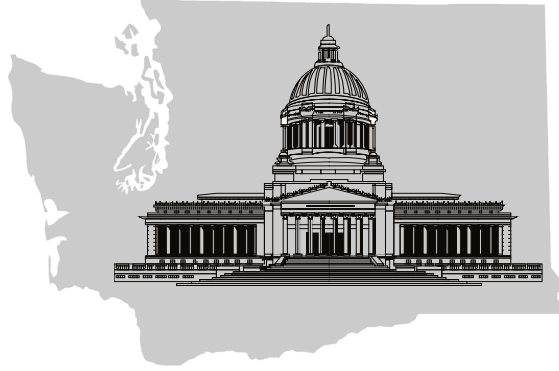


State of Washington
Joint Legislative Audit & Review Committee (JLARC)



**Review of Mineral Rights and
Conveyance of State Lands**

Report 08-11

December 3, 2008

*Upon request, this document is available in
alternative formats for persons with disabilities.*

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The Joint Legislative Audit and Review Committee (JLARC) works to make state government operations more efficient and effective. The Committee is comprised of an equal number of House members and Senators, Democrats and Republicans.

JLARC's non-partisan staff auditors, under the direction of the Legislative Auditor, conduct performance audits, program evaluations, sunset reviews, and other analyses assigned by the Legislature and the Committee.

The statutory authority for JLARC, established in Chapter 44.28 RCW, requires the Legislative Auditor to ensure that JLARC studies are conducted in accordance with Generally Accepted Government Auditing Standards, as applicable to the scope of the audit. This study was conducted in accordance with those applicable standards. Those standards require auditors to plan and perform audits to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions based on the audit objectives. The evidence obtained for this JLARC report provides a reasonable basis for the enclosed findings and conclusions, and any exceptions to the application of audit standards have been explicitly disclosed in the body of this report.

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Committee Approval

On December 3, 2008, this report was approved for distribution by the Joint Legislative Audit and Review Committee.

Acknowledgements

We appreciate the assistance provided by the Department of Natural Resources staff in conducting this study. In particular, we would like to thank the Title and Records Office staff for their availability and responsiveness.

**Review of
Mineral Rights
and Conveyance
of State Lands**

Report 08-11

December 3, 2008



STATE OF WASHINGTON

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REVIEW COMMITTEE

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REPORT SUMMARY

The State Must Manage its Trust Resources to Benefit the Beneficiaries

At statehood, the federal government granted land to the state for the support of public schools, colleges and other state institutions. Initially, the responsibility for managing these lands rested with the Board of State Lands Commissioners and the Commissioner of Public Lands. In 1957, however, the Legislature created the Department of Natural Resources and transferred most management authority for these lands to the Department. Because the federal government required that these lands be used for specified purposes, the Department must manage these trust lands in a manner that provides financial support for the beneficiaries. Pursuant to this duty, the Department may sell or otherwise transfer natural resources found on the land in exchange for payment.

State Law Governs How the State Transfers its Resources

While ownership of land involves multiple rights, state law dictates the nature of those rights and how the Department may use them. This study concerns one of those rights—the right to transfer natural resources found on the land. The particular resources addressed here are minerals and valuable materials. This review contains two components: the categories of the resources and the methods for transferring those resources.

Two Categories of Natural Resources for the Purpose of Transfer

For the purposes of transfers, state law has set forth two basic categories of natural resources since the late 1800s: minerals and valuable materials.

Minerals

The first category is minerals. The Legislature has not specifically defined this term as it relates to their transfer. The statutes describing the process for mineral transfer have listed gold, copper, silver, lead, cinnabar, oils, gases, coal, ores, and minerals and fossils of every kind as included minerals.

Valuable Materials

The second category is valuable materials. In 1959, the Legislature defined this term to include “any product or material on said lands, such as forest products, forage or agricultural crops, stone, gravel, sand, peat, and all other materials of value *except mineral, coal, petroleum, and gas.*” Prior to this definition and beginning in 1895, the statutes included timber, stone, rock, hay and gravel in this category.

Separate Processes for Transferring Minerals and Valuable Materials

Currently, the transfer of minerals is handled through mineral prospecting leases and mining contracts, while the transfer of valuable materials occurs through sales. Initially, the right to both minerals and valuable materials could be sold either with the land or separate from it. In 1897, the Legislature also provided that mineral rights on state-owned land could be leased as well as sold.

A major change in this process occurred in 1907 when the Legislature declared that anytime the state sold land, the mineral rights could not be transferred with the land, but rather must be retained by the state through a reservation of mineral rights. The Legislature authorized the leasing of these reserved mineral rights in 1917. Accordingly, the current process allows the Department to lease mineral rights whether they occur on land the state owns or land the state sold. Under this process, the state has an ongoing interest in the management of the mineral rights.

