

Jefferson County
Board of Commissioners
Agenda Request

To: Board of Commissioners
Philip Morley, County Administrator

From: Frank Gifford *FG*
Central Services Director

Agenda Date: November 25, 2013

Subject: Washington State Dept. of Natural Resources (DNR) Letter of Intent

Statement of Issue:

Jefferson County has been designated to receive state trust land identified as Beausite Lake 02-090358 in the Trust Land Transfer legislative appropriation for the 2013-2015 biennium. The purpose of the Letter of Intent (LOI) is to identify the process and terms of the transfer as provided by legislative direction and the DNR trust management obligations. This LOI is an expression of the good faith intent of both parties to move this transaction to completion and is not a legally binding document.

Analysis/Strategic Goals/Pro's & Con's:

Adding the Beausite Lake DNR parcel to the existing Gibbs Lake and Beausite Lake properties will create a legacy open space/park for future generations .

Fiscal Impact/Cost Benefit Analysis:

There is no direct impact other than staff time.

Recommendation:

Sign the LOI and return both originals to be signed by DNR.

Department Contact:

Frank Gifford x130

Reviewed By:


Philip Morley, County Administrator

11/19/13
Date

**WASHINGTON STATE
DEPARTMENT OF NATURAL RESOURCES
LETTER OF INTENT**

BEAUSITE LAKE TRUST LAND TRANSFER PROJECT

1. Introduction. Jefferson County (Receiving Agency) has been designated to receive state trust land identified as Beausite Lake 02-090358 in the Trust Land Transfer (TLT) legislative appropriation for the 2013–2015 biennium. The purpose of this Letter of Intent (LOI) is to identify the process and terms of the transfer as provided by legislative direction and the Department of Natural Resources (DNR) trust management obligations. This LOI is an expression of the good faith intent of both parties to move this transaction to completion and is not a legally binding document.

2. Trust Land Transfer Program. The Trust Land Transfer program was created by legislation to protect special trust lands, provide funds for school construction and reposition Common School Trust lands to increase revenues and reduce management costs. Trust lands included in the program are recognized as having special characteristics desirable for uses other than timber harvest and trust revenue production. The legislature appropriates funds to acquire or lease the property at market value and directs the timber value be deposited to the common school construction account and the land value be used to acquire other common school trust land better suited for producing trust revenues. The selected property is transferred to the designated receiving agency to be managed for the intended special public use. Additional program information may be found on the DNR web site at http://www.dnr.wa.gov/BusinessPermits/Topics/OtherLandTransactions/Pages/amp_tlt.aspx.

3. Authority. Authority and funding for the transfer is provided by Section 3231, Chapter 19, Laws of 2013 (Capital Budget Bill), RCW 79.17.200, and other statutes that may apply. The legislature has appropriated \$56,345,000 to transfer or lease 17 properties. A copy of the legislation is attached as Exhibit D.

4. Receiving Agency. The receiving agency as identified on LEAP Capital Document No. 2013-3A, referenced in 3231(2) as the approved property list, is “Jefferson County”. The conveyance deed will identify Jefferson County as the Grantee.

5. Property. The Beausite Lake Trust Land Transfer property (herein referred to as ‘The Property’) proposed for transfer comprises approximately 290 acres within portions of Sections 27, 28, 34, Township 29 North, Range 01 West, W.M., in Jefferson County, where the property is located. The Property is adjacent to Beausite Lake County Park and Gibbs Lake County Park which are owned and managed by Jefferson County. The majority of the property is forest land with one 1930’s era dilapidated house structure (unoccupied) and smaller associated outbuildings on the property located near the Beausite Lake Kiwanis Camp. The Property is currently managed for the State Forest Transfer Trust and must be exchanged for equal valued Common School Trust property to complete the transfer. This extra step will be included in DNR’s

administrative process. DNR has selected the Common School trust land located in a portion of Section 16, T29N, R1W, W.M. (south of Anderson Lake State Park) for this intra-grant exchange.

