicant.

(2) In the event that reliable data concerning comparative compensatory payments are not available, the Department will select another method of determining the amount of compensatory payment or minimum bid at auction such as a percent of the appraised value of the requested area, percent of crop or product value, or percent of product produced.

(3) For the uses indicated in OAR 141-125-0160(4) through OAR 141-125-0160(11), the Department will determine the amount of annual compensatory payment owed by the holder of a special use lease or license using the method(s) indicated.

(4) Agricultural Uses

As an alternative to basing the amount of compensation due for an agricultural use on comparative compensatory payments, the Department may, at its discretion, use a cropshare approach. If this methodology is used, the state's share will be no less than 25 percent of the value received by the holder of a special use lease or license in payment for each crop harvested from the authorized area.

(5) Communications Facilities

The holder of a special use lease or license for a communications facility must remit to the Department on a basis provided in the authorization both:

(A) The full amount of the base annual compensation determined by the Department to be the comparative compensatory payment for similar communications facilities; and

(B) A payment equal to 25 percent of the rental received by the lessee during the previous 12 month period from sublessees and sublicensees using the subject facility authorized by the lease or license.

(b) If the holder of a lease or license for a communications facility allows other persons to use the facility (for example, to place or attach antennas, microwave dishes, or other signal broadcasting or receiving equipment on the site or to a tower), the holder of the authorization must record and report data concerning the number sublessees and sublicensees, and the amount of compensation received from them to the Department on a basis and at an interval set by the Department and included as a provision of the license or lease.

(6) Upland Quarry

(a) The holder of a special use lease or license for an upland quarry must remit to the Department:

(A) Eight percent of the gross revenue received by the lessee or licensee from the sale of the rock, boulders, sand, gravel, silt or soil removed by the lessee or licensee, or

(B) The compensation rate in effect at the time of removal as provided in OAR 141-014 (Rules for Authorizing Leases and Licenses for the Removal or Use of Rock, Sand, Gravel and Silt Derived from State-Owned Submerged and Submersible Land) for “shorecast dredge spoils” if the lessee or licensee uses the rock, boulders, sand, gravel, silt or soil.

(b) Data concerning the quantity of rock, boulders, sand, gravel, silt or soil removed and sold, and the revenue received from any sales will be recorded and reported by the lessee or licensee to the Department on a basis and at an interval set by the Department and included as a provision of the license or lease.

(c) In addition to the compensation required under OAR 141-125-0160(6)(a), the holder of a special use license or lease for an upland quarry is required to pay the compensation due for any easements (for example, roads leading into the quarry and power lines crossing state land) or other forms of authorization required by Department rules.

(7) Semiprecious Stones, Petrified Wood and Fossils

Any person removing semiprecious stones, petrified wood or fossils for commercial purposes must remit to the Department within 30 calendar days of the removal of any semiprecious stones, petrified wood and fossils:

(a) Compensatory payment in the amount of 10 percent of the market value of the semiprecious stones, petrified wood and fossils; and

(b) Photocopies of the evidence used by the lessee or licensee to determine the market value of the semiprecious stones, petrified wood and fossils removed.

This evidence must accompany the payment of compensation owed.

Documentation suitable to the Department includes, but is not limited to a sales receipt (if the material is sold to another party); an appraisal by a gemologist or

mineral dealer; or advertisements for the sale of similar material in lapidary magazines or trade journals.

(8) Retrieval of Sunken Logs, Woody Debris and Abandoned Pilings

(a) The holder of a special use license or lease to retrieve sunken logs, woody debris and abandoned pilings from state-owned submerged and submersible land for their commercial value must remit to the Department 10 percent of the gross revenue received by the lessee or licensee from the sale of any logs or lumber products produced from the logs.

(b) Data concerning the quantity of lumber recovered or sold and revenue received from any sales must be recorded and reported by the lessee or licensee to the Department on a basis to be set by the Department and included as a provision of the license or lease.

(c) In addition to the compensation required under OAR 141-125-0160(8)(a), the holder an special use lease or license to retrieve sunken logs, woody debris and abandoned pilings must also pay the compensation due for any easements (for example, storage of logs on state-owned land) or other forms of authorization required by the Department.

(9) Wind Turbines/Wind Farms

(a) The holder of a special use lease or license must remit to the Department:

(A) During the demonstration project period the greatest of:

(i) \$500;

(ii) \$5.00 per acre of land within the authorized area; or

(iii) The comparative compensatory payment received by other landowners for similar demonstration projects.

(B) During the construction period a one-time installation fee equal to \$3,000 times the number of megawatts of nameplate rated capacity for each wind turbine to be installed as a part of that phase of the development.

(C) During the operation period:

(i) 2.5 percent of the gross revenue received by the lessee for, or the value of the electricity generated by each turbine during from the start of the operation through year 10;

(ii) 3.5 percent of the gross revenue received by the lessee for, or the value of the electricity generated by each turbine from year 11 through year 15;

(iii) 4.0 percent of the gross revenue received by the lessee for, or the value of the electricity generated by each turbine from year 16 until the termination of the operation of that turbine.

(D) During the decommissioning period:

An amount to be determined by the Director based on the compensation which could reasonably be expected to be received by the Department for the use of the land encumbered by the wind power project.

(b) Notwithstanding the provisions of OAR 141-125-0160(9)(a), the director reserves the right to establish another rate of compensation to be charged by the Department during the construction and operation periods based on factors unique to an operation (for example, distance of the operation from major transmission lines and variability of the wind) and comparative compensatory payments.

(c) The lessee or licensee will record and report the amount of electricity generated by each wind turbine and wind farm under lease as well as the gross revenue resulting from that generation on a basis to be determined by the Department and included as a provision of the lease. Gross revenue is defined as all revenues earned through the sale of the electricity by the lessee to purchasers.

(d) In the event the lessee or licensee consumes all, or a portion of the electricity generated by the wind turbine and wind farm, the Department will establish a value for that electricity based on what the lessee or licensee would have to pay a utility for the equivalent amount of electricity delivered to the lessee's or licensee's point of demand as well as information provided by the lessee.

(e) In addition to the compensation required under OAR 141-125-0160(9)(a) and (b), the holder of a lease or license for a wind turbine and wind farm is required to pay to the Department the compensation due for any easements (for example, transmission lines crossing state land) or other forms of authorization required by the Department.

(10) Solar Energy Installation

(a) The holder of a special use lease or license for a solar energy installation must remit to the Department:

(A) During the demonstration project period the greatest of:

(i) \$500;

(ii) \$5.00 per acre of land within the authorized area; or

(iii) The comparative compensatory payment received by other landowners for similar demonstration projects.

(B) During the construction, operation and decommissioning periods, an amount to be determined by the Director based on comparative compensatory payments.

(b) Data concerning the amount of generation and its value will be recorded and reported by the lessee to the Department on a basis to be determined by the Department and included as a provision of the license or lease.

(c) In addition to the compensation required under OAR 141-125-0160(10)(a) and (b), the holder of a special use lease or license for solar energy installation is required to pay the compensation due for any easements (for example, transmission lines crossing state land) or other forms of authorization required by the Department.

(11) Geothermal Energy Installation

(a) The holder of a special use lease or license for a geothermal energy installation must remit to the Department:

(A) During the demonstration project period the greatest of:

(i) \$500 per year;

(ii) \$5.00 per acre of land within the authorized area per year; or

(iii) The comparative compensatory payment received by other landowners for similar demonstration projects per year.

(B) During the construction, operation and decommissioning periods, an amount to be determined by the Director based on comparative compensatory payments.

(i) The Director shall take into consideration current industry standards for annual comparative compensatory payments by reviewing the current Bureau of Land

Management Code of Federal Regulations, current comparative compensatory payments received by other states, and comparative compensatory payments received by private landowners under free market conditions.

(b) Data concerning the amount of generation and its value will be recorded and reported by the lessee to the Department on a basis to be determined by the Department and included as a provision of the license or lease.

(c) Upon the sale, exchange or other disposition for value of by-products produced in conjunction with the production of Geothermal Resources under a license or lease, the holder shall pay royalties as follows:

(A) Demineralized water – A royalty on the sale of demineralized water shall be reported and paid to the Department monthly. The royalty payment shall be the greatest of:

(i) One percent of the gross sale price of demineralized water sold, exchanged, or otherwise disposed of for value in any calendar month; or

(ii) The comparative royalty rate received by other landowners for demineralized water regionally.

(B) Heavy metals, nonhydrocarbon gases, and miscellaneous precipitates -- A royalty on the sale of heavy metals, nonhydrocarbon gases, and miscellaneous precipitates shall be reported and paid to the Department monthly. The royalty payment shall be the greatest of:

(i) Five percent of the gross sale price of all heavy metals, miscellaneous precipitates, and nonhydrocarbon gases sold, exchanged, or otherwise disposed of for value in any calendar month; or

(ii) The comparative royalty rate received by other landowners for all heavy metals, miscellaneous precipitates, and nonhydrocarbon gases sold, exchanged, or otherwise disposed of regionally.

(d) In addition to the compensation required under OAR 141-125-0160(11)(a),(b) and (c), the holder of a special use lease or license for a geothermal energy installation is required to pay the compensation due for any easements (for example, transmission lines crossing state land) or other forms of authorization required by the Department.

(12) Biomass Generating Facility

(a) The holder of a special use lease or license for a commercial electrical energy generating installation using biomass must remit to the Department:

(A) During the demonstration project period the greatest of:

(i) \$500,

(ii) \$5.00 per acre of land within the authorized area, or

(iii) The comparative compensatory payment received by other landowners for similar demonstration projects.

(B) During the construction, operation and decommissioning periods, an amount to be determined by the Director based on comparative compensatory payments.

(b) Data concerning the amount of generation and its value will be recorded and reported by the lessee to the Department on a basis to be determined by the Department and included as a provision of the license or lease.

(c) In addition to the compensation required under OAR 141-125-0160(12)(a), the holder of a special use lease for biomass generating facility is required to pay

the compensation due for any easements (for example, transmission lines crossing state land) or other forms of authorization required by the Department.
(d) If the biomass used to fuel a generating facility is obtained from state-owned land, the Director will determine the amount of compensation owed by the lessee for the use of this material.

(13) Regardless of the type of use that is subject to a special use authorization, the amount of annual compensation received by the Department will not be less than:

(a) \$500 per year for all leases except those for communications facilities;

(b) \$750 per year for special use leases for communications facilities;

(c) \$100 per year for licenses; or

(d) The minimum bid when the lease is awarded through public auction.

(14) Communications facilities located on Non-Trust Land outside of the designated limits of a city may be exempt from the mandatory compensation payments specified in OAR 141-125-0160(5) pursuant to the provisions of ORS 758.010(1). However, the owners of such facilities must apply for and obtain a lease or license from the Department.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0170

General Terms and Conditions

(1) The term of a special use lease will not exceed 30 years unless otherwise approved by the Director. The Department will determine the length of a lease based on the nature of the use intended for the requested site. The Department may, at its discretion, provide as a provision of the lease that it may be renewed for a term to be determined by the Department.

(2) The term of a license will be less than three years. A license may, upon receipt by the Department of a written request, be renewed up to two times at the discretion of the Department for a maximum term of one year each time.

(3) Leases and licenses will be offered by the Department for the minimum area determined by the Department to be required for the requested use.

(4) A special use authorization issued by the Department will be on a form supplied by the Department that has been approved for legal sufficiency by the Department of Justice pursuant to ORS 291.045 to 291.047 (Public Contract Approval).

(5) The holder of a lease or license may request the Department close all or portions of the authorized area to public entry or restrict recreational use by the public to protect the persons, property, developments and/or crops from harm.

(6) The Department or its authorized representative(s) will have the right to enter into and upon the authorized area at any time for the purposes of inspection or management, or to conduct noxious plant or pest abatement, or for wildfire control.

(7) The holder of a special use authorization must dispose of all waste in a proper manner and must not permit debris, garbage or other refuse to either accumulate within the authorized area or be discharged into any waterway.

(8) Unless otherwise agreed to in writing as a provision of the authorization, the holder of a special use authorization may not interfere with lawful public use of an authorized area, or obstruct free transit across state land, or intimidate or otherwise threaten or harm public users of state land.

(9) The holder of a special use authorization must cooperate and comply with:

(a) Appropriate county agencies and the Oregon Department of Agriculture in the detection, prevention and control of noxious plants. The Department will rely on the Oregon Department of Agriculture for information concerning which noxious plants present on an authorized area require corrective action by the lessee or licensee, or the Oregon Department of Agriculture or its agents;

(b) The Oregon Department of Agriculture and the Department in the management of plant pests and diseases; and

(c) The Department and other agencies in the detection, prevention and control of wildfires on an authorized area.

(10) Unless otherwise agreed to in writing in the special use authorization, the holder of the authorization, must remove any or all developments as directed by the Department within 90 calendar days of the date of the expiration or termination of the authorization. The holder of a lease for a renewable energy project must remove any or all developments as directed by the Department within one year of the date of the expiration or termination of the authorization. If the holder of the special use authorization refuses to remove the subject developments, the Department may remove them and charge the holder for doing so.

(11) The holder of a special use authorization will not allow any other use to be made of, or occur on the site or facility that is not specifically authorized:

(a) By that authorization; or

(b) By the Department in writing prior to the use.

(12) The holder of a special use authorization 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 insect or animal infestation, soil erosion or the growth of noxious plants.

(13) The holder of a special use authorization must maintain all buildings, machinery, equipment and similar structures and improvements located within the authorized area in a good state of repair as determined by the Department.

(14) If requested by the Department, a holder of a special use authorization must present evidence to the Department prior to the use that they have obtained:

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

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

(c) A surety bond and comprehensive or commercial general liability insurance required by the Department.

(15) The Department may require that a person who is granted a:

(a) Special use license by the Department to conduct an investigation or demonstration project using wind, solar energy or biomass to generate electricity

to provide the results obtained from the investigation or demonstration project, or both, to the Department, or

(b) Short term access authorization by the Department for scientific or research purposes to provide the data obtained or developed from the investigation (for example, geological core logs or biological surveys) to the Department.

(16) The holder of a lease or license will indemnify the State of Oregon and the Department of State Lands against any claim or costs arising from or related to a release of a hazardous substance on or from the authorized area. Additionally, the Department may require that the holder of a short term access agreement also provide the same indemnification contingent on the use of the authorized area requested.

(17) A holder of a lease or license that provides for a renewal must reapply to the Department using a form provided by the Department and remit the required application processing fee to the Department. Unless otherwise allowed by the Director, this form must be received by the Department along with the required application processing fee at least 180 calendar days prior to the expiration of the lease or license for which renewal is requested.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0180

Insurance and Bond

(1) The Department, in the exercise of its reasonable discretion, may require the holder of a special use authorization to obtain insurance in a specified amount if the use, in the opinion of the Department, constitutes a risk to public safety, or to the State of Oregon.

(2) The Department may request that the applicant for, or the holder of a special use authorization provide information concerning the use of the area 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.

(3) The Department may, at its discretion, require that the holder of a special use authorization obtain a surety or bid bond in an amount specified by the Department (or a cash deposit in an amount equal to the surety bond and which names the State of Oregon as co-owner) to ensure that they will perform in accordance with all terms and conditions of an authorization.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0190

Termination of a Special Use Lease, License or Short Term Access Authorization For Default

(1) If the holder of a special use authorization fails to comply with these rules or the terms and conditions of the authorization, or otherwise violates laws governing their use of the authorized area, the Department will notify the holder

of the authorization in writing of the default and demand correction within a specified time frame.

(2) If the holder of a special use authorization fails to correct the default within the time frame specified, the Department may:

- (a) Modify or terminate the authorization; and
- (b) Request the Attorney General to take appropriate legal action against the holder of the authorization.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0200

Assignment of Special Use Authorizations; Subleasing

(1) A lease in good standing is assignable.

(2) Licenses and short-term access authorizations are non-assignable.

(3) To assign a lease, the lessee must submit a:

- (a) Notice of proposed assignment on a form provided by the Department at least 60 calendar days prior to the date that the assignment is to occur; and
- (b) Non-refundable assignment processing fee of \$750 payable to the Department.

(4) The Department may request additional information concerning the proposed assignment.

(5) A lessee or licensee wanting to offer a sublease or sublicense to another person must:

- (a) Obtain prior written authorization from the Department by applying to the Department on a form provided by the Department at least 60 calendar days prior to the date that the sublease or sublicense is desired;
- (b) Submit a non-refundable sublease or sublicense review fee of \$250 along with the application form; and
- (c) If the lease or license is for a communications facility, submit to the Department the amount provided in OAR 141-125-0160(5)(a)(B) for each sublessee or sublicensee at the end of each calendar year.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0205

Short Term Access Authorization Application Requirements, Review and Approval Process

(1) A short-term access authorization is required for any use of state-owned land that is not specifically governed by other Department administrative rules.

Examples of types of uses that may require a short-term access authorization are:

- (a) An academic research or educational project;
- (b) A scientific experiment that requires the exclusive use of a parcel of land;
- (c) Collection of geologic or vegetative samples; and
- (d) Removal of juniper for non-commercial purposes.

