

DIVISION OF
STATE LANDS

STATE LAND BOARD

BARBARA ROBERTS
Governor

PHIL KEISLING
Secretary of State

JIM HILL
State Treasurer

The Oregon State Land Board met in regular and executive sessions on December 8, 1992, at 10:00 a.m. 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
Tony Meeker	State Treasurer

<u>Assistants</u>	<u>Dept. of Justice</u>	<u>Staff</u>
Anne W. Squier Nina Johnson Kathryn VanNatta	Bill Cook	Gary Gustafson Earle Johnson Gary Van Horn Steve Purchase agency staff

The meeting was called to order 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 NE, Salem, Oregon 97310 (phone: 378-3805).

Marbled Murrelet Status report from the U.S. Fish and Wildlife Service concerning the listing of the marbled murrelet as threatened under the Endangered Species Act.

Governor Roberts asked that the order of the agenda be changed to hear the report on the marbled murrelet prior to the Elliott State Forest agenda item, since the information may affect the Elliott discussion.



Acting Director Gustafson introduced Teresa Nichols and Russ Peterson from the U.S. Fish and Wildlife Service (USFWS) to give an update on the murrelet status. Gustafson said it is important to determine what bearing the listing of the murrelet as a threatened species will have on our common school forest lands.

Russ Peterson, Oregon field supervisor for the USFWS, said his office is encouraging land managers to make their best efforts to utilize existing information on the behavior, habitat requirements, and survey information regarding the species to assess the potential for take. He said federal guidelines have not yet been developed for the murrelet. The USFWS is encouraging land managers to continue to survey to determine the presence of murrelets prior to timber sale efforts. He complimented the State of Oregon for their job in doing that.

He said the foremost objective after listing a species is to begin recovery of that species, to be able to remove it from the list. USFWS is currently identifying a recovery team in relation to the marbled murrelet and are hoping to have the team operating sometime in January 1993. They will be communicating with the state, as well as the Forest Service and BLM, to appoint consultants to that recovery team. There will be public participation in the process also as a recovery plan is identified.

Governor Roberts voiced her frustration at not being able to get more clarity on the issue, saying that she understood the problem was not necessarily with the efforts of the individuals present representing the USFWS.

Mr. Peterson said the USFWS and the Division need to work together on an interim strategy to avoid a take, then to begin the mechanism to authorize a take through a Habitat Conservation Plan or whatever method is acceptable to the state--finding a way to maintain the species and the timber sale program.

Secretary of State Keisling asked about the timing for the initial stage of an interim strategy. Peterson said it would probably take 2-3 months for that to happen.

State Treasurer Meeker asked what written material the USFWS is using and how they determined that murrelets were present as much as 50 miles inland. Peterson said a number of studies and intensive surveys in the last 2-3 years have been done and reports are available. He also reported that a summary of the information available on the species at the time of listing was published in the October 1, 1992 Federal Register. He said a nest has been located in Washington 52 miles inland. In Oregon one was located 38 miles inland, but most are much closer to the shore.

Governor Roberts said the Board looks forward to working with the USFWS in these endeavors and thanked these individuals for coming to the meeting.

Elliott State Forest Request for approval of Interim Reserve Areas in the Elliott State Forest as part of the Stewardship Approach to temporarily guide timber operations until the new long-range management plan is adopted.

Acting Director Gustafson said that last September the Board adopted the "Stewardship Approach" as an interim timber harvest policy for use within the Elliott State Forest until a new long-range management plan was completed. The decision on one component of that Stewardship Approach which dealt with reserved owl pair areas was deferred until this meeting. Gustafson said the State Forester has worked with the Department of Fish and Wildlife and others to fashion the interim reserve pair areas. He introduced Jim Brown, State Forester, to explain the recommended approach.

State Forester Brown said an interim reserve pair area approach was needed to give the Board room to fashion a long-term management plan for the Elliott, which is the ultimate strategy that will satisfy the requirements of the ESA, meet the Board's fiduciary responsibilities for these lands, and provide the basis for an incidental take permit from the USFWS. Brown reported this long-term management plan should take another 18 months to complete.