6. Title. Title will be conveyed by quitclaim deed substantially in form as set forth in Exhibit B. The property will be conveyed AS IS, WHERE IS. The deed shall contain a release of liability relating to the condition of the property. The applicable deed will be submitted to the Receiving Agency for approval prior to conveyance.

7. Title Insurance. DNR will not provide title insurance. The Receiving Agency may acquire title insurance at its own expense.

8. Reservations. DNR will reserve minerals as required by RCW 79.11.210 and reserve the ability to purchase access as stated in RCW 79.36.370. Specific reservation language is shown in Exhibit B.

9. Property Value. The Legislative appropriation will be used to compensate the Common School Trust for the value of The Property. The Receiving Agency will receive The Property without charge, but will be responsible for all future costs after ownership has been transferred.

10. Appraisal. DNR will complete an appraisal of The Property to determine market value. The appraisal will include a value for land and timber that will provide the basis for distributions to the land replacement and school construction accounts as required by legislation. The appraisal will be initiated after the LOI has been signed to indicate agreement with the property transfer. The appraisal will remain confidential to DNR until the transfer is complete.

11. Board of Natural Resources. The transfer is conditioned upon approval by the Board of Natural Resources. The transfer will be presented to the Board after the appraisal is complete and the property transfer is desirable to both parties. The Board has the legal obligation to establish value for all lands leaving trust ownership.

12. Administrative Costs. DNR costs to complete the transfers are paid for by the appropriation. Such costs include staff time, equipment, travel, appraisals, closing costs, etc. Costs incurred by the Receiving Agency to receive, hold and manage The Property are the responsibility of the Receiving Agency.

13. Use Restriction. As required in Section 3231(7), a use restriction will be included in the deed that dedicates The Property for the appropriate public use as identified in Section 3231(2). The public use restriction proposed for Beausite Lake is that it be conveyed to be used exclusively for fish and wildlife habitat, open space or recreation. Refer to the second paragraph in the deed (Exhibit B).

14. Prorations. All lease/rental income, if any, and assessments and other expenses relating to The Property shall be prorated as of closing. The Receiving Agency will assume responsibility for any assessments remaining unpaid as of the closing date.

15. Leases and Encumbrances. Leases and encumbrances will be transferred with the property unless other arrangements are made. A DNR title records report with copies of lease and encumbrance documents will be provided for review.

16. Access. Legal access appurtenant to The Property will be conveyed when available. However, DNR does not guarantee legal access to all properties. Access to some properties may be unavailable or restricted by easement language. Currently, the property appears to have legal access from Jefferson County's Beausite Lake Road.

17. Removal from List. DNR and the Receiving Agency will attempt to complete the transfers as provided by legislation, however, either party may remove a property from the list as provided for in Section 3231(8) if determined the transfer is not in the state wide interest of the Common School Trust or Receiving Agency.

18. Continuing Forest Obligation. The Notice of Continuing Forest Land Obligation form will be signed by DNR and then the Receiving Agency prior to closing as required by RCW 76.09.070, RCW 76.09.390, and WAC 222-20-055. A sample of the form is attached as Exhibit C. All continuing forest obligations will become the responsibility of the Receiving Agency following closing.

19. Closing. Closing shall be carried out at the Olympia office of the Department of Natural Resources. The Receiving Agency acknowledges that DNR staff is acting as interested parties and not as escrow agents in preparing documentation and closing this transfer. Closing (Closing Date) will usually occur within 45 days following approval by the Board of Natural Resources. Each party will execute sufficiently in advance of the Closing Date all documents necessary to carry out this transfer including but not limited to real estate excise tax affidavits, assignment of any leasehold rights, etc. The cost of recording will be paid by DNR.

20. Schedule. DNR is initiating appraisal contracts for higher elevation properties first in order to take advantage of the summer operating season. Properties with high timber to land values also have an earlier schedule. We expect to begin work on Beausite Lake in the Fall of 2013 and should have it ready for transfer in summer of 2014.

