

## Trust Land Transfer Proviso Workgroup Meeting 5 September 2, 2021 12pm-4pm

Member	Attendance
Randy Newman	Present
Heidi Eisenhour	Present
Robert Gelder	Present
Jim Freeburg	Present
Justin Allegro	Present
Matt Comisky	Present
Cynthia Wilkerson	Present
Peter Herzog	Present
Angus Brodie	Absent
Russ Pfeiffer-Hoyt	Present
Randy Johnson	Present

### DNR Staff:

Lisa Anderson  
Kristen Ohlson-Kiehn  
Laurie Benson  
David Gordon  
Tyson Thornburg  
Bob Winslow  
Ralph Johnson  
Cathy Chauvin

### **Workgroup Business**

- Workgroup members agreed to record the meeting.
- DNR staff gave an update on the timeline of the TLT workgroup.
- Workgroup members approved the TLT Workgroup Meeting 4 notes.
- DNR staff gave an overview of the process used to build the list of topics identified by workgroup members. The topics were put into three buckets, listed below:
  - How does a parcel get identified and put on the TLT list?
  - What criteria is used to evaluate and prioritize parcels on the list?
  - Who evaluates the parcels and prioritizes the list?
- A workgroup member asked where DNR sees its role as the trust manager in TLT.

- DNR staff said the lands being discussed are trust lands. The overarching principle is that a transfer needs to be in the best interest of the trusts. The trust land transfer tool is used to manage the trust lands.
- The workgroup member said the problem with the process is that trust responsibilities are not considered first in the TLT program. They felt that DNR was trying to pass off its trust management responsibilities.
- Another workgroup member said the topic of developing and approving a TLT list should be the ultimate question considered by the workgroup. They also said they want to place a higher emphasis on replacement lands, which aren't included in DNR's framework. Several workgroup members agreed that replacement lands should be discussed as a topic.
  - DNR staff said the framework presented was not listed in a prioritized list, and that adjustments can be to include topics that aren't currently included in the framework.
  - A workgroup member said replacement lands are an important consideration in ensuring growth for the trusts.
  - A workgroup member said some innovative thinking could be done around the land bank in relation to replacement lands. They suggested that land should be ready in the land bank so when trust land transfers are conducted, the land in the land bank could be transferred to the trust immediately.
  - A workgroup member said that replacement lands are important to fulfill the "increasing the income value of the trusts" language in the proviso.

### **Topic Discussion #1 Types of trust/inter-trust transfer**

- From your standpoint, what would be the process implications if the program was available for any type of trust land?
  - A workgroup said there would be less inter-trust exchanges, which would reduce complications.
  - A workgroup member said if the program were to grow, the State would have to make more of an investment into the program as it is currently funded by bonds. This may result in less funding to the Common School Trust.
  - A workgroup member said TLT is really available for any trust land, but the inter-trust exchange can be complicated and can raise issues with the fiduciary responsibility to the trusts. They also said it could raise issues with groups who want to use TLT to prevent working forests and timber harvest from happening in their communities. If TLT were broadened to other trusts, the stakeholder process would need to be extensive.
  - A workgroup member said it wouldn't make sense to expand TLT to state forest trusts, but there is already a mechanism for trading state forest land to common school trust so it can go through TLT. They also emphasized that expanding TLT may require additional funding or alternative funding sources.
  - A workgroup member said from a conservation perspective, there are parcels in any trust that have better uses and would be good candidates for TLT.