For valuable materials, on the other hand, the state law has authorized the sale of those rights either with the land or separate from the land since 1895. The law has never required that the right to those materials be reserved when the land is sold. Once the state sells the valuable materials, either with the land or separate from it, the state has no further legal interest in the rights to those materials and thus is not involved in any subsequent transfer.

For the Case Studies Reviewed, the State Used the Appropriate Processes for Transferring Minerals and Valuable Materials

The study mandate directed JLARC to conduct case study reviews of transactions involving the transfer of minerals rights. Based on the legal history setting forth the two categories of resources with distinct methods of transfer, JLARC staff reviewed 24 case studies: ten relating to reserved mineral rights and 14 relating to valuable materials. In all the cases reviewed where the state sold the land, it appropriately reserved the mineral rights. The Department treated all ten requests for access to mineral rights as mineral prospecting leases or mining contracts in accordance with the relevant statutes. In regard to valuable materials, with one exception in 1974, the Department handled those transactions in accordance with the applicable sale statutes.

MINERAL LEASES AND SALES OF VALUABLE MATERIALS

The State May Transfer its Natural Resources for the Benefit of the Trust Beneficiaries

At statehood, the federal government granted land to the state for the support of public schools, colleges and other state institutions. These lands are held “in trust” for the purpose for which they were granted. The state has added to these trust lands through exchanges, donations and other means. These trust lands are also referred to as “state lands.” While the initial responsibility for managing these lands rested with the Board of State Lands and the Commissioner of Public Lands, the Legislature transferred the majority of that authority to the Department of Natural Resources when it was created in 1957. For these state lands, the Department must seek to maximize any return from the sale, lease or other use of these lands for the benefit of the trust beneficiaries.

State lands contain many different natural resources. Examples include timber, coal, rock, stone, gold, gravel, oil and gas. Since the Department is required to manage these resources to achieve maximum benefit for the beneficiaries of the trust, it may decide to transfer these resources in exchange for payments to be placed in the trust funds.

Ownership of Land Involves Multiple Rights

Real property ownership includes what is often described as a “bundle of rights.” Examples of these rights include the right to enter and use the property, the right to a view, water rights, and the right to use or transfer natural resources found in or on the property. An owner may choose to sell some of these rights while retaining ownership to the land itself. For example, an owner could enter into a lease with another person, thereby transferring the owner’s right to use the property to that person while still retaining ownership to the land itself. Similarly, when land is sold, the seller may choose to transfer all of these rights or instead may retain some of these rights. An example of this situation is where the owner transfers ownership of the land to another person, but retains the rights to an unobstructed view.

A second example of transferring ownership but retaining rights is where the owner transfers ownership of the property, but retains the right to any minerals found on the property in the future. This type of rights retention is called a reservation of mineral rights. The reservation allows the prior owner access to the property in order to explore for minerals, to remove the minerals, or to require payment from anyone else who removes the minerals. The owner of the mineral rights reservation also may transfer that right through sale or lease to another party allowing that party to access and remove the minerals.

State Law Governs How the State Transfers its Rights

The same concept of real property ownership as a bundle of rights also applies when the state is the owner of the property. State law affects what rights the state may transfer and how the transfer is made. The following section traces the legislative history defining the state’s rights and responsibilities relative to the transfer of the natural resources which are the subject of this study. Appendix 3 contains a more detailed legal history.

Two Categories of Natural Resources for the Purpose of Transfer

For purposes of transferring these substances, state law created two categories of natural resources: minerals and valuable materials.

Minerals

The Legislature has never specifically defined “minerals” as it relates to their transfer. In addressing the disposal and retention of minerals, however, the law provided some direction:

- 1897: The Legislature authorized the state to execute leases and contracts for the mining of “*gold, silver, copper, lead, cinnabar or other valuable minerals*” on state lands.¹
- 1907: The Legislature required the state to reserve to itself the right to “*all oils, gases, coal, ores, minerals and fossils of every name, kind or description.*”
- 1917: The Legislature authorized the execution of leases and contracts for the mining of “*gold, silver, copper, lead, cinnabar or other materials*” on lands which the state had sold but to which the state had retained the minerals rights.

The term “minerals” has been defined in separate laws that govern reclamation activity. That definition, however, does not apply to the statutes governing the reservation or transfer of mineral rights.

