

The State Land Board met in regular session on October 6, 1997 in the Land Board Room of the State Lands Building, 775 Summer Street NE, Salem, Oregon 97310.

Present were:

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

Assistants

Paula Burgess  
Rick Hanson  
Mari Anne Gest

Staff

Paul Cleary  
John Lilly  
Steve Purchase  
Jenifer Robison  
Gail Lowry

Dept. of Justice

Bill Cook

Governor Kitzhaber called the meeting to order at 9:07 am. The topics discussed and the results of those discussions are listed as follows. Further details of the discussions may be obtained in the written transcript of the meeting available at the Division of State Lands, 775 Summer Street NE, Salem, Oregon 97310 (phone: (503) 378-3805).

Governor Kitzhaber reminded those at the meeting that the items on the informational agenda are for a status update only. He explained that no public testimony would be taken on the information items, since a hearing is not planned for today. He said opportunity will be given at a later date for public input on the navigability study requests and waterway leasing rulemaking and rate revisions.

**Land Sale** Request for approval of the sale of 4.26 acres of state trust land (residential-zoned) located in the City of West Linn, in Clackamas County.

Director Cleary reviewed the item before the Board explaining that the property being considered for sale is trust land, requiring maximizing the return to the Common School Fund over the long run. He said a sale is a one-time harvest of that long-run revenue stream. The agency worked with the City of West Linn to zone the property to its highest and best use. The negotiated sale price of \$514,000 was derived from the average of two appraisals, and totals about \$120,000 per acre. The parcel will be sold in fee simple via direct sale. The City intends to use the land for public park and open space purposes.

Director Cleary introduced Scott Burgess, City Manager of West Linn, who spoke in support of the sale. He expressed his appreciation for the work of Director Cleary and the staff in preparation for this sale.

Director Cleary thanked David Blum of the Division for his assistance with the sale.

State Treasurer Hill moved the item be approved. Secretary of State Keisling seconded the motion and the approval was unanimous.

**Easement** Request by the Oregon Department of Transportation for an easement for widening a bridge over the Smith River near Reedsport.

Director Cleary said the proposed bridge widening is part of a Highway 101 improvement project and explained that it covers about two acres of state-owned submerged and submersible lands. He said the agency is recommending issuance of the easement for a one-time consideration of \$28,133, which is based on the present worth of the Division's interest in the easement area, recognizing its highest and best use, and current Division leasing rates and current interest rates for real property transactions.

Secretary of State Keisling moved the item be approved. He noted a discrepancy in the agenda item regarding consideration for the easement, where two figures did not match. Cleary explained that this was an error, and confirmed that the consideration amount in the final recommendation should read "\$28,133." State Treasurer Hill seconded the motion and the approval was unanimous.

**Minutes** Request for approval of minutes of August 5, 1997 State Land Board meeting.

State Treasurer Hill moved the minutes be approved. Secretary of State Keisling seconded the motion and the approval was unanimous.

**In-lieu Land** In-lieu land selection near Bend (Section 11) status report.

Director Cleary explained that when Oregon was admitted to the Union, the state received some four million acres of land, some of which was already encumbered. The state was allowed to select land in lieu of those encumbered lands from the BLM public domain land, but not Forest Service or O&C lands. Cleary said the Section 11 property he believes is a “diamond in the rough” because of Bend’s ongoing and future growth potential.

Burt Lewis in the Bend office identified the parcel, which is 640 acres in Section 11 on Bend’s east side adjacent to the urban growth boundary. The agency is working with the City and private development interests to get proposals for leasing all or portions of the property.

**Waterway Leasing** Waterway leasing program review status report.

Director Cleary said a number of public hearings and workshops have been held to date to evaluate and discuss potential rate formula revisions. He said a consensus is developing around a private dock approach to administratively exempt such docks from leasing. The leasing program for private residential docks would then be replaced by a comprehensive registration program, as statutorily required in 1991, but not yet implemented. A registration data base will be kept up to date on how many docks are on the waterways. A draft rule to authorize this change will be brought before the Board in December for approval to initiate another round of public review.

