

CLASS Notes



Third Edition

Winter 2003

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Summer CLASS Conference - 2004

We are pleased to announce that plans are well under way for the 2004 annual CLASS Conference. We will focus this year on the financial portion of the trust portfolio with presentations from invited state treasurers and internationally recognized investment experts. In addition, Duane Black, Vice President and Chief Operating Officer of SunCor has agreed to provide a presentation on commercial and residential development. SunCor is currently participating in development projects with trust land managers in three states. Land commissioners and education beneficiaries will explore, through a panel discussion, the relationship between the two groups in a joint meeting titled *Working Together*.

We have made arrangements to hold the conference at the beautiful Salishan Golf Resort on the Oregon Coast where most meeting rooms have windows to enjoy the beautiful surroundings.

Put the dates of Sunday, July 18th thru Wednesday, July 21st, 2004 on your calendar now and plan to be with us. The first day will be the traditional Trust Lands 101 beginner/refresher course and, for the first time, will also include advanced workshops the first day. On Tuesday our conference meetings will be held at Taft High School where we expect to enjoy lunch prepared by nationally recognized award winning culinary arts students. Later that evening we will join the Land Commissioners at the Oregon Coast Aquarium in Newport for dinner.



Working Together

Trust Land Managers and Beneficiaries

Relationship building and effective communication are probably the two most important keys to being successful in life. That is no different for being successful in the land management and education professions.

As trust land managers in the west, we are tasked with the responsibility of generating revenue for beneficiaries to fund education. In Montana, funds generated from trust land management activities comprise about 10 percent of the state's share of K-12 school funding or about \$300 per pupil. Depending on an individual state's natural resource base, land management activities run the spectrum from mineral development (coal, oil, gas, gold, etc.), real estate sales, timber sales, agriculture, grazing, residential subdivision, commercial leasing, recreational use, conservation leasing/easements, dinosaur/fossil leasing, to geoduck harvest.

In Montana, the revenue generated from renewable land management activities coupled with interest earned from the permanent fund is distributed to the various beneficiaries annually, and forms the base from which the Legislature determines the biennial education budget. Because these trust land management revenues comprise the base funding, increases or decreases in revenue in any given year don't necessarily affect school funding in a given year. The remaining 90 percent of the state's share of the educational budget in Montana comes from the general fund. However, without these important trust land revenues, either taxes would need to be raised or other programs within state government would need to be reduced to maintain current levels of school funding.

As land managers, we have often talked about how to engage the beneficiaries to gain their support for activities that the department is proposing to generate revenue. As is the case in most controversial issues today, interest groups tend to line up on either side of an issue and advocate their interest in support or opposition of an action the department may be proposing. It is rare to hear support or opposition from the various beneficiaries on particular projects or issues advocated by the department. Land sales, timber sales, subdivision, grazing, and coal bed natural gas extraction at times tend to be fairly controversial issues with well-defined interests on the various sides of the issues. As a land manager charged with revenue generation for specific beneficiaries, I would appreciate improved communication with those beneficiaries, including vocal support of activities in the face of opposition.

States have different constructs for making decisions on whether to approve or deny various trust land activities. In Montana, Idaho, Oregon, and Wyoming, we have constitutionally mandated Land Boards comprised of the top elected officials in the state. Monthly Land Board meetings occur where issues are debated and the public is afforded an opportunity to comment on the various revenue-generating projects. In Montana, the conservation community has initiated a Land Board newsletter that reports on various Land Board activities and persuades their constituents to vote and advocate for certain positions as they relate to Land Board decision making. This newsletter is an effective influence tool that could be replicated by other interest groups, including the beneficiaries.

I started this short piece with an emphasis on relationship building and improved communication. That is the best advice I can give to the beneficiaries. Go and visit with your land managers. To quote Stephen Covey, "Seek first to understand, then to be understood." Learn what they do and how they do it. I think you will find that most trust land managers are deeply committed to their mission, which includes a deep commitment to the land. Ask the managers how you can best get involved. As I previously mentioned, I'd love to see beneficiaries testify at Land Board meetings, write letters of support, and start a Land Board newsletter. Continue to develop relationships over coffee and other social settings. Invite the land managers to learn more about the education profession. Many land managers have children in school or college and have a personal interest in improving schools, as well as improving funding. Find opportunities to support each other, including developing legislation in support of particular management actions or to change funding mechanisms. Creative partnerships will enable both the educational community and the land managers to leave a lasting legacy for future generations.