Valuable Materials

Although not specifically defining “valuable materials” until 1959, the Legislature provided the following guidance:

- 1895: The Legislature authorized the state to sell “*fallen timber, natural hay or gravel*” separate from the land.
- 1897: The Legislature expanded the list by providing that “*timber, stone, hay and gravel*” could be sold separate from the land.
- 1909: The Legislature again amended the list to include “*timber, fallen timber, stone, gravel or other valuable materials.*”
- 1959: The Legislature defined “valuable materials” to its current state as “any product or material on said lands, such as forest products, forage or agricultural crops, stone, gravel, sand, peat, and all other materials of value *except mineral, coal, petroleum, and gas.*”

Separate Processes for Transferring Minerals and Valuable Materials

The Legislature created separate processes for transferring each of the two categories of resources. While the state initially could sell both minerals and valuable materials either separate from the land or with the land, the Legislature has since altered this approach. Currently, the right to minerals must be reserved to the state and initial access to these minerals, whether on land owned by the state or under a mineral reservation, is provided through a mineral prospecting lease or a mining contract. Valuable materials, on the other hand, may be sold either with the land or separate from it.

¹ The citations for all quotes are contained in Appendix 3.

Minerals

In 1897, the Legislature provided that the right to minerals on land owned by the state could be leased as well as sold separate from the land. The state still could sell mineral rights along with the land. The Legislature revised this process in 1907 by requiring the state to reserve the rights to minerals when it sold the land. Accordingly, the state could no longer sell the mineral rights with the land. In 1917, the Legislature specifically authorized the state to lease the *reserved* mineral rights. Current law provides for mineral prospecting leases on lands owned by the state as well as on those lands no longer owned by the state but to which the state reserved the mineral rights. The mineral prospecting lease must be converted into a mining contract before the minerals are removed.

Valuable Materials

The state has been authorized to sell valuable materials such as gravel either separate from, or together with, the land since the late 1800s. Unlike minerals where the law requires a reservation of rights, the law has never required such a reservation of the right to gravel or other valuable materials. Thus, when the state sells land, the rights to the valuable materials typically transfer to the new owner and the state has no role in the future disposition of those materials. When the state transfers valuable materials on land it does own, it does so through the sale of the materials. The sale may be either directly to a particular buyer or through a public auction to the highest bidder. After the auction, payment may be required either in a specified amount or through a contract for the sale of the valuable materials with periodic payments.