- A workgroup member said additional sources of funding for TLT (for forest management and conservation and carbon) should be considered for TLT. They said it would be helpful to look at the 30-year history of the program, which shows a broad range of funding levels.
- A workgroup member said if the workgroup wants to look at expanding TLT to other trusts, then junior taxing districts need to be better represented and any new proposals need to ensure that junior taxing districts are kept whole. They mentioned the Blanchard Project, which was not able to keep junior taxing districts whole. They said given the deadline to submit the report, they didn't feel it was feasible to start considering opening TLT up to state forest trusts.
- A workgroup member said they agreed that keeping junior taxing districts whole is an important consideration of TLT. They said it would require a longer conservation to think through how using TLT for other trusts would work.
- A workgroup member said they wouldn't want to lose a tool for protecting ecosystems from other trusts through inter-trust exchanges, but was fine with not expanding TLT to other trusts.
- A workgroup member said county commissioners are heavily involved with junior taxing districts and also believed it was essential to keep them whole. They said they were hesitant to begin discussing opening up TLT to other trusts.
- DNR staff said the inter-trust exchange process was very complicated and hard to execute, and encouraged the workgroup members to keep an open mind.
- A workgroup member said generally, if the goal of TLT is to manage lands that have a high conservation value in a different way than trust lands, then having access to lands with a high conservation value in more than just one trust would help us reach that goal.
- A workgroup member said if the inter-trust transfers are incredibly difficult, then they support keeping options open because they don't want to lose a tool to allow lands to be managed for conservation if they're not part of the common school trust.
- A workgroup member said the 80/20 split is also a key consideration if the group decided to expand TLT to other trusts. If other trusts were allowed to use TLT, additional funding would need to be found from the legislature.
- A workgroup member said there have been some conversations about creating a large land bank that could be used to transfer land instead of limited common school land. This could alleviate some of the other pressures on the trusts.
- A workgroup member asked if we had gotten to a point where having individual trust doesn't make sense anymore. If this were done there would be less geographic limits.
  - DNR staff said the Deloitte report looked at a unitary trust, which DNR has decided not to pursue as most beneficiaries that have been spoken with have been against pursuing a unitary trust.
  - A workgroup member said a unitary trust has come up before, but most beneficiaries see this as problematic

- If inter-trust transfers are conducted between state forestlands and common school trust lands, what process suggestions do you have that could reduce impacts to local taxing district; what process suggestions do you have that could reduce impacts to common school lands?
  - A workgroup member said they had thought about combining junior taxing districts into one taxing district for the county. There are a lot of benefits to this approach (like having a steadier income), but there are also some taxing districts who oppose this approach.
  - DNR staff said during the Blanchard project, DNR had to create a legislative proposal to test the flexibility of counties to distribute revenue to local taxing districts. A workgroup member said the agreement was to purchase replacement lands in the same taxing districts, but DNR was not able to identify sufficient replacement lands in the same taxing districts. The county was allowed to give taxing revenue from land outside the taxing districts to the taxing districts where the TLT parcels originated. There is a question of whether or not this system actually keeps taxing districts whole though.
  - A workgroup member said the last couple of recommendations discussed would require a statutory and legislative change.
  - A workgroup member said the process used by RCO to administer some of their grants is very transparent. They asked if workgroup members felt that DNR could use a similar process. Another workgroup member responded and said it might be helpful to discuss the RCO process later in the meeting.
  - A workgroup member said most of their suggestions to reduce impacts to common schools fall under funding buckets, so they would bring them up later in the meeting.

## **Topic Discussion #2: Underperformance/conservation & communities**

- What are the characteristics that contribute to trust land property underperforming (lack of access for operability, ecological features, social values, something else)?
  - A workgroup member said climate and carbon sequestration could also be considered. They also said lack of revenue generation should be on this list.
  - A workgroup member said there are two pieces of this that are challenging to think about: some TLT projects do include some working lands that generate revenue but also that have high ecological and social values, whereas other projects may not be generating revenue. Some TLT parcels might include a mix of these two or are at odds with each other.
  - A workgroup member said the workgroup should look at underperformance as the inability to meet optimum economic performance. That could include limited access, land that doesn't have much use for agriculture. They asked if ecological features included endangered species. They also said social values should be defined because social values are different in different areas of the state. They said it would be good to have a conversation about carbon because future carbon opportunities may be harmed if the land is only managed for conservation.

