

CLASS Notes



Volume 6

Spring 2005

Welcome to Breckenridge

and the 2005 Annual CLASS Conference

The fifth annual CLASS conference is scheduled to begin on Sunday, July 24th, 2005 in Breckenridge, Colorado. It may be the best CLASS conference yet! CLASS Directors and the Advisory Committee welcome you all to register and plan to attend.

Highlights of the conference include the following:

- Understanding land exchanges, an important tool for land managers in positioning trust lands to be revenue producing. Jim Hughes, Deputy Director of the Bureau of Land Management and Kevin Carter, President of the Western States Land Commissioner's Association will provide the federal and state viewpoint explaining the need for exchanges, road-blocks and solutions, ongoing efforts and how beneficiaries can most effectively be involved. CLASS Director, Margaret Bird will also present research results of trust lands captured in state and federal designations that are significantly limited from producing revenue.
- Roy Andes, attorney for Montrust, will provide training for first-timers and for advanced participants explaining trust law and the important role beneficiaries.
- Roundtable - how beneficiaries are creating advocacy for prudent trust management .
- Results of recent research on trust lands conducted by the Sonoran Institute and the Nature Conservancy will be presented at a forum of CLASS and the Western States Land Commissioner's Association (WSLCA).
- CLASS participants are invited to attend the Roll Call of the States with the WSLCA. CLASS will conduct their own Roll Call of the States where representatives of each state will provide an update of school trust land related activity since the 2004 conference.

The resort is located in the stunning Colorado Rocky Mountains near the historic main street shops, and trailheads to two hundred miles of scenic trails. Conference participants will enjoy dinner at The Hearststone, an old Victorian home, a chair-lift ride up the mountain to ride the Alpine SuperSlide, and a tour of the Country Boy Mine with WSLCA followed by a hayride and barbeque. There are multiple activities in the surrounding mountains that may lure you to extend your stay and perhaps bring friends or family along to make it a vacation.

Please make your hotel reservations and send us your registration soon so we can reserve a place for you. Rooms are a flat rate so a few family members can stay with you at no additional charge. Go to <http://www.childrenslandalliance.com/conferences.php> to find the conference registration form that includes hotel reservation information. **We look forward to seeing you there!**



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Coming May 15th: State Trust Lands in the American West and Trustland.Org

Two New Resources from the Lincoln Institute of Land Policy/Sonoran Institute Joint Venture on State Trust Lands

In the coming weeks, the Lincoln Institute of Land Policy/Sonoran Institute Joint Venture on State Trust Lands will be rolling out two new products that may be of interest to CLASS and its members. These include a new report on state trusts and trust land management and a new website that will provide access to a variety of information, research products, and reports on state trust lands in the American West.

Trust Lands in the American West: A Legal Overview and Policy Assessment

Today, the majority of state trust land managers continue to rely on traditional natural resource production and extraction to generate revenue for state trust beneficiaries. However, in many parts of the West, key natural resource industries – such as grazing, agriculture, and timbering – are in decline. In many Western communities, economies are shifting towards more urbanized, diversified, and information-based economies; simultaneously, population pressures in the West have put increasing demands on public education funding.

These changes are leading to new challenges for trust managers and new management strategies for trust assets, such as increased emphasis on “total asset management” approaches, land exchange and land banking programs to consolidate land holdings and promote more efficient management, and increasing interest in the potential for lucrative commercial, industrial, and residential development on trust lands in rapidly growing areas. At the same time, many trust managers are recognizing a need to embrace sustainable resource management strategies and new land conservation tools that reflect growing public interests in conservation and recreation, take advantage of the significant financial resources that may be available to meet those interests, and also help to maintain a healthy trust for all future generations.

