

DIVISION OF
STATE LANDS

The Oregon State Land Board met in regular session on March 8, 1994 in the Land Board Room of the State Lands Building, 775 Summer Street N.E., Salem, Oregon 97310.

Present were:

Barbara Roberts Governor
Phil Keisling Secretary of State
Jim Hill State Treasurer

STATE LAND BOARD

BARBARA ROBERTS
Governor

PHIL KEISLING
Secretary of State

JIM HILL
State Treasurer

Assistants

Anne W. Squier
Nina Johnson
Rollie Wisbrock

Staff

Gary Gustafson
Steve Purchase
Gary Van Horn
Gail Lowry
agency staff

Dept. of Justice

Bill Cook

The meeting was called to order at 9:40 a.m. by Governor Roberts. The topics discussed and the results of those discussions in the regular session of the meeting 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 N.E., Salem, Oregon 97310 (phone: 378-3805).

CSF Investment Policy Annual review of the Common School Fund (CSF) investment policy and request to develop a Memorandum of Understanding regarding Common School Fund administration.

Director Gustafson told the Board that pages 4 and 5 of the written materials had been changed from those previously distributed, providing further clarification regarding the item. Gustafson said that for the most part no changes had been made to the provisions of the investment policy adopted by the Board in July 1992. He said the policies have been successful in enabling the Common School Fund to grow, but have prohibited the Treasury from converting additional excess cash (from the cash portion of the CSF portfolio) to bonds that could yield a higher rate. He recommended that Strategy #2 of the earlier policy be modified to improve flexibility for the



money managers and thereby potentially increase earnings. Rather than maintaining the bond investments at the current level until timber revenues and the effects of Measure 5 stabilize, it is proposed to manage the portion of the CSF portfolio generating distributable earnings by maintaining a balance between bonds and cash, which:

- a) maintains, as a target, bond investments at or above the current level (approximately \$16 million--deviations will be reported on a quarterly basis to the Land Board);
- b) to the extent possible avoids decreases in distributable earnings; and
- c) provides adequate resources as defined by the Division of State Lands and Department of Forestry for both operating expenses and scheduled equity purchases from excess cash.

A second recommendation was to better outline the responsibilities of all parties involved in management of the CSF, which Gustafson proposed be done in a Memorandum of Understanding (MOU). He said this MOU would be brought to a future Land Board meeting for adoption.

Dan Smith, Jay Fewell, and Bill Unverzagt of the State Treasurer's Office discussed the progress made toward the goals of the investment policy. Dan Smith said that in July 1992, the index fund was approximately 17 percent invested in equity securities. He said the contribution to the index fund is currently up to 34 percent--a dramatic change in less than two years. Smith said Treasury anticipates meeting the Board's adopted policy guidelines of 50 percent equity/45 percent fixed income/5 percent cash sometime in the next three to four years, depending on the magnitude of the net new revenue to the Fund.

Bill Unverzagt reviewed the Common School Fund Annual Report with the Board. In summary, he said this is a very high current-yield portfolio, which well meets the investment goals of the account.

Jay Fewell discussed the equity program for the Common School Fund, which began in 1990. He said the year end valuation of the equity component of the Common School Fund was \$95.6 million--largely predicated on an excellent year in the stock market. He proposed they continue putting \$7.5 million quarterly into the Standard and Poors 500 index.

Secretary of State Keisling asked what the return was on equities in 1993, and whether the changes being proposed today would affect the plan to continue investing \$7.5 million per quarter. Fewell responded that the return was approximately 10.1 percent. He said that the \$7.5 million should be able to be sustained through the course of 1994, but much depends on the future cash flows into the Fund.

Secretary of State Keisling moved the item be approved as stated in the two-part recommendation in the written materials, with a change in the wording of the motion. He recommended that rather than stating, "In developing this MOU, the Division should involve the Department of Education and School Boards Association..." that it should read, "In developing this MOU, the Division should involve interested parties..." State Treasurer Hill seconded the motion and the approval was unanimous.

Two long-term policy concepts were also discussed: 1) Further acceleration of principal growth by possibly restricting or eliminating all or a portion of the school distributions over a specific timeframe to allow reinvestment of earnings into growth equities at a faster rate, to allow the principal to grow sufficiently to eventually contribute a more substantial amount to the schools; and 2) Diversification of the portfolio into other investments, i.e., real estate or capital projects. Director Gustafson said that the Division and Treasury will explore these two concepts more fully during their quarterly meetings and return to the Board later with their recommendations.

Secretary of State Keisling said that after a review of the Wilshire Study, he concluded the Board has not done all the study recommended. With the Elliott Forest income being the main source of revenue and being so uncertain, he recommended a review of the report again in six months (at least at the staff level).