Tom Schultz is the Administrator for the Trust Land Management Division of the Montana Department of Natural Resources & Conservation. He resides in Helena, Montana and is married to his wife Carolyn. They have two young children (Michael and Magdalyne) and are expecting another child.

CLASS Report

In September, Kathy Phelan invited CLASS to present information to a group of state affiliates of the National Education Association. This group included North Dakota, South Dakota, Montana, Idaho, and Wyoming. They call themselves "The Northern Tier" states, or TNT for short, and they were well named because this powerful energized group was dynamite.

Jean Hayek and Margaret Bird shared the school trust land message:

- There are millions of acres of lands granted to SUPPORT schools in these states.
- Each state has a permanent fund composed of proceeds from the lands.
- If education wants to optimize their land and investment revenue, they will need to be involved with the Land Commissioner and Treasurer in their state.
- Being involved can return enormous benefits. Some states with active educational beneficiaries now generate five times the revenue they made prior to education becoming involved.
- Education leaders are beginning to look at ways the trust land revenue can enhance education rather than supplant other sources of revenue. Specific examples were shared of states with programs to provide teachers with needed tools to enhance the educational opportunities for children with these funds.

The meeting was held at the Whitefish Resort, probably one of the prettiest places in this world and right in Kathy Phelan's hometown of McCall, Idaho. CLASS hopes to see several of these education leaders at the July 2004 CLASS conference.

The combined efforts of Renata Wittee, Mark Townsend and CLASS, with the support of many others, have resulted in National PTA scheduling a School Trust Land workshop at the annual National PTA Convention to be held in Anaheim, California, June 26-28, 2004. The workshop will provide an important opportunity for PTA state board members in many states to learn about school trust lands. Paula Plant, CLASS Director, will make the presentation with the assistance of current and immediate-past state PTA presidents. We are very pleased about the opportunity and thank all who worked to make it possible.

“Permanent” School Funds -

Or “Why Education Should be Informed to Keep the Funds Permanent and Productive for Schools”

In these times of state budget deficits, revenue shortfalls, and cuts to educational funding, there is a little noticed and long neglected silver lining for education leaders. Do you realize that there are over \$32 billion in endowment funds, which have been set aside to provide financial support for schools? In many of our states, the prudent investment of these endowment funds and the proper use of the income may determine whether our school systems will be adequately funded in future years.

Before most of the western territories joined the United States, Congress and the voters passed a statehood or enabling act to lay out the conditions the territories had to meet in order to qualify for statehood. The territories had to agree to set up a legislature, courts, and an administrative structure of state government. Almost unnoticed was a grant from Congress to the new states of one square-mile sections of land for the support of public schools. These land grants were given the new states to compensate them for their inability to tax federal lands for the support of public schools. These enabling acts also provided that the proceeds from the sale of any state school lands would be held in a permanent trust fund only the income from which could be used for the schools.

Your State Treasurer, according to provisions of your state constitution and subsequent governing statutes, is usually the person responsible for investing these “Permanent” school funds. The fund should function much like an endowment or trust fund with the proceeds from the investments going to schools and with the principal of the fund being held in perpetuity. However, State Treasurers can only invest these funds according to the restraints imposed by state law. Some of your states may have provisions that require the funds to be held in short term money market instruments like other state operating funds. Such an investment framework would not allow your State Treasurer to invest your permanent fund for maximum income or long-term growth. Other state laws may only allow investment of the permanent funds in bonds and other fixed income securities. Without provisions that allow for the investment of permanent school funds in equities or reinvestment of some of the income back into principal to cover erosive effects of inflation, you may find that your fund is diminishing in value over time.

