

John Y. Ferry, Chairman  
Kevin S. Carter, Director

MINUTES OF THE MEETING OF THE  
SCHOOL & INSTITUTIONAL TRUST LANDS ADMINISTRATION  
BOARD OF TRUSTEES

DATE: MARCH 18, 2010

PLACE: SALT LAKE CITY, UTAH

ATTENDING:

BOARD

John Y. Ferry  
Mike Brown  
Dan Lofgren  
Steve Ostler  
Dave Ure  
David Lambert  
Michael Mower

STAFF

Kevin S. Carter  
Dave Hebertson  
NormaLee McMichael  
Sonja Wallace  
Kim Christy  
Elise Erler  
LaVonne Garrison  
Kurt Higgins  
Eric Baim  
Stephanie Barber-Renteria  
Tom Faddies  
Doug Buchi  
John Andrews  
Rodger Mitchell  
Tom Mitchell  
Diane Durrant  
Ron Carlson  
Kay Burton  
Sue Stewart  
Diane Lund  
Lynda Belnap

OTHERS IN ATTENDANCE:

Ivan Djambov, Office of Fiscal Analyst  
Margaret Bird, State Office of Education  
Karen Rupp, State Office of Education  
Paula Plant, State Office of Education  
Tim Donaldson, State Office of Education  
Sherry Talbot  
Tyler Slack, Utah PTA  
John Baza, Director, Division of Oil, Gas and Mining  
Amanda Smith, Executive Director, Dept. Of Environmental Quality  
Martell Menlove, State Office of Education  
Gayle McKeachnie

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Chairman Ferry called the meeting to order and welcomed Board members, Staff, and guests to the meeting.

1. Welcome and Swearing in of New Board Members

Chairman Ferry welcomed two new Board members to the Board; namely, Mr. David Lambert and Mr. Michael Mower. Chairman Ferry administered the oath of office to each one.

2. Presentation to Ms. Amanda Smith

Chairman Ferry noted that Ms. Smith was a Board member until February. He stated it is always bitter sweet to say good-bye to a retiring Board member. He gave Ms. Smith a gift on behalf of the Board, Staff, and the beneficiaries in appreciation for her service on the Board of Trustees. Ms. Smith expressed her thanks for working with the Board and Staff. She stated it was a great experience to be on the Board. Chairman Ferry congratulated Ms. Smith on always holding true to the Trust principles in her capacity as a Board member. The Board and Staff wished her well in her new capacity as Executive Director of the Department of Environmental Quality.

3. Approval of Minutes

The Board approved the Board minutes of January 7, 2010.

Ure / Brown. Unanimously approved.

“I move we approve the Board minutes of January 7, 2010.”

Roll Call:

Mr. Brown - - yes	Mr. Lofgren - - yes
Mr. Ostler - - yes	Mr. Ure - - yes
Mr. Lambert - - yes	Mr. Mower - - yes
Mr. Ferry - - yes	

4. Confirmation of Upcoming Meeting Dates

The Board, without motion, confirmed the following upcoming meeting dates:

April 8 - - Salt Lake City  
May 12 - - Tour of Graymont facility  
May 13 - - Salt Lake City  
June 10 - - Salt Lake City

Director Carter reviewed the schedule for the Board tour on May 12. He also discussed with the Board their anticipated schedule for the October Board meeting in Kane and Washington Counties. It was decided we will have a two-day trip - - a field trip to Amangiri in Kane County and then to Washington County on October 13, with a reception that evening. We will then have the Board meeting on October 14.

Director Carter noted some issues regarding the Nominating Committee. There are some statutory changes that are being contemplated. We think we will recommend that, when the committee meets, it needs to consult with the Board Chairman regarding current needs.

5. Director's Report

a. Director's Update on Issues

Director Carter updated the Board members on current issues, including his trip with Ms. Bird to meet with the Minnesota legislature regarding a proposal they have to change their trust land management and an e-mail he had received regarding the State Historic Preservation Office regarding a consummate transfer of land through an exchange on their feeling that our archaeological compliance process is compliant with their requirements for transfer without further archaeological work.

