



Oregon

John A. Kitzhaber, MD, Governor

Department of State Lands

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The State Land Board met in executive and regular session on October 9, 2012, in the Land Board Room at the Department of State Lands, 775 Summer Street NE, Salem, Oregon.

State Land Board

John A. Kitzhaber, MD
Governor

Present were:

John A. Kitzhaber, M.D.
Kate Brown
Ted Wheeler

Governor
Secretary of State
State Treasurer

Kate Brown
Secretary of State

Ted Wheeler
State Treasurer

Land Board Assistants

Richard Whitman
Josh Goldberg
Michael Selvaggio

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

Staff

Louise Solliday
John Russell
Lorna Stafford

Jim Paul
Nancy Pustis

Bill Ryan
Lanny Quackenbush

Julie Curtis
Cyndi Wickham

DOJ

Mark Schumock

Executive Session

The Land Board met in Executive Session to discuss the potential acquisition of real property as an asset of the Common School Fund. The Executive Session was held pursuant to ORS 192.660(2)(e). The Executive Session was closed to the public.

Regular Session

Governor Kitzhaber called the regular session to order at 10:18 a.m. The topics discussed and the results of those discussions are listed below.

Consent Agenda

1. a. **Request for approval of the minutes of the June 12, 2012 State Land Board meeting.**
- b. **Request for approval to grant a permanent easement to the City of Lake Oswego for a pipeline across the Willamette River in Clackamas County.**
- c. **Request for approval to release 0.13 acres of Department of Human Services' mineral rights in Douglas County.**

d. Request for approval to release the subsurface mineral rights on 38.34 acres in Wasco County to Ted Froom.

Director Solliday reviewed the consent agenda. Regarding item 1c, she said that the Department will not charge the Department of Human Services for the mineral release because the cost of issuing a check would be more than the amount of compensation. Regarding item 1d, she told the Board that the reason for Mr. Froom's request was to protect the surface of his property from damage from development of minerals.

Secretary Brown made a motion to approve the consent agenda. Treasurer Wheeler seconded the motion. The consent agenda was approved.

Action Agenda

2. Request for adoption of the amendments to the administrative rules governing the management of, and issuing of leases, licenses, temporary use permits and registrations for structures on and uses of state-owned submerged and submersible land.

Director Solliday explained that the Board originally initiated rulemaking in 2009, and during the process many concerns arose and the rulemaking was put on hold until SB 600 was passed during the 2011 legislative session. The department held public workshops and hearings regarding the rule changes. Highlights of the changes include: doubling of registration fees phased in over five years, wharf certification rather than registration, and exemption from payment for certain uses/structures. In addition a definition of transient use was added and language to allow DSL to more effectively pursue trespassers was added. She noted that there is no change in lease payments. They will continue to increase three percent each year.

Secretary Brown wanted to know if there was any feedback from the workshops that were held and if any legislators, other than Senator Johnson, attended the workshops or hearings.

Director Solliday said that the workshops seemed to be useful to people. They had the opportunity to meet with staff and discuss the proposed changes before the public hearings were held. She told the Board that no other legislators attended the meetings, but there were perhaps some county commissioners who attended.

Secretary Brown moved to approve the adoption of the amendments to the administrative rules governing the management of, and issuing of leases, licenses, temporary use permits and registrations for structures on and uses of state-owned submerged and submersible land. Treasurer Wheeler seconded the motion. The rules were adopted.

3. Request for adoption of the amendments to the administrative rules governing the establishment and management of marine reserves and marine protected areas in the territorial sea.

Director Solliday told the Board that these rules were developed in response to recommendations by the Ocean Policy Advisory Council and SB 1510 from the 2012 legislative session, which added:

- (a) A marine reserve and two marine protected areas at Cape Falcon;
- (b) A marine reserve and three marine protected areas at Cascade Head; and
- (c) A marine reserve, two marine protected areas and a seabird protection area at Cape Perpetua.