21. Notices. Notices affecting this LOI or the subject transfers should be addressed to the following:

DNR	Receiving Agency
State of Washington Department of Natural Resources Conservation, Recreation and Transactions Division Attn: Bob Winslow P O Box 47014 1111 Washington Street SE Olympia, WA 98504-7014 Fax: (360) 902-1789	Jefferson County Attn: Frank Gifford, Central Services Director PO Box 1220 1820 Jefferson Street Port Townsend, WA 98368 Phone: (360) 385-9130 Email: FGifford@co.jefferson.wa.us

Phone: (360) 902-1622	
email: robert.winslow@dnr.wa.gov	

22. Acknowledgments. The acknowledgments below indicate that both parties are committed to proceed with the Trust Land Transfer and/or Lease as provided by legislation and conditions as set forth in this document. It is understood that the decision to proceed is based on current knowledge and that new information could change the desirability of the transfer for either party. This LOI is not intended to have a legally binding effect, but is an expression of good faith intentions of both parties.

Please return the signed original to the above address and an executed copy will be returned when signed by DNR. Signature is requested by November 27, 2013 to maintain the indicated schedule.

Department of Natural Resources

Receiving Agency

Signed: _____
 Printed: _____
 Title: _____
 Date: _____

Signed: _____
 Printed: _____
 Title: _____
 Date: _____

Approved as to form only
David Alvarez 11/15/13
 Jefferson Co. Prosecutor's Office
 David Alvarez, Chief Civil DPA

**EXHIBIT A
LETTER OF INTENT
BEAUSITE LAKE TRUST LAND TRANSFER**

LEGAL DESCRIPTION

Parcel 1

That certain parcel surveyed and designated as "STATE" and described in Record of Survey filed under Auditor's File No. 546045, dated August 24, 2009, records of Jefferson County, Washington. Situated in Section 28, Township 29 North, Range 1 West, W.M.

Parcel 2

Parcel "E" as described in Statutory Warranty Deed recorded in Auditor's File No. 323550, records of Jefferson County, Washington.
Being described as that portion of the East half of the East half of the Southwest quarter of Section 27, Township 29 North, Range 1 West W.M., lying westerly of the right of way of West Chimacum Valley Road as conveyed in Jefferson County by deed recorded March 25, 1981, under Auditor's file no. 271432.

Parcel 3

Parcel "C" as described in Statutory Warranty Deed recorded in Auditor's File No. 323550, records of Jefferson County, Washington.
Being described as the Northwest Quarter of the Northwest Quarter of Section 34, Township 29 North, Range 1 West, W.M., Jefferson County, Washington.

Parcel 4

The West half of the East half of the Southeast Quarter and the East Half of the West half of the Southeast Quarter and the West half of the West half of the Southeast Quarter lying south of the right of way of Beausite Lake Road, all within Section 27, Township 29 North, Range 1 West, W.M., Jefferson County, Washington.
Together with and Subject to Rights of way for Beausite Lake Road.

**EXHIBIT B
LETTER OF INTENT
BEAUSITE LAKE TRUST LAND TRANSFER**

AFTER RECORDING RETURN TO:
Department of Natural Resources
Conservation, Recreation and Transactions Division
ATTN: Bob Winslow
PO Box 47014
Olympia, WA 98504-7014

**QUITCLAIM DEED
Jefferson County**

Grantor: State of Washington, by and through the Department of Natural Resources
Grantee: _____
Legal Desc.: _____
Tax Parcel #: _____

THE GRANTOR, STATE OF WASHINGTON, acting by and through the Department of Natural Resources, for and in consideration of the sum of _____ Dollars (\$_____), which amount has been paid by state legislative appropriation pursuant to Section 3231, Chapter 19, Laws of 2013, hereby conveys and quitclaims to _____, GRANTEE, all interest in the real property situated in Jefferson County, Washington, and described in EXHIBIT A, attached hereto, which by this reference is made a part hereof.