Governor Roberts said the Board might not have the legal authority to completely discontinue distributions for a period of time, as was discussed in the two long-term policy concepts presented. She asked what the revenue forecast would be for the next period and whether there might be any difficulty with the extra investment each quarter for equities.

Gary Van Horn, Assistant Director for Finance and Administration, said there is approximately \$20 million excess cash above the \$13 million needed on an annual basis for cash flow purposes (which includes the distributions). He said the adjustment from \$5 million to \$7.5 million per quarter in equities could use up that \$20 million currently available in approximately the next two years, allowing time to reduce the contribution amount to \$5 million, if needed.

Secretary of State Keisling asked what the projected income vs. expenses would be for 1994. Van Horn said he would provide that information to the Board from the budget document. Keisling said if the anticipated income doesn't materialize, there will be a need to determine how to sustain contributions throughout the period. Van Horn said there is a need to work with the Department of Forestry to fine-tune revenue estimates, since timber is the largest single revenue stream. Van Horn said he would prepare a letter with this information for the Board.

Gustafson discussed the meetings with the State Treasurer's Office. He said if any disturbing trends are noticed on either the income side or the outflow side, that a report would be made to the Land Board.

Governor Roberts called for a vote on the previous motion for a modification of the Board's investment policy and development of an MOU and the approval was unanimous.

Mineral Exchange Request for State Land Board approval of the exchange of the partial mineral estate under land owned by the Stimson Lumber Company for the partial mineral estate under state land owned by the Board of Forestry in Clatsop County.

Director Gustafson explained that this was a request for a partial mineral rights exchange--only the aggregate minerals. He said the subsurface minerals (oil, gas, and hard rock) had already been transferred in an earlier exchange with International Paper. He said the minerals analysis done by Squier and Associates showed the value of the mineral estate of the land the state would gain is approximately \$95,000 more than the amount they would give up. The Board of Forestry approved the exchange and Gustafson recommended the Land Board approve it as well.

Governor Roberts commented that a land exchange such as this with a split mineral estate is generally undesirable. She questioned State Forester Jim Brown about access to the mineral rights on property the state would acquire in the exchange. Brown said Forestry would ensure that the deed would provide for the state's access to the mineral rights.

Secretary of State Keisling asked whether International Paper, the owner of the deep underground minerals, had been asked whether they would unalienate their rights. Brown confirmed that to his knowledge no request had been made to them.

State Treasurer Hill moved the item be approved based on the findings of fact in the written materials. Secretary of State Keisling seconded the motion and the approval was unanimous.

Mineral Exchange Request for State Land Board approval of the exchange of mineral estate under land owned by Douglas County for the mineral estate owned by the Oregon Department of Transportation in Douglas County.

Director Gustafson said this was a request for the exchange of all mineral rights, to facilitate a development project at the intersection of the I-5 Freeway and one of the Roseburg access routes. Douglas County would exchange approximately 20 acres of mineral rights for 16 acres of state-owned mineral rights from the Oregon Department of Transportation. Both parcels are determined to have low mineral potential.

The Governor asked about the access to the mineral rights on the land. Gustafson asked Bill Cook, Assistant Attorney General, to comment on whether a subsurface owner has right of access through the surface estate in a reasonable fashion. Cook said he would research this issue and report back to the Board.

Secretary of State Keisling moved the item be approved, contingent upon guaranteed accessibility to the minerals on the property. He also complimented Assistant Director Steve Purchase for his efforts to get this exchange through the process in an abbreviated timeframe.

Peter Graff, director of the Coos-Curry-Douglas Business Development Corporation and secretary of the Douglas County Industrial Development Board, stated a provision could be included in the bargain and sale deed to provide that access. State Treasurer Hill seconded the motion and the approval was unanimous.

Emergency Board Request for State Land Board approval of the Division's appearance before the Legislative Emergency Board to request a Federal Funds expenditure limitation increase of \$308,000 to receive and implement two federal grants supporting ecosystem management and restoration projects at the South Slough National Estuarine Research Reserve and to report on the use of the their existing \$50,000 Federal Funds expenditure limitation.

Director Gustafson reported this request is for approval to appear before the Legislative Emergency Board to request an increase in federal funding limitation for implementation of two federal grants, and to report on the use of the previous Federal Funds expenditure limitation. He said the South Slough National Estuarine Research Reserve Management Commission approved the request at their last meeting.

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

Minutes Request for approval of minutes from February 8, 1994 State Land Board meeting.

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

Elliott Forest Update on status of the draft Elliott State Forest Management Plan.

Governor Roberts clarified this as a status report on the progress made to date on the Elliott State Forest Management Plan and the hearings previously conducted. She commented that today's meeting is not a hearing, though an opportunity for brief comments would be provided.