As education leaders in states with permanent school funds, it is important that you be well versed on the state legal restrictions to the investment of your permanent school funds. It only makes sense that your permanent school funds should be invested using the same long term principles, asset classes and strategies as are used in the private sector to invest endowment, trust and retirement funds. You may want to look at whether your fund is growing at least as fast as inflation. Otherwise, your purchasing power with this fund is diminishing over time. You may also want to look at the demographic projections for your school age population. If you find that your fund is not growing at a rate equal to or greater than your school age population, it will be having a smaller and smaller impact on your schools each year.

Almost every enabling act refers to the fund established with the proceeds of the school lands as “Permanent.” Most of your state constitutions have a provision requiring the state to indemnify the school fund from loss or diversion. If this is the case in your state, you educators need to know this so you can help protect and enhance your permanent fund. Despite such constitutional guarantees of permanence, the 2003 legislative sessions saw attempts by state legislatures in several states to “borrow” or appropriate from these funds. A watchful, well-informed educational community will be key to protecting these funds from future loss or diversion. Your State Treasurer, or whoever is responsible for investing the permanent school fund in your state, is bound by fiduciary duty to act with undivided loyalty to the schools on the protection and prudent investment of the school fund. He/she will be grateful for the support of the education community in protecting the corpus of the school fund and modernizing and updating the principles and practices used to invest the fund so that investment return can be maximized. At one time, most states in this nation had permanent school funds. Now only the western states still have their \$32 billion in permanent school trust funds. These funds must be protected and invested prudently to help ensure the funding base of our public education system for the future.

Arizona's Trust Lands

Over the last two years an intense negotiation has been taking place over the appropriate use for the 9 million acres of land that was given by the Federal Government at statehood to the state in Trust to benefit Arizona's common schools. Participating in the negotiations has been a number of stakeholders who have a very vested interest in the outcome. Among the participants are ranchers with a grazing interest, developers looking at state trust lands as the next logical arena for major development to meet the needs of Arizona's exploding population, conservation organizations seeking assurance that unique trust lands are set-aside for preservation for future generations, county and city governments whose sphere of influence over land use and master planning is bumping up against state trust lands on their outer borders, the state land department who has the constitutional fiduciary responsibility to maximize benefits to the trust, and the education community as the major beneficiary from the sale and lease of trust lands.

After months of discussions among the participants, an agreement has been reached on future uses of state trust lands. This agreement must now be turned into reality through both statutory and constitutional changes adopted by the Arizona legislature and approved by the voters. There is still a tremendous amount of work to be done, but the agreement represents a major milestone toward successful management and increased benefits to the Trust. Under a previous voter approved law, all the interest earned from Trust investments now goes into the Classroom Site Fund for the benefit of teachers and classroom operations.

The key features of the current agreement are:

- Establishment of a new Board of Trustees to set policy for the Land Department, approve annual budgets, approve conceptual land plans prepared in conjunction with general and comprehensive plans of local communities, approve 5-year disposition plans and oversee major dispositions.
- Operational funding for the state land department from a constitutionally specified percentage of the annual proceeds from the disposition of trust lands. The goal is to make the Trust management self-supporting.
- Creates a land-use planning process for state trust lands that incorporates existing fragmented state and local planning processes and allows the state land department to classify land within the planning areas as 'conservation suitable' or 'development suitable' according to objective criteria. Trust lands identified as 'conservation suitable' will be permanently conserved without direct monetary payment to the Trust when economic value in the form of development entitlements is irrevocably obtained or other compensation deemed adequate by the Board of Trustees is received.
- Provides the State land department with a broad range of disposition tools beyond the current constitutional requirement to sell at public auction to highest bidder. Such tools as exchange, long-term development leases, partnership agreements, and infrastructure set-aside are included.
- The current constitutional limit of ten-year grazing leases will be expanded to include leases up to 25 years where the rancher has agreed to a 'conservation stewardship' overlay on the lease land. The stewardship program can be a joint management agreement between the rancher and a conservation organization.