The department received few public comments on the rules but many in support or opposition to the designation of areas. One comment was from the Undersea Cable Committee asking that cable laying be allowed in reserves and protected areas. Staff did not recommend that this activity be allowed since this activity is contrary to the definition of these protected areas. The rules also include a definition for seabird protection areas.

Treasurer Wheeler made a motion to adopt the amendments to the rules governing the establishment and management of marine reserves and marine protected areas in the territorial sea. Secretary Brown seconded the motion. The rules were adopted.

4. Request for approval to sell up to five scattered parcels in Hood River, Josephine, Multnomah, Polk and Wasco Counties.

Director Solliday told the Board that these five parcels will be put up for auction in November along with six other parcels previously approved for sale by the Board. She explained that this will likely be the last major auction of real estate until the real estate market improves.

Secretary Brown moved to approve the sale of up to five scattered parcels in Hood River, Josephine, Multnomah, Polk and Wasco Counties. Treasurer Wheeler seconded the motion. The item was approved.

5. Request for approval of a land exchange with Desert Creek Land, Cattle & Timber Co. LLC.

Director Solliday explained that the goal of this exchange is to block ownership of these parcels in order to manage them more efficiently. The mineral rights will be exchanged with the properties.

Treasurer Wheeler asked how the equal value exchange is determined. Director Solliday explained that the parcels are nearly equal in acreage and are both zoned EFU. Once the appraisals are complete, acreage can be adjusted, if necessary.

Treasurer Wheeler asked why the appraisals are not done prior to asking the Land Board for approval in order to know the exact acreage of the exchange. Director Solliday responded that the Department prefers to get the Board's approval before spending money for appraisals.

Treasurer Wheeler moved for approval for the Director to sign a Land Exchange Agreement authorizing an equal value land exchange between Desert Creek Land, Cattle & Timber Co. LLC and the State Land Board, including a transfer of mineral rights, pending an analysis by DOGAMI. Secretary Brown seconded the motion. The item was approved.

6. Request for approval of a land exchange with the Joyce E. Coats Revocable Trust.

Director Solliday told the Board that this exchange will resolve issues with range management and access to grazing lands. She said that the exchange will require a property line adjustment through Deschutes County. She said that the only significant public comment received was from the Oregon Department of Fish and Wildlife stating that both properties contained critical sage grouse habitat.

Treasurer Wheeler asked about the process of extracting minerals on a site where there is critical habitat for endangered species. Director Solliday explained that there are methods such as directional drilling that can be used.

Secretary Brown moved for approval for the Director to sign a Land Exchange Agreement authorizing an equal value land exchange between Joyce E. Coats Revocable Trust and the State Land Board, including a transfer of mineral rights, pending a mineral analysis by DOGAMI and a county-approved property line adjustment. Treasurer Wheeler seconded the motion. The item was approved.

8. Consideration of acquisition of real property as an asset of the Common School Fund.

Director Solliday explained that this item was discussed in the executive session held at the beginning of the meeting. She indicated that staff is recommending the purchase of real property as an asset of the Common School Fund.

Secretary Brown made a motion to approve the purchase of real property as an asset of the Common School Fund. Treasurer Wheeler seconded the motion. The item was approved.

7. Request for approval to issue a quitclaim deed to Grand Island Farms LLC in Yamhill County.

Director Solliday said the owners of Grand Island Farms approached the Department requesting a quitclaim to a portion of an abandoned side channel of the Willamette River that is adjacent to their property. Their pursuit of a conservation easement prompted their request. A 1975 report by the Department recommended that the ownership of the parcels along this abandoned channel be relinquished to the adjacent property owners. Other property owners along the abandoned channel have expressed an interest in obtaining these lands adjacent to their properties and the Department will go through the same process with them.

Treasurer Wheeler moved to approve the issuance of a quitclaim deed to Arthur and Mary Spada, Grand Island Farms LLC, to relinquish any claim to state ownership in the abandoned channel fronting their property, and also initiate and conclude the same process for the remaining riparian owners.