State Forester Jim Brown said 76 public comments had been received regarding the draft plan, which Forestry had grouped into six key concepts: 1) The need for additional plan alternatives--several suggesting the Elliott be used as an "experimental forest." 2) Higher and lower levels of biodiversity were requested. 3) The need and importance of plan monitoring was stressed. 4) Urging greater or lesser threatened and endangered species protection than required to meet federal Endangered Species Act guidelines. 5) Concerns over riparian protection--ranging from using the proposed Forest Practices Act rules to discontinuing harvests altogether. 6) A controversy over whether there was a need to comply with the federal Endangered Species Act, given the constitutional mandate of the Land Board.

Brown said three fundamental areas need additional analysis. He said this will happen and information will be brought back to the Board at the April meeting in a hearings officer report, synthesizing the public comment and giving a recommended agency response, including potential alternatives. He said this information will then play a large part in the Habitat Conservation Plan and incidental take permit request that would be submitted to the US Fish and Wildlife Service.

The three major areas Forestry will do analysis on will be riparian protection, the concept of an experimental forest and the underlying assumptions used in the plan for protecting roosting, and nesting and foraging sites for spotted owls.

Brown said the plan currently provides over the long term about 66 percent of the forest as suitable nesting/roosting/foraging for owls. He said there is some information from scientists suggesting that 20-40 percent could be adequate. He said this issue needs to be examined further in detail with a recommendation by Forestry made to the Board. Mike DeLaune, Planning Coordinator for State Forestry Department, provided further clarification by saying that the 66 percent Brown referred to applies only to three of the management basins in the Elliott. He said the percentages on the Elliott range from a low of approximately 6 percent to a high of 66 percent. He said as an average over time, Option 6 would provide about 43 percent of the forest in nesting/roosting/foraging habitat. The current is about 51 percent, which will decrease over the first three decades of the plan, and then increase back to 43 percent around the tenth decade.

Greg Miller, Oregon Forest Industries Council, thanked Forestry, the Department of Fish and Wildlife, and the Land Board for allowing them to assist in the development of the plan. He said they would like to see a broader range of alternatives and said he is working with the Department of Forestry regarding this.

Jim McCauley, representing the Associated Oregon Loggers, echoed his appreciation for the ability to be involved in the process. He said the recommendations that came out of the comments of the plan will be beneficial for both the long and short term management of the Elliott.

Gordon Ross, Coos County Commissioner, thanked the Board of Forestry for the 30-day extension to provide additional information for the process and the assistance they received in holding their own hearings. He discussed his concerns regarding potential fires in the forest and how much old growth forest can be saved. He cautioned that longer rotation areas may give rise to catastrophic fires, as occurred in the past, and requested that rotations be shortened to allow additional harvest opportunities. He asked the Board to continue to take into consideration the coast range fire history.

Liz Frenkel, Sierra Club, discussed her concerns over the denial of Forestry's Legislative Emergency Board request to allocate \$132,002 to finance two biologists under a memorandum of agreement with the Department of Fish and Wildlife to conduct spotted owl research and field work. She said the two owl biologists will be lost due to the denial, delaying and

threatening the development of a Habitat Conservation Plan--one of the primary objectives of the two positions. She requested the Board express their opinion and publicly work to reverse the situation. Governor Roberts expressed her agreement with Frenkel, stating that she was also concerned about what appeared to be a predetermined decision without public input. Secretary of State Keisling also discussed his dismay concerning the denial.

Administrative Rules Update on status of scenic waterway permit and rangeland administrative rules.

Director Gustafson said new developments in the process of adoption of the scenic waterway permit rules have affected the previous schedule for adoption of the rules. He said the Attorney General recently issued an opinion overturning the previous decision by saying that the Legislature fully intended to prohibit all placer mining on scenic waterways, including recreational mining.

A second request to the Attorney General dealt with the implications of the restriction of federal mining claims. The Opinion states that this issue largely depends on who owns the bed and banks of the affected waterway. If it is state-owned, then the federal mining claims are not valid. If they are non-navigable waterways, the Attorney General advises that each case would need to be reviewed individually. Gustafson said amended scenic waterway removal-fill rules would be returned to the public and final rules should be brought to the Board in May for final action.

Gustafson reported that the rangeland rules are also proceeding. He said a list of legal questions had been forwarded to the Attorney General regarding the rules. It was decided that additional time was needed before returning the revised rules to the public. Gustafson anticipated the rules should be ready to be brought to the Board in June for final action.

Secretary of State Keisling commented that both these issues had taken considerable time. He said this shows that you can't do through administrative rules something the law doesn't allow. He said the place to deal with the law is in the Legislature.

The meeting was adjourned at 11:10 am.


Gary Gustafson, Director


Barbara Roberts, Governor