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## **Department of State Lands Administrative Overview November 2009**

### **Introduction**

The Department of State Lands (DSL) is the administrative arm of the State Land Board, which is comprised of the Governor, Secretary of State and State Treasurer. Under constitutional and statutory guidelines, the board is responsible for managing state-owned lands, assets in the Common School Fund, unclaimed property, estates with no will and no heirs, and any additional functions assigned by the Legislative Assembly. The State Land Board makes navigability determinations, adopts rules, issues policy statements and approves the department's recommendations.

DSL operates in accordance with general policies formulated by the board and through laws defining its duties and powers. The department's mission is to ensure a legacy for Oregonians and their public schools through sound stewardship of lands, wetlands, waterways, unclaimed property, estates and the Common School Fund. Moreover, the Department of State Lands is the state partner to the South Slough National Estuarine Research Reserve near Coos Bay and provides administrative services to the Oregon Natural Heritage Program. DSL is headquartered in Salem with a regional office in Bend.

### **History**

The State Land Board is Oregon's oldest board. It was established in 1859 as the "Board of Commissioners for the sale of school, and university lands, and for the investment of the funds arising there from" (OL [Deady & Lane] 1843-1872, p. 91, Section 5). The board has retained the same membership (Governor, Secretary of State and State Treasurer) throughout its history.

In 1859, the Oregon Admissions Act ceded to the state the 16th and 36th section of every township for public school use (OL [Deady & Lane] 1843-1872, p.102, Section 4). Where these lands had been previously deeded, the state was authorized to choose other public lands in lieu of these lands. Income generated from this property formed the basis of the Common School Fund. This trust fund was established by the Oregon Constitution in order to support and maintain public schools. Other original fund assets included money paid for exemptions from military service, money accrued to the state from escheats and forfeitures, grants, gifts, bequests, 500,000 acres supplied to Oregon by an 1841 act of Congress and five percent of all proceeds from the

sale of federal land. Furthermore, the federal government granted Oregon ownership of the beds and banks of all navigable waterways in the state including ocean tidelands. Proceeds from the management of these natural resources comprised the principal of the Common School Fund.

The Oregon Admissions Act also provided lands for the establishment of institutions of higher education. This formed the foundation of the Agricultural College (Oregon State University) Trust Fund and the University of Oregon Trust Fund. Money accrued from investing assets was distributed annually toward teachers' salaries at the schools. DSL still retains oversight responsibility for these trust funds.

Much of the board's early history was spent defining its powers and procedures. In 1860, the Legislative Assembly authorized the Governor to select and locate the lands and salt springs granted to Oregon by the federal government (OL 1860, p. 72). This law was repealed two years later and replaced with one designating the Governor as Land Commissioner, with the same selection powers held under the previous law (OL 1862, p. 105).

In 1864, formal procedures for selling school lands to settlers were introduced (OL [Deady & Lane] 1843-1872, p. 631). However, there was little interest in the program and the state did not make its first sale until 1871 (OL 1872, p. 120). Sluggish sales later prompted the Legislative Assembly to amend the process by dropping the five-dollar filing fee to help stimulate sales (OL 1874, p. 69). Additionally, the Legislative Assembly passed two laws concerning the sale of overflow and tide lands on the coast in 1872. One declared the procedures under which these lands could be sold, while the other placed ten percent of the money received into the Common School Fund (OL 1872, pp. 128-129). Landowner property rights were more clearly defined in 1874 (OL 1874, p. 77) and 1876 to include several rivers (OL 1876, p. 69).

Legislative refinement of the board's policies, powers, and duties continued with a major bill passed in 1878. This act set procedures and policies of the board for the next two decades. The new law amended selection and sales procedures; authorized the Governor to appoint a land selection agent, set administrative procedures for record keeping, develop contracts, set meeting dates, control money collecting and distribution and created the Clerk's Office (OL 1878, p. 41). This office was the direct predecessor of the Department of State Lands.

In 1899, a major administrative reorganization renamed the board to the State Land Board and provided comprehensive guidelines for the selection and sale of school lands and for the management of the money gained (OL 1899, p. 156). The State Land Agent was also added to the board that year as a means of selecting state lands and acquiring new lands to replace the loss of previously deeded lands in sections 16 and 36 of state townships (OL 1899, p. 95). Eight years later, the Legislative Assembly issued a summation of the board's function providing in greater detail the offices and duties (OL 1907, Ch. 117).

