

The State Land Board met in special session on May 23, 2006 in the Land Board Room of the State Lands Building, 775 Summer Street NE, Salem, Oregon 97301-1279.

Present were:

Theodore R. Kulongoski	Governor
Bill Bradbury	Secretary of State
Randall Edwards	State Treasurer

Land Board Assistants

Michael Carrier	Governor's Office
Paddy McGuire	Secretary of State's Office
Inga Deckert	State Treasurer's Office

Department of Justice

Fred Boss
Richard Whitman

Staff

Louise Solliday
Jeannette Holman
Steve Purchase
Vickie Nokleby

Executive Session

At 9:30 A.M. the Land Board met in Executive Session under ORS 196.660(2)(h) for the purpose of consulting with legal counsel on current or threatened litigation. At the conclusion of the Executive Session, the Land Board began the public session.

Public Session

Governor Kulongoski called the meeting to order at 10:10 A.M. The topic discussed and the results of that discussion are listed as follows. Further details of the discussions may be obtained in the written transcript of the meeting available at the Department of State Lands, 775 Summer Street NE, Suite 100, Salem, Oregon 97301-1279, (phone: (503) 378-3805, ext. 224).

Action Agenda

1. Request for approval of the proposed settlement of the Green Atlas Shipping Company (Green Atlas) appeal of the *New Carissa* grounding, and for approval to appear before the September 2006 Legislative Emergency Board to request expenditure limitation to remove the remaining portion of the *New Carissa* from the Oregon Shore.

Director Louise Solliday stated the Department of State Lands was requesting from the Land Board approval for a proposed settlement with Green Atlas Shipping Company in the appeal of the *New Carissa* grounding litigation. She said DSL also requested approval to appear before the September Legislative Emergency Board to request expenditure limitation of \$19 million to remove the remaining portion of the *New Carissa* from the Oregon shore.

Director Solliday provided background on the *New Carissa* grounding. She explained the *New Carissa* ran aground in February of 1999. A portion of the shipwreck has remained on the beach outside of Coos Bay.

Director Solliday stated that litigation, which the State brought against Green Atlas Shipping, resulted in a jury verdict in 2002 awarding the State \$25 million for trespass on the territorial sea in Oregon. Green Atlas Shipping placed \$25 million in an account at the Department of Justice pending an appeal of that case. That appeal is scheduled for hearing in early June, and DSL has been working with the Department of Justice to negotiate a settlement agreement to avoid going through the appeal process.

Director Solliday stated the item which the Land Board had before them presently is the terms of a settlement agreement, which remains confidential until the Land Board votes on it. DSL's recommendation is to approve the settlement offer; authorize DSL to work with the

Department of Justice to transfer the funds to the Common School Fund and to establish within the Common School Fund a special purpose account for the money that would be used for ship removal.

Director Solliday stated that DSL is also seeking approval to appear before the September 2006 Legislative Emergency Board to seek expenditure limitation of \$19 million. The \$19 million would be used to cover the cost of the removal of the wreckage of the *New Carissa* from the Oregon shore. It includes a \$3 million contingency fund and up to \$1 million to put in place a supervisory contract to oversee the contract with the removal company and to help DSL manage the contract.

Secretary Bradbury made a motion to approve the recommendation. Treasurer Edwards seconded the motion.

Secretary Bradbury stated the *New Carissa* grounding has been an incredibly long and difficult trial for all, and certainly to the people and oyster growers and citizens in Coos Bay. He said he was glad to reach a settlement, recover Oregon's legal costs, and get the *New Carissa* removed from the beach.

Treasurer Edwards stated the coast is one of Oregon's treasures and with the settlement we have kept the pledge to the people of Oregon to keep our beach clean. He stated that each year thousands of people participate in SOLV's beach clean up efforts. He stated the Land Board's action today is the ultimate clean-up. Last year, SOLV collected 60 tons of debris. The State will be cleaning up more than 1,200 tons of debris. He stated we all have vivid memories of the tragic grounding of the *New Carissa* seven years ago. He said some have suggested leaving the debris. He stated leaving the debris would be wrong for the State because we want our beaches clean, and to protect future actions against such trespassers. He stated removing the ship's wreckage has been the Land Board's goal and he is pleased to be able to fulfill his commitment to maintain Oregon's coastline.

Governor Kulongoski stated he agreed with his colleagues and their statements regarding the *New Carissa*. He requested that when DSL goes to the Emergency Board DSL have the contract in place and have identified what will be done. He asked if that were possible in the timeframe.

Director Solliday stated it is possible, and DSL can enter into contracts contingent on approval of the Emergency Board. She advised she would begin working with staff at the Department of Justice and Department of Administrative Services to develop a contract. The contract would likely be a sole source contract with Titan, and DSL would attempt to enter into that contract prior to the September Emergency Board, subject to Emergency Board approval. She stated if DSL receives Emergency Board approval in September, DSL would thus be able to give the green light to Titan to move forward with removal.

Governor Kulongoski stated his purpose was twofold. He said that, first, he wanted the debris removal process done in a very expeditious manner. He stated that, secondly, he did not want to leave any room for argument about the Land Board's position at the Emergency Board. He stated the Emergency Board has its own statutory role, but he would like to be able to be in the best possible position to move this project forward pending Emergency Board approval.

Director Solliday stated she agreed with the Governor. She said removing the wreck was important for two reasons. There is a continuing liability with the wreck remaining where it is because someone could walk up to it in low tide, particularly in summer months when many people are on the beach. The beach is also one people can drive on. Liability is ongoing as the wreck remains. She stated that, secondly, the State argued in court the wreck was trespass and we wanted the ship removed from the beach. She said if the State does not remove the wreck from the beach, we may send a signal to future trespassers that we're not really serious about the need to remove wreckage from our beaches.

Governor Kulongoski restated the motion that the State Land Board approve the settlement offer; authorize the Department of State Lands to finalize a settlement agreement with the vessel owners and work with the Oregon Department of Justice to transfer the settlement funds to the Common School Fund to reimburse the Common School Fund for legal fees paid and establish a special purpose account with the remaining funds to pay for the ship removal; and approve the agency's request to appear before the September 2006 legislative Emergency Board seeking expenditure limitation of \$19 million to cover the cost of the removal, and the remaining portion of the *New Carissa* from the Oregon shore, including approximately \$1 million for a supervisory contractor, and \$3 million for contingencies.

Governor Kulongoski requested that the Land Board Secretary, Vickie Nokleby, call the roll.

Nokelby called the roll.

The motion passed unanimously.

Governor Kulongoski adjourned the meeting at 10:20 A.M.

Theodore R. Kulongoski, Governor

Louise Solliday, Director