- (e) Other uses or developments determined by the Director based on their impacts on state-owned land.
- (2) A short-term access authorization is granted by the Department for a specific length of time to be determined by the Director that allows a person to enter a specific parcel of state-owned land for a particular purpose.
- (3) Any person wanting a special use short-term access authorization must:
- (a) Apply in writing to the Department using a form provided by the Department; and
- (b) Submit a fully completed application to the Department at least 30 calendar days (unless otherwise allowed by the Director) prior to the proposed use.
- (4) Upon receipt of an application the Department will determine:
- (a) If the application is complete;
- (b) If the subject area is available for the requested use; and
- (c) If additional information is required concerning the proposed use of the state land, or the applicant's financial status, or past business and management practices.
- (5) Upon acceptance by the Department, the Department will review the application to determine, among other considerations:
- (a) The impacts of the proposed use on the environment, habitat, and other uses of the requested area, and the magnitude of these impacts;
- (b) The need for the proposed use within the requested area; and
- (c) Conformance of the proposed use with the policies provided in OAR 141-125-0110.
- (6) The Department reserves the right to:
- (a) Require that the applicant obtain written approvals from local, state and federal government agencies indicating that the proposed use conforms with local, state and federal laws and rules as well as the local comprehensive land use plan and zoning ordinances; and
- (b) Circulate the application for review and comment pursuant to the provisions of OAR 141-125-0140 to obtain additional information to use in making its decision whether to grant the requested short-term access authorization.
- (7) The Department will then advise the applicant of its determination concerning each of the three factors in OAR 141-125-0205(5). Applications determined by the Department to be incomplete will be returned to the applicant with a written explanation of the reason(s) for rejection.
- (8) If an application rejected for incompleteness is resubmitted by the applicant within 30 calendar days from the date the Department returned it to the applicant (as determined by the date of postmark) with all deficiencies noted by the Department corrected, no additional application fee will be assessed.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0210

Enforcement Actions; Civil Penalties and Other Remedies

(1) Upon the Director's own initiative, or in response to a complaint, the Director may investigate a suspected violation of a special use authorization or the alleged unauthorized use of state land to determine if use of the state land conforms with the terms and conditions of a special use authorization, or to determine if the use is not authorized.

(2) In conducting the inspection relative to suspected or alleged violations of a special use authorization issued by the Director, the Director, or the Director's agent, may enter onto private property of the holder of the authorization in order to determine if a violation has occurred.

(3) Upon a determination that a violation of the special use authorization has occurred or that an unauthorized use of state land has occurred, the Director may exercise the remedies set forth in the special use authorization, any other remedies available at law, or impose civil penalties consistent with OAR 141-125-0210(4), below.

(4) The unauthorized use of state-owned submerged and submersible land or a violation of a special use authorization granted under these rules authorizing the use of state-owned submerged and submersible land are a violation of ORS 274.040 and OAR 141-082. In addition to any other penalty or sanction provided by law, the Director may assess a civil penalty pursuant to ORS 274.992, ORS 274.994, and OAR 141-082-0130 for the unauthorized use of state-owned submerged and submersible land, or for the violation of a special use authorization granted under these rules authorizing the use of state-owned submerged and submersible land.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0220

Reconsideration of Decision

(1) An applicant for a special use authorization, or any other person adversely affected by the issuance or denial of special use authorization on state-owned land may request that the Director or the Land Board, depending upon which entity made the decision, reconsider the decision:

(a) Such a request must be received by the Director no later than 30 calendar days after the date of delivery of the decision.

(b) The Director will review the request within 60 calendar days after the date of delivery of the request.

(c) If the Director made the decision of concern, s/he may affirm the decision, issue a new or modified decision, or request the applicant to submit additional information to support the appeal.

(d) If the decision was made by the Land Board, the Director may recommend to the Land Board either that the special use authorization issuance or denial be affirmed based on the merits of the request, or that the Land Board authorize initiation of a contested case proceeding.

(2) If the Director recommends initiating a contested case proceeding, the Department will select a hearing officer and proceed pursuant to ORS 183.413 through 183.470.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

FINAL RULE WITH TRACK CHANGES FOR LAND BOARD CONSIDERATION

NOTE: The proposed additions to the enacted rules are indicated <u>in underlined red type</u> .
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DEPARTMENT OF STATE LANDS

DIVISION 125

**RULES FOR AUTHORIZING SPECIAL USES ON STATE-OWNED TRUST
AND NON-TRUST LAND**

141-125-0100

Purpose And Applicability

(1) These rules:

(a) Apply to the management of state-owned Trust and Non-Trust Land for special uses.

(b) Establish a process for authorizing such uses through the granting of leases, licenses and, short-term access authorizations (hereafter collectively referred to as a special use authorization).

(c) Do not apply to the granting of proprietary authorizations for uses specifically governed by other Department administrative rules.

(2) A special use is one not governed by other Department administrative rules. Special uses include, but are not limited to, using state-owned land (including historically filled land) for:

(a) Agriculture;

(b) Communications facilities;

(c) Industrial, business, commercial and residential purposes;

(d) Native seed harvesting;

(e) Scientific experiments and demonstration projects;

(f) Conventions, sporting and other events;

(g) Recreational cabins;

(h) Commercial outfitting and guiding services;

(i) Motion picture filming and set construction;

(j) Renewable energy projects including, but not limited to wind turbines and wind farms, solar energy installations, geothermal resources installations and biomass generating facilities, and their related transmission lines within the authorized area;

(k) Removal of semiprecious stones, petrified wood and fossils for commercial purposes;

(l) Parking lots;

(m) Materials and equipment storage;

(n) Warehouses;

(o) Marine service and repair facilities on state-owned upland;

(p) Resorts and recreational facilities;

- (q) Golf courses;
- (r) Upland quarries;
- (s) Geological investigations;
- (t) ~~Liquified~~Liquefied natural gas receiving plants;
- (u) Grazing on land other than that designated as rangeland;
- (v) Removal of juniper and other trees, plants or biomass for commercial use; and
- (w) Removal of sunken logs, woody debris and abandoned pilings for their commercial value.

(3) The Director may determine other uses and developments similar to those specified in OAR 141-125-0100(2) that are also subject to a special use authorization and these rules.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0110

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) All Trust Land will be managed in accordance with the need to maximize long-term financial benefit to the Common School Fund.

(3) The Department will follow the guiding principles and resource-specific management prescriptions contained in the Asset Management Plan, and consider the comments received from federal, state, and local governments and interested persons when determining whether to authorize or condition a special use authorization on state-owned land.

(4) The use of state-owned land for the placement of communications facilities is recognized by the Department as a conditionally allowable use of that land, subject to and consistent with the requirements and provisions of the Telecommunications Act of 1996 and other applicable federal, state, and local laws.

(5) Each individual use of, or development placed on state-owned land will constitute a separate discrete activity subject to payment of compensation as required by these or other applicable Department rules, or as determined by the Director.

(6) Uses of, and developments placed in, on or over state-owned land pursuant to a special use authorization will conform with local (including comprehensive land use planning and zoning ordinance requirements), state, and federal laws.

(7) The Department will not grant a special use authorization if it determines that the proposed use or development would unreasonably impact uses or developments proposed or already in place within the requested area. Such a determination will be made by the Department after consulting with holders of

leases, licenses, permits and easements granted by the Department in the requested area, and other interested persons.

(8) All uses subject to these rules must be authorized by a special use authorization issued by the Department. Authorization to occupy state-owned land cannot be obtained by adverse possession regardless of the length of time the use or development has been in existence.

(9) The Department may:

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

(b) Pursue whatever remedies are available under law to ensure that the unauthorized uses subject to a special use authorization are either brought into compliance with the requirements of these rules or removed.

(10) The Department will honor the terms and conditions of any existing valid lease or license for a special use granted by the Department including any that entitle the lessee or licensee to renewal if the holder of the authorization has complied with all terms and conditions of the authorization and applies to the Department for a renewal as prescribed in these rules.

(11) Holders of a license to conduct a demonstration project for a land-based (that is, not on state-owned submerged and submersible land) wind farm geothermal resource installation or solar energy installation will be given the first right to apply for a lease for the area authorized under the license.

(12) The Department may, at its discretion, authorize a demonstration project for a land based renewable energy project as part of a lease with the commercial electrical energy generating installation.

(13) The Department may, at its discretion, deny a special use authorization 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 a special use authorization offered by the Department; or

(b) Use the land applied for in a way that meets the provisions of OAR 141-125-0110.

(14) Notwithstanding the provisions of ORS 274.885, the Department will not allow or authorize the removal of kelp or other seaweed for commercial purposes.

(15) Notwithstanding the provisions of these rules, the Department may:

(a) Initiate projects involving special uses of, or developments in, on or over the land it manages by itself or in conjunction with other persons;

(b) Request proposals for special uses of, or developments on land it manages and select and award a lease through a competitive bid process to develop the use(s) or development(s) based on the policies provided in OAR 141-125-0110; and

(c) Negotiate and accept compensation in the form of services in lieu of monetary payments provided for in these rules.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0120

Definitions

- (1) **“Agriculture”** means the cultivation of land to grow crops or the raising of livestock.
- (2) **“Applicant”** is any person applying for a special use authorization.
- (3) **“Appraised Value”** means an estimate of the current fair market value of property derived by disinterested persons of suitable qualifications, for example, a licensed independent appraiser.
- (4) **“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 State Lands of the Common School Fund’s real estate assets.
- (5) **“Authorized”** is the area of state-owned land defined in the special use authorization for which a use is authorized.
- (6) **“Biomass”** refers to renewable organic matter such as agricultural crops and residue, wood and wood waste, animal and human waste, aquatic plants and organic components of municipal and industrial wastes.
- (7) **“Biomass Generating Facility”** includes, but is not limited to the furnaces, boilers, combustors, digesters, gasifiers, turbine systems and other related equipment used to produce electricity, steam, heat, or biofuel from biomass.
- (8) **“By-Products”** means all commercially valuable products other than heat energy obtained in conjunction with the development of Geothermal Resources excluding oil, hydrocarbon gas, and other hydrocarbon substances.
- (98) **“Commercial”** means a use that results in or is associated with any monetary consideration or gain.
- (109) **“Commercial Electrical Energy Generating Installation”**
 - (a) Is any electrical energy generating facility:
 - (A) Operated as a commercial venture (as contrasted to being operated as a demonstration project);
 - (B) Connected to the regional power grid and used to meet local or regional demand for electricity; or
 - (C) Used to meet all or part of the electricity demand by a person who may otherwise have to purchase the electricity produced by the facility from another source.
 - (b) Does not include any solar, wind or hydroelectric devices operated by a person who uses them to generate electricity for their home and who sells excess self-generated electricity back to a utility under a net metering agreement.
- (119) **“Communications Facility”** consists of the towers, antennas, dishes, buildings and associated equipment used to transmit or receive radio, microwave, wireless communications, and other electronic signals. The roads, pipes, conduits, and fiber optic, electrical, and other cables that cross state-owned land to serve a communications facility, however, are governed by the administrative rules for granting easements on state-owned land.
- (124) **“Comparative compensatory payment”** is the amount of money paid to the 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.

(132) **"Compensation"** or **"Compensatory Payment"** is the amount of money paid for a special use authorization to the Department for the use of Department-managed land.

(143) **"Construction Period"** as applied to wind, geothermal resources and solar energy projects is the time during which construction of the commercial electrical energy generating installation is underway.

(154) **"Cropshare"** is a method of determining the compensation to be paid by a lessee for the use of state-owned land for agricultural purposes in which the owner of the land receives a pre-agreed percentage of the value of the crop at the time it is harvested or sold.

(165) **"Demonstration Project"** is a limited duration activity of less than three years designed primarily to investigate or test the economic and technological viability of a concept or use of state-owned land under a license granted by the Department.

(176) **"Department"** means the Department of State Lands.

(187) **"Development"** is any structure (for example, a communications or cellular tower, shed or barn, fence, irrigation system, wind turbine, solar mirror or recreational cabin) authorized by the Department on an area of state-owned land managed by the Department.

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

(20) "Geothermal Resources" means the natural heat of the earth, the energy, in whatever form, below the surface of the earth present in, resulting from, or created by or which may be extracted from, the natural heat, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases, and steam, in whatever form, found below the surface of the earth, exclusive of helium or of oil, hydrocarbon gas, or other hydrocarbon substances, but including specifically:

(a) All products of geothermal processes, embracing indigenous steam, hot water, and hot brines;

(b) Steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations;

(c) Heat or other associated energy found in geothermal formations; and

(d) Any by-product derived from them.

(2149) **"Historically Filled Lands"** means those lands protruding above the line of ordinary high water, whether or not connected with the adjoining or opposite upland or riparian land on the same side of the body of water, which have been created prior to May 28, 1963 upon state-owned submerged and submersible land by artificial fill or deposit, and not including bridges, wharves and similar structures constructed upon state-owned submerged and submersible land by other than artificial fill or deposit.

- | (220) “**Industrial, Business and Commercial Purpose**” are uses of state-owned land not governed by other Department administrative rules. Such uses include, but are not limited to office buildings, manufacturing facilities, retail stores, outfitting and guide facilities and restaurants.
- | (234) “**Lease**” is a written authorization issued by the Department to a person to use a specific area of state-owned land for a special use under specific terms and conditions. The term of a lease is for one to 30 years.
- | (242) “**Lessee**” refers to any person having a special uses lease granted by the Department authorizing a special use on state-owned land managed by the Department.
- | (253) “**License**” is a written authorization issued by the Department to a person allowing the non-exclusive, short-term use of a specific area of state-owned land for a specific use under specific terms and conditions. A special use license has a maximum term of less than three years.
- | (264) “**Licensee**” refers to any person having a special use license granted by the Department authorizing a special use on state-owned land managed by the Department.
- | (275) “**Materials and Equipment Storage**” means the storage of logs, hay, containers, automobiles, coal, machinery or other items or materials on state-owned land (exclusive of rock, sand, gravel and silt derived from state-owned submerged and submersible land which are governed by other administrative rules).
- | (286) “**Non-Trust Land**” is land owned or 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.
- | (297) “**Operation Period**” as applied to wind, solar, geothermal resources and biomass energy projects begins when the delivery of electricity from the commercial electrical generating installation begins.
- | (3028) “**Outfitting and Guiding Services**” include, but are not limited to commercial businesses involved in leading, protecting, instructing, training, packing, guiding, transporting, supervising, interpreting, or otherwise assisting any person in the conduct of outdoor recreational activities. The rental of equipment alone for use in outdoor recreational activities does not constitute commercial outfitting and guiding services.
- | (3129) “**Person**” includes individuals, corporation, 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.
- | (320) “**Preference Right**” means a riparian property owner’s statutory privilege, as found in ORS 274.040(1), to obtain a lease without advertisement or competitive bid for the state-owned submerged and submersible land that fronts and abuts the riparian owner’s property. The Department will not recognize a claim of lease preference right from a non-riparian owner. A person claiming the right of occupancy to submerged and submersible land under a conveyance recorded before January 1, 1981, has a preference right to the requested area.

- | (331) **“Preference Right Holder”** means the person holding the preference right to lease as defined in these rules and ORS 274.040(1).
- | (342) **“Rangeland”** is state land designated and managed by the Department for rangeland purposes.
- | (353) **“Rangeland Purpose”** is the use of rangeland for livestock grazing or conservation use.
- | (364) **“Recreational Cabin”** is a dwelling used only periodically or seasonally and is not the principal residence of the owner(s).
- | (375) **“Semiprecious Stones”** are gemstones having a commercial value that is less than precious stones such as diamonds, rubies, emeralds and sapphires. Semiprecious stones include, but are not limited to amethyst, garnet, jade, sunstone, topaz, tourmaline and zircon.
- | (386) **“Short Term Access Authorization”** is a non-renewable written authorization issued by the Department for a specific length of time determined by the Director that allows a person to enter a specific parcel of state-owned land for a particular purpose as described in OAR 141-125-0205.
- | (397) **“Solar Energy Installation”** includes, but is not limited to the photovoltaic panels, mirrors, power towers, heat engines, generators, transformers, inverters, parabolic troughs and other equipment required to produce electricity from solar energy.
- | (4038) **“Special Use”** is a use of state-owned land not specifically governed by other Department administrative rules. Special uses are listed in OAR 141-125-0100(2) and (3).
- | (4139) **“Special Use Authorization”** is a lease, license or short-term access authorization issued by the Department to a person to use a specific area of state-owned land for a special use under specific terms and conditions.
- | (420) **“State Owned Land”** is land owned or managed by the Department or its agents and includes Trust and Non-Trust Land.
- | (434) **“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.
- | (442) **“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.
- | (453) **“Sunken Log, Woody Debris and Abandoned Piling Salvage”** means the retrieval of sunken logs, woody debris and abandoned pilings lying on, or partially or wholly embedded in state-owned land underlying Oregon’s rivers and lakes that are removed for their commercial value.
- | (464) **“Territorial Sea”** has the same meaning as provided in ORS 196.405(6). It includes the waters and seabed extending three geographical miles seaward from the line of mean low water to the extent of state jurisdiction.
- | (475) **“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.

| (486) “**Upland Quarry**” is a site on state-owned land from which rock, boulders, sand, gravel, silt or soil is removed for use for commercial and non-commercial purposes.

| (497) “**Wind Farm**” is a facility consisting of wind turbines interconnected by an electrical collection system.

| (5048) “**Wind Turbine**” is a machine that converts the force of the wind into electrical energy. A wind turbine usually consists of one or more moving blades connected to an electrical generator that is mounted on a tower.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0130

Application Requirements for a Lease or License

(1) Any person wanting to use state-owned land for any of the purposes described in OAR 141-125-0100(2) and (3) must:

(a) Apply in writing to the Department for a lease or license using a form provided by the Department; and

(b) Submit a non-refundable application processing fee payable to the Department to cover the administrative costs of processing the application and issuing the authorization.

