

**Roll Call of the States  
Western States Land Commissioner's Association  
Summer Conference**

July 23, 2007

Notes

**Mark Wilcox, President**

Western States Land Commissioner's Association

Mr. Wilcox welcomed the land office and beneficiary groups to the conference. He reported that several letters have been written to Congress from the Western States Land Commissioner's Association (WSLCA) on issues involving the lands held in the western states.

A resolution was adopted to recognize the long and committed service of Jim Whalen of Wyoming to the Association. Jim is retiring from the land office and will be taking a job with the Wyoming office of the Sonoran Institute.

**Dave Hebertson** showed the delegates the gift that a participant could win for successfully identifying the numbers behind the order of the Roll Call of the States.

**Texas, Jerry Patterson**

The results of the recent legislative session in Texas provided some new tools for land managers to manage the trust lands and assets. The legislature clarified the authority of the land office based on what the understood intent was when the office was created. After so many years, some of the statutes needed clarification. The State Board of Education manages the equity portion of the trust. They are required by the legislature to pay out a set amount for legislative appropriation to schools; resulting in a practice where the money sent to the permanent fund often goes directly to the legislature for appropriation - instead of being invested. There were discussions about the structure of two portions of the portfolio, and whether the portions are part of one fund or if there are two. Under the new changes, the land office can reinvest the annual revenues in real estate investments, and they are no longer required to send any money at all to the permanent fund for investment.

The generation of wind power and the resulting new leasing for that purpose continues to increase in Texas. A new off-shore lease near Galveston is doing well. Another has been cancelled due to buyout by a larger company, for whom the lease was not a priority. The land office is now looking for a new lessee.

The land office is looking to offer its first geothermal leases, now that they are more economical. Input from other land offices was requested to provide advice as the land office in Texas enters a new market.

There is an apparent slow down in the real estate market in Texas as evidenced by recent auctions.

The Winter Conference of WSLCA will be held in Austin, Texas, January 6-10, 2007. States were encouraged to come.

### **California, Barbara Dugal**

The land office is involved in a number of alternative energy projects, including offshore and onshore wind generation, geothermal and liquid natural gas. One offshore lease was turned down when the commission recently voted not to approve the lease.

### **Mississippi was not present.**

### **Wisconsin, Doug LaFollet**

The Common School Fund has reached the \$700 million mark. The land bank legislation that passed a couple of years ago in the Wisconsin State Legislature is now functioning. The land office is using the land banking mechanism to consolidate scattered parcels for better land management.

### **Minnesota, Marty Vadis**

The legislature funded a new land recording system that will be implemented over four years. They also increased the land office management appropriation. For the first time, the legislature decided to appropriate funds to administer the Morrill Lands from mineral royalties. The appropriation from mineral royalties became quite controversial as many argued it was not allowed in the grant. A legislative appropriation was also made to explore for potential carbon sequestration sites in Minnesota.

The land office has completed the last part of a land exchange of 10,000 acres inside of state parks for land in forested areas.

Mineral revenues this past year for the land office were the largest in history.

The Governor has asked the land office to become involved in a state acquisition of 3500 acres for a state park on Lake Vermillion. The property is owned by US Steel and had been planned to be developed as residential, prior to the state expressing interest in acquiring it.

### **Oregon, Louise Solliday**

Research into the possibility of energy generation from coastal waves is just beginning. Three permits for buoy fields have been issued. This action has met conflict with crabbers.

The in-lieu selection process continues in Oregon with another recent transfer of lands. There are now just 2200 acres to complete Oregon's selection and it is anticipated that the transfer could be complete by February 9, 2009, just in time for the state's sesquicentennial celebration.

In the ongoing saga of the New Carissa, a vessel beached on the Oregon coast, contracts have now been signed to remove it with barges.

Oregon just completed the longest legislative session in history, resulting in increases from the legislature for conservation projects. The Common School Fund is now valued at \$1.2 billion. In Oregon, all proceeds are invested. The way schools receive more money is by growing the fund, and schools have seen steady increases in the past few years.

### **Washington, Doug Sutherland**

The Washington legislature has directed the land office that they no longer want trust lands in commercial farms or orchards but would like the office to concentrate on forested lands. Timber prices remain strong but federal cutting continues to decline, creating increasing economic impact on local communities. Conflicts continue between environmental groups and harvesters. It is anticipated that the land office will be sued due to a decline in population of the spotted owl. Some believe that the real decline is due to a federal bald owl recovery program. Bald owls prey on spotted owls.