Separate legislation created the A.R. Burbank Trust Fund for the use and benefit of orphan homes in Salem and Portland (OL 1907, Ch. 39). The act named as trustees the Governor, Secretary of State, and State Treasurer. The fund operates on principles similar to the Common School Fund and is still administered by the State Land Board. Money is loaned from the estate for real property purchases and the interest the loans accumulate is paid out to children's organizations. Currently, the Boys and Girls Club and the Waverly Children's Home in Portland receive annual interest earnings from the fund.

The board lost control of reclamation contracts and settlement on desert lands when the Desert Land Board was created (OL 1909, Ch. 226). However, the Legislative Assembly authorized the board in 1913 to enter into contracts for the drainage; reclamation; and sale of swamplands, marshes and lake lands. Funds derived from the activity would be deposited into the Common School Fund after state expenses (OL 1913, Ch. 11). That same year, the office of the State Land Agent was abolished and its duties transferred to the Clerk of the Land Board (OL 1913, Ch. 15).

In 1916, Oregonians approved a constitutional amendment that sanctioned the new name of the board and created Article XI-A of the Constitution. This amendment permitted the State Land Board to make loans to farmers from funds gathered from the issuance and sale of bonds. The Legislative Assembly established the Rural Credits Loan Fund a year later from the proceeds (OL 1917, Ch. 398).

The board's early leasing programs emphasized the most important assets of Oregon's economy: mining, timber and agriculture. In 1917, it expanded this initiative with the implementation of kelp and seaweed leases on offshore beds (OL 1917, Ch. 276). Three years later the Special Session of the Legislative Assembly authorized the leasing of the beds of navigable streams and waters for the removal and sale of sand, gravel and rock (OL 1920, Ch. 32). Consequently, the value of these resources was immediately acknowledged and the Legislative Assembly enacted a law that secured the lakebeds of all meandered lakes as state property. This act would no longer allow any person, firm or corporation the opportunity to acquire rights, titles or interests of state waters. Additionally, the State Land Board was to acquire and secure any and all riparian rights of these waters for the benefit of the state (OL 1921, Ch. 280).

The 1921 Legislative Assembly passed a law making the State Land Board the custodian of all notes, bonds, and other securities covering loans made from the various trust funds it administered (OL 1921, Ch. 57). In 1925, the J.T. Apperson fund was placed under the control of the board which left money to the state for deserving students at the Agricultural College (OL 1925, Ch. 20). Loans made from the J.T. Apperson Agricultural College Education Fund are still issued today under the terms of the will by the OSU Financial Aid Office.

In 1925, the board's office staff consisted of the clerk, an assistant clerk, a special field inspector, and stenographers. The board was represented in each Oregon county by an attorney paid on a fee basis. The attorney examined abstracts of titles, transmitted applications for loans and assisted in collecting and foreclosing mortgages. By 1937, they were joined in the field by land agents whose duty was to sell and lease state lands within their territory and collect rent on state property.

During the 1930s and early 1940s, the Legislative Assembly continued to revise procedures concerning lending and investing procedures for the various funds. The next major change in the board's duties came by way of a constitutional revision in 1942. That year Oregon voters repealed Article XI-A, and all of the remaining assets of the Rural Credits Loan Fund were transferred into the Common School Fund. The next year the Legislative Assembly voted to abolish the World War Veterans' State Aid Commission and transferred its duties to the State Land Board. This action also created the Veterans Welfare Department of the board to administer outstanding loans and mortgages that were issued by the defunct commission (OL 1943, Ch. 175).

The conclusion of World War II created a need for a revolving loan fund for returning war veterans. Therefore, the Legislative Assembly authorized the Director of Veterans Affairs to offer loans for homes and farms. The State Land Board was tasked with appraising the land and certifying the amount of money that could be offered. The board was also tasked with selling property that was lost due to foreclosure. Sale proceeds went to the State Treasurer for the Oregon War Veterans Fund (OL 1945, Ch. 403). Two years later a law was created that terminated the board's involvement with veterans' loans (OL 1947, Ch. 532).

Several changes occurred in the board's responsibilities during the 1950s. In 1952, Oregonians repealed Article XI-C of the state Constitution abolishing the World War Veterans State Aid Sinking Fund. Assets from the fund were transferred into the Common School Fund. A year later, the board received the assets of the Oregon Rural Rehabilitation Corporation from the U.S. Department of Agriculture. The money was used for rural rehabilitation projects. Moreover, in 1959, the Legislative Assembly created the Property Foreclosure Revolving Fund as a means of protecting liens against property held by state agencies (OL 1959, Ch. 499). The State Land Board was authorized to purchase and sell these properties to cover debts, taxes or duties owed to the state.