9. Discussion and possible action regarding the Common School Fund distribution policy.

Director Solliday explained that following recommendations from a Secretary of State audit, the Board has been discussing investment policy options for the Common School Fund and the distribution policy. As a result of these discussions, staff submitted a legislative concept for the 2013 legislative session that will allow the CSF to be managed like an endowment or trust fund. Deposits, investment gains and losses will be attributed to the Fund. Staff believes that changing the current distribution policy, which was adopted by the Board in April 2009, will not be necessary, if the legislation passes.

Treasurer Wheeler asked if the change in statute will satisfy the recommendations of the audit. He also asked if the Board retains the right to change the distribution policy at any time. Secretary Brown said she believes the change is a prudent policy and that it is in compliance with the audit recommendations. Director Solliday told the Board that they can change the distribution policy at any time they want.

Treasurer Wheeler moved to continue the distribution policy adopted on April 14, 2009. Secretary Brown seconded the motion. The staff recommendation was approved.

10. Appointment of Department of State Lands Director.

Richard Whitman, Natural Resource Policy Advisor to Governor Kitzhaber discussed the recruitment and selection process for the DSL director position. There were four finalists who met with each Land Board member. Stakeholders were consulted regarding the four candidates under consideration. The Land Board Assistants recommended the appointment of Mary Abrams. Mr. Whitman expressed his appreciation to Twyla Lawson and Jennifer Rogers with the Department of Administrative Services for the assistance they provided during the entire process.

Mary Abrams was in attendance and expressed her appreciation to the Board.

Secretary Brown made the motion to approve the Land Board Assistants' recommendation of appointing Mary Abrams as the Director of the Department of State Lands for a four-year term. Treasurer Wheeler seconded the motion. The appointment was approved.

Informational Agenda

11. Biennial report on the Wetlands and Waterways Conservation Division.

Bill Ryan, Assistant Director for the Wetlands and Waterways Conservation Division provided information to the Board regarding the activities of the Division over the past

two fiscal years. He noted that permit numbers continue to drop as they have since the recession began, with the exception of placer mining permits which have increased significantly. He also noted the continuing interest in mitigation banking and the benefit of having the Army Corps of Engineers accept DSL's mitigation options for the federal permitting program. He discussed increased interest by cities in completing Local Wetland Inventories to meet their Goal 5 requirements.

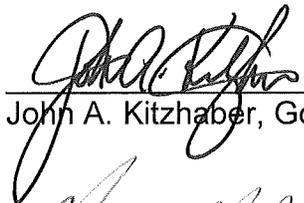
Treasurer Wheeler asked about the status of placer mining and whether there would be another report to the Board on the subject. Mr. Ryan told the Board that complete data should be available in about 4 months and a report will be produced at that time. He explained that the moratorium in California, the recession, and the high price of gold are all contributing factors to the increase in placer mining activity in Oregon.

Secretary Brown discussed site visits by staff. She asked if the number of permits increased. In addition, she asked for confirmation that permit applicants were by and large following the rules. Mr. Ryan said that permitting has increased and, now that the Department is requiring authorization holders to report each year before they can get their authorization renewed, the Department will have a better idea of how many authorized users actually go out and mine, and how much material they are moving. He said it appears that about forty percent of authorization holders do not use them. He also noted that the little illegal activity that was observed on site visits mainly had to do with fuel being too near the waterway.

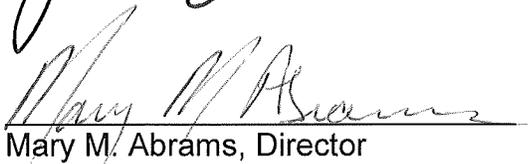
12. Retirement of Director Louise Solliday.

This item was conducted after adjournment.

The meeting was adjourned at 11:30 a.m.



John A. Kitzhaber, Governor



Mary M. Abrams, Director