I. Legislative Update

Director Carter updated the Board, through a power point presentation, on the outcome of legislation affecting us:

- \* HB 58 - - Renewable Energy Board - - made the Director a member of this board instead of one of our Board members - - Passed
- \* 1<sup>st</sup> Substitute SB 24 - - Land Exchange Distribution Account - - clarified how land exchange monies are distributed. Our money is capped at \$2 million.

5. Director's Report (cont'd)

a. Director's Update on Issues (cont'd)

I. Legislative Update (cont'd)

- \* HB 143 - - Eminent Domain - - the state can condemn federal land for access - Passed
- \* 1<sup>st</sup> SHB 324 - - Public Lands Litigation - - provides for the state to assert its right through legal means if necessary to federal land within Utah. This bill provides money to the Constitutional Defense Council to litigate access. - - Passed

HB 291 - - Applicability of Land Use to Feds - - Failed

HB 309 - - Surface Owner Protection Act - - Failed

Director Carter discussed with the Board some of the issues on some of the objectives for this fiscal year:

- \* Visits to Community Councils
  - \* Areas with congressional activity
    - \* Emery County
    - \* Beaver/Piute County
    - \* San Juan County
  - \* Areas with Trust activity
    - \* Washington County
    - \* Utah County
    - \* Millard County
  - \* Areas with controversy
    - \* Grand County

He asked the Board if there were any areas they feel we should visit and other issues to consider. Mr. Lofgren asked how this will be organized? Director Carter stated he envisions it to be school by school. It was suggested that possibly we could do it by districts. Mr. Lofgren noted that, if we do it in a normally convened meeting, we would get better participation. He stated that the level of understanding on community councils is quite superficial. He thinks we need to figure out ways to make the most of it.

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5. Director's Report (cont'd)

a. Director's Update on Issues (cont'd)

I. Legislative Update (cont'd)

Ms. Bird stated that the districts are now responsible for doing the training for community councils. We may want to look at a time when training is done and do it at the same meeting. Mr. Lofgren noted this should be an ongoing effort.

\* Proposed Editorial Board Visits

- \* Sun Advocate
- \* Times Independent
- \* Spectrum
- \* Standard Examiner
- \* Daily Herald
- \* Deseret News

Director Carter gave the Board a handout showing the suggested topics for discussion with each of the above editorial boards. There was some discussion of who should be added to the list. Director Carter noted we are responsive to all request from newspapers. Mr. Ure noted we can spend much time doing this type of work and with community councils. He stated it might be well to invite legislators in the area to these meetings. He feels even taking community council members to the editorial visits would be good.

Ms. Bird stated she would add to the list of topics for the editorial board having the local community councils tell what they are using the money for in their area. Mr. Mower stated he felt like it would be good to go to the Salt Lake Tribune and tell where the money is going. Taking members of West High School and others who are receiving money would be good. Mr. Brown stated he wonders if there should be a general piece of information regarding what we are all about, etc. Director Carter stated it would be well to have this. Some are more knowledgeable about what we do than others. Dave Hebertson stated the editorial boards are not the same as the writers, so we have to continually make contact with the writers. Chairman Ferry stated we will always be controversial just because of the work we do. We should always take an opportunity to give Trust Lands 101 presentations and stress the fact that we are making money.

5. Director's Report (cont'd)

a. Director's Update on Issues (cont'd)

I. Legislative Update (cont'd)

- \* Criteria for Municipality and Special District Visits
  - \* Are/likely affected by agency activities
  - \* By request - - entity or public official

Director Carter noted we are going to increase our visits to these places.