(2) The application processing fee for a lease or license is \$750.

(3) Unless otherwise allowed by the Director, a fully completed application for a lease or license must be submitted to the Department at least 180 calendar days prior to the proposed use or placement of a development subject to these rules in, on or over state-owned land.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0140

Lease or License Application Review and Approval Process

(1) Upon receipt of an application for a lease or license, the Department will determine:

(a) If the application is complete;

(b) If the subject area is available for the requested use;

(c) What method will be used to determine the amount of compensation payable to the Department pursuant to OAR 141-125-0150 and 0160;

(d) If a lease or license under these rules is the required form of authorization, and

(e) If additional information is required concerning the:

(A) Proposed use of the state land; and

(B) Applicant’s financial status, or past business or management practices, or both.

(2) The Department will then advise the applicant of its determination concerning each of the five factors in OAR 141-125-0140(1). Applications determined by the Department to be incomplete, or for an area in which the use would be

incompatible will be returned to the applicant with a written explanation of the reason(s) for rejection.

(3) If an application rejected for incompleteness is resubmitted within 90 calendar days from the date the Department returned it to the applicant (as determined by the date of postmark) with all deficiencies noted by the Department corrected, no additional application fee will be assessed.

(4) If more than one application for a specific area is received by the Department for the same or conflicting uses subject to authorization by a lease, the Department may:

(a) Determine which proposed use best fulfills the policies specified in OAR 141-125-0110, and accept and proceed with that application and deny the others; or

(b) If neither use is determined by the Department to be demonstrably better, make the subject area available to the public by auction.

(5) Upon acceptance by the Department, the application will be circulated to various local, state and federal agencies and other interested persons including tribal governments, adjacent property holders, affected lessees and permittees, and easement holders for review and comment. As a part of this review, the Department will specifically request comments concerning:

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

(b) Conformance of the proposed use with local, state, and federal laws and rules;

(c) Conformance of the proposed use with the local comprehensive land use plan and zoning ordinances;

(d) Conformance with the policies described in OAR 141-125-0110 of these rules; and

(e) Potential conflicts of the proposed use with existing or proposed uses of the requested area.

(6) If the application is for a communications facility, the Department will request comments from the Federal Communications Commission, Public Utility Commission of Oregon, and any other persons owning or leasing communications facilities who advise the Department that they want to receive such applications.

(7) 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.

~~(87)~~ After receipt of comments concerning the proposed use, the Department will advise the applicant in writing:

(a) If changes in the use or the requested lease or license area are necessary to respond to the comments received;

(b) If 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) If the area requested for the lease or license will be authorized for use by the applicant through a lease or license, and
- (d) Whether the subject area will be made available to the public through competitive bidding pursuant to OAR 141-125-0150. Only requests for leases may be subject to competitive bidding.

(98) If the Department decides to issue a lease to the applicant without competitive bidding, or a license, the Department will notify the applicant in writing of:

- (a) The amount of compensation pursuant to OAR 141-125-0160 that the applicant must remit to the Department to obtain the authorization;
- (b) Any insurance and surety bond required by the Department pursuant to the requirements of OAR 141-125-0180; and
- (c) A draft copy of the lease or license.

(109) The Department will not grant a lease or license to an applicant until:

- (a) It has received all fees and compensation specified in these rules, and evidence of any required insurance and surety bond; and
- (b) The requirements of OAR 141-125-0170(4) of these rules have been met;

(110) In addition to the provisions of OAR 141-125-0140(9), a special use authorization issued by the Department will not be valid until the holder has received all other authorizations required by the Department (such as a Removal-Fill Permit under ORS 196.800 to 196.990) and other applicable local, state, and federal governing bodies to use the state-owned land in the manner requested.

(124) The Director may refer any applications for a lease or license to the Land Board for review and approval.

(132) If an application is received and accepted by the Department for a lease on state-owned submerged and submersible land, the Department will, pursuant to the requirements of ORS 274.040, offer a preference right to lease to the eligible party as defined in OAR 141-125-0120(320) and (334), hereafter referred to as the preference right holder. The Department will take the following steps to offer this preference right:

- (a) If the proposed lease area consists of a single parcel, or two or more contiguous parcels owned by the same person, the Department will extend the boundaries of the single parcel or combined group of single-ownership parcels perpendicular to the thread of the stream creating a single lease parcel that fronts and abuts the upland ownership.
- (b) If the proposed lease area consists of parcels having different owners, the Department will subdivide the requested lease area into smaller parcels by extending lines perpendicular to the thread of the stream from the boundaries of, or within the boundaries of the adjacent riparian tax lot so that there is a separate lease parcel for each parcel of property that fronts and abuts the lease area.

(c) In accordance with the proposed use(s), the Department will calculate in a manner consistent with OAR 141-125-0160 a minimum annual compensatory payment for each lease parcel.

(d) The Department will notify each preference right holder in writing that a lease application has been approved by the Department and provide 30 calendar days from the date that the letter is postmarked for the preference right holder to exercise the preference right to take the lease at the established minimum annual compensatory payment.

(e) If the preference right holder has accepted the offer of a preference right to lease and has executed the lease form and all other documents and remitted the required minimum annual lease rental payment within the required 30 calendar day period, the Department will execute the lease.

(f) If the preference right holder does not exercise the preference right to take a lease applied for by another person, the Department will prepare and publish an advertisement for bids pursuant to ORS 274.040 and hold a public auction pursuant to OAR 141-125-0150. The highest qualified bidder will be awarded the lease. The minimum bid amount will be set by the Department.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0150

Competitive Bidding Process

(1) Except as provided in OAR 141-125-0110(10) and OAR 141-125-0140(11), the Department will determine on a case-by-case basis if an area requested for a lease will be offered to the public through competitive bidding. This decision will be made after considering:

(a) Whether the area requested for a lease is for a use located on Trust or Non-Trust Land;

(b) The nature of the use and length of authorization requested;

(c) The availability of reliable data regarding the comparative compensatory payments for the proposed use; and

(d) Whether other applications are received by the Department to use the same area requested for the same or competing uses.

(2) The Department will give Notice of Parcel Availability and provide an opportunity for applications to be submitted if it:

(a) Determines that the greatest public benefit and/or trust obligations of the Department would be best served by offering the subject area through competitive bidding, or

(b) Is required to offer all or part of the subject area for competitive bid because the preference right holder did not exercise their preference right to take a lease.

(3) The Notice of Parcel Availability will state:

(a) The location and size of the subject area;

(b) The use approved by the Department for the subject area;

(c) The type of auction and minimum acceptable bid amount;

- (d) What developments, if any, on the subject area the applicant must purchase from the existing lessee, and a general estimate of the present value of said developments as determined by the Department; and
- (e) The deadline for submitting a completed application to the Department.
- (4) The Notice of Parcel Availability will be:
- (a) Published at the applicant's or, if more than one applicant, applicants' expense, with the cost being divided equally among the applicants, not less than once each week for two successive weeks in a newspaper of general circulation in the county or counties in which the subject parcel is located;
- (b) Posted on the Department's internet web site; and
- (c) Sent to persons indicating an interest in the subject parcel.
- (5) The highest qualified bidder will be awarded the lease at auction subject to satisfaction of the requirements of OAR 141-125-0140(9) and 141-125-0170(4) of these rules. However, the Department will have the right to reject any and all bids submitted.
- (6) The Department may offer parcels for which no application has been received to the public through a competitive bidding process. When doing this the Department will follow the competitive bidding process provided in OAR 141-125-0150(3) through (5) and be responsible for the expenses of publishing the required notices.
- Stat. Auth.: ORS 273
Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0160 Compensation

- (1) To establish the amount of annual compensation or minimum bid at auction, the Department will:
- (a) Adhere to the policies contained in OAR 141-125-0110(1) and (2) of these rules, and
- (b) Whenever practicable, base the amount on comparative compensatory payments for publicly or privately-owned parcels located as close as possible to the state-owned land requested by an applicant.
- (2) In the event that reliable data concerning comparative compensatory payments are not available, the Department will select another method of determining the amount of compensatory payment or minimum bid at auction such as a percent of the appraised value of the requested area, percent of crop or product value, or percent of product produced.
- (3) For the uses indicated in OAR 141-125-0160(4) through OAR 141-125-0160(11), the Department will determine the amount of annual compensatory payment owed by the holder of a special use lease or license using the method(s) indicated.
- (4) **Agricultural Uses**
As an alternative to basing the amount of compensation due for an agricultural use on comparative compensatory payments, the Department may, at its discretion, use a cropshare approach. If this methodology is used, the state's share will be no less than 25 percent of the value received by the holder of a

special use lease or license in payment for each crop harvested from the authorized area.

(5) Communications Facilities

The holder of a special use lease or license for a communications facility must remit to the Department on a basis provided in the authorization both:

(A) The full amount of the base annual compensation determined by the Department to be the comparative compensatory payment for similar communications facilities; and

(B) A payment equal to 25 percent of the rental received by the lessee during the previous 12 month period from sublessees and sublicensees using the subject facility authorized by the lease or license.

(b) If the holder of a lease or license for a communications facility allows other persons to use the facility (for example, to place or attach antennas, microwave dishes, or other signal broadcasting or receiving equipment on the site or to a tower), the holder of the authorization must record and report data concerning the number sublessees and sublicensees, and the amount of compensation received from them to the Department on a basis and at an interval set by the Department and included as a provision of the license or lease.

(6) Upland Quarry

(a) The holder of a special use lease or license for an upland quarry must remit to the Department:

(A) Eight percent of the gross revenue received by the lessee or licensee from the sale of the rock, boulders, sand, gravel, silt or soil removed by the lessee or licensee, or

(B) The compensation rate in effect at the time of removal as provided in OAR 141-014 (Rules for Authorizing Leases and Licenses for the Removal or Use of Rock, Sand, Gravel and Silt Derived from State-Owned Submerged and Submersible Land) for "shorecast dredge spoils" if the lessee or licensee uses the rock, boulders, sand, gravel, silt or soil.

(b) Data concerning the quantity of rock, boulders, sand, gravel, silt or soil removed and sold, and the revenue received from any sales will be recorded and reported by the lessee or licensee to the Department on a basis and at an interval set by the Department and included as a provision of the license or lease.

(c) In addition to the compensation required under OAR 141-125-0160(6)(a), the holder of a special use license or lease for an upland quarry is required to pay the compensation due for any easements (for example, roads leading into the quarry and power lines crossing state land) or other forms of authorization required by Department rules.

(7) Semiprecious Stones, Petrified Wood and Fossils

Any person removing semiprecious stones, petrified wood or fossils for commercial purposes must remit to the Department within 30 calendar days of the removal of any semiprecious stones, petrified wood and fossils:

(a) Compensatory payment in the amount of 10 percent of the market value of the semiprecious stones, petrified wood and fossils; and

(b) Photocopies of the evidence used by the lessee or licensee to determine the market value of the semiprecious stones, petrified wood and fossils removed. This evidence must accompany the payment of compensation owed. Documentation suitable to the Department includes, but is not limited to a sales receipt (if the material is sold to another party); an appraisal by a gemologist or mineral dealer; or advertisements for the sale of similar material in lapidary magazines or trade journals.

(8) Retrieval of Sunken Logs, Woody Debris and Abandoned Pilings

(a) The holder of a special use license or lease to retrieve sunken logs, woody debris and abandoned pilings from state-owned submerged and submersible land for their commercial value must remit to the Department 10 percent of the gross revenue received by the lessee or licensee from the sale of any logs or lumber products produced from the logs.

(b) Data concerning the quantity of lumber recovered or sold and revenue received from any sales must be recorded and reported by the lessee or licensee to the Department on a basis to be set by the Department and included as a provision of the license or lease.

(c) In addition to the compensation required under OAR 141-125-0160(8)(a), the holder an special use lease or license to retrieve sunken logs, woody debris and abandoned pilings must also pay the compensation due for any easements (for example, storage of logs on state-owned land) or other forms of authorization required by the Department.

(9) Wind Turbines/Wind Farms

(a) The holder of a special use lease or license must remit to the Department:

(A) During the demonstration project period the greatest of:

(i) \$500;

(ii) \$5.00 per acre of land within the authorized area; or

(iii) The comparative compensatory payment received by other landowners for similar demonstration projects.

(B) During the construction period a one-time installation fee equal to \$3,000 times the number of megawatts of nameplate rated capacity for each wind turbine to be installed as a part of that phase of the development.

(C) During the operation period:

(i) 2.5 percent of the gross revenue received by the lessee for, or the value of the electricity generated by each turbine during from the start of the operation through year 10;

(ii) 3.5 percent of the gross revenue received by the lessee for, or the value of the electricity generated by each turbine from year 11 through year 15;

(iii) 4.0 percent of the gross revenue received by the lessee for, or the value of the electricity generated by each turbine from year 16 until the termination of the operation of that turbine.

(D) During the decommissioning period:

An amount to be determined by the Director based on the compensation which could reasonably be expected to be received by the Department for the use of the land encumbered by the wind power project.

(b) Notwithstanding the provisions of OAR 141-125-0160(9)(a), the director reserves the right to establish another rate of compensation to be charged by the Department during the construction and operation periods based on factors unique to an operation (for example, distance of the operation from major transmission lines and variability of the wind) and comparative compensatory payments.

(c) The lessee or licensee will record and report the amount of electricity generated by each wind turbine and wind farm under lease as well as the gross revenue resulting from that generation on a basis to be determined by the Department and included as a provision of the lease. Gross revenue is defined as all revenues earned through the sale of the electricity by the lessee to purchasers.

(d) In the event the lessee or licensee consumes all, or a portion of the electricity generated by the wind turbine and wind farm, the Department will establish a value for that electricity based on what the lessee or licensee would have to pay a utility for the equivalent amount of electricity delivered to the lessee's or licensee's point of demand as well as information provided by the lessee.

(e) In addition to the compensation required under OAR 141-125-0160(9)(a) and (b), the holder of a lease or license for a wind turbine and wind farm is required to pay to the Department the compensation due for any easements (for example, transmission lines crossing state land) or other forms of authorization required by the Department.

(10) Solar Energy Installation

(a) The holder of a special use lease or license for a solar energy installation must remit to the Department:

(A) During the demonstration project period the greatest of:

(i) \$500;

(ii) \$5.00 per acre of land within the authorized area; or

(iii) The comparative compensatory payment received by other landowners for similar demonstration projects.

(B) During the construction, operation and decommissioning periods, an amount to be determined by the Director based on comparative compensatory payments.

(b) Data concerning the amount of generation and its value will be recorded and reported by the lessee to the Department on a basis to be determined by the Department and included as a provision of the license or lease.

(c) In addition to the compensation required under OAR 141-125-0160(10)(a) and (b), the holder of a special use lease or license for solar energy installation is required to pay the compensation due for any easements (for example, transmission lines crossing state land) or other forms of authorization required by the Department.

(11) Geothermal Energy Installation

(a) The holder of a special use lease or license for a geothermal energy installation must remit to the Department:

(A) During the demonstration project period the greatest of:

(i) \$500 per year;

(ii) \$5.00 per acre of land within the authorized area per year; or

(iii) The comparative compensatory payment received by other landowners for similar demonstration projects per year.

(B) During the construction, operation and decommissioning periods, an amount to be determined by the Director based on comparative compensatory payments.

(i) The Director shall take into consideration current industry standards for annual comparative compensatory payments by reviewing the current Bureau of Land Management Code of Federal Regulations, current comparative compensatory payments received by other states, and comparative compensatory payments received by private landowners under free market conditions.

(b) Data concerning the amount of generation and its value will be recorded and reported by the lessee to the Department on a basis to be determined by the Department and included as a provision of the license or lease.

(c) Upon the sale, exchange or other disposition for value of by-products produced in conjunction with the production of Geothermal Resources under a license or lease, the holder shall pay royalties as follows:

(A) Demineralized water – A royalty on the sale of demineralized water shall be reported and paid to the Department monthly. The royalty payment shall be the greatest of:

(i) One percent of the gross sale price of demineralized water sold, exchanged, or otherwise disposed of for value in any calendar month; or

(ii) The comparative royalty rate received by other landowners for demineralized water regionally.

