

# **State Land Board**

## **Regular Meeting June 13, 2006 Agenda Item 4**

### **SUBJECT**

Review of the Director's response to the recommendations of the 2004-2006 Grazing Fee Advisory Committee Final Report

Request for authority to initiate rulemaking to amend the rules governing the management of rangelands including changes to the forage lease rate to reflect recommendations of the 2004-2006 Grazing Fee Advisory Committee.

### **ISSUE**

Whether the State Land Board should approve the request to initiate rulemaking to amend the rules for rangeland management including changes to the forage lease rate to reflect recommendations of the 2004-2006 Grazing Fee Advisory Committee.

### **AUTHORITY**

ORS 273; regarding the creation and general powers of the Land Board.

ORS 273.041-273.155, 273.447, and 273.805-273.815; defining the general powers of the Department and providing that the Department shall "...manage, control and protect the common school grazing lands so as to secure the greatest permanent value of the lands to all people of this state, particularly for the dedicated purposes of the lands and the common schools to which the resources of the lands are devoted."

OAR 141-110-0000 to 141-110-0180; Administrative Rules for Management of Rangeland.

## **BACKGROUND**

The Department of State Lands (DSL) manages about 634,000 acres of rangeland in Southeastern Oregon primarily in Lake, Harney and Malheur Counties. The lands are considered to be assets of the Common School Fund, a fund established at statehood to provide financial support for Oregon's public K-12 schools. The State Land Board (Board), consisting of the Governor, the Secretary of State and the State Treasurer, are the trustees of the Fund and direct the policies of the Department. Much of the land is leased for grazing. There are 143 lessees, each operating under contract with the Department and annually paying fees based upon the carrying capacity of the leasehold and a formula adopted by the Board and implemented by DSL. The last fee formula change was in 1995; the fee itself is adjusted annually in accordance with the provisions of the formula.

In 2004 the Secretary of State's Audits Division released an audit of DSL's rangeland management program. The scope of the audit was to determine if DSL was maximizing long-term income generated from rangeland assets. The report did not explore rangeland characteristics that limit potential revenue or the required costs of administration. The Audits Division found that the grazing fee had not been periodically reviewed as required by the Board's rules; was not maximizing revenue; and recommended that the fee be increased to approximate lease rates reported by the USDA National Agriculture Statistics Service (NASS) for private non-irrigated grazing lands.

In Fall, 2004 then-Director Ann Hanus appointed a Grazing Fee Advisory Committee and asked them to do the following:

1. Review the audit report findings as to the grazing fee;
2. Analyze whether the current rate reflects at least a fair market value rental rate; and
3. Make recommendations to the Director concerning the fee formula.

The Committee was instructed to adhere to the following principles with its recommendations:

1. The Land Board and Department of State Lands must obtain fair market value from the use of Common School Fund trust lands in order to meet fiduciary responsibilities; and

2. The Common School Fund trust lands must be managed to conserve the productivity and sustainability of the lands for the Common School Fund over the long term.

In April 2006 the Committee completed its Final Report and presented it to Director Hanus. Since assuming the duties of Director, Louise Solliday has reviewed the report and preparing recommendations to the Land Board.

### **2004-2006 GRAZING FEE ADVISORY COMMITTEE FINAL REPORT**

The Committee held six, day-long meetings between September 2004 and May 2005. Each meeting allowed for public comment. In addition, the Committee dedicated the afternoon of one meeting (Burns-January 2005) to public testimony. During the course of the Committee's work, it heard from a variety of individuals including current lessees; DSL staff; Charles Hibner of the Secretary of State's audit staff; Bruce Eklund of the U.S. Department of Agriculture's National Agricultural Statistics Service (Oregon State office); and Bend-La Pine School District board member Nathan Hovkamp.

In addition, the Committee compiled, reviewed and discussed numerous reports, studies and information from other states and Oregon applicable to the Committee's "charge".