He said that in formulating an interim plan, the Departments of Forestry and Fish and Wildlife looked at a number of alternatives. They considered the owl locations and those areas which could best be preserved to protect the owl pairs. The breeding pairs of owls were centered along the northern and western parts of the forest. Since the marbled murrelets were listed as an endangered species in September, he said it was important to include them in the reserved pair areas as well. At this point, most owls were located in the southwestern corner and along the northern portion of the forest.

Brown said that Option 5 best meets the criteria of preserving the latitude needed to move forward to provide long-term conservation of the owl, to meet the State ESA and to allow the Board the flexibility to apply for an incidental take permit for both the owl and the murrelet. If approved by the Board, he said Option 5 would allow the sale of about 15.7 mmbf. Forestry also recommended the release of an additional 15 mmbf of unscheduled harvest

per year until the long-range planning process is complete. These "unscheduled harvests" represent the release of timber from the circular owl protection areas of the Elliott that were off-limits to cutting before the Stewardship Approach was adopted. The reserved pair areas approach, allows sales on a short-term basis within these circles. This also releases other unsold timber that has accumulated during the last three years as a result of the ban on log exports.

Brown said the recommendation to the Board is threefold: 1) to approve the Interim Reserve Pair areas (Option 5), 2) to allow annual sales of approximately 15.7 mmbf of scheduled harvest, and 3) to approve the annual sale of an additional 15 mmbf of unscheduled harvest during the long-range planning process.

Liz Frenkel from the Oregon Chapter of the Sierra Club said the Chapter began several weeks ago attempting to get information regarding the interim plan, but was unable to do so. Frenkel said when she finally saw a map, she became concerned when she realized the headwaters and the drainage of the Millicoma River were a very large portion of the Elliott. She also mentioned the question of the Umpqua River drainage and the fishery, questions about the Tye sandstone and the issue of how slumpage is factored in. The Chapter also has concerns for adequate buffering and a real stream classification which would include fishery. She said the Forest Practices Act hasn't completed that process. She cited incidents of cutthroat trout showing up above the falls and asked whether this has been considered and factored in. She also mentioned a wild stock of steelhead apparently existing in the west fork of the Millicoma. She asked what will be the impact on the coho in the Millicoma which is currently in equilibrium right now.

Her main concern with Option 5 is that it's in two areas, rather than a contiguous block. She said there has been a lot of concern about contiguous areas being needed for owl recovery. In general, she said, the Chapter's interest is for a sustainable forest.

Secretary of State Keisling thanked Frenkel for her comments and said the Board needs as much information from as many concerned groups about the Elliott as can be obtained during this process.

Brown responded to Frenkel's concern over noncontiguous areas by saying that the Reserve Pair Areas are being combined with DCA's (Designated Conservations Areas) outside of the Elliott. The areas covered in Option 5 are the areas where known breeding pairs exist. Other

concepts in Option 5 include anadromous fisheries protection and marbled murrelet protection as well.

In regards to fisheries and riparian habitat, Brown said they have always consulted with ODFW on every timber sale. He said when a local sale plan is put together, it is reviewed with a local biologist, then designed in concert with that. This also includes the unscheduled sales.

Brown said the Elliott is principally located on Tye sandstone, which is prone to some degree to avalanches. He said you can accentuate the amount of slides that occur through road building, if not careful. Side-cast road building cannot be done, where the dirt is dumped over the side. If it is, debris avalanches can occur. Brown said Frenkel has raised a good set of issues, but he feels these have been addressed in the interim strategy, in the normal operating processes Forestry follows, and in their relationship with ODFW.

Mike Miller, Executive Vice-President of Associated Oregon Loggers, said they are pleased to see the use of the term "interim reserved areas" since it gives the connotation that the protection of the owls or murrelets is in evolution right now and an effort is being made to do what is best with the information currently available.