II. Budget Update

Director Carter reviewed the budget as approved by the Legislature through a power-point presentation as follows:

- \* Supplemental Appropriation
  - \* \$1,600,000 Increase to Capital Budget
    - \* Water rights at Eagle Mountain
  - \* \$165,000 reduction from base budget (one time)
- \* FY 2011 Request - - One Time
  - \* Development Capital- - - \$3,400,000
    - \* Water acquisition
  - \* Surface - - \$46,300
    - \* Continue right-of-way program
  - \* Oil and Gas - - \$50,000
    - \* Participate in educational program
  - \* Director's office - - \$300,000
    - \* Implement land exchange
  - \* Data Processing - - \$580,000
    - \* Phase One - - LMBS Rewrite

5. Director's Report (cont'd)

a. Director's Update on Issues (cont'd)

II. Budget Update (cont'd)

Director Carter noted that the things that the Board had asked us to ask the Legislature to put back in after being cut from the Governor's budget were all approved. It was a proactive session for us from a budget standpoint.

b. Associate Director's Report

I. Land Exchange Update

Mr. John Andrews reviewed the status of the implementation of the land exchange. He showed the Board a demonstration of the "Base Camp" site on the internet that shows the current status of the exchange and all the things happening on it. He noted that the Bureau of Land Management (BLM) accepting our archaeological process is a huge help to us. They have also found that there will be no effect from the Endangered Species Act. He feels that using the Base Camp site saves much meeting time. We are moving forward in getting appraisals, etc.

II. County Land Bills Discussion

Mr. Andrews stated he feels this issue merits some policy thought and discussion from the Board. About four years ago, the county commission in Washington County went to the congressional delegation in response to a series of laws coming out of the state of Nevada where legislation had been enacted that would allow the designation of significant wilderness in those counties and allow the sale of significant public lands and allow for the reinvestment of the sales procedures for conservation purposes. In 2001 the Washington County Commission went to Senator Bennett and asked him to do that for them. There was legislation proposed that followed the Nevada model very closely. There was in that legislation a provision for the exchange out of school trust lands. This Washington County legislation ran into many problems over the sale of public land. After Vision Dixie was completed, there was a much scaled-back bill submitted in January 2009. It described many conservation issues and also designated new federal BLM wilderness. Both of those captured trust lands. The legislation did not provide any exchange provisions by which the trust lands could be traded out, thereby creating more inheld lands.

5. Director's Report (cont'd)

b. Associate Director's Report (cont'd)

II. County Land Bills Discussion (cont'd)

Washington County was part of the West Desert Land Exchange in 2001 and most of our inheld trust lands had already been traded out. Therefore, we didn't have any sections trapped in this new bill. However, the effect of that is huge on future bills. Senator Bennett noted that the exchange of trust land is a complicating factor, and he didn't want that. His staff was helping on the recreation exchange, however. His office has been responsive on this current exchange.

The Washington County land bill will affect other county land bills, and we need to make sure that exchange of trust lands is included in those bills. Wilderness study areas are almost in perpetuity. The counties feel that the outstanding wilderness issues can be resolved through these county land bills. They are working with environmental groups on this issue. We have been participating in these discussions.

Mr. Andrews noted that the issue for the Board to look at is, unlike Washington County where they would not affect too much inheld acreage, other counties will have much trust lands affected. He gave the Board a press release regarding San Juan County's land bill and its expectation of public participation. Mr. Andrews asked what level the Board would like us to weigh in on these proposals and also in giving Senator Bennett's office notice that the trust lands are an issue to be dealt with or can it be an issue to deal with after the land exchange? There is also a question of whether these processes would ever be successful in getting county land bills.

Staff is looking for guidance from the Board on dealing with this issue. At some point, the Board should have a pretty strong policy on it.

Director Carter asked Commissioner Kofford, of Emery County, to tell the Board how he thinks they can help. Commissioner Kofford stated Emery County is in the process of considering a land bill. There is concern that President Obama would make a monument in their county if they don't have a land bill. A land bill is a complicated issue. They are negotiating with many groups; i.e., environmentalists, grazing groups, etc. One of the factors in the equation is school trust lands. One of the factors is that, as Trust Lands Administration (TLA) trades lands out of wilderness areas, that complicates the equalization of values, appraisals, etc. They have identified parcels in Emery County that would be possible trade-out lands. There are many

5. Director's Report (cont'd)

b. Associate Director's Report (cont'd)

II. County Land Bills Discussion (cont'd)

things to work through. If you put TLA into the land bill, you spend more time negotiating values, etc; and it bogs the process down. He thinks that is why Senator Bennett asked not to have it in the Washington County bill. He noted this issue is something that still needs to be explored, but he would like the Board not to tell him they want trade-out language in the bill.

