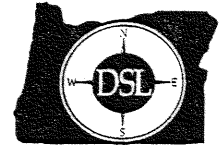


# Oregon



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DIVISION OF  
STATE LANDS

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The Oregon State Land Board met in regular session on December 12, 1995 in the Land Board Room of the State Lands Building, 775 Summer Street N.E., Salem, Oregon 97310.

Present were:

John Kitzhaber	Governor
Phil Keisling	Secretary of State
Jim Hill	State Treasurer

STATE LAND BOARD

JOHN A. KITZHABER  
Governor

PHIL KEISLING  
Secretary of State

JIM HILL  
State Treasurer

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775 Summer Street NE  
Salem, OR 97310-1337  
(503) 378-3805  
FAX (503) 378-4844  
TTY (503) 378-4615

<u>Assistants</u>	<u>Staff</u>	<u>Dept. of Justice</u>
Paula Burgess	Paul Cleary	Bill Cook
Cynthia Griffin	John Lilly	
Rollie Wisbrock	Steve Purchase	
	Gary Van Horn	
	Jenifer Robison	
	Gail Lowry	
	agency staff	

Governor Kitzhaber called the meeting to order. 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 N.E., Salem, Oregon 97310 (phone: 378-3805).

The meeting began with the swearing in of the new director of the Division of State Lands, Paul R. Cleary. Cleary thanked John Lilly for serving as Acting Director during the interim period, saying Lilly brought a high level of professionalism and competence to the table.

## Consent Agenda

**Exchange** Request for approval of a three-way land exchange involving common school forest lands and the underlying mineral estate located in Hood River County for county lands and minerals located within the Columbia River Gorge National Scenic Area for land and mineral estate owned by the U.S. Forest Service in the Winema National Forest and adjacent to Sun Pass State Forest.

**Administrative Rules** Request for adoption of amendments to the administrative rules for waterway leasing to establish an annual base lease rental rate for vessels used primarily for historical or educational uses.

**Scenic Waterway** Request for approval of a scenic waterway emergency removal-fill permit issued to the Oregon Department of Transportation for work adjacent to the North Umpqua River.

**Scenic Waterway** Request by Oregon Department of Transportation for a scenic waterway removal-fill permit to build a new bridge 1.7 miles downstream from the existing bridge in the town of Troy on the Grande Ronde River, a state scenic waterway.

**Minutes** Approval of the minutes of the October 3, October 26, and October 30, 1995 State Land Board meetings.

Director Cleary briefly explained each item on the consent agenda. State Treasurer Hill moved the consent agenda be approved. Secretary of State Keisling seconded the motion and the approval was unanimous.

**Asset Management Plan** Request for approval of the revised Asset Management Plan and authorization to continue work with the public and interest groups in developing specific Plan implementation measures for future review by the Land Board.

Director Cleary summarized the development process to date for the Asset Management Plan, which began in July of 1992. In 1994 the consulting firm of Cogan Owens Cogan was hired. In August 1995 a draft Plan was formulated. Six public hearings were held and oral and written comments were received. A special Land Board meeting was held in October 1995 specifically to review issues pertaining to the Asset Management Plan and the management of Trust and Non-Trust lands.

Cleary said the goals of the Plan are to improve resource stewardship, management efficiency, customer service and revenue generation. He said the Plan emphasizes asset management, not disposal, and recognizes the need for a positive, cooperative relationship with the lessees and other business partners. He said the lands have a tremendous range of values and uses. The Plan provides for this and allows the state to retain the necessary flexibility for the future--looking toward the long term. It stresses a conservative, incremental approach--no radical, overnight change. It balances resource protection and stewardship. Cleary said the people affected by implementation of the Plan would be involved in helping develop the implementation measures.

Four main concerns were expressed by the public. The first was the need to balance resource management and stewardship with revenue production. Cleary said the Plan clarifies the distinction between Trust and Non-Trust lands. It emphasizes flexibility for accommodating environmental and other concerns, while managing and maintaining lands. He said proper resource stewardship is not inconsistent with our trust obligations.

A second issue of concern was land sales and exchanges. Cleary said there are no plans for large scale disposals. He said the Plan proposes a "measure three times and cut once" approach to land sales. He said exchange opportunities will be evaluated fully, especially for forest lands.

A third concern was the waterway lease rates and unauthorized uses. Cleary said a task force will be used to develop a fair rental rate system. He said at the same time, unauthorized uses will be pursued to enhance revenue and maintain fairness and the credibility of the program.