This report explores the historical background and legal framework of trust land management in the American West, providing an overview of the legal theories that govern trust responsibilities, and exploring the unique nature of the state trust doctrine and the duties of state trust managers to trust beneficiaries. The report then provides a detailed look at the way in which trust lands are managed in nine key Western states (Arizona, Colorado, Idaho, Montana, New Mexico, Oregon, Utah, Washington, and Wyoming), including current challenges and recent innovations in trust management in those states. Finally, the report suggests opportunities for focused investments in research and policy analysis to continue to improve trust management in the West, based on the advice of a panel of experts, including a number of current and former land commissioners, academic experts in economics, planning, and evaluation, and Joint Venture staff.

WWW.TRUSTLAND.ORG!

On May 15th, the Joint Venture will be unveiling its new project website: www.trustland.org. Visitors to the site will be able to find detailed information about state trust lands, including information about trust management agencies and GIS maps documenting the location of state trust lands in their state, as well as information about state trust land history, the legal theories of trusts and trust responsibilities, and information about the management of state trust lands and comparative analyses of trust revenue production between the various states. Visitors will also be able to access resources and training materials for trust land managers as they are produced by the Joint Venture; information about the Joint Venture’s research activities and model projects; contact information for state trust land managers across the country; and other relevant materials. These materials will include a downloadable version of the *Trust Lands in the American West* report.

About the Lincoln Institute of Land Policy/Sonoran Institute Joint Venture

The Lincoln Institute of Land Policy and the Sonoran Institute established the Joint Venture on State Trust Lands in June of 2003. The Lincoln Institute of Land Policy is a non-profit educational institution based in Cambridge, Massachusetts that seeks to improve the quality of debate and disseminate knowledge of critical issues in land policy by bringing together scholars, policy makers, practitioners, and citizens with diverse backgrounds and experience. The Sonoran Institute is a non-profit conservation organization based in Tucson, Arizona. The Institute works with communities to conserve and restore important natural landscapes as well as to promote healthy landscapes, livable communities, and vibrant economies throughout the Western United States.

The goal of the Joint Venture is to ensure that conservation, collaborative land-use planning, and efficient and effective asset management on behalf of trust beneficiaries are integral elements of how trust lands are managed. The two Institutes are working together to bring their different perspectives and core competencies to bear on a variety of issues related to state trust lands, in order to broaden the range of information and policy options that are available for state trust lands. The Joint Venture's efforts include a diverse research and policy analysis agenda to explore new approaches to trust management, efforts at policy change to improve trust management in key states, model projects that demonstrate innovative approaches to trust lands planning and management, and education and outreach to trust managers, beneficiaries, and stakeholders.

If you have any questions about state trust lands or the work of the Joint Venture, you may contact the Joint Venture at:

State Trust Lands, Joint Venture Project
Sonoran Institute and Lincoln Institute of Land Policy
4835 E. Cactus Road, Suite 270

Alaska Update

Suellen Appellof

Alaska PTA President and Alaska Public School Land Trust Committee

Alaska PTA has been working hard to spread the word about the Alaska Public School Lands Trust. The issue was presented to the delegates of the Alaska PTA Legislative Issues Conference and adopted as one of the 2004-2005 Legislative priorities.

“Alaska PTA strongly supports the reconstitution of the Alaska Public School Land Trust. In addition, Alaska PTA seeks a delegate seat to assist the state in the management of the School Trust Lands.”

In addition we are continuing the research and have uncovered several new documents and have added a standing committee to Alaska PTA named the “Alaska Public School Land Trust Committee”. We have learned that two of our Past State Presidents were involved in the original (unsettled) lawsuit and that they may join us in the fight. These two ladies were president from 1971 to 1979 and one was also on the Alaska Board of Education.

During our two-day visit to the capitol in March we discussed the Land Trust at virtually every meeting with our Legislators. We have yet to find a champion but are continuing to search the halls and offices of our elected officials.

A Resolution on the issue was passed by the delegates of our Annual PTA Convention in April titled “School Trust Lands and Funds”

The Alaska PTA has drafted a resolution to be considered by the PTA Members of Class. If adopted the resolution would be signed by all of the CLASS PTA Representatives and presented to the National PTA Board of Directors. Those who sign the resolution will also use the resolution to promote action in their states.