(B) Heavy metals, nonhydrocarbon gases, and miscellaneous precipitates -- A royalty on the sale of heavy metals, nonhydrocarbon gases, and miscellaneous precipitates shall be reported and paid to the Department monthly. The royalty payment shall be the greatest of:

(i) Five percent of the gross sale price of all heavy metals, miscellaneous precipitates, and nonhydrocarbon gases sold, exchanged, or otherwise disposed of for value in any calendar month; or

(ii) The comparative royalty rate received by other landowners for all heavy metals, miscellaneous precipitates, and nonhydrocarbon gases sold, exchanged, or otherwise disposed of regionally.

(d) In addition to the compensation required under OAR 141-125-0160(11)(a),(b) and (c), the holder of a special use lease or license for a geothermal energy installation is required to pay the compensation due for any easements (for example, transmission lines crossing state land) or other forms of authorization required by the Department.

(124) Biomass Generating Facility

(a) The holder of a special use lease or license for a commercial electrical energy generating installation using biomass must remit to the Department:

(A) During the demonstration project period the greatest of:

(i) \$500,

(ii) \$5.00 per acre of land within the authorized area, or

(iii) The comparative compensatory payment received by other landowners for similar demonstration projects.

(B) During the construction, operation and decommissioning periods, an amount to be determined by the Director based on comparative compensatory payments.

(b) Data concerning the amount of generation and its value will be recorded and reported by the lessee to the Department on a basis to be determined by the Department and included as a provision of the license or lease.

(c) In addition to the compensation required under OAR 141-125-0160(1~~24~~)(a), the holder of a special use lease for biomass generating facility is required to pay the compensation due for any easements (for example, transmission lines crossing state land) or other forms of authorization required by the Department.

(d) If the biomass used to fuel a generating facility is obtained from state-owned land, the Director will determine the amount of compensation owed by the lessee for the use of this material.

(1~~32~~) Regardless of the type of use that is subject to a special use authorization, the amount of annual compensation received by the Department will not be less than:

(a) \$500 per year for all leases except those for communications facilities;

(b) \$750 per year for special use leases for communications facilities;

(c) \$100 per year for licenses; or

(d) The minimum bid when the lease is awarded through public auction.

(1~~43~~) Communications facilities located on Non-Trust Land outside of the designated limits of a city may be exempt from the mandatory compensation payments specified in OAR 141-125-0160(5) pursuant to the provisions of ORS 758.010(1). However, the owners of such facilities must apply for and obtain a lease or license from the Department.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0170

General Terms and Conditions

(1) The term of a special use lease will not exceed 30 years unless otherwise approved by the Director. The Department will determine the length of a lease based on the nature of the use intended for the requested site. The Department may, at its discretion, provide as a provision of the lease that it may be renewed for a term to be determined by the Department.

(2) The term of a license will be less than three years. A license may, upon receipt by the Department of a written request, be renewed up to two times at the discretion of the Department for a maximum term of one year each time.

(3) Leases and licenses will be offered by the Department for the minimum area determined by the Department to be required for the requested use.

(4) A special use authorization issued by the Department will be on a form supplied by the Department that has been approved for legal sufficiency by the Department of Justice pursuant to ORS 291.045 to 291.047 (Public Contract Approval).

(5) The holder of a lease or license may request the Department close all or portions of the authorized area to public entry or restrict recreational use by the public to protect the persons, property, developments and/or crops from harm.

(6) The Department or its authorized representative(s) will have the right to enter into and upon the authorized area at any time for the purposes of inspection or management, or to conduct noxious plant or pest abatement, or for wildfire control.

(7) The holder of a special use authorization must dispose of all waste in a proper manner and must not permit debris, garbage or other refuse to either accumulate within the authorized area or be discharged into any waterway.

(8) Unless otherwise agreed to in writing as a provision of the authorization, the holder of a special use authorization may not interfere with lawful public use of an authorized area, or obstruct free transit across state land, or intimidate or otherwise threaten or harm public users of state land.

(9) The holder of a special use authorization must cooperate and comply with:

(a) Appropriate county agencies and the Oregon Department of Agriculture in the detection, prevention and control of noxious plants. The Department will rely on the Oregon Department of Agriculture for information concerning which noxious plants present on an authorized area require corrective action by the lessee or licensee, or the Oregon Department of Agriculture or its agents;

(b) The Oregon Department of Agriculture and the Department in the management of plant pests and diseases; and

(c) The Department and other agencies in the detection, prevention and control of wildfires on an authorized area.

(10) Unless otherwise agreed to in writing in the special use authorization, the holder of the authorization, must remove any or all developments as directed by the Department within 960 calendar days of the date of the expiration or termination of the authorization. The holder of a lease for a renewable energy project must remove any or all developments as directed by the Department within one year of the date of the expiration or termination of the authorization.

If the holder of the special use authorization refuses to remove the subject developments, the Department may remove them and charge the holder for doing so.

(11) The holder of a special use authorization will not allow any other use to be made of, or occur on the site or facility that is not specifically authorized:

(a) By that authorization; or

(b) By the Department in writing prior to the use.

(12) The holder of a special use authorization 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 insect or animal infestation, soil erosion or the growth of noxious plants.

(13) The holder of a special use authorization must maintain all buildings, machinery, equipment and similar structures and improvements located within the authorized area in a good state of repair as determined by the Department.

(14) If requested by the Department, a ~~holder of n applicant for~~ a special use authorization must present evidence to the Department prior to the use that they have obtained:

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

(b) Any authorization that may be required to obtain access or to cross land belonging to a person other than the Department to undertake the use; and
(c) A surety bond and comprehensive or commercial general liability insurance required by the Department.

(15) The Department may require that a person who is granted a:

(a) Special use license by the Department to conduct an investigation or demonstration project using wind, solar energy or biomass to generate electricity to provide the results obtained from the investigation or demonstration project, or both, to the Department, or

(b) Short term access authorization by the Department for scientific or research purposes to provide the data obtained or developed from the investigation (for example, geological core logs or biological surveys) to the Department.

(16) The holder of a lease or license will indemnify the State of Oregon and the Department of State Lands against any claim or costs arising from or related to a release of a hazardous substance on or from the authorized area. Additionally, the Department may require that the holder of a short term access agreement also provide the same indemnification contingent on the use of the authorized area requested.

(17) A holder of a lease or license that provides for a renewal must reapply to the Department using a form provided by the Department and remit the required application processing fee to the Department. Unless otherwise allowed by the Director, this form must be received by the Department along with the required application processing fee at least 180 calendar days prior to the expiration of the lease or license for which renewal is requested.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0180

Insurance and Bond

(1) The Department, in the exercise of its reasonable discretion, may require the holder of a special use authorization to obtain insurance in a specified amount if the use, in the opinion of the Department, constitutes a risk to public safety, or to the State of Oregon.

(2) The Department may request that the applicant for, or the holder of a special use authorization provide information concerning the use of the area 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.

(3) The Department may, at its discretion, require that the holder of a special use authorization obtain a surety or bid bond in an amount specified by the Department (or a cash deposit in an amount equal to the surety bond and which names the State of Oregon as co-owner) to ensure that they will perform in accordance with all terms and conditions of an authorization.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0190

Termination of a Special Use Lease, License or Short Term Access Authorization For Default

(1) If the holder of a special use authorization fails to comply with these rules or the terms and conditions of the authorization, or otherwise violates laws governing their use of the authorized area, the Department will notify the holder of the authorization in writing of the default and demand correction within a specified time frame.

(2) If the holder of a special use authorization fails to correct the default within the time frame specified, the Department may:

(a) Modify or terminate the authorization; and

(b) Request the Attorney General to take appropriate legal action against the holder of the authorization.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0200

Assignment of Special Use Authorizations; Subleasing

(1) A lease in good standing is assignable.

(2) Licenses and short-term access authorizations are non-assignable.

(3) To assign a lease, the lessee must submit a:

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

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

(4) The Department may request additional information concerning the proposed assignment.

(5) A lessee or licensee wanting to offer a sublease or sublicense to another person must:

(a) Obtain prior written authorization from the Department by applying to the Department on a form provided by the Department at least 60 calendar days prior to the date that the sublease or sublicense is desired;

(b) Submit a non-refundable sublease or sublicense review fee of \$250 along with the application form; and

(c) If the lease or license is for a communications facility, submit to the Department the amount provided in OAR 141-125-0160(5)(a)(B) for each sublessee or sublicensee at the end of each calendar year.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0205

Short Term Access Authorization Application Requirements, Review and Approval Process

(1) A short-term access authorization is required for any use of state-owned land that is not specifically governed by other Department administrative rules.

Examples of types of uses that may require a short-term access authorization are:

- (a) An academic research or educational project;
 - (b) A scientific experiment that requires the exclusive use of a parcel of land;
 - (c) Collection of geologic or vegetative samples; and
 - (d) Removal of juniper for non-commercial purposes.
 - (e) Other uses or developments determined by the Director based on their impacts on state-owned land.
- (2) A short-term access authorization is granted by the Department for a specific length of time to be determined by the Director that allows a person to enter a specific parcel of state-owned land for a particular purpose.
- (3) Any person wanting a special use short-term access authorization must:
- (a) Apply in writing to the Department using a form provided by the Department; and
 - (b) Submit a fully completed application to the Department at least 30 calendar days (unless otherwise allowed by the Director) prior to the proposed use.
- (4) Upon receipt of an application the Department will determine:
- (a) If the application is complete;
 - (b) If the subject area is available for the requested use; and
 - (c) If additional information is required concerning the proposed use of the state land, or the applicant's financial status, or past business and management practices.
- (5) Upon acceptance by the Department, the Department will review the application to determine, among other considerations:
- (a) The impacts of the proposed use on the environment, habitat, and other uses of the requested area, and the magnitude of these impacts;
 - (b) The need for the proposed use within the requested area; and
 - (c) Conformance of the proposed use with the policies provided in OAR 141-125-0110.
- (6) The Department reserves the right to:
- (a) Require that the applicant obtain written approvals from local, state and federal government agencies indicating that the proposed use conforms with local, state and federal laws and rules as well as the local comprehensive land use plan and zoning ordinances; and
 - (b) Circulate the application for review and comment pursuant to the provisions of OAR 141-125-0140 to obtain additional information to use in making its decision whether to grant the requested short-term access authorization.
- (7) The Department will then advise the applicant of its determination concerning each of the three factors in OAR 141-125-0205(5). Applications determined by the Department to be incomplete will be returned to the applicant with a written explanation of the reason(s) for rejection.
- (8) If an application rejected for incompleteness is resubmitted by the applicant within 30 calendar days from the date the Department returned it to the applicant (as determined by the date of postmark) with all deficiencies noted by the Department corrected, no additional application fee will be assessed.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0210

Enforcement Actions; Civil Penalties and Other Remedies

(1) Upon the Director's own initiative, or in response to a complaint, the Director may investigate a suspected violation of a special use authorization or the alleged unauthorized use of state land to determine if use of the state land conforms with the terms and conditions of a special use authorization, or to determine if the use is not authorized.

(2) In conducting the inspection relative to suspected or alleged violations of a special use authorization issued by the Director, the Director, or the Director's agent, may enter onto private property of the holder of the authorization in order to determine if a violation has occurred.

(3) Upon a determination that a violation of the special use authorization has occurred or that an unauthorized use of state land has occurred, the Director may exercise the remedies set forth in the special use authorization, any other remedies available at law, or impose civil penalties consistent with OAR 141-125-0210(4), below.

(4) The unauthorized use of state-owned submerged and submersible land or a violation of a special use authorization granted under these rules authorizing the use of state-owned submerged and submersible land are a violation of ORS 274.040 and OAR 141-082. In addition to any other penalty or sanction provided by law, the Director may assess a civil penalty pursuant to ORS 274.992, ORS 274.994, and OAR 141-082-0130 for the unauthorized use of state-owned submerged and submersible land, or for the violation of a special use authorization granted under these rules authorizing the use of state-owned submerged and submersible land.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5

141-125-0220

Reconsideration of Decision

(1) An applicant for a special use authorization, or any other person adversely affected by the issuance or denial of special use authorization on state-owned land may request that the Director or the Land Board, depending upon which entity made the decision, reconsider the decision:

(a) Such a request must be received by the Director no later than 30 calendar days after the date of delivery of the decision.

(b) The Director will review the request within 60 calendar days after the date of delivery of the request.

(c) If the Director made the decision of concern, s/he may affirm the decision, issue a new or modified decision, or request the applicant to submit additional information to support the appeal.

(d) If the decision was made by the Land Board, the Director may recommend to the Land Board either that the special use authorization issuance or denial be affirmed based on the merits of the request, or that the Land Board authorize initiation of a contested case proceeding.

(2) If the Director recommends initiating a contested case proceeding, the Department will select a hearing officer and proceed pursuant to ORS 183.413 through 183.470.

Stat. Auth.: ORS 273

Stats. Implemented: Or. Const. Art. VIII, Sec. 2 & 5



Oregon

Kate Brown, Governor

Department of State Lands

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State Land Board

Kate Brown
Governor

State Land Board

Regular Meeting
October 13, 2015
Agenda Item 3

Jeanne P. Atkins
Secretary of State

Ted Wheeler
State Treasurer

SUBJECT

Request for approval to sell five (5) state-owned trust parcels in Gilliam, Grant and Wheeler Counties totaling 240.5 acres to the surrounding adjacent landowners through a direct sale.

ISSUE

Whether the State Land Board should authorize the direct sale of five (5) parcels; applying the principles for real property transactions and the implementation strategies in the 2012 Real Estate Asset Management Plan.

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.

ORS 273.281 and ORS 273.285; relating to the payment for state lands.

ORS 273.413; relating to disposition of unsuitable lands, sale and use of proceeds, procedures.

OAR 141-067; relating to the sale, exchange and purchase of state land, including subsurface mineral rights.

Real Estate Asset Management Plan (REAMP) adopted by the Land Board in February, 2012.

SUMMARY

Isolated Parcels

There are five parcels all approximately 40 acres with the exception of one 80.5-acre parcel in Wheeler County identified for potential sale. The five subject properties are in Gilliam, Grant and Wheeler Counties (Appendix A). These properties had initial approval for disposal through the John Day Basin Asset Management Plan approved on February 11, 2014. These properties had been identified as possible sale parcels due to individual characteristics such as isolated locations as in-holdings, poor soils, and an inability to generate income for the Common School Fund (Appendix B).

Agency and Public Review

Letters were sent to surrounding property owners, all of whom expressed interest in acquiring these properties. We also informed our general public land sale notification list which includes local, state and federal agencies as well as tribal interests and all school districts as representatives of the education beneficiaries to provide the opportunity to offer information concerning their interest. No further interest was expressed by these parties.

These parcels were evaluated against factors listed in the 2012 Real Estate Asset Management Plan relative to lands being considered for possible sale or exchange (p.20). See Appendix C for a summary of the agency's findings as a result of these evaluations. The principal factors influencing the agency's recommendation include the following:

- Small, isolated tracts or in-holdings within another major ownership
- Poor physical attributes for revenue enhancement
- High management costs in comparison to actual/potential returns

These properties have been appraised by DSL to estimate their market value. It is not uncommon for appraised property values to differ from "real market values" as determined by county assessors, as is the case with these parcels (Appendix B). The appraised values were thoroughly researched and vetted, and the Department is confident that they represent the best estimate of market value at this time.