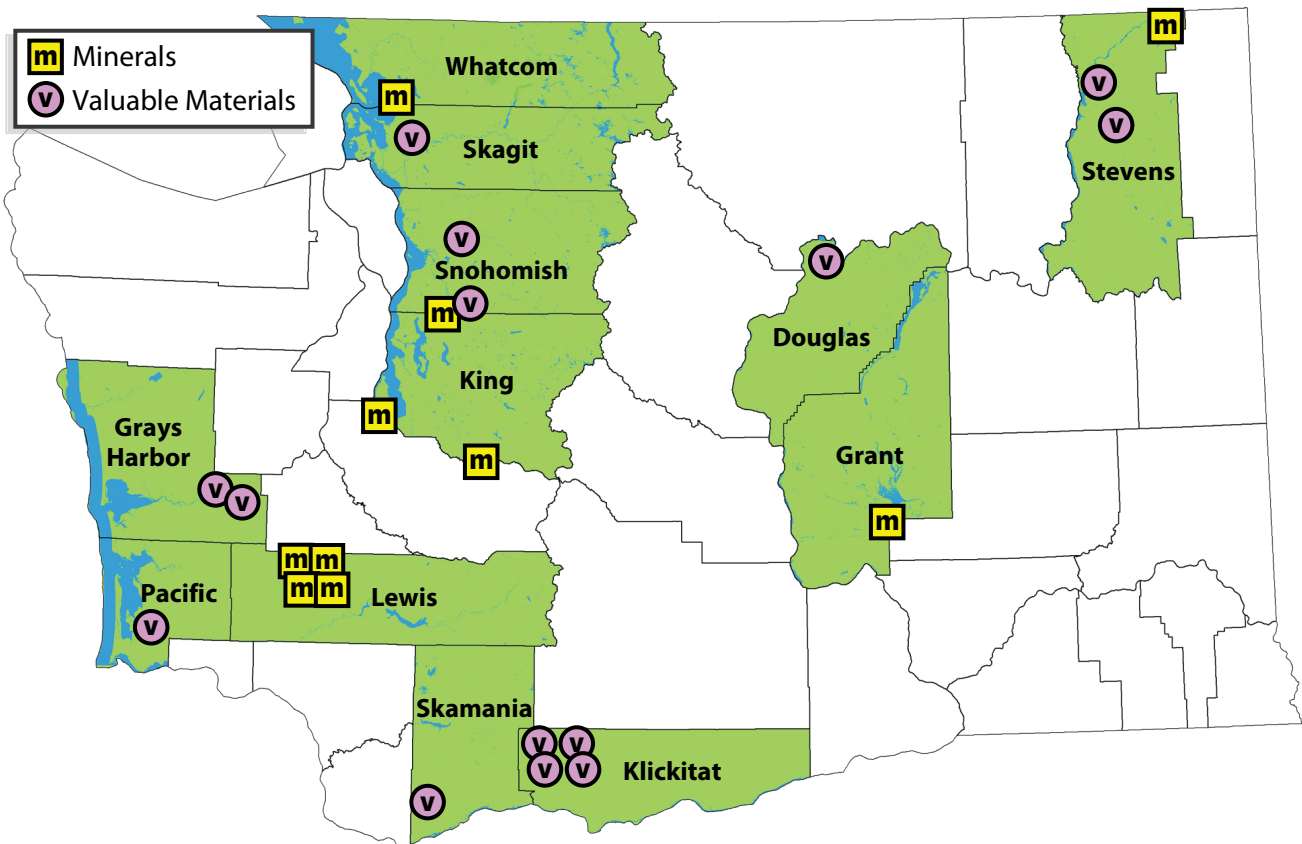
CASE STUDIES

For the Case Studies Reviewed, the State Used the Appropriate Transfer Method

JLARC staff examined a number of transactions involving the transfer of minerals or valuable materials to determine if the state used the statutorily required process for the transfer of those natural resources. To select appropriate case studies, JLARC staff reviewed records at the Department of Natural Resources and interviewed Department staff. Records of mineral or valuable material transactions from recent years were available in a searchable electronic form. JLARC staff also conducted a manual review of historic records dating to the 1890s to identify appropriate case studies. The historic records are not computerized nor filed in a manner that allowed a statistically random sample. JLARC staff did attempt to find a diverse group of case studies for review.

The review considered 24 transactions covering the time period from 1900 through 2007. The transactions were spread across the state and involved a variety of substances including limestone, coal, oil and gas, industrial minerals, rock, and gravel. JLARC staff reviewed the available documents associated with these transactions in order to determine if they had been handled through the appropriate transfer method.

Exhibit 1 – Locations of JLARC Case Studies



Source: Department of Natural Resources.

Minerals

In determining which transactions to review, JLARC staff located parcels where the state had sold the land after 1907. In each parcel, the documents noted that the state had reserved the rights to the minerals. This group of parcels was narrowed to ones where the state had granted access to the mineral rights. In the ten case studies reviewed, the state processed the mineral access requests as mineral prospecting leases in accordance with the relevant statutes. A mineral prospecting lease provides an opportunity for the leaseholder to explore for the presence of materials and to undertake preliminary development activities for the removal of minerals. If minerals are found, a second step in the process is to apply to the state for conversion of the mineral prospecting lease to a mining contract. The contract must be obtained prior to removal of sizeable quantities of the minerals. A mining contract specifies the requirements for the mining activity and establishes the payment terms.

While each case differed slightly, the following situation provides an example of how the Department handled requests for exploration and removal of minerals. In 1984, the state sold land to the Weyerhaeuser Company. In accordance with state law, the state reserved the mineral rights.² In March 1986, a mining company filed an “Application for Lease of Mineral Rights” with the Department to explore for minerals on the property. In September 1987, the Department entered into a mineral prospecting lease with the company. In October 1988, in exchange for payment, the mining company transferred its rights under the lease to the Weyerhaeuser Company. In 1994, at the Weyerhaeuser Company’s request, the state changed the mineral prospecting lease to a mining contract. This contract allowed the Weyerhaeuser Company to remove minerals in exchange for royalty payments. The royalty payments include both an “advance royalty” based on an annual amount set forth in the contract as well as a production royalty of 3 percent of the receipts from the sale of the minerals.

While many transactions did not result in a mining contract and the actual removal of minerals, the case studies reviewed showed that each request for minerals began as a mineral prospecting lease. The following chart contains a listing of the mineral case studies reviewed.

² Transaction No. 67034 in Exhibit 2.

Exhibit 2 – Case Studies of Transfer of Minerals

Date	Type of Mineral	Form of Transaction	County	Transaction Number
1936	Oil & Gas	Lease	Grant	29558
1955	Minerals	Contract	Stevens	46883
1972	Oil & Gas	Lease	Snohomish	60425
1973	Oil & Gas	Lease	King	60806
1973	Coal	Lease	Lewis	59687
1973	Coal	Lease	Lewis	59691
1975	Coal	Lease	Lewis	61434
1980	Oil & Gas	Lease	Whatcom	63465
1987	Mineral	Contract	King	67034
2007	Oil & Gas	Lease	Lewis	81152

Source: JLARC analysis of Department of Natural Resources records.