The Committee made the following recommendations:

- **Recommendation 1. *The Committee recommends*** that the current fee formula remain in place and that DSL collect supplemental data about the leases sufficient to evaluate the formula factors prior to the next scheduled review that shall be no later than 2008. However, recommendations 4 and 5 address minimum fees.
- **Recommendation 2. *The Committee recommends*** that DSL compile private land lease data (including data about services provided and their costs) for the SE Oregon counties for grazing lease lands comparable to DSL leaseholds. Comparable properties will be those of similar size, productivity, forage quality, improvements, access etc. Adjustments may be needed to make sites/rates comparable.
- **Recommendation 3. *The Committee recommends*** that if DSL is to meet its Trust mandate in the management of

rangelands, then it must explore and implement, where feasible, other alternatives for revenue production including but not limited to:

- Charging for public outdoor recreation opportunities including but not limited to, guided hunting or controlled hunts; and
- Leasing for alternative energy exploration/production.
- **Recommendation 4. *The Committee recommends*** that DSL amend the grazing fee formula rule to limit the annual AUM fee to no less than \$4.25 per AUM.
- **Recommendation 5. *The Committee recommends*** that DSL amend the rangeland management rules to set the minimum grazing fee at the amount necessary to recover the Department's cost of lease administration of those small leases.
- **Recommendation 6. *The Committee recommends*** that the current Range Manager position be established as a permanent position in the DSL budget and that there be added to the budget such seasonal positions as are necessary to continue the range inventory and improvements work. (*Note: The 2005 Legislature authorized the Range Manager as a permanent position.*)
- **Recommendation 7. *The Committee recommends*** that a new committee be formed for the next review (2008) of the fee formula with representation from the public, lessees and beneficiaries. The composition of the Committee should be such that there is equal and balanced representation from among the interests. In addition, the services of a third party facilitator, with an understanding of grazing permit/lease issues, are recommended in order to allow DSL to more freely participate in discussions.

### **Department Response to Grazing Fee Advisory Committee Recommendations**

The Department has reviewed the recommendations of the Committee and agrees that each has merit and requires follow-up actions.

Specifically:

**Recommendation 1.** The Department agrees that the current fee formula should remain in place for the present. However, the formula will be reviewed again in 2008 in accordance with the requirements of the current rule (OAR 141-110-090 (3)).

The Committee called for the Department to collect supplemental data regarding the formula factors during the interim in order to assist future evaluations. The Committee particularly was concerned with the weight gain factor. DSL will consult with the Eastern Oregon Agricultural Research Center (EOARC) for assistance and advice in reviewing this factor. EOARC will be encouraged to update its data on this factor.

**Recommendation 2:**

As an ongoing component of the Asset Management Plan, DSL will work with the Oregon Department of Revenue to obtain data on the land and lease values for properties similar in use and character to DSL's rangelands. In addition, the Department plans to continually monitor fee formulas and fee-setting practices for grazing on other Oregon public lands and other western states school trust lands.

**Recommendation 3:**

This recommendation is included in the draft Asset Management Plan.

**Recommendation 4:**

DSL supports taking this request to amend the forage lease rules to set a "floor" for the formula at \$4.25 to formal rulemaking immediately.

**Recommendation 5:**

DSL supports taking this request to amend the forage lease rules to raise the annual minimum forage lease payment to formal rulemaking immediately. The Department would base the minimum payment, according to the Committee's recommendation, on a cost-recovery evaluation.

**Recommendation 6:**

This recommendation was implemented in the Department's 2005-2007 Legislatively-approved budget. The Department's budget request for 2007-2009 seeks to reclass the range Manager position from a Natural Resource Specialist (NRS) 2 to an NRS 3.

**Recommendation 7:**

The Department takes due notice of this recommendation and intends to convene another grazing fee advisory committee at the appropriate time.

## **RECOMMENDATION**

The Department of State Lands recommends that the Land Board approve the request to initiate rulemaking to amend the rules regarding the management of rangelands (OAR 141-110).

## **APPENDIX**

- A. 2004-2006 Grazing Fee Advisory Committee Final Report (Does not include Table of Contents or appendices, which are available upon request.