Arizona Legislative Reform Update

Paula Plant, CLASS Director

Janice Palmer, Arizona School Boards Association

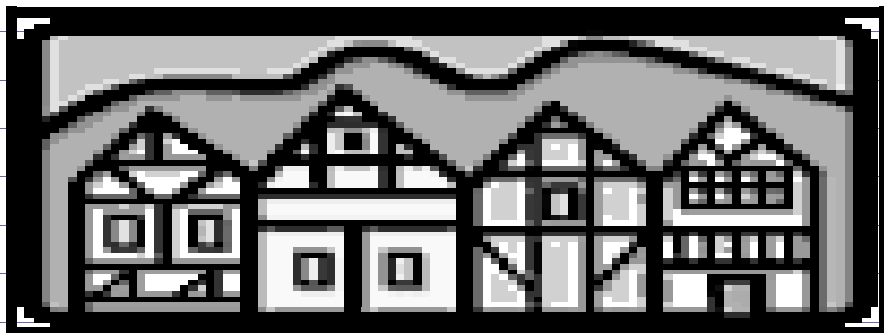
Arizona trust lands reform has encountered another roadblock as coalition members, some interested in development and some wanting to preserve trust lands, made another attempt to present a reform package to the 2005 Arizona Legislature. Senator Carolyn Allen of Scottsdale, Representative Tom O'Halleran of Sedona and Representative John Nelson of Phoenix have worked with the various groups to keep a package together. Unfortunately all parties were unable to agree eliminating the trust reform package from coming forward this year. Some of the very controversial and increasingly valuable school lands located in the path of development are allocated within their districts.

The public has come to consider the land as "their open space"; however, with the heightened importance of trust lands in legislative discussions, the fact that these lands are school lands is now better understood. Builders, who better understand the fiduciary requirements of the land grants, are purchasing the parcels at public auction as quickly as the land office can make them available. Auctions of 785.6 acres of trust land in the Phoenix, Peoria and Mesa area, sold to the highest bidder and increased revenue to the permanent fund by \$193 million dollars in six offerings during the past year. The average sale price is \$245,672 per acre.

The Arizona Legislature has placed a constitutional amendment on the Arizona ballot in the past five election cycles to allow exchanges of trust land, an important tool other states use to resolve similar land management issues. The voters in turn have defeated the amendment each time leaving resolution of the controversy in a stalemate.

According to a March 9, 2005 article in the Arizona Republic some members of the unraveled coalition are considering a citizen's initiative that would include a few pieces of the original reform package for consideration by the public.

On a positive note, the Arizona Land Department did receive a one-time budgetary increase from the legislature to assist with improved planning and marketing.



Colorado Update

Karen Gerwitz
Director of State Board Relations

First, let me begin by welcoming you all to Breckenridge for this summer's CLASS Conference, July 24-27, 2005. As you can see, the three wise women from Utah put together another incredible lineup of speakers and events. You'll also love Breckenridge! It's a historic mining town/modern ski resort with a lot to offer – both old and new.

The Colorado School Land Trust Steering Committee – an ad hoc committee of the State Treasurer, the State Board of Education, the State Land Board, and all of the major education non-profit organizations - has made great progress this legislative session that we'd like to share. From our recommendations, the Joint Budget Committee carried a bill this session that is well on its way to passage that will create a \$1 million Investment and Development Fund for the Land Board to have additional flexibility. This money will come from the mineral royalties that would have otherwise gone into the Permanent Fund. The School Land Trust Steering Committee successfully advocated for an amendment to this legislation to cap the expenditures of lease revenue at current levels (\$12 million), and now anything earned over and above that level in the coming years will flow into the Permanent Fund. This legislation is just one step to get us where we hope to be, but we saw an incredible shift this year in that legislators are now actually excited to help make a difference with the Trust and start earning money with these lands!