The fourth concern was regarding forest management costs. Cleary said that the agency will work in a cooperative fashion with the Department of Forestry on reviewing and containing costs and by targeting investments and activities in areas with the greatest potential return.

Bill Montgomery, representing the Waterfront Owners and Operators Association and as an owner of a houseboat moorage on the Willamette River by the Sellwood Bridge, thanked the Board and the staff for their assistance with "confusing regulations and laws." He said the Association applauds the concept of a task force for the waterfront. He said he hoped the ten points listed under waterway management in the Plan would be subject to the task force evaluation. He also suggested there be a proper balance of commercial users, boat moorage users, and houseboat users on the task force.

Montgomery thanked the staff for cutting the Plan down to 25 pages--what he called "bite-sized chunks." He shared his concerns regarding an effort to remove houseboaters from the river. He said houseboaters' rights are not mentioned in the ten points presented in the Plan. He is concerned that in times to come, future staff may do away with houseboat uses. One way he felt this could happen is by raising the leasing rates, so that houseboaters would be forced off the river. Cleary said this is an issue that the task force will address.

Governor Kitzhaber stressed that there is no intent at all on just as a matter of policy to try to interfere with the ability of people to own or live in houseboats. He asked that the meeting record show this, in case there is any question in the future. Both Secretary of State Keisling and State Treasurer Hill agreed.

Ken Armstrong, executive director of the Oregon Public Ports Association (OPPA), said the Association is interested in participating in the task force for waterway leasing. They encouraged the Board and the Division to begin work on this immediately. He said OPPA is also interested in exploring the idea suggested in the draft Plan to have ports or other entities serve as property and lease managers of the state's submerged and submersible assets. Armstrong said a third area of study should be the general development and management of waterfront/upland property by the Division, which the Plan describes as having related management prescriptions under industrial, commercial, and residential property. He said this will be especially important if the Division pursues a more aggressive property acquisition policy. Governor Kitzhaber said the intent is not to be more aggressive in acquiring property as a land developer, but rather to maximize the return to the Trust fund.

Liz Frenkel, Sierra Club, expressed her gratitude to both Director Paul Cleary and John Lilly, Acting Director, for the very smooth transition. Frenkel said the following improvements in the draft Plan were appreciated: 1) the nature of stewardship, 2) the recognition for the need of a public process, 3) the watershed concept, and 4) the separation of the Trust and Non-Trust lands, making it easier to understand which lands come under what authority. Frenkel suggested that the accounting for the Trust and Non-Trust lands also be separated. Another request was that there be more reference to fish (specifically salmon) as state resources. She reminded the Board of the need to synchronize the Plan with the short-term agenda.

Avis Rana, Sierra Club, asked that language on page 13 be strengthened in the document so that more emphasis is placed on forest health. She agreed with Frenkel that fish are an important component of the healthy ecosystem, as well as the other creatures. She stated this would be consistent with the long-term Trust implications, since income in the future will be dependent on the trees being there and the system being healthy.

She asked that there be less emphasis on road building and more emphasis on protecting the land base for the natural forest ecosystem.

Frenkel asked that language in the paragraph on page 15, in Section 2 below the bullets concerning the rangeland leasing program be removed or placed elsewhere. She asked that "forage yield" be removed from the statement on page 15, Section 4, saying it implies that forage yield is a part of rangeland health. She asked that the words "in consultation" with the lessee be used rather than "in cooperation," in Section 5 concerning development of rangeland management plans.

Frenkel said the Sierra Club agrees with the need for a task force for waterways. She encouraged the Board to do a scoping to determine all the potential uses for the waterways, considering access, public trust issues, and fish.

She suggested that an audit be done to review the cost of the management and the return to the state for all activities resulting in revenue production.

Governor Kitzhaber said the suggestion from Frenkel regarding accounting for the Trust and Non-Trust lands was good and an easy one to accommodate. He said that synchronizing the Asset Management Plan with the short-term agenda also made sense.

Governor Kitzhaber asked that remarks made by the Ports, Mr. Montgomery and the Sierra Club be summarized by Division staff and these concerns taken into account as the Plan is being implemented.

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

Each of the Board members praised those involved for their work on the Plan.