Mr. Ure stated that he thinks grazing, four-wheeling, and TLA issues would be in the same category in negotiating with the federal government. He wonders why we can't go at it as a whole. Wouldn't appraising land for other information also bog it down?

Mr. Mower asked if it would be better to bifurcate the issue? He thinks that the Board has a fiduciary duty to be involved. He suggests that the Board monitor the process and step back from making the Emery County proposal the exchange issues with the BLM.

Mr. Andrews noted that in the early 2000's when we were dealing with the San Rafael issue, we were moving forward with a trade without the valuation. That did not get through BLM as they felt the state was getting too good a deal. With the Recreation Exchange, we recognized we needed to do land valuation. It is a post legislation appraisal process. We still had issues with budget scoring in the Congress. We have discussed internally the idea that the legislation would include mandatory language requiring BLM to complete a land exchange within three to five years. The advantage to this may be that it would be more difficult to score it because no definite lands were attached. Mr. Andrews feels these are legitimate issues that the counties have raised, but we need to be "in the game" in order to protect our lands.

Director Carter reviewed the Washington County process. We participated heavily, but did not require that they do a land exchange within the bill, with the guarantee we would be taken care of after. To date, we have not received anything. A land exchange is the easiest way to kill a land bill. By including us in the bill, it is a hindrance. It is a complicated process. We have a good relationship with the counties and expect to continue that. We have similar interests. We need to get out of the wilderness areas without being the issue that kills the bills altogether.

5. Director's Report (cont'd)

b. Associate Director's Report (cont'd)

II. County Land Bills Discussion (cont'd)

Commissioner Kofford stated the Board's concerns are well taken by the county. TLA is a real player in these transactions. He noted this is the fourth time Emery County has tried to solve this issue. It started in the late 1980's. It costs much money to keep doing these processes. With this land bill, we hope to move forward and are only trying to indicate that the RMP has been signed and indicates that this is the way the BLM will manage the area. The only issue is what will become wilderness. It is basically tied up because of other designations. The bottom line is to settle WSA issues and manage them the way they should be managed. If we can use the RMP that is in place, we would have something ready to go on the process. He thinks there is language in there that deals with trust lands.

Ms. Bird noted she is representing the educational beneficiaries. They feel very passionately about the fact that there are many lands trapped within wilderness areas, parks, etc. She noted there has been a reluctance to trade out of these areas because they feel they already have the trust lands. This is an issue of great concern for the beneficiaries. She feels we could all work together on the issue and be stronger. The National Education Association is an organization that has a national resolution for not capturing trust lands in federal areas. She thinks that group and others are willing to help these land bills go through. She suggested that the bill might state that the state would be granted a certain number of acres for what would be encumbered within those areas. She noted there are many people from community councils that could be a support in those areas.

Chairman Ferry noted that the commissioner has now heard our concerns. Commissioner Kofford noted he sympathizes with the Board and Staff. One of the things the commissioners feel is that the trust lands should be able to be accessed. He doesn't think TLA supports them on that argument with the feds. The trust lands in WSA's in Emery County have not had any activity on them for many years. He doesn't know if they have the option to wait three or four more years to deal with the trust lands issues.

5. Director's Report (cont'd)

b. Associate Director's Report (cont'd)

II. County Land Bills Discussion (cont'd)

Mr. Ure asked what process Staff sees coming and where are we going to participate, etc.? Director Carter stated we have people involved in the county processes that are ongoing. We will continue to be involved. We have provided the counties with a list of those lands that we would like to keep. As far as lands to select, it is much more complicated. There are alternatives to having a bill that says "this land for this land". He doesn't know if the Congress will approve a bill that says that. One of the processes that has been discussed is that the state would reserve the rights to select lands as we go forward. On the roads, we have made an offer to all of the counties to perfect roads whenever they want. We have approved hundreds of miles of RS 2477 roads in the state and are always willing to work with the counties.