The Steering Committee was called on frequently this session to present to various legislative committees. We presented an action plan for the next several years to the Joint Budget Committee on how to carry out positive changes in managing the Trust. We presented to the Joint Education Committee of the House and Senate for the first time this session to discuss the Trust. We presented our issues and concerns to the Finance Committees of both chambers. We even had a freshman legislator become one of our key advocates, and he gave the School Land Trust Presentation to a leadership class.

I was overwhelmed with their very vocal response that School Trust Lands was their first choice.

Idaho Update

Sherrie Feist
Idaho PTA

Idaho PTA is working hard to fulfill the goals they set forth after the last CLASS conference. Here is a quick update of what we are doing.

Idaho PTA met several times with IEA, ISBA, and IASA to discuss and learn about School Trust Lands. We invited former Idaho state controller JD Williams to teach us about the basics of trust lands. At the next meeting, Winston Wiggins, Director of Idaho Department of Lands and Matt Haertzen, the Manager of Investments for the Idaho Endowment Fund explained in greater detail about the endowment lands and funds.

Idaho PTA is working to educate our members about Idaho School Trust Lands. At the Advocacy Conference in November, a resolution passed supporting the Idaho School Trust Lands and the Public School Endowment Fund. Idaho PTA also has also included several articles about trust lands in the state PTA newsletter. Finally, a workshop about trust lands was presented at the Idaho PTA State Convention. As the Idaho PTA representative at the 2004 CLASS Conference, I presented the workshop to a full room. At the beginning of the workshop, I asked (in jest) if people were there because they wanted to be there or if they were there because their "first choice workshop" was filled. I was overwhelmed with their very vocal response that School Trust Lands was their first choice.

Idaho PTA will once again be attending the CLASS conference in July. We are excited to move past the learning stage of school trust lands to become more involved as beneficiary representatives of the lands and School Endowment Fund.

Oklahoma Report

Cathy Post
Past President, Oklahoma PTA

The Oklahoma Land Office is in the process of acquiring by purchase an old state lodge and two golf courses for redevelopment. This property is located on Lake Texoma on the Oklahoma and Texas border. It is just an hour and a half drive north of the Dallas/Ft. Worth metroplex and two and a half hours south of Oklahoma City. This project has two major goals. The first is to make a sound investment for the Trust with good returns to the beneficiaries. The second objective is to provide a true economic engine for an area of the State in need of economic stimulus. The return to the local school districts in increased tax revenue will be tremendous. Requests for proposal have been sent out. Selection of a development company is expected in December 2006.

The Mineral Division is performing quite well. Royalty and Bonuses are up from the \$43,000,000 last year to approximately \$50,000,000 this year. All of the mineral income goes into the permanent trust fund, which accounts for approximately eighty percent of the fund and the Trust Fund continues to perform very well in the market due to the positioning of the portfolio with sixty percent being in bonds and forty percent in stocks.

Our natural gas marketing program, which purchases natural gas for about 60 state institutions, will reach \$1,000,000 in savings for the second year in a row.

The Land office and the Commissioners know we are here for the long haul and we are protecting the school children.

OKPTA has been encouraging our commissioners to attend the monthly Land Board meetings but in 2004, half of the meetings canceled due to lack of a quorum. We contacted the Commissioners by mail and then followed-up with personal phone calls. It is working well. Since January 2005 four successful Land Board meetings have been held. The Land office and the Commissioners know we are here for the long haul and we are protecting the school children.

Oregon Report

Monte Turner
Communications Coordinator
Oregon Department of State Lands

Since Oregon's legislature meets only for 6-8 months during odd-numbered years, Common School Fund beneficiaries are busy on several fronts. The beneficiaries represent a broad coalition of statewide education organizations for parent advocates, management and labor. They have testified to support: a bill that declares unused portions of merchant gift cards to be unclaimed property, which would be deposited into the Common School Fund pending claim by the owner; a bill to streamline the distribution of CSF payments to schools; and a bill authorizing sale of equity investments in the CSF without deducting the loss from the Distributable Income Account. Beneficiaries also have spoken in support of the budget request for the entire Department of State Lands, with specific backing for initiatives that will protect and enhance CSF assets.