Valuable Materials

In regard to the review of valuable material case studies, with one exception, the state handled requests for access to valuable materials such as rock and gravel in accordance with the sales statutes. Once the state sells the land, it no longer has any right to the valuable materials. Accordingly, the transactions reviewed for this part of the study occurred only for land that the state still owned.

For 13 of the 14 situations reviewed, the transaction began with an individual, company, or government entity filing an application with the state to purchase the specific material sought, e.g., stone, rock, gravel or sand. Depending on when the transaction occurred, the nature of the purchaser (private as opposed to government), and the volume of the materials, the sale was made either directly to the applicant or to the highest bidder at a public auction. The state then issued a permit to remove the materials or a bill of sale or entered into a contract authorizing the removal of the materials. Again, depending on the specifics of the situation, the buyer was either required to make full payment prior to, or in a specified period after, removal of the materials or could make periodic payments over time.

The one exception to this process occurred in Transaction Number 61123 in Exhibit 3. The parcel involved in this transaction was initially owned by the Department of Corrections, but managed by the Department of Natural Resources since 1966, pursuant to an agreement between the parties. The Department of Natural Resources did not acquire title to the property until 1996 when it became trust land. This transaction involved gravel and began in 1973 as an application to purchase valuable materials. At the purchaser's request, the application was cancelled and the request was changed to an application for a mining contract. The mining contract issued in 1974 provided for a small annual royalty and a production royalty of 3 percent. Within a year, the contract was changed to clarify that the annual royalty payments did not apply to rock, stone or gravel.

An undated memo discussing the renewal of the mining contract states that at the time this transaction commenced, it was unclear under the laws then in place whether mining contracts were

intended to be used for the removal of sand, gravel and rock. The most recent version of the contract entered into in 1995, does not reference either the mineral or valuable materials statutes.

The case studies showed that, with the one exception noted above, the state consistently handled the transfer of rock, stone and gravel as a sale of materials rather than as a mineral prospecting lease and mining contract. The following chart contains a listing of the valuable materials case studies reviewed.

Exhibit 3 – Case Studies of Transfers of Valuable Materials

Date	Type of Material	Form of Transaction	County	Transaction Number
1900	Limestone	Sale	Stevens	644
1901	Limestone	Sale	Stevens	767
1904	Clay	Sale	Douglas	2304
1907	Rock	Sale	Skamania	4486
1954	Gravel	Sale	Pacific	2159
1955	Gravel	Sale	Klickitat	2114
1961	Rock	Sale	Klickitat	2516
1962	Gravel	Sale	Grays Harbor	2602
1964	Rock	Sale	Klickitat	29558
1970	Gravel	Sale	Grays Harbor	34755
1974	Gravel	Lease	Snohomish	61123
1993	Gravel	Sale	Skagit	52200
2000	Rock	Sale	Klickitat	39723
2001	Gravel	Sale	Snohomish	72494

Source: JLARC analysis of Department of Natural Resources records.

Maury Island Parcel

The 2008 Supplemental Budget Note requiring this study identified a parcel on Maury Island for possible inclusion within the case studies. The state sold portions of this parcel in 1907 and 1923, and in both sales the state reserved the mineral rights. Gravel removal has occurred periodically on the property for over 80 years. While this parcel is included within the mineral table set forth above as Transaction Number 60806, its inclusion is due to the Department’s issuance of an oil and gas lease for the property in 1973, not because of the gravel activity. The parcel is not included in the group addressing the sale of valuable materials because the gravel activity on that property did not occur until after the state sold the land. Because state law treats gravel as a valuable material to be sold with the land as opposed to a mineral right subject to reservation, the state has no role in a later sale of such materials once the land has been sold. JLARC staff also located other transactions where the state had sold the land, and subsequent to the sale, gravel mining occurred on the property. In none of those occurrences was the state involved in the sale of the gravel.

REPORT CONCLUSION

Since 1897, state law has divided natural resources into two categories for purposes of transferring the rights to those resources: minerals and valuable materials. While the term “minerals” has not been specifically defined for the purpose of reservation or transfer, the laws authorizing the state to execute mineral leases refer to “gold, silver, copper, lead, cinnabar or other materials.” Valuable materials, since the late 1800s have included timber, stone, gravel, hay, and rock. The statutory definition of “valuable materials” specifically excludes minerals.