This property shall be used exclusively for one or more of the following public purposes: fish and wildlife habitat, open space or recreation.

The above-described lands are subject to that certain statutory reserved right as set forth in RCW 79.36.370 and to the following reservation:

The Grantor hereby expressly saves, excepts, and reserves out of the grant hereby made, unto itself and its successors and assigns forever, all oils, gases, coal, ores, minerals, and fossils of every name, kind, or description, and which may be in or upon said lands above described, or any part thereof, and the right to explore the same for such oils, gases, coal, ores, minerals, and fossils; and it also hereby expressly saves and reserves out of the grant hereby made, unto itself and its successors and assigns forever, the right to enter by itself or its agents, attorneys, and servants upon said lands, or any part or parts thereof, at any and all times, for the purpose of opening, developing, and working mines thereon, and taking out and removing therefrom all

such oils, gases, coal, ores, minerals, and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its successors and assigns, forever, the right by its or their agents, servants, and attorneys at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads, and railroads, sink such shafts, remove such soil, and to remain on said lands or any part thereof for the business of mining and to occupy as much of said lands as may be necessary or convenient for the successful prosecution of such mining business, hereby expressly reserving to itself and its successors and assigns, as aforesaid, generally, all rights and powers in, to, and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and the rights hereby expressly reserved.

No rights shall be exercised under the foregoing reservation, by the state or its successors or assigns, until provision has been made by the state or its successors or assigns, to pay to the owner of the land upon which the rights reserved herein to the state or its successors or assigns, are sought to be exercised, full payment for all damages sustained by said owner, by reason of entering upon said land: PROVIDED, That if said owner from any cause whatever refuses or neglects to settle said damages, then the state or its successors or assigns, or any applicant for a lease or contract from the state for the purpose of prospecting for or mining valuable minerals, or option contract, or lease, for mining coal, or lease for extracting petroleum or natural gas, shall have the right to institute such legal proceedings in the superior court of the county wherein the land is situate, as may be necessary to determine the damages which said owner of said land may suffer.

Grantee accepts the Property "AS IS, WHERE IS" with all faults. The Grantor disclaims any warranties, express or implied, including any warranty of merchantability or fitness for a particular purpose about the Property, including but not limited to improvements located thereon, and no employee or agent of the Grantor is authorized otherwise. The foregoing specifically includes warranties with respect to the existence or nonexistence of any pollutants, contaminants, or hazardous waste or claims based thereon arising out of the actual or threatened discharge, disposal, seepage, migration, or escape of such substances at, from, or into the Property. Grantee hereby fully releases the Grantor from any and all liability to Grantee arising out of or related to the condition of the Property prior to, at, or after Grantee accepts title to the Property, including but not limited to the deposit or release of hazardous or toxic wastes or material and pollutants.

This Deed is executed and delivered pursuant to RCW 79.02.270 at the request of the Commissioner of Public Lands with the approval of the Board of Natural Resources, State of Washington.

WITNESS the Seal of the State of Washington, affixed this _____ day of _____, 20__.

GOVERNOR

ATTEST:

SECRETARY OF STATE

Approved as to form this ____ day
of _____, 20__.

Assistant Attorney General

Deed No. _____.
State Record of Deeds, Volume ____, Page _____.
Transaction File No. 02-_____

**EXHIBIT C
LETTER OF INTENT
BEAUSITE LAKE TRUST LAND TRANSFER**

Return to:

_____ Region

**Washington State Department of Natural Resources
Notice of Continuing Forest Land Obligation**

Sellers and Buyers of land and perpetual timber rights have certain rights and responsibilities when the land or perpetual timber rights are sold or transferred. Where the land is subject to certain continuing forest land obligations including without limitation: Reforestation; Road Maintenance and Abandonment Plans; Harvest Strategies along Type Np Waters in Eastern Washington; Conversion of forest land and required mitigation. **Prior to the sale or transfer of the land or perpetual timber rights the law requires that the following occur:** 1) the seller shall notify the buyer of the existence and nature of the obligations and 2) the buyer shall sign a Notice of Continuing Forest Land Obligation Form indicating the buyer's knowledge of such obligation. At the time of sale or transfer of the land or perpetual timber rights, the seller shall send the signed Form to the Department of Natural Resources (DNR). The Form is available at DNR region offices.