In other Oregon activities, a beneficiary serves on a Rangeland Grazing Fee Advisory Committee, which is reviewing the lease formula for more than 630,000 acres of rangeland. A beneficiary works as a member of an Asset Management Plan steering committee. The plan will update guidance for the department's management of land and resources.

Oregon's Department of State Lands is negotiating with the federal government to transfer 3,200 acres of land owed to the state since statehood. The agency has selected lands in a fast-growing area of the state.

Sales of six isolated range and timber parcels by a sealed bid auction in March raised \$442,000--about 10 per cent above the appraised value set by DSL as the minimum bid.

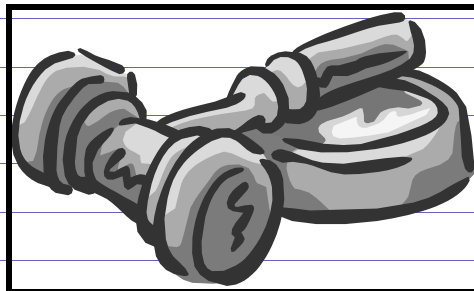
Utah Update

Paula Plant

Utah State Office of Education

In the 2005 legislative session, the legislature considered a number of bills dealing with school trust lands. Two bills that passed are of particular importance. The first bill proposed to eliminate a cap on the annual interest and dividends from the permanent fund that provides funding for the School LAND Trust Program. The program directs all public schools to form councils each year, made up of parents, teachers and the principal, to prepare and implement a plan to address the school's greatest academic need with the annual funding. Two years ago, legislators imposed a cap on the funding at twelve million dollars with any additional interest and dividends earned going to offset an annual appropriation for teacher supplies. All the education groups in the state supported removing the cap so that as the funding increased, so would the ability of school councils to improve education according to the individual needs of each school. Considerable effort was put into building support for the bill during the summer and fall of 2004. In the end the cap was not removed entirely but the value of the cap was attached to the total legislative appropriation for public schools. The cap is two percent of the annual appropriation or about forty-four million this year, far greater than the distribution will be. The good news is that at the end of the third quarter of the investment year, the State Treasurer's distribution projection is that schools will receive in excess of thirteen million dollars in the upcoming school year.

The second piece gave legislative approval for a municipal waste facility to receive commercial waste. The facility is being constructed on School Trust Lands acquired for its industrial potential in the Utah West Desert Land Exchange Act of 2000. The facility will only receive "curb-side" waste but waste has a different classification in Utah if it comes from a dumpster behind a restaurant (commercial) than it does from the cans we place on the curb each week in residential neighborhoods (municipal). Much of the waste from highly populated areas in Utah has been transported by rail to a facility in central Utah, an expense that has become prohibitive so municipalities have been looking for a more fiscally responsible solution. Wasatch Waste came to the Trust Lands Administration with a plan to locate a facility on the acquired industrial lands. The parcel has road access and is closer to population centers. For the first time in Utah's history, instead of schools simply selling remote and marginal grazing land for a waste facility, school children became partners in the deal. Again, all education groups in the state supported the bill but it also had many highly paid lobbyists in the state working on one side or the other. Ultimately it was the last bill that passed just a few minutes before the final gavel fell. The trust will receive an overriding royalty on all waste deposited at the site and could make as much as \$50 million over the life of the facility.



Report from Washington State

Quent Goodrich
President-elect
Washington State School Directors Association

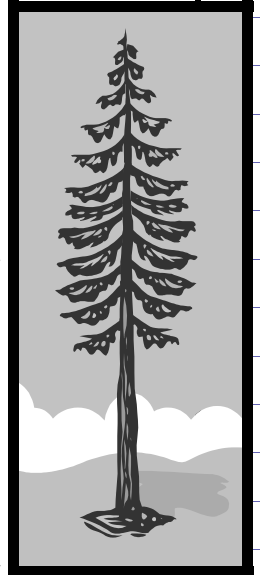
Following the approval last September of the new ten year Sustainable Harvest Plan for the western Washington trust lands, Doug Sutherland, the Commissioner of Public Lands appointed an Independent Review Committee to "evaluate the agency's effectiveness and efficiency concerning trust lands management costs and benefits." This came as a result of questions raised by the common school beneficiaries about the 25% fee charged by DNR on all timber sales on their trust lands.