The basic processes for disposing of these resources have been consistent since the early 1900s. Initially, both minerals and valuable materials could be sold with, or separately from, the land. In 1907, the Legislature changed this approach by directing that the state could not sell minerals with the land, but instead must reserve the mineral rights in any sale. Minerals could be accessed through a mineral prospecting lease or mining contract. Valuable materials, however, have always been available for sale either with the land or separately from the land. Accordingly, the state is involved in a sale of valuable materials by themselves only when it still owns the land. For the case studies reviewed by JLARC, the state has acted consistently with these statutory processes.

APPENDIX 1: SCOPE AND OBJECTIVES

REVIEW OF MINERAL RIGHTS AND CONVEYANCE OF STATE LANDS

SCOPE AND OBJECTIVES

JUNE 18, 2008



STATE OF WASHINGTON
JOINT LEGISLATIVE AUDIT AND
REVIEW COMMITTEE

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Why a JLARC Review of Mineral Rights and Conveyance of State Lands?

The 2008 Supplemental Operating Budget provided funding for JLARC to evaluate public policy issues raised with respect to mineral rights and the conveyance of public lands.

Background

Real property ownership includes what is often described as a “bundle of rights.” Examples of these rights include the right to enter and use the property, the right to a view, water rights, and the rights to use or transfer natural materials found on the property or minerals found under the property. When real property is sold, some or all of these property rights may also be sold at the same time.

Since Washington’s statehood, the state government has owned a variety of lands. The state’s ownership of its real property includes all of the rights noted above. Thus, when the ownership of state land is sold or transferred to another entity, the state may transfer all, or may reserve certain, rights. State statutes, beginning in the 1890s and continuing to the present, have governed the transfer of state lands and the related natural materials and minerals.

The Legislature has designated the Department of Natural Resources as the manager of the majority of the state’s lands. The Department’s management authority includes authorizing the sale or lease of the lands and the sale or reservation of the natural materials or mineral rights attached to the lands. Other agencies such as the Department of Fish and Wildlife and the Parks and Recreation Commission also manage state lands.

Study Scope

This review will evaluate the public policy issues raised with respect to mineral rights and the conveyance of state lands. The study also will address the state’s compliance with applicable legal requirements in a group of case studies where the state has transferred ownership of state lands.

Study Objectives

In response to the legislative directive, the study will focus on the following questions:

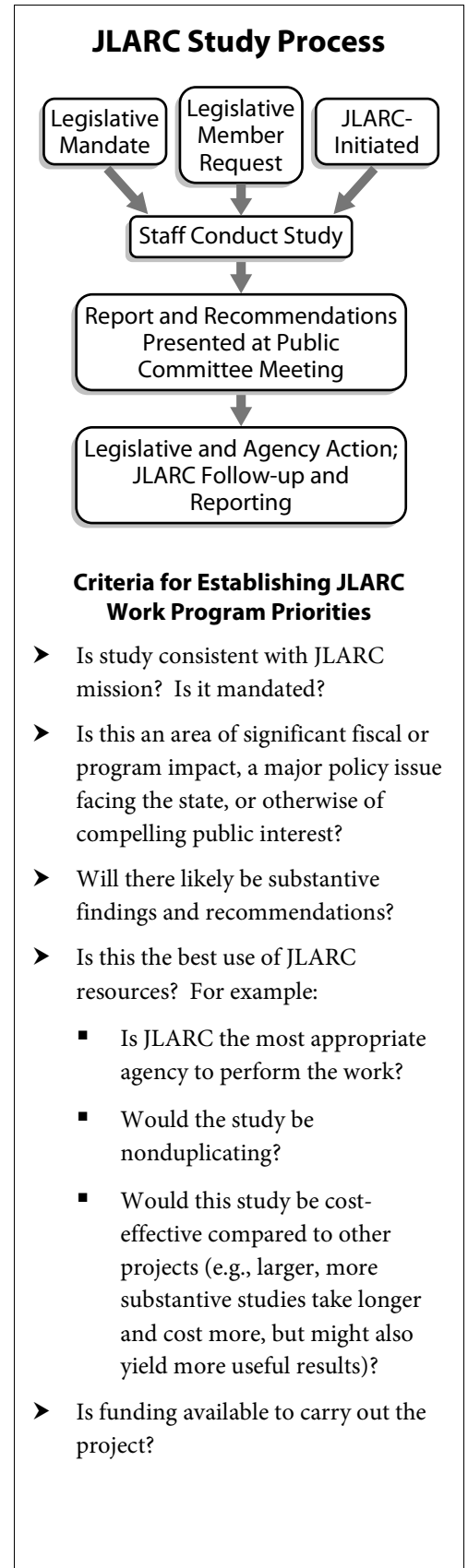
- 1) What is the legal history for how the rights to minerals and natural materials on state lands have been characterized?
- 2) What historical legal requirements govern how the state should treat mineral rights and natural materials when state land ownership is sold or transferred? How does this relate to the fiduciary trust responsibility for state lands?
- 3) How has the reservation or transfer of mineral rights and natural materials been treated for a group of case study state land transactions?
- 4) For the case studies, how does this treatment compare across time and geography?