Washington has its own version of Oregon's New Carissa. Catala, a 320 foot long vessel, was built in the 1920s and used in conjunction with the Seattle World's Fair. In 1962 it was moved down the coast and served as a bed and breakfast operation. A serious storm broke the vessel and the decision was made in 1972 to cut off the top and remove it. The rest was buried on the beach and initially fenced. Over time the fence was removed. Some years later a man, walking along the beach with a cane, put his cane in the sand and it gave way. Upon further investigation, it was discovered that the oil tanks were spilling and the structure had decomposed. In the past year, the Catala has been removed, the beach cleaned up and restored. The process has moved a bit faster than for the New Carissa.

Washington is also experimenting with alternative energy sources, including geothermal, wind power, wave and tidal energy in Puget Sound.

**Arkansas, Mark Wilcox**

During the Arkansas Legislative Session, the Land Surveyor was moved from the land office to the Department of Agriculture. With a large surplus, the sales tax on groceries was removed. The governor proved to be an active advocate to resolve health care issues.

With the ten inches of rain Arkansas has received this summer, the croplands are primarily under water.

**Colorado, John Brejcha**

The land office is reporting the second largest revenue year in history this past year with 78% being generated from minerals.

The land office recently found, during a sale and acquisition involving a 24,000 acre ranch, that the appraised value of the land was increased when the lands were appraised as a consolidated parcel instead of in pieces.

As part of the Lowry Development Project, the board has just approved a contract with a developer for 4,000 acres of the total 26,000 acre parcel. It is anticipated that the project will generate \$328 million for the trust over the next twenty years.

**Louisiana was not present.****Oklahoma, Keith Kuhlman**

The Oklahoma land office reports the largest monthly earnings ever from oil and gas in June 2007. Perry Shofner has retired and has been replaced by Dave Shipman to oversee the oil and gas division.

The real estate division has some concerns about a recent attorney general decision that views land exchanges to be a sale. Land sales can only occur at an auction in Oklahoma. The position maintains that lands can be exchanged if they are an "in-holding."

The legislature attempted several times during the last session to secure increasing revenues from the trust and funnel it to pay a portion of teacher retirement. The land office and beneficiaries expect the concept to be revived in the future. The change would require enacting constitutional and enabling act changes. The land office continues to look for the right opportunity to reintroduce the concept of a total return investment approach.

**Arizona, Mark Winkleman**

Arizona is finding itself in a challenging real estate market. Still, the land office was able to generate the largest revenue in the history. \$600 million was earned from 4,000 acres of the 9 million acre estate. Of particular note is a lease to Volkswagen on property that had a grazing lease generating minimal revenues

on it, where Volkswagen will do proving studies. The lease will generate \$55 million over the course of the lease. Another upcoming project is a premiere mall site on 112 acres that will include a regional mall, tall office buildings and residential projects. Considerable legal and consultation work has gone into the project to prepare for an October 2007 Auction.

The City of Phoenix wants to purchase open space valued at \$80 million.

The land office is undergoing improvements. A new logo designed by the Arizona State University Graphic Design Department has been adopted to replace the 34 years old version.

Reform of trust land management in Arizona continues to be a hot issue. A bill was introduced during the last legislative session, but the bill never came out of committee. The governor has announced that she will now make it a priority and will be engaged in the discussions. The department also requested a legislative appropriation to fund twelve new positions. Six of the positions were funded.

A challenge the land office continues to face is the loss of employees to cities and private practice, due to an inability to offer competitive compensation to retain employees.

Arizona is fortunate to not be impacted seriously by the fire season. The monsoons have begun in Arizona so the fire season there is essentially over. Arizona fighters have been sent to Utah and Idaho, who are battling significant fires.

### **New Mexico, Patrick Lyons**

New Mexico is pleased to report \$473 million in earnings last year; of which \$447 million came from oil and gas. \$60 million has been collected from audits over the last five years. Mineral revenue is coming from oil and gas, sand and gravel and there is now interest in uranium. The legislature is supporting exploration and development of energy renewable resources. The land office has seven new wind energy leases, two solar leases, two biomass and some geothermal.

The Mesa del Sol project expects four new businesses and some residential development to begin in the next year.

The legislature, which approves the budget for the land office, has recognized that 36% of the oil generated in New Mexico and 26% of the gas is produced on trust lands.

### **Montana, Tom Schultz**

The land office in Montana manages 5.1 million surface acres and 6.2 mineral acres. \$95 million was generated from those lands in the past year. The revenues generated help fund education in a significant way.

The model for land banking in Montana came from discussions at prior WSLCA meetings. Mr. Schultz acknowledged the value of the organization in supporting one another as managers of trust lands in western states. Another idea that will help Montana came from the Washington land office. In the last session, the legislature approved a process whereby the land office may contract for forest harvesting. It eliminates the middle man, thus capturing a greater return for the beneficiaries.

The legislature also gave the land office increased authority to manage their surface leases to improve the management of weed infestation. The office can now manage the weeds and then bill the lessee.