He said it’s also becoming clear that the one-size-fits-all rate-formula approach is not working for the other waterway lessees. An alternative that would give lessees a choice of several different rate formulas is being proposed to allow flexibility and responsiveness to various market forces while still treating similarly situated businesses the same.

Cleary said an inventory of the waterway structures and uses is important to the other lessees to ensure all non-exempt users are paying their fair share. He said a detailed "pilot" inventory is now in the process for some of the most intensively used waterways. Cleary promised that the agency will continue to work with the lessees to develop a leasing system that is fair and responsible.

Cleary said the request for initiating the new rule revisions on the private dock approach will be brought before the Board in December. The agency hopes to have the pilot inventory completed by January, and then will return to the Board in February with more comprehensive lease rate formula and rule revision proposals.

***Navigability*** Navigability study requests status report.

Director Cleary explained that the Legislature passed a bill establishing a joint interim committee on navigability. The Senate members of that committee have been appointed, but the House members are yet to be appointed.

Two study requests (for the John Day River and the Sandy River) have gone through the initial public notice and comment period. As soon as the interim committee is completely formed, these study requests will be forwarded to them for their review and advice.

Three new study requests (North Santiam River, a portion of the Rogue River, and a portion of the South Umpqua) have been received. The last two requests were filed by local law enforcement entities to help clarify what the law of the land might be in regard to these ownership questions.

Division staff will be meeting with the joint interim committee staff and have offered to assist that committee in whatever manner possible. The goal is to develop a balanced approach that can accommodate responsible public use, protect adjacent private and public lands and preserve Oregon's waterway legacy for future generations.

Director Cleary said the Division staff would be happy to meet with anyone in the audience after the Land Board meeting if there are any questions on either this item or the previous one on waterway leasing.

**Legislation** Schedule for implementation of 1997 legislation.

Director Cleary said a lot of rulemaking will be forthcoming and necessary as a result of the 1997 legislative changes. He said rulemaking allows the agency to expose its programs and rules for critical evaluation, and allows the public and our staff to challenge some of the underlying assumptions that we have operated these programs under for years. He said it also allows the agency to both “right-side and right-size” our processes and work products, so we can handle the increasing workload with our current staff.

One item being worked on is potential revisions to the grazing rules and lease form. Cleary said he has a meeting next week and a rangeland tour with conservation interests. He also will be meeting in November with the rangeland lessees. These meetings will initiate the scoping process for evaluating possible implementation of an assured lease program pursuant to HB 5523 that passed the Legislature allocating a potential \$3.5 million transfer to the Common School Fund. He indicated that the Board and staff will spend several months reviewing the proposal to determine if it is sound public policy and to see whether this can be developed in a manner in which all sides can benefit. Rulemaking will be initiated in December so the Board can consider the comments when deciding on the fund transfer request in April.

Governor Kitzhaber reminded those present that both the waterway leasing and the navigability issue will eventually be coming before the Board for action and will have a number of opportunities for public input prior to any decisions being made. He asked that Director Cleary and staff make themselves available after the meeting for anyone that would like to meet on these issues.

Director Cleary recognized Marcella Easley, Trust Property Manager of the Division, for her work with the National Association of Unclaimed Property Administrators (NAUPA) and various unclaimed property holders. Marcella received two awards at their last national conference – one for eight years of leadership and one honoring her as administrator of the year. Cleary said the agency is proud of her efforts.

Cleary announced that Marge Akers will be retiring after 20 years with the Division of State Lands, working primarily with the waterway leasing and removal-fill program. She recently served as the Division’s Resource Coordinator for Lincoln and Marion Counties. Cleary said both of those counties have been busy with much development and flood recovery and he praised Akers for being able to stay on top of the workload.

Governor Kitzhaber adjourned the meeting at 9:25 am.

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John A. Kitzhaber, Governor

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Paul R. Cleary, Director