Timeframe for the Study

Staff will present its preliminary and final reports at the JLARC meetings in October and December 2008.

JLARC Staff Contact for the Study

Stacia Hollar (360) 786-5191 hollar.stacia@leg.wa.gov



APPENDIX 2: AGENCY RESPONSES

- Department of Natural Resources
- Office of Financial Management



October 20, 2008

Ruta Fanning, Legislative Auditor
JLARC
1300 Quince Street SW
Olympia, WA 98504-0910

RECEIVED

OCT 22 2008

JLARC

Dear Ms. Fanning:

Thank you for the opportunity to comment on the Joint Legislative Audit and Review Committee's (JLARC) preliminary report on the *Conveyance of Public Lands with Mineral Rights*. I also appreciate you informing our office when the report will be presented to your Committee; our Executive Director of Policy and Administration, Ms. Bonnie Bunning, will be attending on behalf of the Department of Natural Resources.

JLARC staff did an excellent job of describing the statutory and management framework for handling the lease/sale of minerals and valuable materials on state trust lands, and making a complex subject easy to understand. We are pleased to find that the appropriate methods for conveying minerals and valuable materials have been consistently followed over the years you examined.

This is a thorough report. Thank you for the opportunity to add our comments from our final review.

Sincerely,

Doug Sutherland
Commissioner of Public Lands

c: Stacia Hollar, JLARC
Kirstan Arestad, Senior Budget Assistant, OFM
John Mankowski, Executive Policy Advisor, OFM
Michael Grayum, Government and Community Relations Director, DNR
Stephen Saunders, Asset Management and Protection Division Manager, NDR
File 08-0226




STATE OF WASHINGTON
OFFICE OF FINANCIAL MANAGEMENT

Insurance Building, PO Box 43113 • Olympia, Washington 98504-3113 • (360) 902-0555

October 22, 2008

TO: Ruta Fanning, Legislative Auditor
Joint Legislative Audit and Review Committee

FROM: Victor A. Moore, Director 
Office of Financial Management

**SUBJECT: JLARC PRELIMINARY REPORT ON CONVEYANCE OF
PUBLIC LANDS WITH MINERAL RIGHTS**

Thank you for this opportunity to review and comment on the Joint Legislative Audit and Review Committee's preliminary report on the Conveyance of Public Lands with Mineral Rights.

We have no specific comments at this time, but wish to acknowledge the research and analysis presented in the report. It provides valuable clarification about who owns minerals and other resources when public lands are sold.

Again, thank you for the opportunity to comment. Please don't hesitate to contact David Giglio of my staff at 902-0654 with any questions.

cc: The Honorable Doug Sutherland, Commissioner of Public Lands



APPENDIX 3: LEGISLATIVE HISTORY

While some changes have occurred over time, the basic categorization of, and procedures for natural resources transfers has been consistent since 1907. A brief history of the major legislative changes as they relate to these topics follows:

1893

Persons interested in purchasing state lands could apply for an appraisal of the parcel. The Board of State Land Commissioners then could order an inspection of the property as to its “character, topography, whether agricultural, timber, mineral, stone or rock quarry or grazing...” At the time of the inspection, the inspector was to make note of whether there were valuable growths of timber or deposits of stone, minerals or coal which could be “advantageously” sold separately from the land and to provide an appraisal value of such growth or deposits.

The Board had the authority to authorize the sale of the timber, stone, minerals or coal separate from the land itself. The sale was to occur through a public auction to the highest bidder in lots not to exceed ten acres each. The purchaser had to pay cash for these materials and could not remove them until the purchaser had made full payment. **Laws of 1893, Chapter 125, Sections 9, 15, 18, and 19.**

1895

The requirement that coal, timber stone or minerals must be sold at public auction remained the same. The Legislature added an additional requirement that timber, stone and minerals could not be sold for less than \$10 per acre. On the other hand, the Legislature added a new section authorizing the Board to sell “fallen timber, natural hay or gravel” separate from the land under whatever terms the Board determined appropriate without setting a minimum price. **Laws of 1895, Chapter 178, Sections 25 and 27.**