A concern of the land managers is the increase in vandalism and dumping on the land. The office is not staffed to manage the problem. The legislature appropriated additional money to hire two recreational wardens to manage recreational use of the lands. If the work proves to be successful, the legislature may authorize additional people in coming years.

The Montana land office has responded to the issue raised earlier (about funding management of Morrill Act lands from mineral proceeds) by offering a decision by the attorney general in Washington that directed the legislature to pay back administrative costs to the beneficiaries from the general fund of the state.

The office generated \$32 million from oil and gas in the past year but continues to be concerned by potentially increasing surface regulations for sage grouse. At a conference in Wyoming, it was pointed out that a decline in coal bed methane production is imminent if proposed increases are adopted. In a new proposal the current 1/4 mile no surface occupancy could increase to two miles and the one mile timing restriction to four miles.

Under the land banking provision, 19,000 acres generated \$10 million. That allowed a land purchase of 20,000 – which includes a ranch near Mile City, Montana.

### **Nebraska was not present**

#### **Idaho, Kathy Opp**

The state's \$250 million surplus is rapidly being expended on fires. It appears the fire season is a month early, with no relief in sight.

Some float homes are located on public trust waterways. The legislature has capped the number that can be on the lakes at 200. To avoid rent control and to cover their investment, owners and businesses are buying them.

There was a proposal in the recent legislative session to change the constitution to allow equal footing for recreation on endowment lands. It did not pass but is expected to return. Public lands are currently open for recreation if they are adjacent to county roads.

Idaho has a new land board. They are quite focused and active in establishing asset management plans.

Funding management of Morrill Act lands has been discussed in Idaho, as well as some other states. Idaho will work with federal policy makers to convince them, that while the act states management cannot be funded out of the revenues, the lands are better off being managed like a business and out of resource revenues.

Long-term leases for "cottages" on pristine lakes in Idaho are due to come up for renewal in 2010. The cottages are currently being leased at 2.5% of the assessed value. The cottage owners are wealthy and influential. The land office is working with CLASS members in Idaho to demand fair market returns for the schools.

Timber generates approximately \$60 million annually and is 95% of the annual earnings. Local communities participate in preparing ten year timber plans where the timber harvest impacts them. Studies indicate that 45% of the workforce in these areas is eligible for retirement in five years.

Kathy Opp welcomed the delegates to Boise, Idaho for the annual joint conferences of WSLCA and CLASS to be held July 13-17. CLASS plans to begin their conference one day earlier.

### **Wyoming, Jim Whalen**

There were no representatives from the Wyoming land office. Jim Whalen, who has recently retired, encouraged participation at the WSLCA Conferences and annual CLASS Conference. CLASS is becoming increasingly active in Wyoming and Mr. Whalen expressed appreciation for their participation.

### **Alaska, Rick Thompson**

New rules for natural gas pipelines were put in place by recent legislatures that have resulted in some legislators being removed from office (after an investigation showed bribes were involved). The new governor ran on a platform that promised to change the pipeline and ethics bill. The issue will be at the forefront in the coming years as this popular governor seeks reform.

Alaska is looking to opportunities to generate revenue from wind energy as two new leases are expected to be issued shortly. Wave and tidal energy are also being explored. Mr. Thompson requested a workshop or panel at the January

conference, where an alternative energy discussion and sharing time could occur.

Pebble Mine is located in the headwaters of salmon fishing grounds where significant deposits of gold and platinum have been discovered. Exploration is showing a larger deposit than originally thought, but controversy related to fishing has prevented production to date.

The federal Bureau of Land Management (BLM) is working towards a 2009 completion date for lands that need to be conveyed to the state. They are just a few million acres from reaching completion.

### **Utah, Kevin Carter**

It is anticipated that the permanent fund will reach a billion dollars very soon.

Utah continues on the quest to complete congressional land exchanges. A proposal currently moving through the congressional process, exchanges 45,000 acres from the trust for 45,000 from the BLM. Schools will relinquish lands along the Colorado River corridor for mineral lands in eastern Utah. The legislation did not pass last year but has been reintroduced in this Congress.

In previous exchanges the trust acquired unpatented mining claims that the administration has been working to resolve. Some are so old they are actually hydrocarbon claims. Most have now been resolved.

The Utah land office has been undergoing a legislative audit. Two areas of concern noted by the auditors dealt with commercial development and executive compensation. The development issues were primarily due to the fact that a government agency was auditing a practice clearly out of the norm. Most of those concerns have been resolved. The compensation issue remains and has been highly publicized in the newspapers with editorials that clearly don't take into account the trust responsibility and how business standards can be applied to a quasi governmental agency.