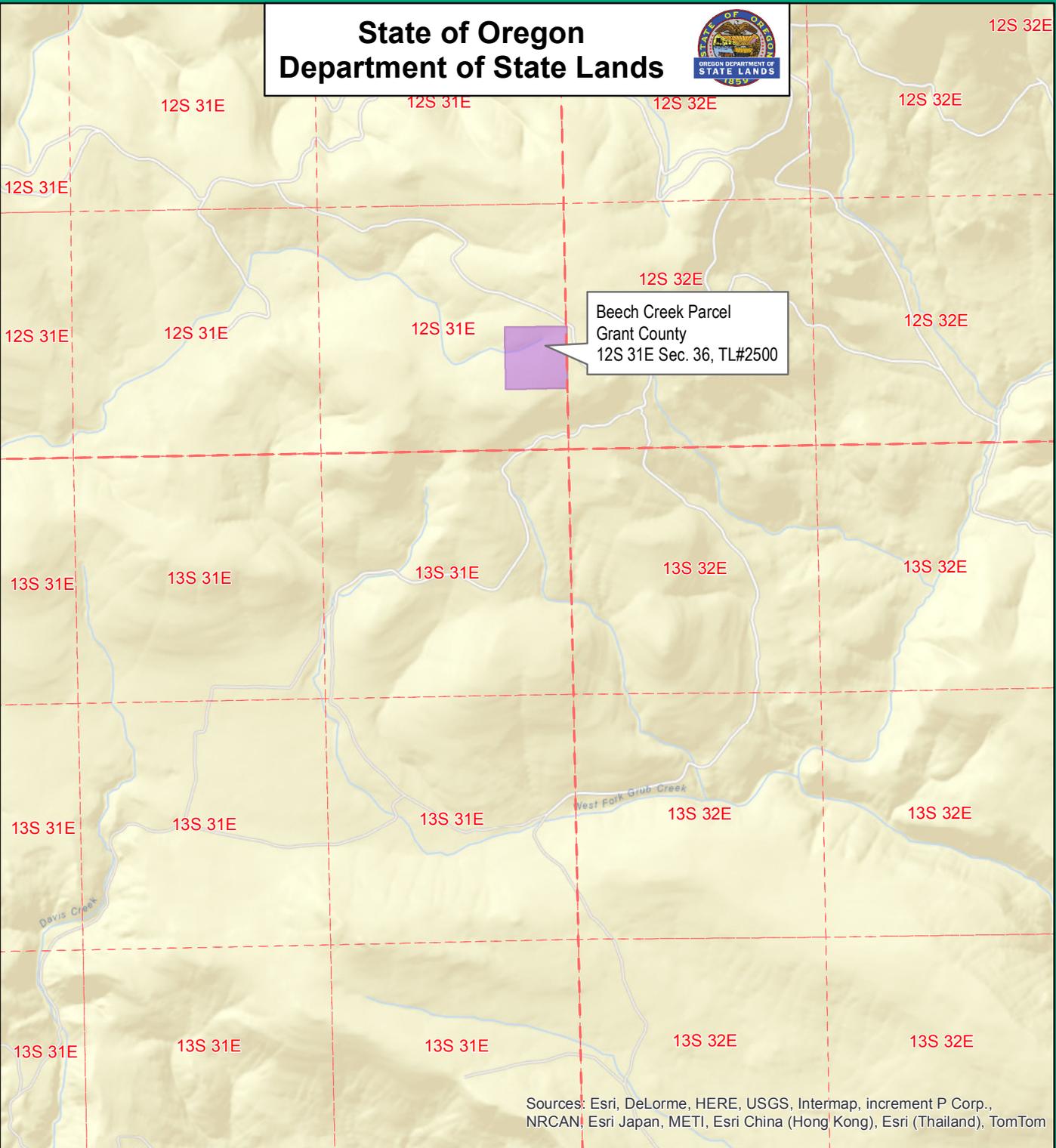
RECOMMENDATION

The Department recommends that the State Land Board approve the direct sale of five (5) parcels totaling 240.5-acres in Gilliam, Grant and Wheeler Counties to the surrounding adjacent landowners for their estimated market value as determined by Department appraisals.

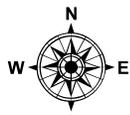
APPENDICES

- A. Map of the parcels
- B. Land Evaluation Forms
- C. Intents to Finalize

State of Oregon Department of State Lands



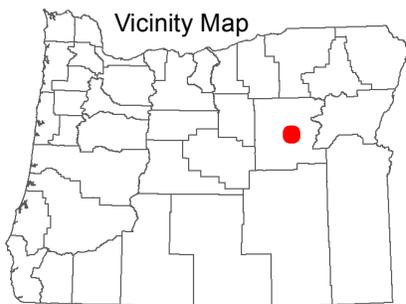
Sources: Esri, DeLorme, HERE, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom



0 1,500 3,000

Feet
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Map Projection:
Oregon Statewide Lambert
Datum NAD83
International Feet



 Surface & Subsurface

Exhibit A

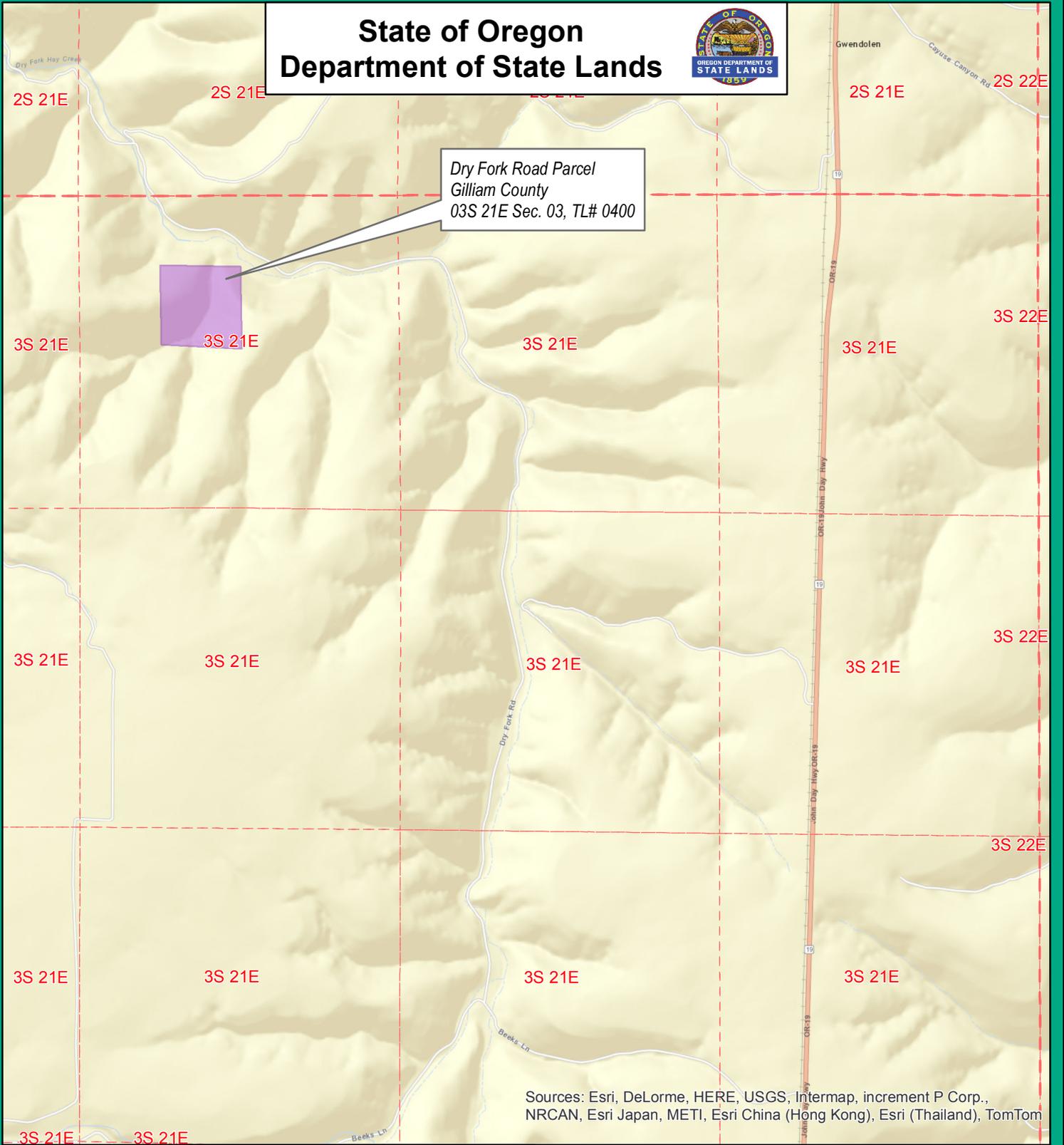
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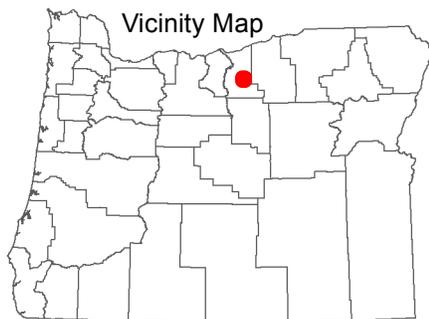
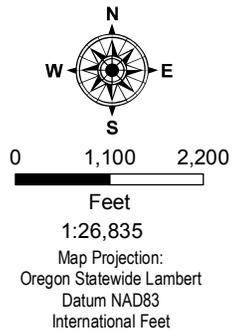
State of Oregon Department of State Lands



Dry Fork Road Parcel
Gilliam County
03S 21E Sec. 03, TL# 0400



Sources: Esri, DeLorme, HERE, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom



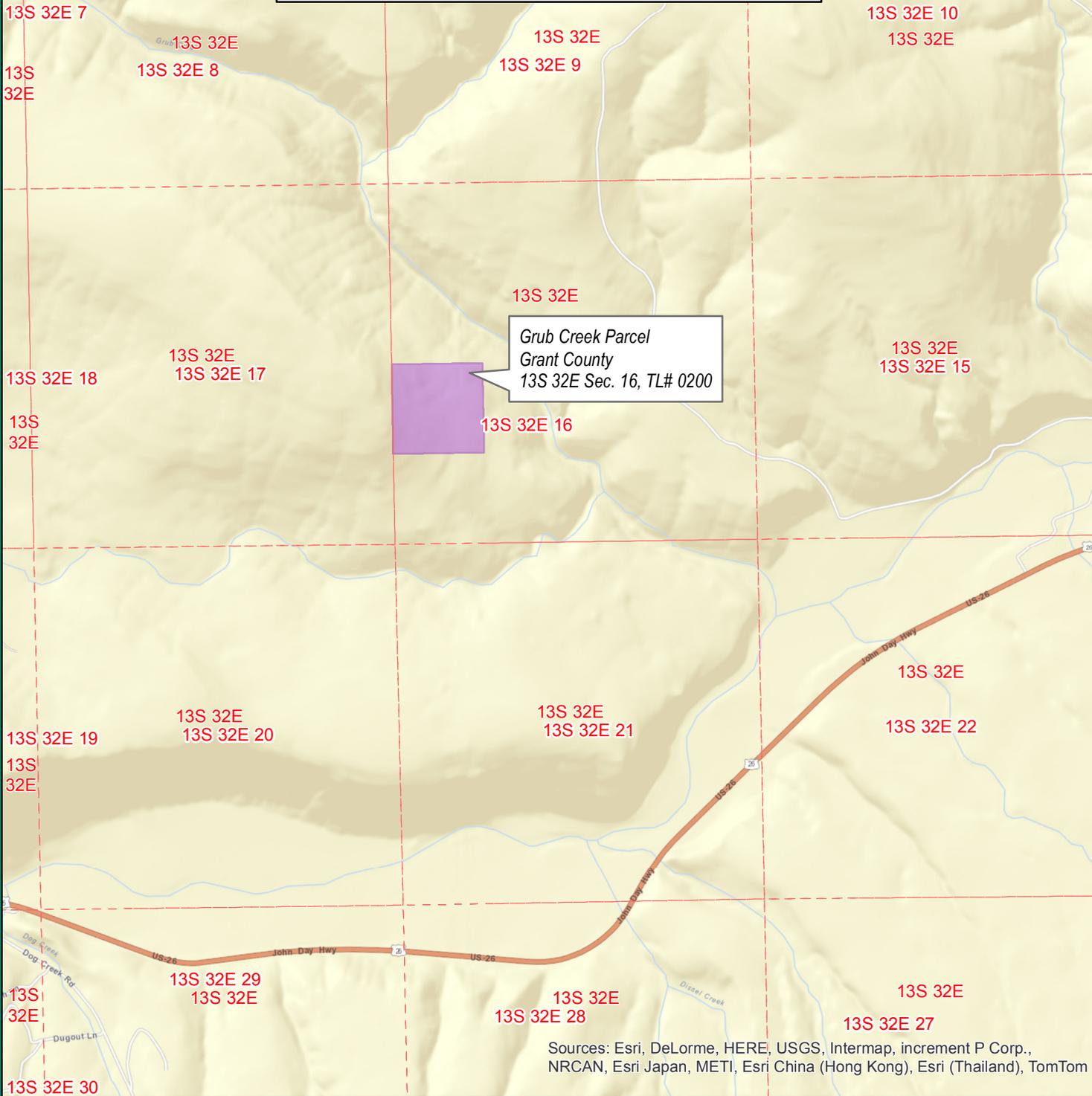
 Surface & Subsurface

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 Surface & Subsurface

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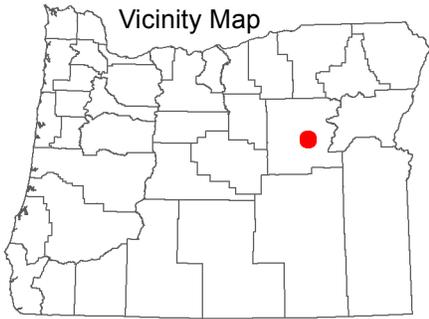
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Feet
1:25,000

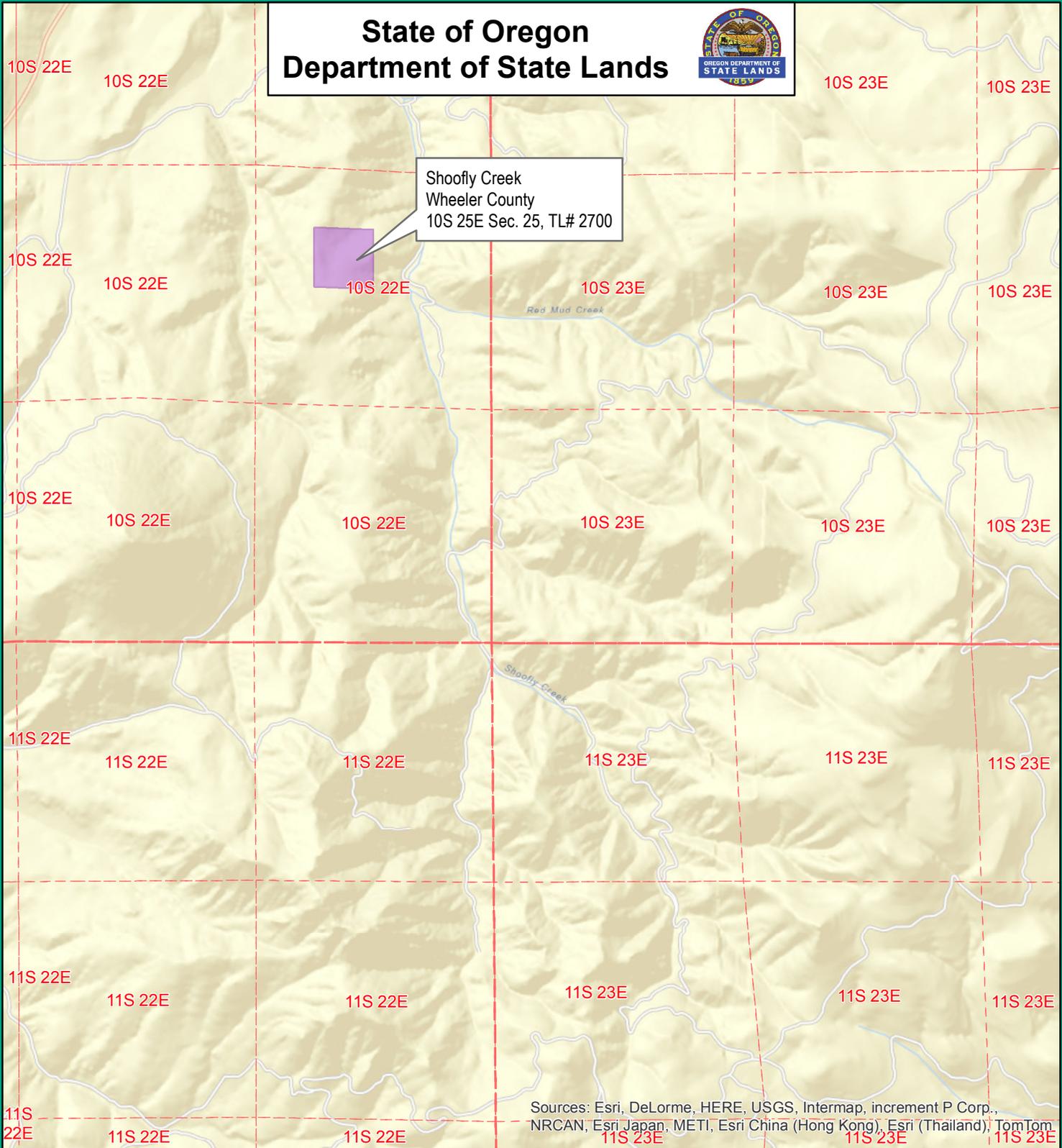
Map Projection:
Oregon Statewide Lambert
Datum NAD83
International Feet



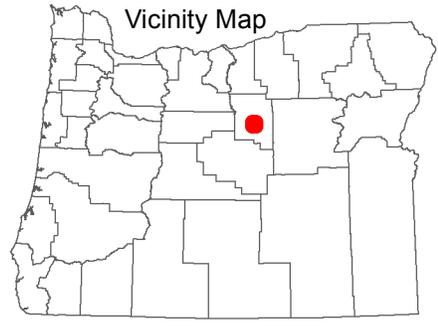
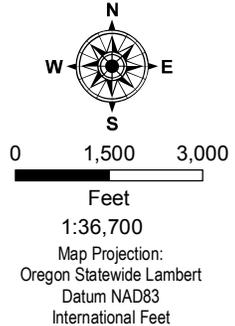
State of Oregon Department of State Lands



Shoofly Creek
Wheeler County
10S 25E Sec. 25, TL# 2700



Sources: Esri, DeLorme, HERE, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom



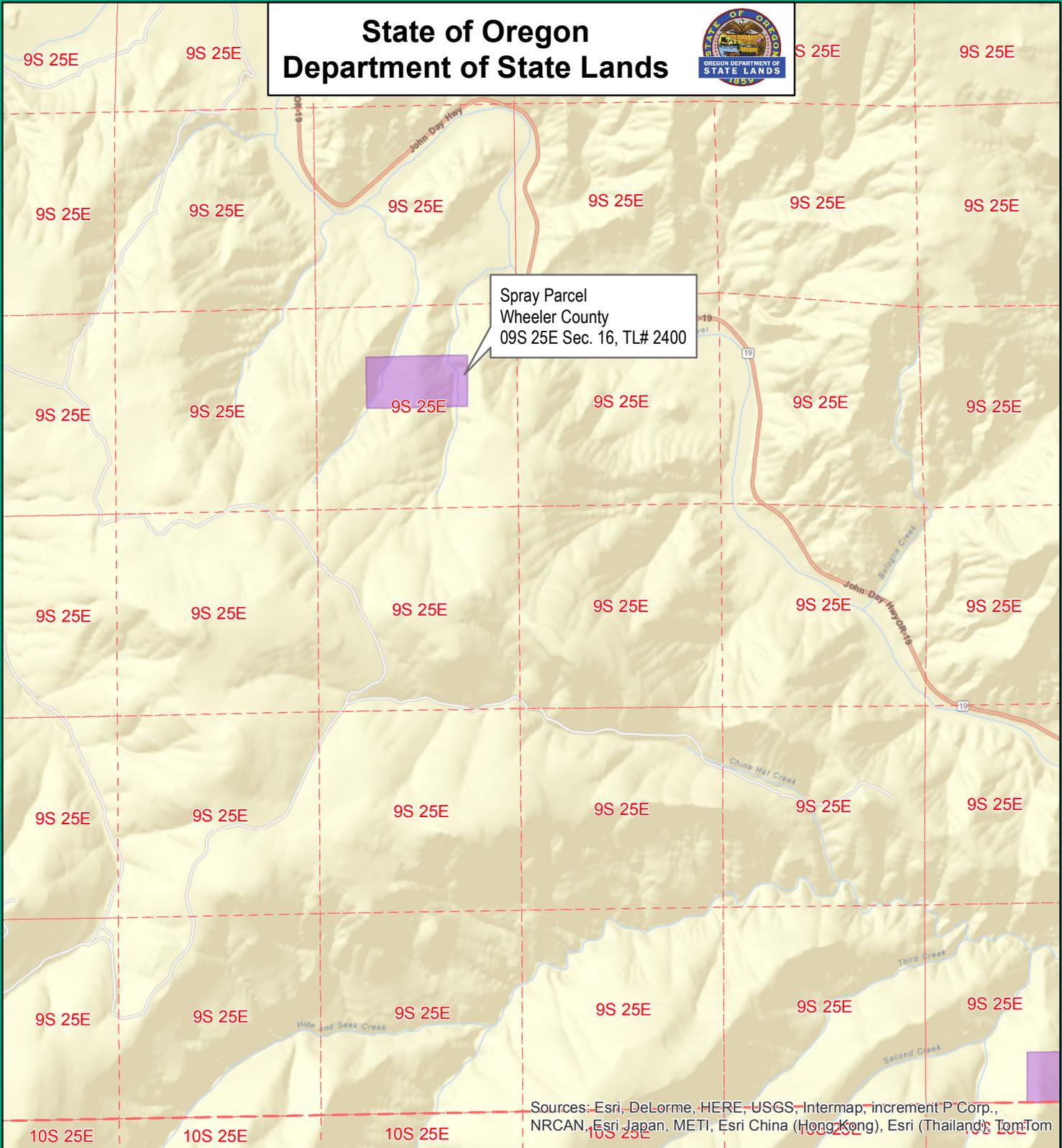
- Surface & Subsurface
- Subsurface Only

Exhibit A

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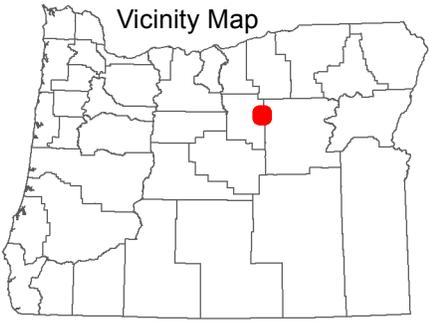
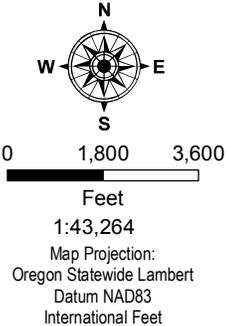
Sources: Esri, DeLorme, HERE, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom

 Surface & Subsurface

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LAND EVALUATION FORM

1. Evaluation completed in: Office Field
2. Parcel Name: Beech Creek 3. County: Grant 4. Map & Tax Lot: Township 12 South Range 31 East Sec. 36 Tax Lot 2500 5. Site #: 58
6. LAS #: 124 7. GIS Acres: 40.3 8. DSL Land Class: RNGL 9. Certified Forest: Yes No
10. Leased: No Yes Lease #: N/A Type of Use: N/A
11. Ownership Type: Surface and Subsurface 12. Mineral Rights: No Yes
13. Adjacent Property Owners & Use: W. McNeil Family Ltd. Partnership, P.O. Box 1056, Orinda, CA 94563 rangeland
14. Zoning: MUR- Multi-Use Rangeland
15. Developable Parcel: No Yes 16. Minimum acres required for home site 160 acres
17. Lot of Record: No Yes
18. Potential for Zone Change/Partition: None
19. Wildlife Overlay: N/A
20. Cultural-Historic: Parcel Reviewed: No Yes
21. Previously Field Surveyed: No Yes Partially Date Surveyed:
22. Cultural Resources Identified in field? (if yes, consult with staff archaeo): No Yes
23. Probability of Cultural Resources: None Low Medium High
24. Threatened/Endangered Species: Field Survey Completed: No/Not Needed Yes
Species: Survey has been completed with no evidence of plant on property, see report.
25. Water Rights: No Yes Water Right Info: (0.23 acres of irrigation rights filed under Name of Willis McNeil under an exemption for dams built in the early 1990's
26. Irrigation District: None
27. Depth of Nearby Wells: None in 2 mile radius
28. On-site/Distance to Existing Electrical Service and what type: Unknown
29. Electrical service provider/PUD Name: Oregon Trail Electric Coop
30. Potential for Alternative Energy: : Poor wind and geothermal; solar is 5.16KWh/day
31. Access: None, completely surrounded by one ownership. Nearest public road is the Pendleton-John Day Road about 3.5 miles to west of tract.
32. Legal Access: No Yes Gov't Maintained Road: No Yes Road Name/# N/A
33. Easements (to/from whom and what type): None
34. Interior Roads/Trails/Condition: None
35. Known Property Boundaries/Corner Survey Markers: None
36. Nearest DSL Parcel (direct): 2.5 Miles to the NE
37. Topography/Shape of Parcel: Mostly slightly sloping/ square
38. Vegetation Cover (dominant species, condition, % coverage): Big sagebrush-basin wildrye and bunchgrass with some scattering of juniper trees (5%) near the intermittent drainage in the NW part of tract.
39. Site Structures/Improvements: None
40. View Site/Water Features/Other amenities: Seasonal drainage at NW corner of Parcel and tract is about 4 miles NE of town of John Day.
41. Evidence of Prior Impacts/Activities (wildfire, crops, historic home site): None

- 42. Lease History:** None
- 43. Current Use:** None
- 44. Agriculture/Timber Potential:** None, too rocky and dry for ag or timber.
- 45. Soil Type:** Waterbury-Rockly-Gwin (s6487)
- 46. NRCS Soil Class:** See above **47. MB & G Forest Rating:** NA
- 48. Age of Timber:** NA **49. Timber Volume:** NA
- 50. Estimated Timber Value:** \$ NA
- 51. Site Index:** NA **52. Type of Timber:** NA
- 53. % Annual timber volume increase:** NA
- 54. Fire District/Protection Area:** ODF
- 55. Property Expenses (fire protection costs):** \$\$73.48 **56. Other Holding Costs:** \$0
- 57. Assessor's RMV:** \$\$35,910 **58. Tax Year:** 2014-2015
- 59. Estimated Market Value:** \$15,100 **60. Source:** Appraisal
- 61. Known/Proj. AUMs:** N/A **62. Annual Lease Amt.:** \$ N/A
- 63. 20 year Investment Return based on timber/lease income:** N/A
- 64. Rate of Return on Asset Value (%):** N/A
- 65. Present Value based on Current/Projected Income:** N/A
- 66. Potential developments necessary to increase marketability/land value (ie access, utilities):** Access unless sold to adjacent land owner.
- 67. Est. Annual Income after Development (Improvements/Land-Use Action):** N/A
- 68. Highest and Best Use Conclusion:** Rangeland/Recreation
- 69. Comments:** Property is isolated, without access and is surrounded by one ownership. The Surrounding property owner has expressed an interest in purchasing the property. Based on the property's information, it is recommended that the tract be sold through a direct sale.
- 70. Originators:** Clara Taylor **Date:** 4/30/15
- 71. Reviewer:** Shawn Zumwalt **Date:** 09/23/2015

LAND EVALUATION FORM

1. Evaluation completed in: Office Field
2. Parcel Name: Dry Fork 3. County: Gilliam 4. Map & Tax Lot: 3S 21E Sec. 3, Tax Lot 400
5. Site #: 14
6. LAS #: 199 7. GIS Acres: 40.50 8. DSL Land Class: RNGL 9. Certified Forest: Yes No
10. Leased: No Yes Lease #: N/A Type of Use: N/A
11. Ownership Type: Surface and Subsurface 12. Mineral Rights: No Yes
13. Adjacent Property Owners & Use: Surrounded by one owner: McElligott LLC, P.O. Box 4, Ione, OR 97843/ Rangeland
14. Zoning: EFU-Exclusive Farm Use
15. Developable Parcel: No Yes 16. Minimum acres required for home site 160 acres
17. Lot of Record: No Yes
18. Potential for Zone Change/Partition: Unlikely
19. Wildlife Overlay: None
20. Cultural-Historic: Parcel Reviewed: No Yes
21. Previously Field Surveyed: No Yes Partially Date Surveyed: N/A
22. Cultural Resources Identified in field? (if yes, consult with staff archaeo): No Yes
23. Probability of Cultural Resources: None Low Medium High
24. Threatened/Endangered Species: Field Survey Completed: No/Not Needed Yes
Species: Survey has been completed with no evidence of plant on property, see report.
25. Water Rights: No Yes Water Right Info: N/A
26. Irrigation District: None
27. Depth of Nearby Wells: N/A
28. On-site/Distance to Existing Electrical Service and what type: over 1.5 miles to Columbia Basin Co-op 3-phase power lines.
29. Electrical service provider/PUD Name: Columbia Basin Co-op.
30. Potential for Alternative Energy: average for wind (7.0m/s); average for solar (5.0kWh/m2/Day); average for geothermal potential per NREL.
31. Access: Road on the NW corner of parcel
32. Legal Access: No Yes Gov't Maintained Road: No Yes Road Name/# N/A
33. Easements (to/from whom and what type): None
34. Interior Roads/Trails/Condition: One 2-track dirt road that parallels creek drainage and aerial shows another 2 track dirt road in NW quadrant of property.
35. Known Property Boundaries/Corner Survey Markers: None
36. Nearest DSL Parcel (direct): Approximately 3.5 miles west
37. Topography/Shape of Parcel: Square tract spans a fairly steep drainage with east, west and north facing slopes. A small fairly level area is at top of slope in NW quadrant. Drainage flows into Hay Creek which is just north of the parcel. Beeks Rd is on the opposite side of Hay Creek from the parcel.
38. Vegetation Cover (dominant species, condition, % coverage): Bluebunch wheatgrass-Idaho fescue-Sandberg bluegrass canyon grassland in good condition

- 39. Site Structures/Improvements:** None
- 40. View Site/Water Features/Other amenities:** Dry Creek to the North approximately 1/4-mile
- 41. Evidence of Prior Impacts/Activities (wildfire, crops, historic home site):** None
- 42. Lease History:** None
- 43. Current Use:** None known
- 44. Agriculture/Timber Potential:** Low
- 45. Soil Type:** N1/2= Wrentham-Rock outcrop complex, 35 to 70 percent slopes S1/2=Licksillet very stony loam, 7 to 40 percent slopes
- 46. NRCS Soil Class:** see above **47. MB & G Forest Rating:** N/A
- 48. Age of Timber:** N/A **49. Timber Volume:** N/A
- 50. Estimated Timber Value:** \$ N/A
- 51. Site Index:** N/A **52. Type of Timber:** N/A
- 53. % Annual timber volume increase:** N/A
- 54. Fire District/Protection Area:** BLM Fire Agreement
- 55. Property Expenses (fire protection costs):** \$23.90 **56. Other Holding Costs:** \$0
- 57. Assessor's RMV:** \$5,000 **58. Tax Year:** 2014-15
- 59. Estimated Market Value:** \$15,200 **60. Source:** Appraisal
- 61. Known/Proj. AUMs:** N/A **62. Annual Lease Amt.:** \$ N/A
- 63. 20 year Investment Return based on timber/lease income:** N/A
- 64. Rate of Return on Asset Value (%):** N/A
- 65. Present Value based on Current/Projected Income:** N/A
- 66. Potential developments necessary to increase marketability/land value (ie access, utilities):** Access Easement could open this property up to other interested parties but adjacent land owners are intersted in purchasing and they would already have access.
- 67. Est. Annual Income after Development (Improvements/Land-Use Action):** N/A
- 68. Highest and Best Use Conclusion:** Rangeland/Recreation
- 69. Comments:** Property has never been leased, is isolated without legal access and is surrounded by one ownership. Surrounding owner has expressed an interest in purchasing. It is recommended that the tract be sold through direct sale.
- 70. Originators:** Clara Taylor **Date:** 04/30/15
- 71. Reviewer:** Shawn Zumwalt **Date:** 09/23/2015

LAND EVALUATION FORM

1. Evaluation completed in: Office Field
2. Parcel Name: Grub Creek 3. County: Grant 4. Map & Tax Lot: Township 13 South Range 32 East Section 16 Tax Lot 200 5. Site #: 59
6. LAS #: 125 7. GIS Acres: 40.4 8. DSL Land Class: RNGL 9. Certified Forest: Yes No
10. Leased: No Yes Lease #: Type of Use: Range
11. Ownership Type: Surface and Subsurface 12. Mineral Rights: No Yes
13. Adjacent Property Owners & Use: DR Carter, LLC rangeland
14. Zoning: MUR
15. Developable Parcel: No Yes 16. Minimum acres required for home site
17. Lot of Record: No Yes
18. Potential for Zone Change/Partition: None
19. Wildlife Overlay: **None Known**
20. Cultural-Historic: Parcel Reviewed: No Yes
21. Previously Field Surveyed: No Yes Partially Date Surveyed:
22. Cultural Resources Identified in field? (if yes, consult with staff archaeo): No Yes
23. Probability of Cultural Resources: None Low Medium High
24. Threatened/Endangered Species: Field Survey Completed: No/Not Needed Yes
Species: N/A. (ORBIC report did not recommend the need for field surveys on this parcel.)
25. Water Rights: No Yes Water Right Info:
26. Irrigation District: None
27. Depth of Nearby Wells: 50'-145'
28. On-site/Distance to Existing Electrical Service and what type: Unknown
29. Electrical service provider/PUD Name: Oregon Trail Electric Cooperative
30. Potential for Alternative Energy: Low
31. Access: None, completely surrounded by one ownership, nearest road is approx. 1.25 miles south but must cross river to reach road(John Day Hwy.).
32. Legal Access: No Yes Gov't Maintained Road: No Yes Road Name/#
33. Easements (to/from whom and what type): None
34. Interior Roads/Trails/Condition: None
35. Known Property Boundaries/Corner Survey Markers: None
36. Nearest DSL Parcel (direct): 2.5 Miles to the NW
37. Topography/Shape of Parcel: Very steep/ square
38. Vegetation Cover (dominant species, condition, % coverage): Big sagebrush-basin wildrye/Western juniper-bunchgrass
39. Site Structures/Improvements: None
40. View Site/Water Features/Other amenities: Grub Creek is just NE of parcel
41. Evidence of Prior Impacts/Activities (wildfire, crops, historic home site): None
42. Lease History: None
43. Current Use: None
44. Agriculture/Timber Potential: None, too rocky and steep for ag; too dry for timber
45. Soil Type: Waterbury-Rockly-Gwin (s6487)