Mr. Brown asked what guarantees the RMP's won't be rewritten to change some of the rules, etc? Commissioner Kofford stated they are continually revised; and, therefore, they have no assurance of things to happen. Mr. Mower asked if it is helpful for the Board to pass a resolution of support for these processes or if we should just stay silent. Commissioner Kofford stated he thinks it would be helpful if, at the right point, the Board does take a position of support. He did note that TLA's Resource Specialist in Moab was very involved and attended all the meetings, etc. He thinks this needs to be a topic at all of the Board meetings in order to keep up to date on the process.

Mr. Andrews stated that it is likely that the first tangible product from these county land bills will come from southwest Utah in Beaver, Piute, or Iron Counties.

5. Director's Report (cont'd)

c. Surface and Development Groups Report

I. Discussion of Default of Land Sales

Mr. Kim Christy gave the Board a review of some trust land sale forfeitures through a power point presentation, showing the following:

- \* Parcels forfeited as per fiscal year in which default occurred
- \* Parcels forfeited as per fiscal year sold
- \* Surface sales and forfeitures by the numbers
- \* Surface auctioned parcels vs. forfeitures
- \* Revenues received
- \* Surface auctioned sale revenues - non-forfeited sales less forfeited
- \* Revenues on resold parcels
  
- \* Resold Properties
  - \* Ten properties have been resold
  - \* Acres: 2,212.47
  - \* Appraised Value: \$694,000
  - \* Original Sale Price: \$892,000
  - \* Principle paid on forfeited parcels toward original sale price: \$95,742.45
  - \* Resale Price: \$1,002,870
  - \* Total dollars paid on parcels: \$1,098,612.45
  
- \* Observations - Considerations
  - \* Economy and number of forfeitures highly correlated
  - \* Foreclosures - - detrimental or beneficial?
  - \* Higher down payments?
  - \* Bid deposits - - certified funds vs. personal check?
  - \* Terms of Finance
  - \* Late fees and extension policy for certificates of sale
  - \* Other observations?

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5. Director's Report (cont'd)

c. Surface and Development Groups Report (cont'd)

I. Discussion of Default of Land Sales (cont'd)

Director Carter noted that we sell property on a certificate of sale; and, when it is paid off, we issue a patent. There is actually no guarantee of title on our patents. Because of our procedures, we have a low forfeiture rate.

Mr. Lofgren commented on the down payment and financing and suggested that a three-year balloon payment would probably make most of the buyers drop out. The terms of sale are what makes our sales so attractive. He doesn't think we should make it more difficult for people to buy.

Mr. Doug Buchi reviewed the Development sales and forfeitures with the Board, giving them a handout showing all the parcels, per-acre value, payments received, and the balance at default.

d. Oil and Gas Group Report

I. State of Oil and Gas in Utah

Ms. LaVonne Garrison noted oil and gas is a very important asset to the Trust. She introduced John Baza, the Director of the Division of Oil, Gas and Mining (DOG M). DOGM is the regulatory agency of the state. Mr. Baza is here to talk about the oil and gas industry in Utah.

Mr. Baza told the Board he appreciated giving this presentation. He reviewed this issue through a power-point presentation with the Board, which included the following:

- \* Utah extractive industries production sales value
- \* Petroleum price volatility
- \* Utah applications for permit to drill
- \* Utah drilling commenced
- \* Utah drilling rigs annual average
- \* Utah crude oil production
- \* Utah natural gas production
- \* Utah coalbed methane gas production
- \* Where is the oil and gas activity?
- \* Emerging items of interest

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5. Director's Report (cont'd)

d. Oil and Gas Group Report (cont'd)

I. State of Oil and Gas in Utah (cont'd)

Chairman Ferry thanked Mr. Baza for this presentation. Mr. Andrews asked what DOGM can do in terms of education to the public and others in terms of fracking and water disposal? Mr. Baza stated they are a central information point and hope that people come to them first for information. That doesn't always happen. If people come to them, they give them the realities and the facts.

Mr. David Lambert noted that the main source of the number of drilling rigs being down is price, but how many are being held up by environmentalist? Mr. Baza stated that, even though they approve on state lands, BLM has to approve on federal lands. That can take from 18 months to two years.