The 1960s also witnessed a series of major changes in the administration and policy of the board. In 1963, all state forest lands were placed under the administration of the Forestry Department (OL 1963, Ch. 475). Four years later, legislation abolished the board's Veterans Welfare Department and changed the Clerk of the Board to Director of the State Land Board (OL 1967, Ch. 421). Furthermore, the Legislative Assembly created the Division of State Lands, which transferred all of the responsibilities and duties of the board to DSL, except those of a general policy making and review nature (OL 1967, Ch. 616). DSL became the operating staff of the State Land Board. Some procedures and duties were revised or created, and all of the board's records were given to DSL.

The 1967 Legislative Assembly also enacted Oregon's first removal-fill law. That enactment arose from the legislature's concern that the unregulated removal of material from state waters would adversely affect the state's ability to conserve, protect and put the state's water resources to the best use, and would create hazards to public health, safety and welfare (OL 1967, Ch. 567). The legislature sought to centralize authority in DSL's director to implement control of the removal and filling of material within the beds and banks of the state's waters. Filling of material was added to the statute in 1971.

Voters in 1968 finally deleted the board's old name from the Constitution and replaced it with the State Land Board (Article VIII, Section 5). Its mission was modified to stress environmental management of lands as an investment, rather than to sell and reinvest the proceeds. The amendment to the Constitution made long-term resource conservation a major emphasis of the State Land Board and DSL.

The Legislative Assembly defined DSL's role in 1969 by passing a group of new laws. These included abolishing the Swamp and Overflow Land Reclamation Fund (Ch. 594), passing a new escheats law (Ch. 591), and creating the Advisory Committee to the State Land Board (HJR 40). The latter's work continued under the Natural Area Preserves Advisory Committee established in 1973 (SJR 4).

Throughout the 1970s, legislation was passed on waterways and land use. In 1974, geothermal resources were included with other valuable minerals requiring a permit for exploitation (OL 1974 SS, Ch. 51). The funds from the leases issued by DSL were deposited in the Common School Fund. Moreover, the South Slough National Estuarine Research Reserve, a 4,800-acre reserve along the Coos Bay Estuary at Charleston, was established in 1974 and later placed under DSL's responsibility as part of a cooperative agreement with the National Oceanic and Atmospheric Administration (OL 1977, Ch. 496). The estuary was the first reserve in the nation created in response to the federal Coastal Zone Management Act of 1972.

Three years later, permits for archaeological excavation on state-owned property were more clearly defined (OL 1977, Ch. 397). The amended law prevented the excavation and removal of items on lands designated as having historical significance. In 1979, the Natural Heritage Advisory Council (successor to the Natural Area Preserves) was placed under DSL's administration (OL 1979, Ch. 711). The advisory council was comprised of scientists and citizens appointed by the Governor and ex-officio state employees from various agencies. The council selected ecological, geological, and biological sites in the state worthy of recognition, protection, and preservation.

In the late 1980s, the Constitution was amended to provide greater flexibility to the Land Board in managing the Common School Fund and ultimately increasing the fund's contribution to education in Oregon. Additionally, comprehensive legislation was enacted that enlarged the division's role in protecting and managing wetlands (OL 1989, Ch. 837). It was determined that wetlands provided a natural means of storm damage protection and essential breeding grounds for several species of fish and wildlife. As a result, the state required the development of a statewide wetland inventory, coordinated land use notices with local governments, and a wetland conservation planning program, which is housed at DSL.

New regulatory responsibilities were added under the Removal-Fill Law in 1993, when the legislature required DSL to provide additional protection to certain salmon habitats and set requirements for review and approval for alterations within Oregon's designated scenic waterways. During that same year, administrative responsibility for the Medical/Dental/Veterinary Fund was transferred to Oregon Health Sciences University. In 1995, the responsibility for the J.T. Apperson Student Loan Fund was transferred to Oregon State University, and the responsibility for the Oregon Rural and Rehabilitation Loan Fund was given to the Oregon Department of Housing and Community Services. DSL still retains oversight responsibility for the Medical/Dental/Veterinary Fund, as well as for three trust funds: the University of Oregon, Oregon State University and the Burbank Trust Fund.

After several years of development and planning, DSL produced an Asset Management Plan in August 1995 and replaced it in 2006. The plan, a comprehensive tool for land and resource management for a ten-year period, included a land classification program and strategies for management, conservation, revenue, enhancement, investment and disposal. The plan categorized state lands and resources as:

- Forest Lands- approximately 106,496 acres; most are managed under contract by the Oregon Department of Forestry.
- Rangelands- approximately 626,742 acres; about 98 percent are leased out.
- Agricultural Lands- approximately 5,175 acres.
- Industrial, Residential and Commercial Lands- approximately 6,292 acres.