- A workgroup member said underperforming lands should be high altitude, rocky soils, endangered species, locations that are unlikely to have development value. They said recreation itself shouldn't be a criteria for TLT, but the land should also have poor revenue production if it is going to be transferred out of trust status because working lands can be co-managed for recreation. Underperforming land is not necessarily under-utilized land.
- A workgroup member said TLT was originally used to protect underperforming lands. Now we are trying to protect ecological function and revenue generation for trusts. If ecological production of landscapes is not protected, then revenue generation is also at risk from degraded ecosystems.
- A workgroup member said cultural resources are important considerations for TLT as well, like archaeological sites in unexpected places. They also said recreation is a wide variety of activities and some are not compatible with ongoing forest management.
- A workgroup member said when they think about underperforming lands they solely consider the revenue side. They asked if there are lease duration limits that are created in such a way to constrain revenue performance. They also said clean energy opens up an interesting door and opportunity for trusts to capitalize on the revenue generated by the need from clean energy. They also said they would add fire risk to the characteristics that contribute to trust lands underperforming. They also said they weren't aware of any trust lands being managed for carbon storage, which can generate value for beneficiaries.
- Another workgroup member said they think fire risk should be considered. They also said if ecological systems are not intact, then the land won't be generating revenue. There's a compatibility aspect that needs to be considered between ecological system protection and generating revenue.
- A workgroup member said there is a legal risk if there is a large organized effort to remove a parcel from trust status, and an expensive legal battle would also affect revenue generation.
- Are these characteristics tied to a specific type of land?
  - A workgroup member said they were changing their mind on steppe lands, which could be valuable for green energy production or mitigation for green energy production.
  - A workgroup member said they were questioning how performance is defined.
  - A workgroup member said they were thinking about the 80/20 requirement, which limits TLT to timber lands. They said they viewed underperforming as a lack of potential for revenue.
  - A workgroup member said if TLT is limited to forest land, then the title would need to be changed. They said there are some lands that are beneficial to be transferred out of trust status among the different land classes.
  - A workgroup member said TLT should not be limited to forest land.
- Do you have ideas for increasing the ability for trust lands to perform?
  - Recording 1

- If an underperforming trust parcel is being proposed for transfer out of trust status, should it also be evaluated in part by:
  - Recording 2

### **Topics Discussion #3: Legislative Funding; 80:20 Rule**

- A workgroup member said depending on the parcel, they're not sure how there can be a rule. Projects can be as different as night and day. In terms of all the priorities we have been talking about, they don't see why we need a rule.
- A workgroup member asked what actual percentage DNR is running in buying good timberland? They know we don't buy bare land often, nor is it in best interest of the trust intergenerationality. What ratio is DNR running into overall?
- A workgroup member ask when DNR is buying lands the ratio will be more balanced, or flipped.
- A workgroup member said a different way to answer might be to ask how much does it cost to buy replacement land. E.g. \$3,000/acre for the land value and the timber of younger timber. Older age class will cost more. In a perfect world, all the money would go to replacement land, which could grow the corpus of the trust. The more in land replacement, the more land for now and the future.
- DNR staff said the 80/20 'rule' is maybe not the best language. It's more a goal placed on the program by the legislature. Intentionally set so majority of the money would go the Common School Construction Fund. The evolution was to create a program that is like a virtual timber sale. Some years the ration was higher for Common School, but overall it's averaged 80/20.
- A workgroup member said the legislature has expected the 80/20 rule, but the legislature has turned over and most are familiar. Maybe staff is, so it has perpetuated. But legislature might be open, so they think we should let go of the rule because we might miss out on projects and revenue.
- DNR staff said DNR has submitted proposals closer to 60/40 and the legislature has come back saying this is not high enough timber.
- A workgroup member said there are new chairs to the committee in the last couple of years and new political forces, so there is an opportunity for us to push back and redefine, per request by the legislature.
- A workgroup member said they need to do away with the ratio all together. E.g a shrub steppe that would completely throw off the formula. I don't think any ratio makes sense.
- A workgroup member said if the goal is to keep the beneficiaries whole, we should do more of a 1/100 ration. E.g. State Forestland Replacement Program has had a hard time finding replacement land. Not sure we need a ratio, but we need to figure out a way that replacement land value is much higher.
- A workgroup member said the reason that Capital Budget staff stay consistent, is they have to put together all the budgets and are already underfunding the construction account by maybe 50%. They can see changing the ratio a little DNR can buy real forestland, but they don't think the legislature is going to get rid of the ration all together because they have to come up with the difference.
- A workgroup member asked what kind of statutory and policy obligations DNR is subject to on appraisals and can you adjust to reflect replacement land costs?