- 46. NRCS Soil Class:** see above **47. MB & G Forest Rating:** NA
48. Age of Timber: NA **49. Timber Volume:** NA
50. Estimated Timber Value: \$ NA
51. Site Index: NA **52. Type of Timber:** NA
53. % Annual timber volume increase: NA
54. Fire District/Protection Area: ODF
55. Property Expenses (fire protection costs): \$: \$39.79 **56. Other Holding Costs:** \$0
57. Assessor's RMV: \$35,910.00 **58. Tax Year:** 2014-2015
59. Estimated Market Value: \$15,200.00 **60. Source:** Appraisal
61. Known/Proj. AUMs: N/A **62. Annual Lease Amt.:** \$ N/A
63. 20 year Investment Return based on timber/lease income: N/A
64. Rate of Return on Asset Value (%): N/A
65. Present Value based on Current/Projected Income: N/A
66. Potential developments necessary to increase marketability/land value (ie access, utilities): Access could improve marketability.
67. Est. Annual Income after Development (Improvements/Land-Use Action): N/A
68. Highest and Best Use Conclusion: Rangeland/Recreation
69. Comments: Land owner submitted letter of interest to purchase property.
- 70. Originators:** Clara Taylor **Date:** 04/30/2015
71. Reviewer: Shawn Zumwalt **Date:** 09/23/2015

LAND EVALUATION FORM

1. Evaluation completed in: Office Field
2. Parcel Name: Shoofly Creek 3. County: Wheeler 4. Map & Tax Lot: 10S 22E, Sec 25 Tax Lot 2700 5. Site #: 29
6. LAS #: 242 7. GIS Acres: 39.6 8. DSL Land Class: RNGL 9. Certified Forest: Yes No
10. Leased: No Yes Lease #: N/A Type of Use: Rangeland
11. Ownership Type: Surface and Subsurface 12. Mineral Rights: No Yes
13. Adjacent Property Owners & Use: Surrounded by Six Shooter Ranch, LLC, C/o Kristen Hamel, 2357 Hillside Rd., Richfield, WI 53076.
14. Zoning: EFU-Exclusive Farm Use
15. Developable Parcel: No Yes 16. Minimum acres required for home site 160 acres
17. Lot of Record: No Yes
18. Potential for Zone Change/Partition: None
19. Wildlife Overlay: None
20. Cultural-Historic: Parcel Reviewed: No Yes
21. Previously Field Surveyed: No Yes Partially Date Surveyed: N/A
22. Cultural Resources Identified in field? (if yes, consult with staff archaeo): No Yes
23. Probability of Cultural Resources: None Low Medium High
24. Threatened/Endangered Species: Field Survey Completed: No/Not Needed Yes
Species: Has been surveyed for Thelypodium with no evidence of plant on property.
25. Water Rights: No Yes Water Right Info: N/A
26. Irrigation District: None
27. Depth of Nearby Wells:: 400' in Sec. 26
28. On-site/Distance to Existing Electrical Service and what type: Unknown
29. Electrical service provider/PUD Name: Columbia Power Coop
30. Potential for Alternative Energy: moderate for wind (5.0m/s); average for solar (5.0kWh/m2/Day); above average for geothermal potential per NREL
31. Access: : None, Shoofly Creek Rd is about 1/8 mile to east along Shoofly Creek
32. Legal Access: No Yes Gov't Maintained Road: No Yes Road Name/# N/A
33. Easements (to/from whom and what type): None
34. Interior Roads/Trails/Condition: Jeep/ATV trail to parcel from Shoofly Creek Road
35. Known Property Boundaries/Corner Survey Markers: None
36. Nearest DSL Parcel (direct): 5 miles to East
37. Topography/Shape of Parcel: Gently sloping plateau/square
38. Vegetation Cover (dominant species, condition, % coverage): Less than 10% cover with scattering of juniper, Sagebrush
39. Site Structures/Improvements: None
40. View Site/Water Features/Other amenities: Shoofly Creek is just east of parcel.
41. Evidence of Prior Impacts/Activities (wildfire, crops, historic home site): There was fire on the property about two years ago that appears to have killed many of its junipers. No home site or crops.
42. Lease History: None

- 43. Current Use:** None
- 44. Agriculture/Timber Potential:** None, too rocky and dry for ag and timber.
- 45. Soil Type:** Tub-Simas-Curant (s6479)
- 46. NRCS Soil Class:** See above **47. MB & G Forest Rating:** NA
- 48. Age of Timber:** NA **49. Timber Volume:** NA
- 50. Estimated Timber Value:** \$ NA
- 51. Site Index:** NA **52. Type of Timber:** NA
- 53. % Annual timber volume increase:** NA
- 54. Fire District/Protection Area:** Twickenham RFPA
- 55. Property Expenses (fire protection costs):** \$\$39.38 **56. Other Holding Costs:** \$0
- 57. Assessor's RMV:** \$\$97,520 **58. Tax Year:** 2014-2015
- 59. Estimated Market Value:** \$\$14,800 **60. Source:** Appraisal
- 61. Known/Proj. AUMs:** N/A **62. Annual Lease Amt.:** \$ N/A
- 63. 20 year Investment Return based on timber/lease income:** N/A
- 64. Rate of Return on Asset Value (%):** N/A
- 65. Present Value based on Current/Projected Income:** N/A
- 66. Potential developments necessary to increase marketability/land value (ie access, utilities):** Acquisition of access could improve marketability.
- 67. Est. Annual Income after Development (Improvements/Land-Use Action):** N/A
- 68. Highest and Best Use Conclusion:** Rangeland/Recreation
- 69. Comments:** The tract is isolated with no legal access. The surrounding property owner has expressed interest in purchasing the tract. It is recommended that the tract be sold through direct sale.
- 70. Originator:** Clara Taylor **Date:** 04/30/15
- 71. Reviewer:** Shawn Zumwalt **Date:** 09/23/2015

LAND EVALUATION FORM

1. Evaluation completed in: Office Field
2. Parcel Name: Spray 3. County: Wheeler 4. Map & Tax Lot: Township 09 South, Range 25 East, Sec 16 Tax Lot 2400 5. Site #: 36
6. LAS #: 483 7. GIS Acres: 80.5 8. DSL Land Class: RNGL 9. Certified Forest: Yes No
10. Leased: No Yes Lease #: N/A Type of Use: Rangeland
11. Ownership Type: Surface and Subsurface 12. Mineral Rights: No Yes
13. Adjacent Property Owners & Use: : Circle W LLC, 3101 Pleasant Beach Drive NE, Bainbridge Island, WA 98110-rangeland
14. Zoning: EFU-Exclusive Farm Use
15. Developable Parcel: No Yes 16. Minimum acres required for home site 160 acres
17. Lot of Record: No Yes
18. Potential for Zone Change/Partition: None
19. Wildlife Overlay: None
20. Cultural-Historic: Parcel Reviewed: No Yes
21. Previously Field Surveyed: No Yes Partially Date Surveyed: N/A
22. Cultural Resources Identified in field? (if yes, consult with staff archaeo): No Yes
23. Probability of Cultural Resources: None Low Medium High
24. Threatened/Endangered Species: Field Survey Completed: No/Not Needed Yes
Species: Has been surveyed for Thelypodium eucosmum and no observations were made.
25. Water Rights: No Yes Water Right Info: N/A
26. Irrigation District: None
27. Depth of Nearby Wells: 35' to 109'
28. On-site/Distance to Existing Electrical Service and what type: Unknown
29. Electrical service provider/PUD Name: Columbia Basin Coop
30. Potential for Alternative Energy: moderate for wind (5.5w/s); average for solar (5.0kWh/m2/Day); above average for geothermal per NREL
31. Access: None, completely surrounded by one ownership
32. Legal Access: No Yes Gov't Maintained Road: No Yes Road Name/# N/A
33. Easements (to/from whom and what type): None
34. Interior Roads/Trails/Condition: None
35. Known Property Boundaries/Corner Survey Markers: None
36. Nearest DSL Parcel (direct): 3 Miles to the SW
37. Topography/Shape of Parcel: 2 drainages bisecting parcel flowing into John Day River to north with a higher elevation in middle. Slopes range from steep to very steep.
38. Vegetation Cover (dominant species, condition, % coverage): Big sagebrush-Idaho fescue/Western juniper-bunchgrass
39. Site Structures/Improvements: None
40. View Site/Water Features/Other amenities: 2 drainage streams and John Day River is about 0.5 mile to NE of tract
41. Evidence of Prior Impacts/Activities (wildfire, crops, historic home site): None
42. Lease History: None

- 43. Current Use:** None
- 44. Agriculture/Timber Potential:** None, too rocky and steep for ag; too dry for timber
- 45. Soil Type:** Waterbury-Rockly-Gwin (s6487)
- 46. NRCS Soil Class:** See above **47. MB & G Forest Rating:** NA
- 48. Age of Timber:** NA **49. Timber Volume:** NA
- 50. Estimated Timber Value:** \$ NA
- 51. Site Index:** NA **52. Type of Timber:** NA
- 53. % Annual timber volume increase:** NA
- 54. Fire District/Protection Area:** BLM Fire Agreement
- 55. Property Expenses (fire protection costs):** \$0 **56. Other Holding Costs:** \$0
- 57. Assessor's RMV:** \$\$102,120 **58. Tax Year:** 2014-2015
- 59. Estimated Market Value:** \$\$26,200 **60. Source:** 2015 Appraisal
- 61. Known/Proj. AUMs:** N/A **62. Annual Lease Amt.:** \$ N/A
- 63. 20 year Investment Return based on timber/lease income:** N/A
- 64. Rate of Return on Asset Value (%):** N/A
- 65. Present Value based on Current/Projected Income:** N/A
- 66. Potential developments necessary to increase marketability/land value (ie access, utilities):** Acquire access to increase marketability.
- 67. Est. Annual Income after Development (Improvements/Land-Use Action):** N/A
- 68. Highest and Best Use Conclusion:** Rangeland/Recreation
- 69. Comments:** The property is isolated and without access. The surrounding property owner has expressed interest in purchasing the property. Based on the property information, it is recommended that the tract be sold through a direct sale.
- 70. Originators:** Clara Taylor **Date:** 04/30/15
- 71. Reviewer:** Shawn Zumwalt **Date:** 09/23/2015

INTENT TO FINALIZE – Real Property Transaction
Department of State Lands
State of Oregon

Applicant: N/A

Property Name: Beech Creek

Application Number: 56111-LS Parcel Number: 475

Type of Application LAND SALE

Authority: ORS 273 AND 274
OAR 141-67 AND 141-73

Legal Description Township 12 S, Range 31 E, Section 36, Tax Lot 2500, Willamette Meridian, Grant County

REAMP/Area Asset Plan Consistency: Selling property is Consistent with JD AMP and REAMP as an isolated unleased parcel with no other income generating potential in the near term or long term.

Agency/Public Comments Summary: According to ORBIC Report needs further evaluation for potential endangered plant species. DSL has completed survey during appropriate season and resulted in finding no evidence of endangered plant species.

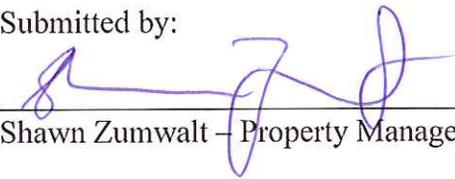
Department Finding: Recommend for approval of Direct Land Sale

Final Finding and Staff Recommendation:

Property has no other alternative opportunities to generate income for the CSF. Property is an isolated parcel surrounded by private land owner giving DSL no legal access posing many management challenges, recommend for direct sale under ORS 273.413 . Additionally, as normal agency policy DSL will retain the subsurface mineral rights as values are not adequate to justify cost of mineral evaluation performed by DOGAMI. However, going forward DSL is evaluating past policy of retaining subsurface mineral rights and may sell these subsurface mineral rights to purchaser at a later date.

DOJ Legal Sufficiency Review Needed? Yes – emailed to DOJ No

Submitted by:



 Shawn Zumwalt – Property Manager

9/23/2015
 Date

The findings presented above have been reviewed and considered and the requirements of applicable statutes have been satisfied. It is the finding of this Department that it is in the best interest to the state to proceed with this action under the authority of ORS 273.055.

Lanny R Quackenbush
Lanny Quackenbush-Eastern Region Manager

September 27, 2015
Date

INTENT TO FINALIZE – Real Property Transaction
Department of State Lands
State of Oregon

Applicant: N/A

Property Name: Dry Fork Road

Application Number: 56106-LS Parcel Number: 199

Type of Application LAND SALE

Authority: ORS 273 AND 274
OAR 141-67 AND 141-73

Legal Description Township 3S, Range 21E, Section 03, Tax Lot 400, Willamette Meridian, Gilliam County

REAMP/Area Asset Plan Consistency: Selling property is Consistent with JD AMP and REAMP as an isolated unleased parcel with no other income generating potential in the near term or long term.

Agency/Public Comments Summary: According to ORBIC Report needs further evaluation for potential endangered plant species. DSL has completed survey during appropriate season and resulted in finding no evidence of endangered plant species.

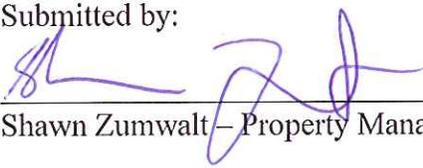
Department Finding: Recommend for approval of Direct Land Sale

Final Finding and Staff Recommendation:

Property has no other alternative opportunities to generate income for the CSF. Property is an isolated parcel surrounded by private land owner giving DSL no legal access posing many management challenges, recommend for direct sale under ORS 273.413 . Additionally, as normal agency policy DSL will retain the subsurface mineral rights as values are not adequate to justify cost of mineral evaluation performed by DOGAMI. However, going forward DSL is evaluating past policy of retaining subsurface mineral rights and may sell these subsurface mineral rights to purchaser at a later date.

DOJ Legal Sufficiency Review Needed? Yes – emailed to DOJ No

Submitted by:



Shawn Zumwalt – Property Manager

9/23/2015
Date

The findings presented above have been reviewed and considered and the requirements of applicable statutes have been satisfied. It is the finding of this Department that it is in the best interest to the state to proceed with this action under the authority of ORS 273.055.

Lanny R. Quackenbush
Lanny Quackenbush-Eastern Region Manager

September 24, 2015
Date

INTENT TO FINALIZE – Real Property Transaction
Department of State Lands
State of Oregon

Applicant: N/A

Property Name: Grub Creek

Application Number: 56113-LS Parcel Number: 125

Type of Application LAND SALE

Authority: ORS 273 AND 274
OAR 141-67 AND 141-73

Legal Description Township 13 S, Range 32 E, Section 16, Tax Lot 200, Willamette Meridian, Grant County

REAMP/Area Asset Plan Consistency: Selling property is Consistent with JD AMP and REAMP as an isolated unleased parcel with no other income generating potential in the near term or long term.

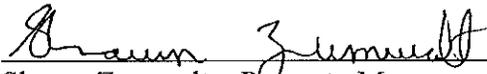
Agency/Public Comments Summary: None

Department Finding: Recommend for approval of Land Sale.

Final Finding and Staff Recommendation:
Property has no other alternative opportunities to generate income for the CSF and as an isolated parcel with no legal access poses many management challenges, recommend for sale.

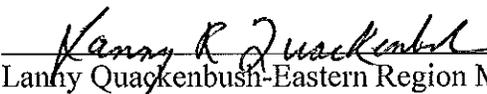
DOJ Legal Sufficiency Review Needed? Yes – emailed to DOJ No

Submitted by:


Shawn Zumwalt – Property Manager

4/30/2015
Date

The findings presented above have been reviewed and considered and the requirements of applicable statutes have been satisfied. It is the finding of this Department that it is in the best interest to the state to proceed with this action under the authority of ORS 273.055.


Lanny Quackenbush-Eastern Region Manager

May 4, 2015
Date

INTENT TO FINALIZE – Real Property Transaction
Department of State Lands
State of Oregon

Applicant: N/A

Property Name: Shoofly Creek

Application Number: 56120-LS Parcel Number: 242

Type of Application LAND SALE

Authority: ORS 273 AND 274
OAR 141-67 AND 141-73

Legal Description Township 10 S, Range 22 E, Section 25, Tax Lot 2700, Willamette Meridian, Wheeler County

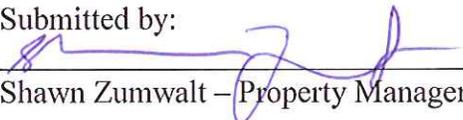
REAMP/Area Asset Plan Consistency: Selling property is Consistent with JD AMP and REAMP as an isolated unleased parcel with no other income generating potential in the near term or long term.

Agency/Public Comments Summary: According to ORBIC Report needs further evaluation for potential endangered plant species. DSL has completed survey during appropriate season and found no evidence of endangered plant on the property.

Department Finding: Recommend for approval of Direct Land Sale

Final Finding and Staff Recommendation:
Property has no other alternative opportunities to generate income for the CSF. Property is an isolated parcel surrounded by private land owner giving DSL no legal access posing many management challenges, recommend for direct sale under ORS 273.413 . Additionally, as normal agency policy DSL will retain the subsurface mineral rights as values are not adequate to justify cost of mineral evaluation performed by DOGAMI. However, going forward DSL is evaluating past policy of retaining subsurface mineral rights and may sell these subsurface mineral rights to purchaser at a later date.

DOJ Legal Sufficiency Review Needed? Yes – emailed to DOJ No

Submitted by: 
Shawn Zumwalt – Property Manager

9/23/2015
Date

The findings presented above have been reviewed and considered and the requirements of applicable statutes have been satisfied. It is the finding of this Department that it is in the best interest to the state to proceed with this action under the authority of ORS 273.055.

