

# CLASS Notes



Volume 5

## A Land Exchange Proposal for the 21<sup>st</sup> Century

Fall 2004

The Executive Committee of the Western States Land Commissioner's Association (WSLCA) has developed a white paper outlining the need for a new, improved land exchange policy and process for state/federal exchanges. The issue has been identified by the association as a top priority and the goal is to petition Congress to address the issue. Commissioners intend to demonstrate that the current process is broken, and a new process must be adopted and prioritized by the federal government. The new process must efficiently move in-held and captured trust lands out of federal designations that prevent the lands from being revenue producing and threaten the federal management intentions of surrounding lands.

Outlined in the proposal are the benefits for both entities and the hurdles that must be overcome to facilitate the timely completion of land exchanges. The proposal and associated strategy will be discussed when the WSLCA assembles in Arkansas for their annual January meeting.

Beneficiaries will see increased opportunities for growth in the respective school trusts if Congress adopts such a proposal. Progress updates of the proposal will be provided through regular CLASS communications and conferences. This is an opportunity for beneficiaries to support and perhaps augment the efforts of state trustees by staying in communication with respective land offices and offering support as the proposal moves forward.



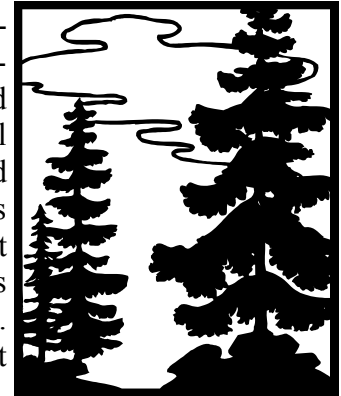
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## Timber Receipts—Revenue for Schools

A major revenue stream for schools in forested areas of the United States has historically come from the sale of timber from federal public lands. As the volume of harvested timber has been substantially reduced over the past decade so have the revenue-sharing payments to schools and counties. Increased appeals on Forest Service actions have contributed to reduced harvests.

In order to mitigate the impact of lost revenue from federal timber sales and provide a stable revenue stream to schools and counties, the Secure Rural Schools and Community Self-Determination Act of 2000 was enacted. The legislation guarantees that affected counties will receive at least 80% of the average of the three highest state revenue-sharing payments since 1986 by making up any difference from un-obligated Federal Treasury funds. Each state legislature establishes the percentage of the total that schools and counties each receive and sometimes stipulates what the school revenue will be spent for. Counties use the revenue for road maintenance and construction. The remaining twenty percent is also available to counties, where applicable, to be used for forest restoration, maintenance or stewardship projects such as noxious weed control, road construction, water quality improvement etc. Such a project is selected and approved locally and must fit within the established forest plan.



Forest receipts count against the PILT (Payment in Lieu of Taxes) payment received by some counties in particular categories. The program is optional, allowing counties to participate under the new law or to continue under a prior provision. Counties decide if they will participate and legislatures decide how the revenue will be divided between counties and schools.

For rural schools relying on revenue from forest products the act provides a stable revenue stream. The revenue to western states in 2000 ranged from less than 100 dollars in North Dakota to over 76 million dollars in Washington State. For a listing of revenues to counties in each state go to

<http://www.forestco.tcde.tehama.k12.ca.us/financial.html>

Counties and state departments of finance have information about how the revenues are divided in the state between schools and counties and any state specific requirements for expenditure of the funds.

The editor wishes to express appreciation for assistance in preparing this article to Calli Daly, legislative assistant to Senator Larry E. Craig of Idaho and Mark Walsh of the Utah Association of Counties

## State Reports

### Oklahoma—Cathy Post

Oklahoma PTA

The Land Office continues its work to acquire the Lake Texoma Resort properties from the State Tourism Department and the Corp of Engineers. The Oklahoma Commissioners of the Land Office (CLO) is investing permanent funds in this property and treating the acquisition as a part of its investing portfolio. Income will be generated from the leasing and sale of portions of the lands to development companies.

Our oil and gas income continues to increase due to the high prices of oil and natural Gas. The agricultural lease auctions for 2004 were just completed with an average increase of about 10% over the last contracts offered.

Pressure from certain counties continues for the CLO to pay in-lieu ad valorem taxes. The in lieu ad valorem taxes are property taxes paid to counties on state trust lands by the state. The counties argue that the payments coming from the state are not enough and that the trust or the lessee should pay the tax. This is a very important issue and brings into play the concept of who the trusts funds are designated for and the duty of the trustee to have undivided loyalty to the trust beneficiaries. If monies are paid by lessee's to the counties as an in-lieu ad valorem payment or if the CLO pays those funds then it can be argued that the trust beneficiaries have not received the full market value or income from the properties.