- The Trust will designate specific trust lands that will be permanently set-aside, without direct compensation to the Trust, as conservation/preservation lands. Land designated for preservation will have the development rights removed from the land. The Trust board will have the authority to consider 'conservation compatible' uses such a grazing, transmission line corridors, pipelines, or any other use that does not include vertical development (buildings).

The agreement is now being drafted into both Constitutional and statutory language necessary to fully authorize the specifics of the agreement and will be submitted to the Arizona Legislature during its next regular session, which begins in January 2004.

Michael C. Smith
Arizona School Administrator

Alaska

I wish I had good things to report from Alaska. Since the summer conference I have spoken to the NEA president and the AASB (Alaska Association of School Boards) president and to a couple of Legislators. Involvement in School Trust Lands issues is a difficult sell until we have better Alaska specific information to pass on. I also did the PowerPoint presentation *School Trust Lands – Revenue for Schools* for the delegates of the Alaska PTA Legislative Issues Conference, it was a "that amount is not enough to do much with response". Like many states we have a huge deficit to overcome and 8.5 million seems to be not enough to illicit a response.

Suellen Appellof
President, Alaska PTA

California

California School Boards Association policy and legal staff members have conducted extensive research around the issues raised at the July CLASS conference. They also have met with our Land Commission office to learn the history from the commissioners' perspective, as well as to understand the current practices for handling trust lands in California. They have made several recommendations for our association board of directors to consider in order to strengthen the management of the lands and improve the revenue to schools.

Following the CLASS conference, the Pacific Region states of the National School Boards Association met in Seattle. We discussed and approved for submission three draft resolutions for NSBA to consider when its Policies and Resolutions Committee meets in January. The resolutions are essentially to direct the federal government to 1) Complete the Grants, 2) Expedite the Exchange of Lands, and 3) Ensure Payment of Royalties to Schools, not States.

The resolutions will be reviewed and updated at our December meeting, based on research conducted by the state associations since the July conference.

Dan Walden
California School Boards Association

Colorado

Our advocacy work in Colorado is starting to gain momentum and gain attention in the legislature. The Joint Budget Committee requested a brief from us on what our plans are with reforming Colorado's School Land Trust. That presentation is summed up in the following:

Dilemma

For an asset with an estimated worth of \$4 billion, we currently receive a return on that investment at less than 1% or \$30 million annually. Additionally, the Permanent Fund, which is now at \$330 million, is not growing at the rate of inflation, all interest is stripped off every year, and the only revenue going into the Fund is from state mineral royalty payments, which was \$16.6 million last year. Land sales no longer contribute to the Fund, because the Land Board has the option and chooses to purchase new land with that revenue. The State Board of Education knew that the only way to make significant change for the better for the beneficiary was to engage a coalition of all of the parties involved, so representatives from the State Land Board, the State Treasurer's Office, and all major education organizations agreed to commit to a long-term effort of reforming our School Land Trust for current and future generations of public school children.

Actions Taken

The committee has met monthly since the summer of 2002 and has explored policy options in land management, fund management and the disbursement of the revenue to the schools. The committee was involved in recommending legislation and supporting its passage in the last legislative session to cap interest generated from the Permanent Fund at \$19 million, and any remainder will be used to grow the corpus. The Treasurer's Office predicted that the Permanent Fund interest would not reach that cap for a few years. The committee also supported the Land Board's request for a budget increase in order to hire a planner to develop the Lowry Bombing Range — one of the school land trust's most valuable parcels. The committee has also been active in educational outreach to local school board members through several conferences as well as to teachers and other professionals through presentations at Colorado Education Association.

Recommendations

Some of the areas we intend to focus on in the next legislative session are as follows: 1) Support an increase in the Treasurer's flexibility to invest the Permanent Fund in more lucrative investments than government bonds and securities. This will not only grow the Fund in the long run, as other states have experienced, but will also create an incentive for the Land Board to diversify and invest some proceeds into the Permanent Fund rather than only buying new land. 2) Engage local school districts in the importance of this asset by identifying and reporting the revenue stream generated from trust lands when they receive their per pupil operating revenue (PPOR). 3) Continue to work collaboratively with the Land Board ensuring accountability to the beneficiary at the same time serving as their biggest supporter in identifying ways to increase revenue to the schools and support opportunities to sell or exchange farm lands for lands with commercial development potential or land rich in mineral resources.