He said the Association is concerned that under Option 5, the total production acres would be 40 percent of the forest, whereas under the current status, it has been 93 percent, which is a very significant change in the land use classification on the Elliott.

He relayed the Association's commendation for the Forestry Department and the Land Board for their consideration of the additional 15 mmbf per year during the next three year period. He said the Association appreciates the involvement they have been able to have in the planning effort and he encouraged the Board to remember the target mmbf discussed in the September meeting.

Greg Miller, Director of the State Timber Purchasers Division of the Oregon Forest Industries Council (OFIC), spoke next. He said three important points gleaned from his review of the recommendations are as follows: 1) That the interim reserve areas are temporary in nature and will sunset upon adoption of a long-range plan for the Elliott; 2) That there will be a serious, scientific examination of ways to conduct and carry out forest management activities; and 3) That there will be opportunities to increase the level of timber harvest volume beyond the scheduled 15.7 mmbf per year, as identified in the interim

sale program. He also stressed the importance of protecting the trust and fiduciary responsibilities of the State Land Board.

He said the OFIC is pleased with the level of public participation that has occurred in the planning and they support the comprehensive approach. He emphasized the need for a retrospective study that will allow an understanding of the prior history in the mid-1800's, the blow-down that occurred during the Columbus Day storm, our management activities and the presence of owls in the classic second-growth stand.

He said the OFIC wants to continue being involved in the long-range planning efforts.

State Treasurer Meeker questioned why the blocking of the two interim reserved pair areas (a total of 38,000 acres) where no activity will occur at all is being proposed, when there are owl pairs in those locations that have been successfully breeding, while harvesting has taken place.

Brown answered by saying they were faced with a decision of either continuing to follow the incidental take guidelines or moving to some other strategy that would provide protection on a given level of habitat (the reserve pair areas). To protect the longer-term options for the Land Board and receive an incidental take permit, requires a level of habitat protection, which, he said, will be accomplished with the interim reserve pair areas.

State Treasurer Meeker asked if in two years we may learn that harvesting actually helps the owls. Brown said it was conceivable. He said studies are currently being done to find out what the owl requires, taking into consideration the historical perspective, so that we don't just use a set-aside approach to management. He said it may be found that some actual planned activities will occur that would enhance owl habitat.

Secretary of State Keisling said given the information available now, he believes the proposed Option 5 gives the best chance of breaking out of the circles that were previously used. He moved the Board adopt the staff recommendation of Option 5 as part of the Stewardship Approach for interim management of the Elliott, also directing Forestry to use the Stewardship Approach to:

- Examine ways to conduct and implement timber management activities in the Interim Reserve Areas such as thinning, pruning and any alternative harvesting techniques that ensure adequate protection of the northern spotted owl and marbled murrelet;

- Bring forward for sale annually approximately 15 mmbf of timber in accord with scheduled harvest plans; and
- Bring forward for annual sale up to an additional 15 mmbf of unscheduled timber harvest.

Governor Roberts seconded the motion. State Treasurer Meeker said he believed the forest plan under which the Elliott was managed for many years was developed in consideration of the best fiduciary responsibilities of the Board. He said that setting aside 40 percent of the forest is not in keeping with the Board's fiduciary responsibility, and he therefore, doesn't support the motion.

Secretary of State Keisling said this process has been more difficult than anyone would have liked, that the job ahead will continue to be difficult, but the decisions being made will serve the Board well in the coming months and years ahead.

Governor Roberts said a lot of other timber lands in this state are stagnating in the courts. She feels the Board is doing what is right, creating a harvest that is possible without litigation and moving forward to long-term planning.

The motion was approved two to one, with State Treasurer Meeker being opposed.

Gordon Ross, Coos County Commissioner, thanked the Board for approval of the additional 15 mmbf during each of the next few years.

Consent Agenda

Administrative Rules

Request to initiate rulemaking to amend existing rule dealing with the participation of Land Board members, Division employees and their immediate families in oral, high-bid auctions related to estate sales.