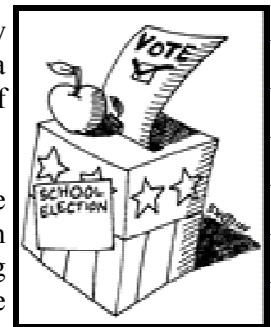
Oklahoma PTA has been visiting with the Land Commissioners on being consistent attending the Trust Land Meetings. We have had several cancellations due to lack of a quorum. We emphasized the importance of these meetings to benefit our school children and future generations to come. Since we have made contact with them, we have had two consecutive monthly meetings.

### Washington—Quentin Goodrich

Chair, School Trust Lands Task Force

The November election results were good for our key people: Senator Murray was re-elected, Lands Commissioner Doug Sutherland was re-elected in a close contest with an extreme environmentalist, and our Superintendent of Public Instruction, Terry Bergeson was re-elected.

The Department of Natural Resources board adopted a ten year sustainable harvest plan which increases the average annual harvest on trust lands from 450 million board feet to 597. The down side is that DNR will be requesting the legislature to increase the management fee from 25% to 30% due to the increased costs of ramping up to meet this harvest increase. The Lands Commissioner has appointed an Independent Review Committee to evaluate their management fee before bringing this to the legislature. This committee has had two meetings which I have attended. At the first meeting each of the beneficiaries made presentations. I was honored to be selected to represent the Common Schools. Their next meeting in November will be to draw their conclusions and recommendations.



## Idaho - Sherrie Feist

Idaho PTA

Upon returning from the CLASS conference, I wrote up a list of recommendations for Idaho PTA while things were fresh on my mind. Here are some of the things that we have accomplished since the conference and some that we hope to accomplish.

Idaho PTA met with IEA and other educational organizations. While PTA and IEA were excited to form a coalition to be a more active force in school trust land issues, the other organizations didn't have our enthusiasm. If they would have been to our conference, I think they would have caught our vision. It was decided to spend this year educating ourselves on the school trust lands. The Idaho Director of Lands, Winston Wiggons, sent me a book, "State Trust Lands" by Jon A. Souder and Sally K. Fairfax which has helped me immensely.

I have kept in communication with the Land Board on a couple of issues in Idaho. The first is an exchange of land from the Boise foothills for more profitable timberland in Northern Idaho. This seems to be a good trade for the school lands. The second issue deals with land in Southern Idaho that might be turned into federally protected land. I reminded the land board representative of his fiduciary duty for trust lands. We will see what happens.

At the PTA level, I have started a series of articles in our state newsletter about school trust lands. We will be passing a position statement on Nov. 13 about school trust lands. (Thank you Oregon for your help!) I have also been asked to give a workshop at State Convention about school trust lands.



## Colorado—Karen Gerwitz

Director of State Board Relations—Colorado State Board of Education

As we reported in the last CLASS update, the Steering Committee had the opportunity to present various policy options to the Joint Budget Committee members of the Colorado Legislature. They asked the Land Board to address the conversion to an enterprise or a more independent authority. They were also interested in exploring an equities strategy for the investment of our Permanent Fund. The Steering Committee was honored to be asked to provide a response to the Land Board's report regarding these issues. From the increased interest I have seen on the subject of the school land trust, I predict this legislative session will be positive for our cause.

The Treasurer has sent out a news release recently regarding his interest in moving lease revenue directly into the Permanent Fund. He has agreed to present his ideas at the next Steering Committee meeting, but by the sound of it, it seems like something the Steering Committee has been supportive of for some time.

We continue the education efforts by making presentations to PTAs, the teachers union and our local school board association. We will take any opportunity we can to educate legislators on the issues. This will be even more of a daunting task this year, as the new leadership in both the House and Senate have changed parties to Democrat.