1897

Having repealed the 1895 law, the Legislature provided a new section providing that timber, stone, hay, gravel and “other valuable materials” may be sold separately from the land. Minerals were no longer included in this list of items to be sold separate from the land. The section retained the 1895 restriction that no standing timber or stone could be sold for less than \$10 per acre, but eliminated the word “mineral” from this requirement. This section further provided that the full purchase price for these materials must be paid in cash when the materials were sold separate from the land. In another section, however, the Legislature provided that the state should issue a deed of conveyance when full payment was made for “land, stone, minerals or timber. **Laws of 1897, Chapter 89, Sections 12 and 17.**

In a separate bill during this same session, the Legislature authorized the Commissioner of Public Lands to execute leases and contracts for the mining of “gold, silver, copper, lead, cinnabar or other valuable minerals” on state lands. The holder of the lease had two years to develop the mine and the right to apply for a mining contract. The state would receive annual payment as well as royalties on any goods removed. **Laws of 1897, Chapter 89, Sections 12 and 17.**

1907

The Legislature focused on the issue of mineral rights by providing that every contract, deed, or patent relating to the sale of state lands must include a provision reserving to the state the right to “all oils, gases, coal, ores, minerals and fossils of every name, kind or description.” Mining activity under such a reservation, however, could not occur until the owner of the land received full payment for any damages. In regard to the sale of valuable materials, the Legislature eliminated the \$10.00 minimum price and provided instead that standing timber and stone could not be sold for less than appraised value. In regard to valuable materials, the law provided that “timber, stone, hay and gravel” could be sold separate from the land. **Laws of 1907, Chapter 256, Sections 3 and 6.**

1909

The list of resources to be sold separate from the land was amended to “timber, fallen timber, stone, gravel or other valuable materials.” **Laws of 1909, Chapter 223, Section 3.**

1917

The Legislature added a new provision to the mining laws specifically authorizing the commissioner to execute leases and contracts for the “mining of gold, silver, copper, lead, cinnabar or other materials from any lands sold or leased by the state, the minerals of which have been reserved by the state.” **Laws of 1917, Chapter 148, Section 5.**

1925

The Legislature added coal to the list of items for which the commissioner may execute mining contracts and leases on lands owned by the state, or lands sold or leased by the state where the state reserved the mineral rights. **Laws of 1925, Chapter 155, Section 1.**

1955

Specific provisions authorizing lease of state lands for oil, gas or other hydrocarbon substances are added. **Laws of 1955, Chapter 394, Section 1.**

1957

The Legislature created the Department of Natural Resources. All powers previously vested in the Commissioner of Public Lands were transferred to the Department. **Laws of 1957, Chapter 38, Section 27.**

1959

The Legislature specifically defined the term “valuable materials” as it relates to state lands stating that the term includes “any product or material on said lands, such as forest products, forage or agricultural crops, stone, gravel, sand, peat, and all other materials of value *except mineral, coal, petroleum, and gas...*” **Laws of 1959, Chapter 257, Section 1**, (Emphasis added; codified at RCW 79.02.010(12)).

1961

Legislative changes allowed for the sale of valuable materials on an installment basis under certain circumstances. The Legislature provided a new method for selling valuable materials by authorizing sales of unspecified volumes on a royalty basis of a set amount per volume. The sale and removal of rock, gravel, sand and silt also may be made through a contract providing for payment on a royalty basis. **Laws of 1961, Chapter 73, Sections 1 and 11.**

1970

In passing the Surface Mining Reclamation Act, the Legislature stated that the purpose of the Act was to provide that the value of all lands involved in surface mining are protected and restored. The term “minerals” for the purpose of this Act was defined very broadly to mean “coal, clay, stone, gravel, metallic ore, and any other similar solid material or substance to be excavated from natural deposits on or in the earth for commercial, industrial, or construction use.” Persons intending to conduct mining on any property in the state, whether publicly or privately owned, must first obtain a reclamation permit from the Department. The Legislature stated that this definition was for use in the Surface Mining Reclamation Act. Accordingly, this definition does not apply to the separate statutes governing the state’s responsibilities related to mineral rights reservations when it sells state lands. **Laws of 1970, ex. s., Chapter 64, Sections 3, 4 and 9.**

1987

The Department may enter into mining contracts after a public auction where lands are known to contain a commercially significant quantity of valuable minerals. **Laws of 1987, Chapter 20, Section 1.**

1993

The Legislature repealed the previous definition of “minerals” for purpose of the Surface Mining Reclamation Act and enacted the current version which expanded the earlier version by adding industrial minerals, peat, sand, and topsoil to the definition. **Laws of 1993, Chapter 518, Section 4.**

2003

The laws discussed above were re-codified into their current format of separate chapters for sale of state lands (Chapter 79.11 RCW), mineral leases (Chapter 79.14 RCW) and sale of valuable materials (Chapter 79.15 RCW). **Laws of 2003, Chapter 334.**

