

The State Land Board met in regular session on October 8, 1996 in the Land Board Room of the State Lands Building, 775 Summer Street NE, Salem, Oregon 97310.

Present were:

John Kitzhaber	Governor	
Phil Keisling	Secretary of State	
Jim Hill	State Treasurer	
<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	
	Jeff Kroft	
	Steve Moser	

Governor Kitzhaber called the meeting to order at 9:10 am. 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, Salem, Oregon 97310 (phone: (503) 378-3805).

Rulemaking Request for authorization to initiate rulemaking to replace expiring temporary rules with permanent administrative rules establishing a General Authorization for removal-fill associated with recreational placer mining within essential indigenous anadromous salmonid habitat.

Director Cleary explained that the proposed permanent rules for recreational placer mining in essential habitat would replace temporary rules that were adopted last April and expire in October. The rules would implement 1993 legislation that strengthened removal-fill requirements in essential habitat.

He reported that much field work was done this past year. One hundred and fifty requests for General Authorizations were made. This is estimated to be only a small percentage of those placer mining operators working in essential habitat. It

was determined that the public has a general lack of knowledge of both the essential habitat designation as well as permit requirements. Cleary said the observed noncompliance was really due more to of a lack of awareness rather than intentional. He said the Division's efforts need to be focused on increasing education through mining organizations, stores and newsletters.

Cleary said conditions imposed in the temporary rules for minimizing stream and fishery impacts had proven successful. The plan is to evaluate the temporary rules, revise the conditions if necessary, then solicit public comment prior to adopting permanent rules in February. At that point, the effort to work on an educational outreach will begin. He stated the request before the Board was to approve development of permanent rules and initiation of the public rulemaking process.

State Treasurer Hill moved the Board approve the recommendation. Secretary of State Keisling seconded the motion and the approval was unanimous.

Agency Briefing on Senate Bill 1132 State Land Board and Division of State Lands Management Study prepared by the Department of Administrative Services Budget and Management Division.

Director Cleary said this was a request from the 1995 Legislature for an independent evaluation to determine whether there other entities could operate the land management regulatory programs of the Division in a more efficient and cost-effective manner.

Cleary recognized the three authors of the study: Maynard Hammer, Mike Lincicum, and Satish Upadhyay, saying they did a good job in their review and produced a number of considered and common sense recommendations. He said a basic conclusion was that there wasn't a single entity or group of entities that could provide more efficient, cost-effective or publicly accountable management of the Land Board and the Division's regulatory programs. They concluded that the transfer of these programs would dilute other agencies' missions, require revenue transfers and result in coordination problems for the Board.

One concern that surfaced was the need to clearly distinguish between trust and non-trust revenues and expenditures to avoid any crossover funding of the Division's statutory and regulatory programs with trust revenues, which are constitutionally dedicated. Cleary said that the agency's revenue flow expenditure diagram has been revised to clearly show the three major streams flowing into the Common School Fund account--1) constitutional trust receipts, 2) statutory or non-trust receipts, and 3) unclaimed property and escheat deposit liability (not a revenue available for expenditure, but kept on account for future claim).

Another recommendation of the study was that the Board and Division should conduct an internal management review, with emphasis on performance standards. They said the Asset Management Plan is a good start. In response to this, Cleary said that a number of other planning efforts are either completed or underway and the DAS study recommendations will be incorporated into those efforts. He added that the agency will be incorporating the workload allocation and performance standards into the new computer system development.

The study further recommended that opportunities be sought out to expand partnerships beyond forest site management and the Oregon Natural Heritage Program. Enhanced partnership with the Parks and Recreation Department for sharing maintenance equipment and addressing land management issues at South Slough Reserve; as well as a partnership with the University of Oregon and Oregon Institute of Marine Biology for a possible co-location of a research laboratory at South Slough are two suggestions that the agency is pursuing.

Cleary said eleven specific program recommendations were made which will be considered as the agency makes any related activity recommendations to the Board.

Cleary reiterated that the authors did a good job and that the study provides suggestions that can help the Division improve its efficiency and program delivery. Cleary said no action was needed by the Board at this time.

Secretary of State Keisling recommended that Cleary meet with some of the key legislators involved in the 1995 passage of Senate Bill 1132 to review some of the conclusions of this study. He felt these meetings could pay dividends and help build a foundation for the next legislative session. Cleary affirmed he would do that.

State Treasurer Hill thanked the authors for the study saying it should put the agency on good footing with legislators.

Governor Kitzhaber also thanked the authors, saying the document should be very helpful down the road.

CSF Update on the Common School Fund investment policy and asset allocation study.

Director Cleary said it was hoped that the investment policy and asset allocation study by Wilshire and Associates would have been finished by the October meeting, but was not. Pending the completion of that study, now expected in advance of the December meeting, he said the agency is retaining the investable reserves in its short term investments. Cleary said the current cap for equity investments is 50 percent, though the Treasurer's Office is preparing legislation

to modify that cap, allowing more equity investment. The CSF equity investment level is currently at 42 percent or on a purchase cost basis.

Wilshire has been asked to study what would happen if the CSF were to be invested at a rate higher than 50 percent in equities--possibly 65 percent or higher. Another scenario they have been asked to research is how the Fund would grow if distributions were held at \$10 million per year with an inflation and enrollment growth adjustment factor of five percent per year. It is believed that the CSF could double in size in a ten-year period under this scenario.

