

The State Land Board met in regular session on April 10, 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

Assistants

Louise Solliday
Paddy McGuire
Inga Deckert

Staff

Ann Hanus
John Lilly
Steve Purchase
Jeannette Holman
Gail Lowry

Dept. of Justice

Bill Cook

Governor Kitzhaber called the meeting to order at 10:18 a.m. 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, Suite 100, Salem, Oregon 97301-1279 (phone: (503) 378-3805).

Action Items

- 1. Request to adopt new administrative rules governing jurisdictional determinations of waters of the state and wetland delineation report standards and approval procedures.**

Director Ann Hanus said the Division started this rulemaking effort about a year ago to provide clear standards and procedures and to ensure consistent, reliable wetland delineations. Public hearings and workshops were held on the rules, and information was sent through newsletters to inform the public.

Hanus said that a new draft of the rules was distributed that morning, incorporating comments from Phil Scoles, a wetland consultant.

Scoles addressed the Board, saying he supports the administrative rules as presented today. He commended Janet Morlan, wetland team leader at the Division, as well as the other Division staff that worked on these rules. He said they listened and incorporated comments into the rules.

Scoles said the rules could be greatly enhanced by adding qualification requirements for wetland consultants. He said presently an individual could submit a delineation report simply by claiming to be a wetland consultant. Scoles submitted a sample for what he called a minimum threshold for standards for wetlands consultants delineating wetlands and submitting wetland delineation reports. He suggested that future revisions of the administrative rules should incorporate some kind of qualifications, such as these.

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

Consent Agenda

Director Hanus briefly reviewed the following items on the Consent Agenda:

- 2 a. Request for final approval of amendments to the maps designating Essential Indigenous Anadromous Salmonid Habitat.**
- b. Request for approval of the addition of two sites to the Oregon Register of Natural Heritage Resources, both of which are owned by The Nature Conservancy.**
- c. Request by the Oregon Department of Transportation for a permanent easement across the submerged and submersible lands of the Rogue River in Curry County.**
- d. Request by the Coos County Highway Department for a permanent easement across the submerged lands of Larson Slough, a tributary of the Coos Bay in Coos County.**

e. Request for approval of minutes from February 15, February 23, and March 12, 2001 State Land Board meetings.

There was no discussion on these items. State Treasurer Edwards moved the Consent Agenda be approved. Secretary of State Bradbury seconded the motion and the approval was unanimous.

Information Agenda

3. Briefing on Common School Fund investment policy and performance.

State Treasurer Edwards asked Mike Mueller, Assistant Director of Investments at Treasury, to review the policy and the performance of the Common School Fund over the past year. Mueller said Oregon Investment Council's consultant Frank Russell modeled various policy allocations for the Fund. He came up with a 50 percent domestic equity allocation, 20 percent international and 30 percent to fixed income. Mueller said the domestic equity component was moved, at the Oregon Investment Council's recommendation, from an S&P 500 index fund to a Russell 3000 index fund. He added that the fixed income securities had been moved to Western Asset and Wellington, who also manage significant moneys for the Public Employee's Retirement System.

Mueller said the current three- to five-year goal of the Fund is to provide a nominal rate of return of about 9.5 percent. The year-to-date performance of the Fund is at -3.6 percent, though over the past three years the return has been 10 percent annually and over the past five years, the return has been 13 percent annually. He noted there were double-digit returns from 1996-1999, with 1997 and 1998 returns actually in excess of 20 percent. Mueller said with the goal of 9.5 percent long term, it is not surprising to see the low returns currently.

4. Status report on the *New Carissa*.

Director Hanus said individual briefings were given to each Land Board member, and a more extensive briefing was provided to the Land Board member's assistants to review the report received from Captain John Noble, a consultant hired by the Responsible Party to review the

options related to removal of the remaining portion of the wreck of the *New Carissa* at Coos Bay. She directed the Board to the written materials provided in their notebooks.

Hanus summarized the report, saying Noble recommended the wreck be left in place on the beach. She said an executive session would follow the regular session of the Land Board to discuss legal issues and strategy related to the issue.

Hanus added that a consultant would be hired by the State through the Department of Justice to review Captain Noble's report.

5. Briefing on waterway leasing program.

Director Hanus said the Board approved changes to the waterway leasing program in June of 1999, requesting that the Division conduct a survey of the waterway lessees to find out how they regard the leasing program. She reported that results showed by a five-to-one margin that the program is working well for the participants. The survey also showed a desire for the agency to be more aggressive in bringing under lease those who are using sites without paying. Hanus said our 2001-2003 budget request includes a waterway leasing person to assist with bringing unauthorized uses under lease.

6. Briefing on status of navigability issues.

Director Hanus reported that public hearings on the draft Sandy River Navigability Study would be held April 11 and 12 in Troutdale and Sandy. She said the Board would be briefed in June on the results of those public hearings.

7. Status report on Statewide Programmatic General Permit (SPGP).

Director Hanus did not review this item, but directed the Board to the written materials provided them.

8. Update on legislative session.

Director Hanus reported on a number of bills before the Legislature that could impact the Board and agency. She said SB 302 has passed both houses. This bill was introduced by the Division and provides an exemption from removal-fill permits for non-motorized activities involving one-cubic yard within essential salmonid habitat.

Hanus said the Division of State Lands' budget bill should be back before the Natural Resources Ways and Means Subcommittee soon.

She reviewed HJR 64, which proposes using the Common School Fund as an economic stabilization fund. She reported that she and staff of the Attorney General's office would be testifying at a hearing on the bill the following week. Testimony will cover the major potential legal issues connected with the bill.

Hanus briefly discussed SB 172, dealing with the Division potentially assuming Section 404 of the Clean Water Act from the Environmental Protection Agency.

Hanus said that SB 842 would have an adverse impact on the Common School Fund if it passes, by allowing ports to use dredge materials without paying for them.

Hanus introduced Monte Turner, the Division's new communications coordinator, to the Board. She welcomed Turner, saying he has extensive experience in communications and state government, having previously worked with the Department of Transportation and the Parks and Recreation Department.

The Governor adjourned the regular session of the Board at 10:35 a.m. and announced an executive session of the Board to be held under ORS 192.660(1)(h) to consult with counsel regarding the *New Carissa*.

John A. Kitzhaber
Governor

Ann Hanus
Director