

The State Land Board met in regular session on June 12, 2001 in the Land Board Room of the State Lands Building, 775 Summer Street NE, Salem, Oregon 97301-1279.

Present were:

John A. Kitzhaber	Governor
Bill Bradbury	Secretary of State
Randall Edwards	State Treasurer

<u>Assistants</u>	<u>Staff</u>	<u>Dept. of Justice</u>
Louise Solliday	Ann Hanus	Bill Cook
Paddy McGuire	John Lilly	Kevin Shuba
Inga Deckert	Steve Purchase	
	Jeannette Holman	
	Gail Lowry	

Louise Solliday, the Governor's Land Board Assistant, called the meeting to order at 10:03 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 St. NE, Suite 100, Salem, Oregon 97301-1279, (phone: (503) 378-3805).

The meeting began with Item 4 of the Informational Agenda.

**4. Report on forest certification and the potential for the Elliott State Forest and other Land Board forest lands. Certification is an emerging tool to demonstrate and document that forests are well managed.**

Director Hanus introduced Jim Brown, State Forester, who discussed the certification of forest products. He said there are about 60 different certification schemes worldwide. He added that wholesalers and retailers are asking for clarity between these different certification schemes, and he expects that soon there will be some sort of

reciprocity agreements among these different systems. Brown said that sustainable development, which involves the social, economic and environmental components of sustainability, is the framework within which this international discussion is occurring.

Brown said within the United States there are two major certification systems operating – the Forest Stewardship Council (FSC) and the Sustainable Forestry Initiative (SFI). He said that currently there are about 90 million acres enrolled within the SFI program, in different stages of being third party audited. Brown said an evaluation is currently being done to clarify the differences.

Brown noted that the nature of these voluntary programs seems to encourage better landowner management practices and more participation than regulatory programs such as Oregon's Forest Practices Act.

Brown said the Board of Forestry has asked Forestry staff to develop criteria to evaluate the programs prior to going through certification on state forests. He said they are considering going through preliminary parts of certification on the Elliott State Forest and the Sun Pass State Forest. They will do a reverse assessment of the two programs and take this concept to the Board of Forestry for their approval. Afterwards, it would be brought to the Land Board for their concurrence before they proceed with the certification process.

Forestry has also done some legal analysis on what the Oregon Constitution and state law says about the certification process. Brown said there are no apparent barriers.

Brown reviewed some issues that could occur if the Land Board decides to go ahead with the certification process. He said the State of Washington had preliminary findings on a certification process that included 27 recommendations including lengthening rotations and putting more land into reserves. These recommendations were contrary to their current forest management plan and their draft HCP, causing a policy dilemma. He said you must be careful when going through the process to ensure you agree with the standards that will be used for evaluation.

In answer to a question by Secretary of State Bradbury, Brown said his understanding is that standards should be in place by the end of the year, although the schedule had slipped somewhat, due to disagreement over what should be incorporated in those standards.

State Treasurer Edwards asked how long the reverse assessment would take. Brown said it would probably be a full year before everything would be completed.

Secretary of State Bradbury commented that, given the Board's goal to maximize revenue to the Common School Fund, certification could increase the value of the timber; therefore, he concluded there would be logic in proceeding with certification. Brown added that consumers are not so much concerned with whether the products have been certified, as are the retailers or wholesalers. Brown said certification is a useful policy tool that we should use, but added that it needs to be approached in a careful and deliberate way.

### **Action Agenda**

- 1. Request for final approval of amendments to the administrative rules for General Authorizations (GAs) for removal-fill activities associated with fish habitat enhancement, erosion control, certain road construction projects and wetland restoration and enhancement. Also request to continue the rulemaking process for these GAs and two additional GAs to allow continued discussions with stakeholders. GAs offer blanket approval for certain activities under specific conditions.**

Director Ann Hanus explained that these GAs are a quick permit process to deal with projects that will not result in long-term harm to the state's water resources and will cause only minimal individual and cumulative environmental impacts. She said eight hearings were held around the state with about 60 people attending those hearings. Previous comments have been incorporated into the rules, and there have been no further comments on the rules as they currently stand. Hanus recommended the Board adopt the amendments to the four GAs and approve reopening and continuing rulemaking for two other GAs dealing with recreation and small-scale placer mining and removal of sediment behind tide gates. She said continuation of rulemaking would allow the agency to proceed with streamlining efforts on the removal-fill program.

Secretary of State Bradbury moved the Board adopt the amendments to the GAs and approve reopening and continuing the rulemaking process. State Treasurer Edwards seconded the motion and the approval was unanimous.

**2. Request for authorization to begin negotiations on the transfer of surface and mineral rights to the United States Department of Interior, Bureau of Land Management.**

Director Ann Hanus told the Board that this item is a request for authorization to begin negotiations on the sale or exchange of state-owned surface and mineral rights for 433 surface acres of land and 34,400 acres of mineral ownership within the Steens Mountain Cooperative Management and Protected Area to the U.S. Department of the Interior, Bureau of Land Management (BLM). She added that there are valuable geothermal reserves within these areas. She brought attention to a letter from Robert Frenkel requesting this property be transferred to the BLM with a stipulation that the parcel be dedicated as a federal Research Natural Area.