Lanny Quackenbush
Lanny Quackenbush-Eastern Region Manager

September 24, 2015
Date

INTENT TO FINALIZE – Real Property Transaction
Department of State Lands
State of Oregon

Applicant: N/A

Property Name: Spray

Application Number: 56121-LS Parcel Number: 483

Type of Application LAND SALE

Authority: ORS 273 AND 274
OAR 141-67 AND 141-73

Legal Description Township 09 S, Range 25 E, Section 16, Tax Lot 2400, Willamette Meridian, Wheeler County

REAMP/Area Asset Plan
Consistency: Selling property is Consistent with JD AMP and REAMP as an isolated unleased parcel with no other income generating potential in the near term or long term.

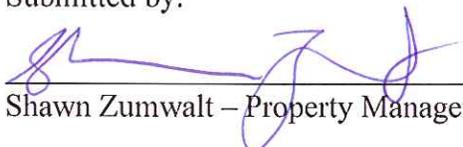
Agency/Public Comments
Summary: According to ORBIC Report needs further evaluation for potential endangered plant species. DSL has completed survey during appropriate season and resulted in finding no evidence of endangered plant species.

Department Finding: Recommend for approval of Direct Land Sale

Final Finding and Staff Recommendation:
Property has no other alternative opportunities to generate income for the CSF. Property is an isolated parcel surrounded by private land owner giving DSL no legal access posing many management challenges, recommend for direct sale under ORS 273.413 . Additionally, as normal agency policy DSL will retain the subsurface mineral rights as values are not adequate to justify cost of mineral evaluation performed by DOGAMI. However, going forward DSL is evaluating past policy of retaining subsurface mineral rights and may sell these subsurface mineral rights to purchaser at a later date.

DOJ Legal Sufficiency Review Needed? Yes – emailed to DOJ No

Submitted by:


Shawn Zumwalt – Property Manager

9/23/2015
Date

The findings presented above have been reviewed and considered and the requirements of applicable statutes have been satisfied. It is the finding of this Department that it is in the best interest to the state to proceed with this action under the authority of ORS 273.055.

Lanny R. Quackenbush
Lanny Quackenbush-Eastern Region Manager

September 21, 2015
Date



Oregon

Kate Brown, Governor

Department of State Lands

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State Land Board

Kate Brown

Governor

Jeanne P. Atkins

Secretary of State

Ted Wheeler

State Treasurer

State Land Board

**Regular Meeting
October 13, 2015
Agenda Item 4**

SUBJECT

Appointment of five (5) voting members to the Oregon Ocean Science Trust (Trust) by the State Land Board.

ISSUE

Whether the Land Board should appoint the recommended voting members 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 8, 2013 regular meeting, the Land Board directed the Department to make recommendations for appointments of voting members to the Oregon Ocean Science Trust, which would be presented to the Board at their December 2013 meeting (Appendix A).

Soon after the October 2013 Land Board meeting, the Department was informed that legislation was being introduced to amend some of the requirements of the Trust and Trust membership. As a result of this legislation, the Department suspended its work on finding and recommending voting members to the Trust. Senate Bill 1545 (Appendix B) was introduced and passed during the 2014 legislative session. The Department has

worked with the Governor's Natural Resources Office as well as interested legislators since the 2014 session to identify appropriate candidates for 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, 2014; and the other three voting members to serve for a term ending December 31, 2015. In order to meet the requirements of the 2013 law, the Department recommends that the Board appoint two voting members to serve for a term ending December 31, 2018; and three voting

members to be appointed for a term ending December 31, 2015, with a recommendation to immediately reappoint these three voting members to a full four-year term that will end on December 31, 2019.

TRUST NOMINEES

The Governor's Natural Resources Office has coordinated with the Department in selecting nominees to serve on the Trust based on their background and the requirements of ORS 196.565. Below are the nominees for the Board's consideration.

Louise Solliday, retired, former Department of State Lands Director and Governor's natural resources policy advisor (Tidewater, OR).

Laura Anderson, Owner, Local Ocean Seafood and Commissioner, Oregon Fish and Wildlife Commission (Newport, OR).

Emily Goodwin, Executive Director, Cascade Mountain School and former foundation ocean program officer (Hood River, OR).

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).

Krystyna Wolniakowski, Executive Director, Columbia River Gorge Commission and former director, northwest region, National Fish and Wildlife Foundation. (Lake Oswego, OR).

RECOMMENDATION

The Department recommends that the State Land Board appoint the following individuals to the Trust as voting members:

- **Laura Anderson** – recommendation of appointment for a term ending December 31, 2015, and reappointment for a 4-year term ending December 31, 2019.
- **Emily Goodwin** – recommendation of appointment for a term ending December 31, 2018.
- **Louise Solliday** – recommendation of appointment for a term ending December 31, 2015, and reappointment for a 4-year term ending December 31, 2019.
- **Jim Sumich** – recommendation of appointment for a term ending December 31, 2018.
- **Krystyna Wolniakowski** – recommendation of appointment for a term ending December 31, 2015, and reappointment for a 4-year term ending December 31, 2019.

APPENDICIES

- A. State Land Board Agenda Item 1e from the October 8, 2013 Regular Meeting
- B. SB 1545, Oregon Laws 2014



Oregon

John A. Kitzhaber, MD, Governor

Department of State Lands

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State Land Board

John A. Kitzhaber, MD

Governor

Kate Brown

Secretary of State

Ted Wheeler

State Treasurer

State Land Board

**Regular Meeting
October 8, 2013
Agenda Item 1e**

SUBJECT

Appointment of the Oregon Ocean Science Trust (Trust) by the State Land Board.

ISSUE

Whether the Land Board should direct the Department to move forward with recommendations for the appointment of trust members.

AUTHORITY

Oregon Constitution, Article VIII, Section 5

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

Oregon Laws 776

BACKGROUND

Senate Bill 737 was signed into law on August 14, 2013. This bill establishes the Oregon Ocean Science Trust and Fund. The Board is responsible for appointing the 5 member Trust.

The duties of the Trust are to:

- Promote peer-reviewed, competitive research and monitoring that leads to increased knowledge and understanding of Oregon's ocean and coastal resources;
- Promote innovative, collaborative, community-oriented, multi-institutional approaches to research and monitoring related to Oregon's ocean and coastal resources;

- Enhance this state's capacity for peer-reviewed scientific ocean and coastal research; and
- Subject to available funding, establish and execute a competitive grant program to conduct research and monitoring related to Oregon's ocean and coastal resources.

In order to qualify for appointment to the Trust, members must:

- 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' experience in competitive granting, marine science, foundations or fiscal assurance.

The first term of the Trust is staggered. Two serve for a term ending December 31, 2014; and three serve for a term ending December 31, 2015. The term of office for each member henceforth is four years, but members serve at the pleasure of the Board. Before the expiration of the term of a member, the Board shall appoint a successor whose term begins on January 1 of the following year. A 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 remainder of the term.

RECOMMENDATION

The Department recommends that the Land Board direct the Department to move forward with recommendations for appointments to the Oregon Ocean Science Trust, to be presented to the Board at their December 2013 meeting.

APPENDIX

A. Enrolled Senate Bill 737

77th OREGON LEGISLATIVE ASSEMBLY--2013 Regular Session

Enrolled
Senate Bill 737

Sponsored by Senator ROBLAN; Senators JOHNSON, KRUSE, WHITSETT

CHAPTER

AN ACT

Relating to ocean resources; appropriating money; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

OREGON OCEAN SCIENCE TRUST

SECTION 1. (1) The Oregon Ocean Science Trust is established, consisting of five members appointed by the State Land Board.

(2) The term of office of each member is four years, but a member serves at the pleasure of the board. Before the expiration of the term of a member, the board shall appoint a successor whose term begins on January 1 next following. A 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.

(3) The members specified in subsection (1) of this section must:

(a) Be residents of this state who demonstrate a commitment and interest in the stewardship of Oregon's ocean and coastal resources; and

(b) Have not less than five years' experience in competitive granting, marine science, foundations or fiscal assurance.

(4) A majority of the members of the trust constitutes a quorum for the transaction of business.

(5) The trust shall select one of its members to be the executive director of the trust, for such terms and with the duties and powers that the trust determines are necessary for the performance of the office.

(6) The trust shall meet at least twice each year at a place, day and hour determined by the trust. The trust may also meet at other times and places specified by the call of the executive director or of a majority of the members of the trust.

(7) The trust may adopt any rules necessary to carry out the duties of the trust.

(8) Members of the trust are not entitled to compensation or reimbursement for expenses and serve as volunteers for the trust.

(9) The Department of State Lands shall provide a facility and administrative support for the meetings of the trust as requested. Other agencies shall provide support as requested by the trust in order to provide the trust with assistance on the priority marine science needs of the state.

DUTIES OF THE TRUST

SECTION 2. The Oregon Ocean Science Trust shall:

- (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.

OREGON OCEAN SCIENCE FUND

SECTION 3. (1) The Oregon Ocean Science Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Ocean Science Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Oregon Ocean Science Trust for the purpose of carrying out the provisions of sections 1, 2, 4 and 5 of this 2013 Act.

(2) The trust may accept grants, donations, contributions or gifts from any source for deposit in the fund.

(3) The fund shall consist of:

- (a) Moneys accepted by the trust pursuant to subsection (2) of this section;
- (b) Moneys appropriated by the Legislative Assembly;
- (c) Interest earned on moneys in the fund; and
- (d) Any moneys described in subsection (4) of this section.

(4) Subject to and consistent with federal law, any moneys received by the State of Oregon from the federal government that constitute the state's distributive share of the amounts collected under the Outer Continental Shelf Lands Act, 43 U.S.C. 1331 et seq., shall be deposited in the fund.

(5) Of the moneys in the fund that are derived from the state's distributive share of the amounts collected under the Outer Continental Shelf Lands Act, 43 U.S.C. 1331 et seq., the coastal county adjacent to the lands containing tracts for which the moneys are received by the state shall receive 30 percent of the distributive share received by the state for those lands. Where the lands containing tracts for which moneys are received are located adjacent to more than one county of this state, each county adjacent to the lands shall receive a portion of the 30 percent allocation that is proportionate to the area of the lands that are adjacent to the county.

SECTION 4. (1) Moneys deposited in the Oregon Ocean Science Fund may be used to reimburse:

(a) The State Treasurer for the costs of administering the fund as provided in section 3 of this 2013 Act.

(b) The Department of State Lands for the costs of administering the Oregon Ocean Science Trust as provided in section 1 (9) of this 2013 Act.

(c) Other agencies for the costs of providing support to the trust as requested under section 1 (9) of this 2013 Act.

(2) The total amount of costs paid under this section may not exceed five percent of the total amount of moneys deposited in the fund during the biennium.

REPORT TO LEGISLATIVE ASSEMBLY

SECTION 5. The Oregon Ocean Science Trust shall submit a report to the Legislative Assembly, in the manner provided by ORS 192.245, by March 31 of each even-numbered year, describing the progress of the trust in carrying out its duties specified in section 2 of this

2013 Act. The report may include relevant issues and trends of significance, including emerging scientific research and public policy.

MISCELLANEOUS

SECTION 6. Notwithstanding the term of office specified by section 1 of this 2013 Act, of the members first appointed to the Oregon Ocean Science Trust:

(1) Two shall serve for a term ending December 31, 2014.

(2) Three shall serve for a term ending December 31, 2015.

SECTION 7. The unit captions used in this 2013 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2013 Act.

EMERGENCY CLAUSE

SECTION 8. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Passed by Senate June 25, 2013

.....
Robert Taylor, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House June 28, 2013

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2013

Approved:

.....M.,....., 2013

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2013

.....
Kate Brown, Secretary of State

CHAPTER 2

AN ACT

SB 1545

Relating to the Oregon Ocean Science Trust; amending ORS 196.565 and 196.568; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 196.565 is amended to read:

196.565. (1) The Oregon Ocean Science Trust is established, consisting of *[five]* **seven** members appointed *[by the State Land Board.]* **as follows:**

(a) **The President of the Senate shall appoint one member from among members of the Senate.**

(b) **The Speaker of the House of Representatives shall appoint one member from among members of the House of Representatives.**

(c) **The State Land Board shall appoint five members who:**

(A) **Are residents of this state who demonstrate a commitment and interest in the stewardship of Oregon's ocean and coastal resources; and**

(B) **Have not less than five years' experience in competitive granting, marine science, foundations or fiscal assurance.**

(2) The term of office of each **voting** member **appointed under subsection (1)(c) of this section** is four years, but a member serves at the pleasure of the board. Before the expiration of the term of a member, the board shall appoint a successor whose term begins on January 1 next following. A 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.

[(3) The members specified in subsection (1) of this section must:]

[(a) Be residents of this state who demonstrate a commitment and interest in the stewardship of Oregon's ocean and coastal resources; and]

[(b) Have not less than five years' experience in competitive granting, marine science, foundations or fiscal assurance.]

[(4)] (3) A majority of the **voting** members of the trust constitutes a quorum for the transaction of business.

[(5)] (4) The trust shall select one of its **voting** members to be the executive director of the trust, for such terms and with the duties and powers that the trust determines are necessary for the performance of the office.

[(6)] (5) The trust shall meet at least twice each year at a place, day and hour determined by the trust. The trust may also meet at other times and places specified by the call of the executive director or of a majority of the **voting** members of the trust.

[(7)] (6) The trust may adopt any rules necessary to carry out the duties of the trust.

[(8) Members of the trust are not entitled to compensation or reimbursement for expenses and serve as volunteers for the trust.]

(7) **Members of the trust who are not members of the Legislative Assembly are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions of the trust shall be paid out of funds appropriated to the Department of State Lands for purposes of administering the trust.**

(8) **Members of the Legislative Assembly appointed to the trust are nonvoting members of the trust and may act in an advisory capacity only.**

(9) The Department of State Lands shall provide a facility and administrative support for the meetings of the trust as requested. Other agencies shall provide support as requested by the trust in order to provide the trust with assistance on the priority marine science needs of the state.

SECTION 2. ORS 196.568 is amended to read:

196.568. (1) Moneys deposited in the Oregon Ocean Science Fund may be used to reimburse:

(a) The State Treasurer for the costs of administering the fund as provided in ORS 196.567.

(b) The Department of State Lands for the costs of administering the Oregon Ocean Science Trust as provided in ORS 196.565 (7) and (9).

(c) Other agencies for the costs of providing support to the trust as requested under ORS 196.565 (9).

(2) The total amount of costs paid under this section may not exceed five percent of the total amount of moneys deposited in the fund during the biennium.

SECTION 3. This 2014 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2014 Act takes effect on its passage.

Approved by the Governor February 26, 2014

Filed in the office of Secretary of State February 26, 2014

Effective date February 26, 2014



Oregon

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State Land Board

Kate Brown

Governor

Jeanne P. Atkins

Secretary of State

Ted Wheeler

State Treasurer

M E M O R A N D U M

October 13, 2015

To: Governor Kate Brown
Secretary of State Jeanne Atkins
State Treasurer Ted Wheeler

From: Land Board Assistants

Subject: Department of State Lands Interim Director Recommendation

BACKGROUND

As you know, Mary Abrams has announced her acceptance of a position with the federal government and will be leaving the agency on October 19, 2015. The Department of Administrative Services (DAS) is conducting an open recruitment for Mary's replacement. The executive recruitment process typically spans several months to ensure that the candidate pool is diverse and well qualified.

The Land Board assistants believe it is in the best interest of the Department and the Land Board to have an interim director until such time as a successful recruitment can be completed. Each of the Land Board assistants has met with the suggested interim director, who is familiar with the agency and the current issues.

RECOMMENDATION

It is the unanimous recommendation of the Land Board assistants that the Land Board appoint Stephanie Hallock Cummins as the interim director of the Oregon Department of State Lands, effective October 14, 2015 through February 28, 2016.

APPENDIX

A. Biography for Stephanie Hallock Cummins

STEPHANIE HALLOCK CUMMINS

A third generation Oregonian, Stephanie's career in public service began in 1979. She holds a Bachelor of Arts in English and a Master's in Public Administration from Portland State University and began her career as a Presidential Management Intern with the US Environmental Protection Agency office in San Francisco.

Stephanie returned to Oregon to join the Executive Management Team of the Department of Environmental Quality where she served as Administrator of the Hazardous and Solid Waste program and Administrator of DEQ's operations in Eastern Oregon before becoming Director of the agency from 2001 to 2008.

During her tenure at DEQ, Stephanie also led the Healthy Streams Partnership of the Oregon Plan for Salmon and Watersheds in the Governor's office and served as a policy advisor to two Governors on destruction of the chemical weapons stockpile at the Umatilla Army Depot. In 2008, Stephanie left DEQ to join the National Policy Consensus Center at Portland State University where she managed Oregon Solutions projects in the Lower John Day Basin, The Dalles, Vernonia, and the City of Portland. Stephanie currently serves on the Oregon Board of Agriculture and since June of 2014 has been a member of the Elliott State Forest team at the Department of State Lands.