- Special Stewardship Lands- approximately 38,816 acres; these lands are managed to ensure the protection of scenic, natural resource, cultural, educational or recreation values.
- Waterways- approximately 800,000 acres of both submerged and submersible lands.
- Mineral and Energy Resources- approximately 753,000 acres; the department is responsible for the management, leasing, and sale of state-owned mineral rights on approximately three million acres throughout Oregon, on both the lands managed by the department and lands held by other state agencies.

In 2003, the division was renamed the Department of State Lands and was authorized to create a volunteer program to assist with the agency's functions and maintenance of state lands (OL 2003, Ch. 253). Three years later the department was reorganized to facilitate operations and focus on revenue generation for the Common School Fund.

## **Current Organization**

The Department of State Lands is the administrative agency of the State Land Board handling the routine work of the board in managing the land and other resources dedicated to the Common School Fund. The agency is comprised of four divisions: Director's Office including the South Slough National Estuarine Research Reserve, Finance and Administration, Land Management and Wetlands and Waterways Conservation.

### ***Director's Office***

The Director's Office oversees administrative responsibilities for the State Land Board and directs the operations of DSL. The director provides overall leadership to DSL staff; makes recommendations to the Land Board and Legislature; approves policies and plans; and oversees DSL's budget, grants and contracts. Moreover, the director serves as the chair of the South Slough National Estuarine Research Reserve (SSNERR) Management Commission and participates as a member of the Economic Revitalization Team, Department of Administrative Services and Natural Resources Cabinets, and serves on the Ocean Policy Advisory Council as a non-voting member. The Human Resources, Communications and Internal Auditing programs are also located in the Director's Office.

### ***Finance and Administration Division***

This division is responsible for DSL's agency-wide systems administration, as well as oversight of the Common School Fund and other DSL-managed funds, audits and properties. It includes the following sections: Unclaimed Property, which holds property such as dormant bank accounts, uncashed checks and abandoned safety deposit box contents in trust until the rightful owner can be found; Information Systems, which provides maintenance, support and protection of DSL's computer information and GIS systems and supports a variety of database systems; and Fiscal Services which includes the administration of estates that have no known will or heir. The assistant director serves as the agency's legislative coordinator and oversees the administrative rule process.

### ***Land Management Division***

The Land Management Division administers all programs and activities that generate revenue for the Common School Fund from trust and statutory lands. This includes land granted to Oregon upon statehood and the submerged and submersible lands underlying navigable waterways. In addition, the division manages mineral rights on all state-owned lands, including property owned

by other agencies. The division issues leases, easements, rights of way, and licenses for use of state owned uplands and waterways. Furthermore, the division is responsible for implementing DSL's Asset Management Plan, which guides the work of the State Land Board in managing state land assets. The division's assistant director manages the Western Region land management staff and DSL's headquarters building which includes state agency tenants. The division maintains an Eastern Region Office for all land management activities east of the Cascades.

### ***Wetlands and Waterways Conservation Division***

The Wetlands and Waterways Conservation Division's primary duty is to conserve and protect state waters and wetlands for their contribution to public navigation, fisheries and recreational uses of waters through the Removal-Fill and Wetlands programs. The division is responsible for three core functions: Implementing the Removal-Fill Law by assisting landowners and consultants in obtaining permits for removal-fill activities on Oregon's waterways, wetlands, the Pacific Ocean and other waters of the state. Staff also monitor permits for compliance with conditions; Providing assistance for and review of wetland delineation reports, an important component of the removal-fill permitting process; and assisting with state requirements to replace lost wetlands by helping establish wetland mitigation banks and monitoring the development of wetland mitigation sites. The division's assistant director oversees the Western and Eastern Operations sections and the Wetlands Program, as well as DSL's liaison to the Economic Revitalization Team. The assistant director also represents the agency on the Oregon Plan Core Team.

## **Boards and Programs**

### ***State Land Board***

The board leases state lands and other resources to public and private interests for a variety of business activities. Rangeland is leased to ranchers for grazing; timber is sold; and waterway areas are leased for uses such as sand and gravel removal, houseboat moorages, marinas and log storage. The board is also the trustee of the Common School Fund.