If the seller fails to notify the buyer about the continuing forest land obligation referenced above, the seller shall pay the buyer's costs related to such continuing forest land obligation, (including all legal costs) incurred by the buyer in enforcing the continuing forest land obligation against the seller. Failure by the seller to send the required notice to the DNR at the time of sale shall be prima facie evidence, in an action by the buyer against the seller for costs related to continuing forest land obligation, that the seller did not notify the buyer of the continuing forest land obligation prior to sale. See RCW 76.09.070, RCW 76.09.390 and WAC 222-20-055.

There are also other types of obligations subject to certain requirements, including without limitation Small Forest Landowner Forest Riparian Easements and Landowner Landscape Plans. For more information, contact the DNR Region Office.

CONTINUING OBLIGATION/S

Beausite Lake Trust Land Transfer 02-090358

Reforestation (RCW 76.09.070)

- Obligation exists on the property identified below and relates to the following Forest Practice Application/Notification (FPA/N) Numbers (list all that apply, add attachment if necessary) _____

Road Maintenance and Abandonment Plan (WAC 222-24-051) (RCW76.09.390(2))

- Obligation exists on property identified below and relates to the following Road Maintenance and Abandonment Plan Numbers (list all that apply, add attachment if necessary) _____

Harvest Strategy along Type Np Waters in Eastern Washington (WAC 222-30-022 (2)(b))

- Obligation exists on the property identified below and relates to the following Forest Practices Application / Notification Numbers (list all that apply, add attachment if necessary) _____

Conversion of forest land (RCW 76.060 and 070)

Obligation exists on the property identified below and relates to the following Forest Practices Application / Notification Numbers or enforcement documents. (list all that apply, add attachment if necessary) _____

PROPERTY IDENTIFICATION

Land/Rights Sold/Transferred (circle one): *Land and Timber* *Land* *Perpetual Timber Rights*

Date that the Land/Rights was/were Sold/Transferred (month/day/year): _____

County/ies: _____

DNR Region/s: _____

Legal Description of the Lands/Rights being Sold/Transferred (include county parcel number/s, add attachment if necessary): _____

SELLER:
Signature: _____

BUYER:
Signature: _____

Date: _____

Date: _____

Print name: _____

Print name: _____

Title: _____

Title: _____

Address: _____

Address: _____

Phone: _____

Phone: _____

NOTE TO SELLER: At the time of sale or transfer of the property or the perpetual timber rights: The seller is responsible for delivering (by certified mail or in person) the SIGNED ORIGINAL to the DNR Region Office in which the property is located. However, if you choose to also have this form recorded by the county, deliver the original to the county and a copy delivered (by certified mail or in person) to the DNR Region Office.

FOR DNR USE ONLY

Notice of Continuing Forest Land Obligation #: _____ Date Received: _____

Region: _____ Received by: _____

EXHIBIT D
LETTER OF INTENT
BEAUSITE LAKE TRUST LAND TRANSFER

4 NEW SECTION. Sec.3231. FOR THE DEPARTMENT OF NATURAL
RESOURCES

5 Trust Land Transfer (30000200)

6 The appropriation in this section is subject to the following
7 conditions and limitations:

8 (1) \$300,000 of the appropriation in this section is provided
9 solely for a state trust land inventory evaluation. The inventory
10 evaluation shall determine the acreage of department managed trust
11 lands, by asset class, that may be eligible for the trust land transfer
12 program over the next several decades, based on currently available
13 information. The department shall provide an interim report to the
14 legislature by January 31, 2014, on project scope, progress to date,
15 and recommended criteria for the trust land transfer program. The
16 department shall provide a final report by January 1, 2015.