Wilshire has also reviewed foreign bonds and equities. It is projected that they will perform at a lower return than the domestic market. Investment in these will probably be used to reduce risk and spread exposure.

Cleary said the Board can reduce the amount of money allocated to cash reserves and short term investments and plug that into longer term investments to generate a higher return.

Wilshire is also reviewing a request by the Legislature for distributions to the schools of an average of 8.8 percent per biennium (4.4 percent per year) Cleary cautioned that, in order for this to occur, the asset base (or trust corpus) would have to be used and some of the capital gains would have to be distributed, or all the CSF would have to be moved to bonds which he said would be a questionable investment strategy, because the corpus would not be protected against inflation.

Cleary said these are some of the scenarios that Wilshire is reviewing. He said it would be possible to review other scenarios if the Board has other thoughts.

A thorough briefing of the Wilshire Study will be presented to the Board at the December meeting for their review.

Consent Agenda

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| Rules | Request for approval of revised administrative rules regarding Procedures for the Recovery of Escheat Property and Administration of Unclaimed Property. |
| Scenic Waterway | Request for approval of an emergency scenic waterway permit issued to Wallace F. Hablou for erosion protection within the Clackamas River State Scenic Waterway. |
| Scenic Waterway | Request for approval of a scenic waterway permit for a minor streambank stabilization project issued to John McLoughlin and the Bureau of Land Management as co-applicant in the Rogue River Scenic Waterway. |

Minutes Request for approval of the August 13, 1996 minutes of the State Land Board meeting.

Director Cleary briefly explained the request for adoption of the revised administrative rules. He explained one change that was needed on the rules for Recovery of Escheat Property. This would change the text on the first line of page 9 of those rules to read "estate," rather than "state."

Secretary of State Keisling moved the administrative rules be approved with that one correction. State Treasurer Hill seconded the motion and the approval was unanimous.

Cleary then briefly explained the other items on the Consent Agenda to the Board. Secretary of State Keisling moved the items be approved. State Treasurer Hill seconded the motion and the approval was unanimous.

Navigability Status report on navigability issues.

Director Cleary updated the Board on activities since the June Board meeting when navigability study process rules were adopted. At that time, it was suggested that conflicts between waterway users and riparian land owners could be addressed through means other than navigability studies. One of the concepts to be reviewed was the "floatage easement." Three meetings of land owners and waterway users have been held with a facilitator. Assistant Attorney General Bill Cook is holding meetings with four other attorneys to reach some agreement on the legal aspects involved.

Cleary pointed out a news article regarding a controversy between land owners and waterway users, highlighting the need for basic rules for handling these conflicts. He said an approach is being sought that will accommodate and regulate public uses, respect and preserve private property rights, and encourage good stewardship and protection of the resources. He said a range of tools will likely be required because of varying ownership patterns, local conditions and historical use patterns.

One navigability study request has been made so far--for the John Day River between Kimberly and the confluence of the Columbia River. A report will be made in December on that request along with the outcome of the navigability stakeholder group meetings.

Real Estate Status report on property management, disposal and planning activities.

Director Cleary reported that evaluation of the exchange proposal with G.I. Ranch, involving 25,000 acres of CSF rangeland, continues and the public and agency review process will begin soon.

He briefed the Board on a small parcel of property owned by the Board in West Linn that has just been rezoned and that the community is interested in acquiring for a public park.

Cleary said a feasibility study was underway done in cooperation with other agencies to develop a plan for Government Island in the Columbia where the Board owns the submerged and submersible lands and the Port of Portland owns the uplands. He said recreational users' management problems and concerns were driving the study process.

He reported also that the agency is working with the Department of Administrative Services and Mental Health in Wilsonville on the Dammash Hospital site master plan.

The final item reported on was the pilot land sales project. Cleary said the agency is reviewing isolated, unleased, small parcels of rangeland to determine whether there is a market interest in them and what would be a cost-effective way to offer such parcels for sale.

Rangeland Status report on rangeland management plans.

Cleary said an advisory group was formed last spring to assist in developing a standardized rangeland management plan format. These plans for rangeland tracts will establish objectives, schedules and practices and monitoring for protection of rangeland health. Twenty-seven draft rangeland management plans for blocked acreage and wetland leases are undergoing final preparation and will be sent out for public review.

Removal Fill Status report of ongoing evaluation of potential state assumption of the Federal Clean Water Act Section 404 regulatory permit program and briefing on discussions with the Oregon Option program relative to regulatory reform/resource protection initiative.

Director Cleary reported on the ongoing evaluation of the 404 Assumption proposal, as required by 1995 legislation. He said the agency has been working aggressively on this with a stakeholder group that is meeting to evaluate the effects of the assumption and some of the options that could be considered. Cleary outlined the options, saying they would be presented to the Board in full at the December meeting.

Cleary stated the agency doesn't have the ability to fund 404 assumption under the current projected statutory revenue stream. If the 404 program is assumed,

he said it should be on the basis that the federal government will fund the state's increased costs, since it will benefit by the Division assuming the program.

Governor Kitzhaber adjourned the meeting at 9:47 am.

Paul R. Cleary, Director

John A. Kitzhaber, Governor