### ***South Slough National Estuarine Research Reserve***

DSL serves as the state-agency partner for the SSNERR which is comprised of 1,000 acres of open water and tidelands plus 3,800 acres of uplands in the Charleston area near Coos Bay. The Reserve was established in 1974 as a partnership with the National Oceanic and Atmospheric Administration (NOAA). Staff conducts research and monitoring on estuaries in the region, and provides training and education for thousands of schoolchildren, coastal residents and visitors. The SSNERR is a key player in developing local tsunami preparedness. Also, a 6,500 square foot interpretive center serves as a facility for visitor information, workshops and administrative offices. SSNERR scientists share administrative resources and laboratory facilities with the University of Oregon Institute of Marine Biology in Charleston.

## Primary Agency Statutes and Administrative Rule Chapters

ORS 98	Lost, Unordered and Unclaimed Property; Unlawfully Parked Vehicles
ORS 111	Probate Law
ORS 112	Intestate Succession and Wills
ORS 113	Initiation of Estate Proceedings
ORS 114	Administration of Estates Generally
ORS 115	Claims; Actions and Suits
ORS 116	Accounting, Distribution and Closing
ORS 196	Columbia River Gorge; Ocean Resource Planning; Wetlands; Removal and Fill
ORS 215	County Planning; Zoning; Housing Codes
ORS 227	City Planning and Zoning
ORS 270	State Real Property
ORS 271	Use and Disposition of Public Lands Generally; Easements
ORS 273	State Lands Generally
ORS 274	Submersible and Submerged Lands
ORS 293	Administration of Public Funds
ORS 327	State Financing of Elementary and Secondary Education
ORS 390	State and Local Parks; Recreation Programs; Scenic Waterways; Recreation Trails
ORS 517	Mining and Mining Claims
ORS 530	State Forests; Community Forests
ORS 541	Watershed Enhancement and Protection; Water Development Projects; Miscellaneous Provisions on Water Rights; Stewardship Agreements
ORS 543	Hydroelectric Projects
ORS 543A	Reauthorizing and Decommissioning Hydroelectric Projects
ORS 703	Truth Verification and Deception Detection; Investigators
ORS 758	Utility Rights of Way and Territory Allocation; Cogeneration
ORS 777	Ports Generally
OAR 141	Department of State Lands
OAR 142	Department of State Lands, South Slough National Estuarine Reserve



## Chronology

- 1859 Board of Commissioners for the sale of school and university lands, and for the investment of the funds arising there from established. Oregon Admission Act provided land to the state for public school use.
- 1860 Governor authorized to locate lands and salt springs granted to Oregon by the federal government.
- 1862 Governor appointed as Land Commissioner.
- 1864 Procedures for selling school lands to settlers established.
- 1871 First sale of school lands.
- 1872 Laws concerning the sale of overflowed and tide lands on the coast established.
- 1874 Filing fee abolished to stimulate more sales of school lands.
- 1878 Creation of the Clerk's Office.
- 1899 Board renamed the State Land Board. State Land Agent added to the board.
- 1907 A.R. Burbank Trust Fund established.
- 1913 Office of the State Land Agent abolished.
- 1917 Article XI-A added to the state Constitution providing loans to farmers. Kelp and seaweed leases issued in addition to rock and gravel removal from streambeds.
- 1921 Lakebeds secured as state property.
- 1925 J.T. Apperson Fund placed under the control of the State Land Board.
- 1942 Article XI-A of the Constitution repealed.
- 1943 The Veterans Welfare Department added to the State Land Board.
- 1945 Oregon War Veterans Fund established.
- 1957 Unclaimed Property Act enacted.
- 1959 Property Foreclosure Revolving Fund created.
- 1967 Veterans Welfare Department abolished. Clerk of the Board renamed the Director of the State Land Board. Division of State Lands created. Removal-Fill Law enacted.
- 1969 Advisory Committee of the State Land Board established.

- 1973 Natural Area Preserves Advisory Committee created.
- 1974 South Slough National Estuarine Research Reserve established.
- 1979 Administration of the Natural Heritage Advisory Council transferred to DSL.
- 1989 DSL's role of managing and protecting wetlands expanded.
- 1995 Responsibility of the J.T. Apperson Fund transferred to Oregon State University. Oregon Rural Rehabilitation Loan Fund moved to Oregon Housing and Community Services. First Asset Management Plan created for land and resource management.
- 2003 The Division of State Lands renamed the Department of State Lands. Volunteer program created to assist with the department's programs and maintenance of state lands.
- 2006 DSL reorganized to facilitate operations and focus on revenue generation for the Common School fund. New Asset Management Plan created superseding the 1995 version.

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