Administrative Rules

Request to initiate rulemaking to amend rules concerning claims for escheat property.

Minutes

Request for approval of minutes of the State Land Board meeting for October 13, 1992.

State Treasurer Meeker moved the Board approve the Consent Agenda. Secretary of State Keisling seconded the motion and the approval was unanimous.

State Forest Review of Tillamook State Forest
Recreation Plan Recreation Plan.

Acting Director Gustafson explained this item is informational only, no action is necessary. It is required by statute that the recreation plan be submitted to the State Land Board for their review and comment only, not for approval.

Assistant State Forester Ray Craig said that House Bill 2501 which passed in the 1991 Legislature required this comprehensive recreation plan to be completed for the Tillamook State Forest. The plan is scheduled to be adopted by the State Parks and Recreation Commission and the State Board of Forestry in January 1993. He said there are about 5,000 acres of common school lands in the Tillamook State Forest.

Secretary of State Keisling asked about opportunity for public comment. Craig responded that the draft plan has been presented to the Parks and Recreation Commission, the Board of Forestry and the County Forest Trust Land Advisory Committee. He said there have been a series of public meetings held during the process.

State Treasurer Meeker asked whether members of Columbia, Clatsop and Tillamook Counties were represented on the advisory committee. Ross Holloway from the Department of Forestry said that one member from Clatsop County sits on the Forest Trust Land Advisory Council. Another body, the Council of Forest Trust Land Counties, represents all the counties. The plan has been reviewed with both of these over the past year. The three counties also have a member on the advisory committee.

Secretary of State Keisling suggested that discussions should take place regarding possible exchanges that would allow the common school forest land ownership in this region to be blocked. He also noted that there is no mention in the plan of the number of acres of common school ownership as well as the mineral ownership of the State Land Board in the Tillamook State Forest, and asked that these be included in the plan.

Governor Roberts suggested that the plan be publicized a little more outside the Tillamook area to allow a broader group of people additional information as the process moves along.

Scenic Waterway Update on draft policy for permits in scenic waterways.

Acting Director Gustafson said the Board earlier approved the Division's request to proceed in development of a scenic waterway policy covering the activities that are specifically the responsibility of the Board and the Division of State Lands. The policy was distributed in draft form. Gustafson said that public meetings are occurring and the plan is to come back to the Board with a final draft for approval at the January meeting.

State Treasurer

Governor Roberts announced that this would be the last meeting for State Treasurer Tony Meeker, who has been a member of the State Land Board since 1987. A plaque was given to him in honor of his years of service.

State Treasurer Meeker said he is proud of the significant accomplishments of the Board in the past five years. He wished the remaining members of the Board all the best in their responsibilities in the future.

Secretary of State Keisling said the job that Meeker has done as State Treasurer with the return on the assets with which he has been entrusted has been extraordinary. He said it has been a pleasure to serve with State Treasurer Meeker.

Public Comment

George Fox, Director of the Association of Northwest Steelheaders, commented that the issue of riparian habitat has been ignored in the Tillamook State Forest Recreation Plan. He explained his concern that the major focus of the plan is for all-terrain vehicle use, covering a full five pages of text. Steelhead fishing, which he said is a \$6.5 million recreational industry in the area, has been given only two paragraphs in the plan.

Secretary of State Phil Keisling reiterated the need for public comment during the plan process. He said that the steelhead fishing is a very important component, not only for recreation, but also for its impact on the local economy. Governor Roberts apologized for not knowing that Mr. Fox wished to comment earlier during the time the issue was being discussed, so that the individuals presenting the issue, who had already left the meeting, could have responded to his concern.

Governor Roberts then called an executive session of the Board under ORS 192.660(1)(h) to consult with counsel

concerning legal rights and duties of the Board with regard to current litigation or litigation likely to be filed.

After returning from executive session, Governor Roberts asked for a motion to adjourn the meeting. Secretary of State Keisling made the motion and it was seconded by Governor Roberts and unanimously approved. The meeting was adjourned.