404  
Assumption

Briefing on policy options under House Bill 2785 regarding state assumption of the federal Section 404 wetland regulatory program. Request for approval to submit a draft "placeholder" application to the Environmental Protection Agency (EPA) to assume portions of the federal wetland regulatory program now administered by the U.S. Army Corps of Engineers. Additional evaluation and future Board action would be required to activate the application for formal Environmental Protection Agency review.

Director Cleary explained that this agenda item was developed in response to legislation requiring the Division of State Lands to make application to the EPA by January 1, 1996 to assume the U.S. Army Corps of Engineers 404 permitting program. If an application is not submitted by the due date, or if it is not approved by the EPA by July 1997, he said the state would be barred from exercising permit authority in all major projects where the Corps requires an individual permit.

Cleary said the agency proposes submitting a placeholder application to assume the 404 permitting program by the due date. After the initial placeholder application is submitted, the Division would like to spend time surveying other states, evaluating all the options, talking with stakeholders, and then return to the Board with a recommendation to either trigger the formal EPA review or to withdraw the application. Cleary introduced Eric Metz, the Wetland Policy Analyst, to discuss the options open at this time regarding assumption of the 404 program.

Metz explained the four policy options under evaluation at this time, which are A) HB 2785 taking effect without state assumption; B) state assuming Section 404 permitting authority for "assumable" waters; C) state assuming Section 404 plus a state program general permit to cover tidal and commerce clause navigable waters; and D) retaining existing removal-fill program without assuming federal 404 program. He gave some hypothetical project examples, discussing what would happen under the various options. Metz explained that option D is not really an option, unless the Legislature repeals a portion of HB 2785.

Director Cleary said the agency would probably hold at least three meetings in various locations around the state to solicit public input. He said both Michigan and New Jersey will be contacted to discuss their experience with 404 assumption, as well as other states that have considered assumption and decided against it. He said the issue should be brought back to the April Land Board meeting for a decision on how to proceed.

Frenkel said the Sierra Club has no current position on the options at this time, but agrees with the Division's recommendation to submit a placeholder application in order to preserve state assumption as an option. She asked that public meetings begin immediately, that the public be urged to comment, and that each comment be made a matter of record, rather than summarized. Major issues she felt important include the cost of state assumption, navigability, state program general permits, and the role of tribal authorities.

John Lilly said written remarks were expected from Lyn Mattei, and would be distributed when they arrive. Lilly said there are plans for public forums early in 1996 to address the types of issues Frenkel presented.

State Treasurer Hill moved the Board authorize the Division to submit the draft placeholder application for assumption of the 404 permitting program by January 1, 1996, and that the Division return to the Board in the spring of 1996 with a full discussion of the implication of each of the options presented. Secretary of State Keisling seconded the motion. The approval was unanimous.

#### **Rangeland Program Report**

Director Cleary reported that cattle prices have gone down, so there will be a decrease of 23 cents per AUM for the rental rates for isolated parcels (to \$2.72). The lease rate for the large blocks will increase the rental rate 10 cents per AUM (to \$3.43). These rate changes are figured by a formula which will be subject to review by the grazing fee advisory committee appointed by the Governor, which should have its first meeting soon.

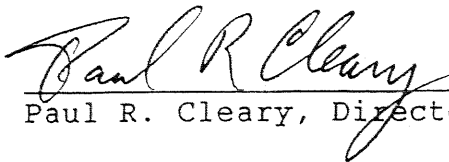
Cleary said the rangeland management plan working group had its first meeting in Lakeview in late November. They are using the management planning process to address concerns of rangeland health, appropriate stocking levels, areas that need rest or rehabilitation, and other issues. Cleary said the group is still seeking additional representation from an interested environmental group.

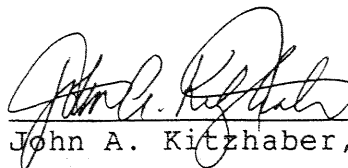
Cleary added that he had forgotten to mention previously that a faxsimile had been received from Senator Kintigh opposing increased purchases of private lands. Cleary commented that the Asset Management Plan is sensitive to this concern and that purchases will be rare--most offsetting sales of other lands.

Cleary introduced his wife, Jackie from Wyoming, and his parents, Bob and Doris Cleary from Beaverton.

Governor Kitzhaber ended the meeting by reciting a poem created in honor of John Lilly for his term as Acting Director of the Division of State Lands.

Governor Kitzhaber adjourned the meeting at 11:20 am.

  
Paul R. Cleary, Director

  
John A. Kitzhaber, Governor