Future recommendations may include the following: 1) Move all lease revenue that currently is distributed to the School Finance Act annually into the Permanent Fund to grow the corpus over time and spend only the interest earned on the Fund, or a portion of that interest, for the schools. This would affect short-term revenues but in the long-term, the future

interest generated from the Permanent Fund will surpass current revenues. 2) Earmark the schools' share of trust revenue either to a specific purpose or allow the schools to determine that purpose, as in Utah, so local communities can point to the value of the trust lands and become advocates and good stewards of these lands when other users attempt to damage the lands or request to pay less than fair market value for them. This will also create more of an incentive for the Land Board to increase revenues, since their efforts will be recognized by the beneficiary, instead of becoming one part of the school finance formula.

Karen Gerwitz, Executive Director
Colorado State Board of Education

Montana

In the most recent land board meeting I attended there was some discussion and controversy over a proposal to sell school trust lands near Kalispell Montana. A group of citizens from Kalispell shared their interest in selling the land. The sale would bring in a great deal of money. The revenue would go to the general fund, which may or may not go to education. Individuals from Montrust pointed out that the land belongs to the school children of Montana, not the residents of Kalispell. It was the first land board meeting I have attended and I found it to be very interesting. Attending the 2003 CLASS Conference gave me the background to be informed on the basic issues. I have found another PTA friend who will help in attending upcoming land board meetings when I am unable to attend.

Maggie Walters
Montana PTA

Utah

We are preparing for the 2004 Utah Legislative Session that begins in mid-January. The two bills the beneficiaries are running focus on the permanent fund. Representative Dave Clark has agreed to sponsor both. In Utah an Investment Advisory Committee is created in statute. The committee is made up of representatives of the trust beneficiaries. Their responsibility is to advise the state treasurer, Ed Alter, who is constitutionally charged with investing the fund. The first bill will add a representative from the Trust Lands Board of Trustees to the committee creating a link between those that make the money and those that invest it. In addition the committee will move from an annual meeting to quarterly meetings. The bill will seek legislative approval to allow the treasurer to hire active money managers to invest the international and small cap portions of the fund.

In addition, we have learned that in Utah any interest that accrues on the funds (Uniform School Fund) that go to education does not stay with education but goes to the General Fund of the state. The annual interest and dividends from the school trust permanent fund is also deposited into the Uniform School Fund because it is a revenue to schools. Sweeping the interest on the trust distribution for General Fund purposes is an oversight but is clearly a violation of the Enabling Act and Constitution. The second bill will create a restricted account within the Uniform School Fund so any interest on school trust money will stay with schools.

Paula Plant, School Trust Lands Specialist
Utah State Office of Education

Washington State Update

The Draft EIS on the alternatives for the sustainable harvest policies for our school trust lands were released on November 10th. None of the six alternatives were found to be in violation of either federal or state environmental regulations. We are now going through a 40 day public comment period with public meetings being held throughout the state. The board of DNR will hold three workshop board meetings (December, January and February) and is scheduled to select their preferred alternative at a special meeting on February 17th. Following this a Final EIS based on this selection will be made with a projected final adoption at the June or July DNR board meeting.

It should be noted that DNR board may select components from several of the alternatives rather than simply going with one. The DNR staff has created a massive computer model of all the trust lands including the types and ages of the timber stands and the various characteristics of the land on which the timber stands. Thus, the DNR board may ask for the staff to recalculate a blended alternative and will be able within a short period of time to get a report showing the impact of such changes.

Also notable is that the alternative of continuing the present policies produces the lowest income for the beneficiaries. Thus, I predict there will be a significant change in our trust lands management over the next ten years when this is finalized.

To see more details on this, go to the DNR web site: www.dnr.wa.gov and select the Sustainable Harvest Calculation section.

Quent Goodrich, *Chairman*
School Trust Lands Task Force