Hanus recommended the Board authorize the Division to begin negotiations with the BLM for a fair market value sale or exchange of these Common School Fund surface and mineral rights within the Steens area.

Governor Kitzhaber asked whether there was merit to Frenkel's suggestion. Hanus said they would need to discuss it with the BLM.

State Treasurer Edwards asked whether the 1991 evaluation of geothermal energy would be updated and whether the agency would come back before the Board to determine whether an exchange or a sale would be best for the property. Hanus assured him that there would be an updated evaluation and that the agency would come back to the Board with a final negotiation package. She said if lands were to be exchanged, they must be suitable lands for Common School Fund purposes.

State Treasurer Edwards moved the request be approved as prescribed by staff. Secretary of State Bradbury seconded the motion. Governor Kitzhaber added that Frenkel's suggestion be discussed during negotiations with the BLM. The motion was approved.

### **Consent Agenda**

- 3. a. Request for authority to initiate rulemaking to amend the rules governing the management and leasing of state-owned submerged and submersible land.**
- b. Request by TYCOM Global Networks (US) Inc. for a Territorial Sea statutory easement for the TGN-Pacific oceanic fiber optic communication cable corridor landing at Nedonna Beach, near Rockaway, Oregon.**
- c. Request by TYCOM Global Networks (US) Inc. for a Territorial Sea statutory easement for the TGN-Pacific oceanic fiber optic communication cable corridor landing at South 3<sup>rd</sup> Avenue in Rockaway, Oregon.**
- d. Request by Deschutes County to acquire a permanent road and utility access easement to certain county-owned properties.**
- e. Request for approval of minutes from the April 10, 2001 State Land Board meeting.**

Director Hanus briefly reviewed each Consent Agenda item recommending that the Board approve them. She noted that Tycom would be paying a total of \$600,000 to the Common School Fund for the two easements (Items 3b and 3c) to satisfy the just compensation requirement for use of the state-owned land for the initial 20-year term of the easement.

Hanus said that the easement requested by Deschutes County (Item 3d) would be for 3.4 acres of road area at \$1,750 an acre, for a total of \$5,950.

Scott McMullen, commercial fisherman from Astoria and chairman of the Oregon Fishermen's Cable Committee spoke to the Board about the requests from TYCOM for two easements. He said the Committee representing trawlers from the entire Oregon coast enthusiastically supports both of the easements. He discussed the agreement the Committee has with TYCOM to bury the cables well below the fishing grounds, to inspect them on a five-year cycle and to reimburse fishermen from a fund that will be established for any costs incurred for gear that may be lost due to the cables, and lost wages. This agreement also waives any liability to the fishermen for accidental damage to the cable.

Brad Pettinger, commercial fisherman from Brookings, agreed with McMullen, saying the Committee enjoys a very good relationship with TYCOM. State Treasurer Edwards said the relationship between these fishermen and TYCOM cable company is a unique partnership. He expressed his appreciation for this.

Secretary of State Bradbury moved the Consent Agenda be approved. State Treasurer Edwards seconded the motion and the approval was unanimous.

### **Informational Agenda**

#### **5. Briefing on Oregon marine reserves.**

Director Hanus introduced Robert Bailey, ocean program administrator with the Department of Land Conservation and Development. Bailey showed the Board a relief map of the continental shelf and briefly discussed the efforts to assess the establishment of marine reserve areas within the territorial sea. He said this is very controversial, as it involves potentially setting aside large areas as no-fishing areas as a management tool to help recover over-fished stocks, to protect bio-diversity, and to provide for replenishment of those stocks.

Bailey said the Ocean Policy Advisory Council (OPAC) has been reviewing this issue and determining how to best respond to the state's management responsibility over the three-mile limit. OPAC has assembled a working group to bring forth a report and recommendations on what Oregon should do within its territorial sea regarding marine reserves. These recommendations should come forth in about a year. Bailey said the Land Board plays a role, through its ownership and management of the state's submerged lands, and through its Natural Heritage Advisory Council.

Secretary of State Bradbury said he hopes OPAC will consider that marine reserve areas could offer a much broader understanding than just fishery breeding. Bailey agreed, saying they need to look at these areas as baseline research areas. He agreed to take this message back to OPAC.

#### **6. Briefing on legislative session.**

The Board met in Executive Session for the purposes of considering confidential attorney client advice under ORS 192.660(1)(f) regarding HJR 64.

## **7. Retirement recognition.**

Governor Kitzhaber recognized five retiring employees who collectively represent 129 years of service to the Division of State Lands and the State of Oregon: Earle Johnson (30 years), Bill Parks (26 years with the Division and five years at OSU), Carolyn Russell (11 years), Barbara Schroyer (32 years with the Division and five years at ODOT), and Perry Lumley (30 years). Governor Kitzhaber expressed his appreciation for these individuals and invited everyone to attend a reception honoring them.

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John A. Kitzhaber  
Governor

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Ann Hanus  
Director

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