## Wyoming—Marguerite Hermann

### Wyoming PTA

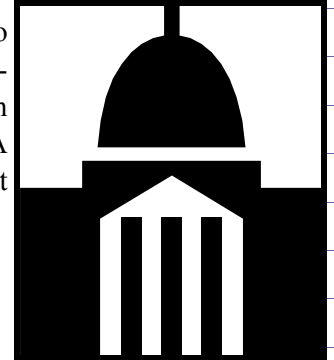
The Wyoming Senate Agriculture Committee will sponsor a bill during the 2005 session that would set up a task force to investigate ways to better manage school trust lands. The agricultural community is opposed to changes in the programs and staff of the Office of State Lands and Investment and is expected to oppose this bill. The version of the bill, as it emerged from interim work, sets up an 11-member task force that includes just one designated beneficiary - a member of the Wyoming School Boards Association (WSBA) - and four user interests. One is at-large and the other five are the top five elected officials, who make up the Board of Land Commissioners.

The attorney general has issued an opinion saying it would be constitutional to set up a self-funding system for managing trust lands, so the task force can consider that. The task force also would get \$750,000 to protect the land and increase income.

School trustees have never been particularly interested in school trust lands in Wyoming. However, a Wyoming PTA rep and state Land Director Lynne Boomgaarden are on the agenda for the WSBA fall conference Nov. 18 in Casper to talk about trust lands and the legislation. We also will talk about CLASS and promote attendance at the next conference.

As you may recall, the Wyoming Supreme Court ruled in June 2002 that school trust lands in Wyoming were simply a statutory trust - their status was established in law and could be changed by legislative action. We have seen a couple of proposals that would erode the trust status. One was a request by the beleaguered sugar beet industry to buy gas produced from trust lands at cheap prices, with the promise to pay back the difference later. The proposal lacked sufficient research and guarantees, however, and the Land Board denied the request.

The Land Board and its staff realize they need a more proscribed process to make decisions for prudent "total asset management." They need a consistent, strategic system for making decisions. So they have hired Pedersen Planning Associates of Encampment, Wyo., to develop a decision matrix. A report is due April 15, 2005. Agricultural interests have expressed fear about changes that will affect their use of trust lands.



## Utah—Paula Plant

### Utah State Office of Education, School Trust Lands Specialist

The school trust land priority for education groups in Utah at the present time is to remove a financial limit on the annual distribution from the permanent fund that funds the School LAND Trust Program. The annual distribution has not yet reached the \$12 million limit imposed by the 2003 legislature but could in the current fiscal year. Parents and educators from schools across the state, who make the decisions about how to spend the money to improve academic achievement under the program, questioned candidates in this election cycle to determine if they will support removing the limit so local schools may continue to capture the growing revenue. School trust land issues have become a campaign issue for governor, congressional and legislative candidates. As a result it has become both a challenge and a great opportunity to provide education about school trust lands to potential policy makers.

A bill has been introduced in Congress in the past month that proposes a process for exchanging school trust lands out of the Colorado River Corridor in the south-east portion of Utah. If the bill passes, the school children will acquire mineral lands in less sensitive areas.

## **CLASS Report - from the Directors**

### **Good News!**

We just received notice that the congressional earmark for CLASS has passed. A special thank you to Quentin Goodrich and Martharose Laffey of the Washington School Directors Association for working with Senator Murray to submit and support the earmark request and to Representative Cannon of Utah for making it a priority in the House. Many CLASS participants sent letters in support of the earmark as did Senator Craig and Representative Simpson of Idaho, Senator Regula of Ohio, Senators Bennett and Hatch and Representatives Cannon, Matheson and Bishop of Utah. A special thank you is also in order for Director Kevin Carter of Utah and Allen Freemyer for helping us set up visits in Washington D.C. and navigate the processes of congress.

During the trip to Washington D.C. directors also met with Carol Raulston, Senior Vice President with the National Mining Association and Michael Flannigan of Rio Tinto about the potential of financial donations and grants from business and foundations.

### **WSLCA Supports CLASS**

The Western States Land Commissioner's Association voted in their July business meeting to become an associate member of CLASS and provided a \$10,000 payment. The funds have made it possible to hire Ruth Stevens, a part-time assistant to help with business operations and planning of the 2005 CLASS Conference. We wish to extend our sincere appreciation to the commissioners for their support.

### **CLASS 2005 Conference Moves to Breckenridge, Colorado**

The Office of the Colorado State Land Board has decided to move the summer 2005 WSLCA Conference from Durango to the beautiful Breckenridge Ski Resort in the mountains west of Denver. The land office has graciously agreed to negotiate a contract on behalf of CLASS in order to hold a concurrent conference at the Great Divide Lodge **July 24-27**. Rooms are expected to be \$95 per night. For details on the area and hotel go to <http://greatdividelodge.com>



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