6. Chairman's Report

a. Beneficiary Report

Ms. Margaret Bird noted that Director Carter did a great job in derailing legislation that could have taken \$1 million a year for three years out of the trust funds for access litigation. Our Chairman came to the legislature and spoke and also did a great job.

Ms. Bird noted that she and Director Carter and Representative Mel Brown were invited to Minnesota to talk to their legislature regarding trust land management. They discussed with the legislature how our trust management has changed through the years. She gave the Board an article from the newspaper in Minnesota regarding their visit. Their legislators were very gracious and kind to them. They made presentations to many groups throughout the day. The proposed bill in the Minnesota legislature is a copy of the Utah code. She noted Director Carter handled all the questions very well. If they get further follow-up calls, some others may be sent to the Board members, depending on what they want to know.

6. Chairman's Report (cont'd)

b. Report From Audit Committee

Mr. Ron Carlson noted the Board Audit Committee met this morning before the Board meeting. He gave the Board a handout on what the audit findings were and the agency's comments to the findings. He reviewed with the Board the findings and our response. He noted we have also formed an internal team and gone through our own review process. In an upcoming Board meeting, we will discuss this further.

Items 1-11 relate solely to the procurement rules of the Board and agency. Our agency is exempt from state guidelines upon adoption of our own guidelines. The auditors looked at how we are abiding by our own rules. Mr. Brown emphasized that Director Carter had requested this audit.

Mr. Carlson noted that another item on the audit committee agenda was the role of the agency auditor and the Board. Presently, the auditor is an employee of the Director. The statute says the Director hires and fires all agency personnel. The beneficiaries are suggesting that the auditor relationship be different. We are looking at some type of different arrangement. The Director has also formed a team within the organization to look at creating efficiencies and how we might cut costs.

Mr. Carlson noted that the beneficiaries had brought up an item regarding who the people in the agency are that are looking at amendments to complicated contracts, etc.

Mr. Lofgren stated that he feels we should be 100 percent compliant with our procurement rules, but we might need to look at whether or not any of these policies and rules are unreasonable. This issue will be looked at further.

Mr. Carlson noted that the state auditors have asked him to do some "testing" of these issues in the near future.

Chairman Ferry stated we need to have audits, and it is best for us to call for the audits rather than someone else call for them. Director Carter stated it is his intent that we are 100 percent compliant with all the Board's policies and rules.

6. Chairman's Report (cont'd)

b. Report From Audit Committee (cont'd)

Chairman Ferry noted that the Board needed to go into closed session for the discussion of personnel issues.

Ure / Ostler. Unanimously approved.

“I move that we go into closed session for the discussion of the character and competence of individuals.”

Roll Call:

Mr. Brown - - yes	Mr. Lofgren - - yes
Mr. Ostler - - yes	Mr. Ure - - yes
Mr. Lambert - - yes	Mr. Mower - - yes
Mr. Ferry - - yes	

The Board went into closed session at 1:05 p.m. Those in attendance were Board members, Kevin Carter, John Andrews, LaVonne Garrison, Doug Buchi, Kim Christy, and Tom Faddies. At 1:20 p.m. the Board excused Mr. Carter, Mr. Andrews, Ms. Garrison, Mr. Buchi, Mr. Christy, and Mr. Faddies. Mr. Gayle McKeachnie joined the Board in closed session at this point. The Board returned to open session at 3:00 p.m.

Ostler / Mower. Unanimously approved.

“I move we return to open session.”

Roll Call:

Mr. Brown - - yes	Mr. Lofgren - - yes
Mr. Ostler - - yes	Mr. Ure - - yes
Mr. Lambert - - yes	Mr. Mower - - yes
Mr. Ferry - - yes	

7. Consent Calendar

Approval:

- a. Staker and Parson Companies Gravel Pits - - Other Business Arrangement - MP 458-OBA - Uintah County, Utah
- 

There were no comments or questions on this item, so it is approved.

- b. Adoption of Grazing Fee for FY 2010 -2011 Grazing Season

There were no comments or questions on this item, so it is approved.

Notification:

- c. Fee Waiver Report

The Board had no comments on this report. It was for information to the Board.

Upon motion by Mr. Ure, the meeting adjourned at 3:05 p.m.