The committee was composed of five members: three former legislators and two private timber company executives. They were selected for their expertise and experience in public and private sector finance and management.

At their first meeting, representatives of the trust beneficiaries presented questions that they felt needed clarification. I represented the common schools group on behalf of the State Board of Education, the Superintendent of Public Instruction, and the state school board association. After three all day meetings over a two-month period their report was issued in December. Their conclusion was that an increase in income from some source over the ten years was necessary and without such an increase DNR would not be able to increase the timber harvest. The committee did not make a recommendation for the source of such an increase; however, since the state is facing a major deficit the only feasible source is to increase the management fee.

In order to increase their fee DNR must get approval from the state legislature. An amendment to the current 25% limit was proposed with the authorizing a temporary increase to 30% for the next ten years and subject to review by the DNR board and the beneficiaries every biennium. The current legislative session did not approve this proposal. Currently there is legislation authorizing a one or two year increase; however, since the legislature is still in session we do not know whether this will pass. If it does not pass this year it will be difficult for DNR to increase their harvests as planned.

A full report is available at: www.dnr.wa.gov/htdocs/agency/independent_review/



Wyoming Update

Marguerite Herman
Wyoming PTA

The Wyoming Legislature approved two pieces of legislation to preserve and enhance the value of school trust lands. One puts \$750,000 into the Office of State Lands and Investments to improve the condition of about 3.5 million acres of surface assets. The other creates a "task force on trust responsibilities" to recommend policies for state management of trust lands.

About fifteen years ago, the state adopted a policy of public access to leased trust lands. Since then, grazing lessees have complained of dumping, four-wheel-drive and ATV damage and other illegal use they cannot control. The \$750,000 will help repair damage, control access and control weeds and insects. Surface lessees like this fund, which everyone agrees is just a start. Office of State Lands and Investments (OSLI) Director Lynne Boomgaarden is expected to ask for more during the budget session next year. Some agricultural interests prefer returning to a policy of no public access, but that is unlikely to happen.

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Wyoming Update . . . continued from page 8

The fifteen-member Task Force on Trust Responsibilities is composed of five land commissioners (our top five elected officials), four legislators and six stakeholders. The stakeholders represent the Wyoming School Boards Association, parents, forestry, mineral, recreation and agriculture. I was named by the State Land Board to be the parent representative on the task force. When all the members are named, I will extend a personal invitation for them to attend our 2005 CLASS conference, which is conveniently just a 3-hour drive away. The task force will meet during the next sixteen months and report to the Legislature next summer with policy recommendations. It will discuss OSLI self-funding.

The 2005 bills were **SF14 State Lands Preservation Account** and **SF19 State Lands Trust Responsibility**. You can find the final versions on the Wyoming Legislative Service Web site:

<http://legisweb.state.wy.us/2005/enroll/SF0015.pdf>

<http://legisweb.state.wy.us/2005/enroll/SF0019.pdf>

Interestingly, a member of the House Ag Committee (where the bills were heard) is the attorney who argued successfully in state court that the school lands are not a constitutional trust in *Riedel vs. Anderson*. He is Laramie attorney Kermit Brown.

Last fall, at the Wyoming School Boards Association fall meeting, OSLI Director Boomgaarden and I made a presentation to a roomful of trustees on school trust lands -- what they are and the money they generate. We hope it will create more interest in trust asset decisions that come before the State Land Board.



CLASS Directors:
Paula Plant, Editor
Margaret Bird
Karen Rupp