- DNR staff said it is a market value estimation of the property we are proposing to transfer. DNR sells it no less than market value. As far as replacement property, DNR is allowed to negotiate a price from a willing seller. Whatever price DNR negotiates determines the market value.
- A workgroup member said the group could write into legislation a particular amount to be held for land value. Bare land has no trees, not even saplings and DNR prefers to buy land with trees even if they are young.
- A workgroup member said you have to submit the legislature with a fair appraisal, but you could suggested a partial retention of timber value. It is hard to find bare land in the same place and time that we wanted. To be real world in transactions could ask for a partial retention of timber value to be used to buy replacement land with timber.
- A workgroup member said if the workgroup don't have a clear understanding of the ratios, and there is a large variety, it feels arbitrary and that there isn't enough for replacement.
- A workgroup member said if the overall goal is to reposition underperforming assets and secure higher performing assets, we can't have the 80/20 ratio. It is a barrier.
- A workgroup member said express caution on not having a ratio that the tendency might be to get less for replacement value. It is always easy to spend money now on current issues and shortchange the future. How do we ensure that the revenue for common school doesn't slowly decline? We should consider a ratio that reflects replacement land but there is a ratio.
- A workgroup member said they don't think the legislature is looking at land performance, rather they are hearing from stakeholder groups and don't want to reduce funding to the common school construction account because the state is almost maxed on bonding authority. Whatever our ratio, or 'floor', we need a strong justification for the replacement land value, that will increase opportunity to get funding. If not, they think we'll see replacement value go down and stakeholder groups will pull and push and get less support.

### **Upcoming Workgroup Meetings**

- DNR staff asked workgroup members what issues they want to address during the sixth meeting.
  - Jim Freeburg: What's going to be most interesting is what DNR determines has consensus and what still has disagreement. Concerned about how items are framed.
  - Commissioner Heidi Eisenhour: Concern that the workgroup doesn't get into the weeds on disagreements. She wants a robust and effective tool from this process that deals with everyone's concerns.
  - Randy Newman: The workgroup hasn't landed on a consensus on whether or not there should be a ratio or what the ratio is.
  - Russ Pfeiffer-Hoyt: Would like DNR to do some work on providing real world values of replacement land and cost per acre to be used for the establishment of replacement systems. Would also like protection on future values of trust property so the workgroup is thinking of TLT not just in the present value of the

land but also what it might be worth in the future. He would also like to discuss the land bank and what it should be designed to accomplish.

- Commissioner Robert Gelder: What is the path forward, outside of a report to the legislature. For areas of agreement, what is the path to achieve those changes.
- Cynthia Wilkerson: More discussion of how to keep the balance at the statewide level that keeps the taxing districts whole. Discussion of transparency options. Discussion of the implementing mechanism (like an RCW instead of proviso).
- Commissioner Randy Johnson: One of the goals is increasing the income value of the trust. He wasn't sure the ideas of the workgroup would accomplish this. He also wants a discussion of the land bank.
- Matt Comisky: He feels like the workgroup hasn't spent enough time discussing the land bank and how that factors into TLT. He also doesn't know where the workgroup is in relation to the first two topics discussed.
- Justin Allegro: Interested in evaluation of parcels and how parcels are identified. Who identifies parcels and what is the process to do so. The workgroup needs to be intentional about saying where they make progress in light of the political sensitivity of this topic. Workgroup needs to focus on finding enough agreement so they can all advocate for the program in the legislature.
- Peter Herzog: This topic is sensitive and the group needs to come to a place where they can all support it. The group also needs to consider impacts outside the trust.

**Parking Lot:**

- A workgroup member asked for DNR to talk about how this fits into the "1 by 1 by 1" concept and an effort to avoid conversion of working forests. Another workgroup member agreed that discussion this would be helpful.