Some controversy has also come to play with the wildlife community. A ten year memorandum of understanding with the Department of Wildlife Resources that granted access to trust lands with a small payment to the trust was due to expire. The parties involved could not agree on the value of access. Disagreement on the value of that access was ultimately quieted for another ten years when a new agreement was signed that escalated the payment for access. In another controversy, a piece of property was placed for auction after a private individual expressed interest in purchasing it. It is a parcel that fly fisherman seem to care deeply about. Ultimately it was purchased at auction for \$400,000 above appraisal by wildlife and conservation interests.

A few years ago, the Utah legislature amended the Off Highway Vehicle (OHV) License Fee and dedicated \$1.50 to the trust lands administration to prevent or mitigate OHV abuse on trust lands. Counties are able to use the revenue to perfect easements across trust lands as long as the county agrees to allow OHV traffic on the roads.

Another legislative change in the recent session amended mineral revenue sharing on lands acquired by the trust in a land exchange. The law now provides that the counties that gave up minerals in an exchange share in the mineral revenue on acquired lands as minerals are produced. This creates an incentive for counties to support land exchanges that involve loss of trust lands in their county.

### **South Dakota, Jarrod Johnson**

Jarrod is the newly elected land commissioner in South Dakota. The South Dakota land office manages 765,000 acres of trust lands with an office of six people.

The rains this spring produced good grazing conditions resulting in record surface lease auctions.

An increase interest in uranium exploration is creating a new task and opportunity for the state and land office to determine how the resources can be recovered in an environmentally sensitive way.

### **North Dakota, Rick Larson**

The North Dakota land office is preparing to adopt their first wind farm lease and they appreciate the assistance of New Mexico and Wyoming as they finish working out the terms of the lease.

The Bacon geological formation exists partly in North Dakota where gas is expected to be developed through horizontal drilling. Marathon and Conoco Phillips are both interested in being part of the development.

Half of the revenue from trust lands in North Dakota comes from minerals and most of the other half from investments. One way North Dakota grows the fund is by putting unclaimed property into the fund. The schools benefit from the investment until the property is claimed.

### **Nevada, Pam Wilcox**

Pam Wilcox thanked Assemblywoman Webber, who was attending the CLASS Conference, for her assistance in obtaining travel money so the land office staff could come to the WSLCA and CLASS conferences.

In Nevada not all of the compensation lands have been selected for the school trust. The lands have increased in value to the point that completing the

selection has become very political. The land managers are looking to CLASS members to help resolve the compensation lands issue.

The legislature appropriated \$250,000 for a new database system for land inventory. It will take significant time over the next three years to update the land records.

The value of the permanent funds is \$275 million. \$150 million has come from the sale of federal lands.

A Save Lake Tahoe campaign, planned in conjunction with its 110<sup>th</sup> anniversary celebration, has been overshadowed by a forest fire in the basin. About 250 homes have been threatened. The land office has worked for years advocating for more active management of the forest, knowing a fire would threaten the area sooner or later. It is unclear how the lake will be affected when moisture finally arrives in the basin.

### **Hawaii was not represented.**

This completed the roll call of the member states.

### **Reports from affiliated organizations.**

#### **Alaska Mental Health, Marcie Menefee**

Managers of the mental health trust have been through a challenging time without a full time executive director for the past three years.

Harvesting timber in southeast Alaska - where some of the Alaska Mental Health lands are located - is both lucrative and political. From 1956 to 1986 the legislature decided that the mental health lands should become state lands and then be conveyed to local communities. The mental health trust had the action reversed and have regained their lands.

Activity on the land continues to be a political challenge, since citizens often have a "not in my back yard" attitude. The trust managers continue to conduct land exchanges and are working on an asset management plan to help the office determine what lands should be sold and which are best retained.

There is continuing pressure to use trust lands for recreation but land managers responsible to a narrow beneficiary requirement find it difficult to justify recreational use without compensation.

**CLASS, David Terry**

The newly elected CLASS Board of Governors was introduced to the group. Dave Terry is the president.

The CLASS directors presented to the Conference of Western Attorneys General last August in Anchorage and are planning a presentation to the Conference of State Governments – WEST in September. CLASS continues to spread the message of trust lands to policy makers and member groups.

CLASS wants you, the land managers, to be successful and work to assist, provide feedback and run interference when political pressure escalates. CLASS thanks you for your hard work and ongoing support for the public schools in western states.

Dave extended a thank-you to the Utah land office for their patience and help in coordinating the two conferences, and especially thanked Dave Hebertson and Lynda Belnap with gifts from CLASS.

A number of guesses were made about the roll call order. Ultimately Elinore Schwartz from Washington D.C. correctly guessed the roll call order to be the number of commercial radio broadcast stations in each state ranked by the most to the least. He was awarded the gift, a cordless drill.