17 (2) The remaining appropriation is provided solely to the
18 department to transfer from trust status, or enter into fifty year
19 leases for, certain trust lands of statewide significance deemed
20 appropriate for state park, fish and wildlife habitat, natural area
21 preserve, natural resources conservation area, open space, or
22 recreation purposes. The approved list of properties for lease or
23 transfer is identified in the LEAP capital document No. 2013-3A,
24 developed April 10, 2013.

25 (3) Property transferred under this section must be appraised and
26 transferred at fair market value. By September 30, 2013, the
27 department must deposit in the common school construction account the
28 portion of the appropriation in this section that represents the
29 estimated value of the timber on the transferred properties. This
30 transfer must be made in the same manner as timber revenues from other
31 common school trust lands. No deduction may be made for the resource
32 management cost account under RCW 79.64.040. The portion of the
33 appropriation in this section that represents the value of the land
34 transferred must be deposited in the natural resources real property
35 replacement account.

36 (4) Property subject to lease agreements under this section must be
37 appraised at fair market value. Lease terms must be fifty years with

1 options to renew for an additional fifty years. Lease payments must be
2 lump sum payments for the entire term of the lease at the beginning of
3 the lease. The department shall calculate such lump sum payments using
4 professional appraisal standards. These lease payments may not exceed
5 the fee simple purchase price based on current fair market value and
6 must be deposited by the department to the common school construction
7 account in the same manner as lease revenues from other common school
8 trust lands. No deduction may be made for the resource management cost
9 account under RCW 79.64.040. No later than September 30, 2013, the
10 department must transfer to the common school construction account the
11 portion of the appropriation in this section that is attributable to
12 receipts from lease payments.

13 (5) All reasonable costs incurred by the department to implement
14 this section are authorized to be paid out of the appropriations.
15 Authorized costs include the actual cost of appraisals, staff time,
16 environmental reviews, surveys, and other similar costs and shall not
17 exceed one and nine-tenths percent of the appropriation.

18 (6) Intergrant exchanges between common school and other trust
19 lands of equal value may occur if the exchange is in the interest of
20 each trust, as determined by the board of natural resources.

21 (7) Prior to or concurrent with conveyance of these properties, the
22 department, with full cooperation of the receiving agencies, shall
23 execute and record a real property instrument that dedicates the
24 transferred properties to the purposes identified in subsection (1) of
25 this section. Transfer and lease agreements for properties identified
26 in subsection (1) of this section must include terms that restrict the
27 use of the property to the intended purpose. Transfer and lease
28 agreements may include provisions for receiving agencies to request
29 alternative uses of the property, provided the alternative uses are
30 compatible with the originally intended public purpose and the
31 department and legislature approves such uses.

32 (8) The department and receiving agencies shall work in good faith
33 to carry out the intent of this section. However, the department or
34 receiving agencies may remove a property from the transfer list based
35 on new, substantive information, if it is determined that transfer of
36 the property is not in the statewide interest of either the common
37 school trust or the receiving agency.

1 (9) \$39,232,000 of the appropriation must be deposited in the
2 common school construction account by September 30, 2013. The
3 department shall execute trust land transfers so that after the
4 deduction of reasonable costs as provided in subsection (4) of this
5 section on an aggregate basis eighty percent of the total value of
6 transferred property is timber value or lease payments and is deposited
7 in the common school construction account. To achieve the eighty
8 percent requirement, the department may choose to lease properties
9 originally intended as transfers or transfer properties originally
10 intended as leases.

11 (10) By June 30, 2015, the state treasurer shall transfer to the
12 common school construction account any unexpended balance of the
13 appropriation in this section.

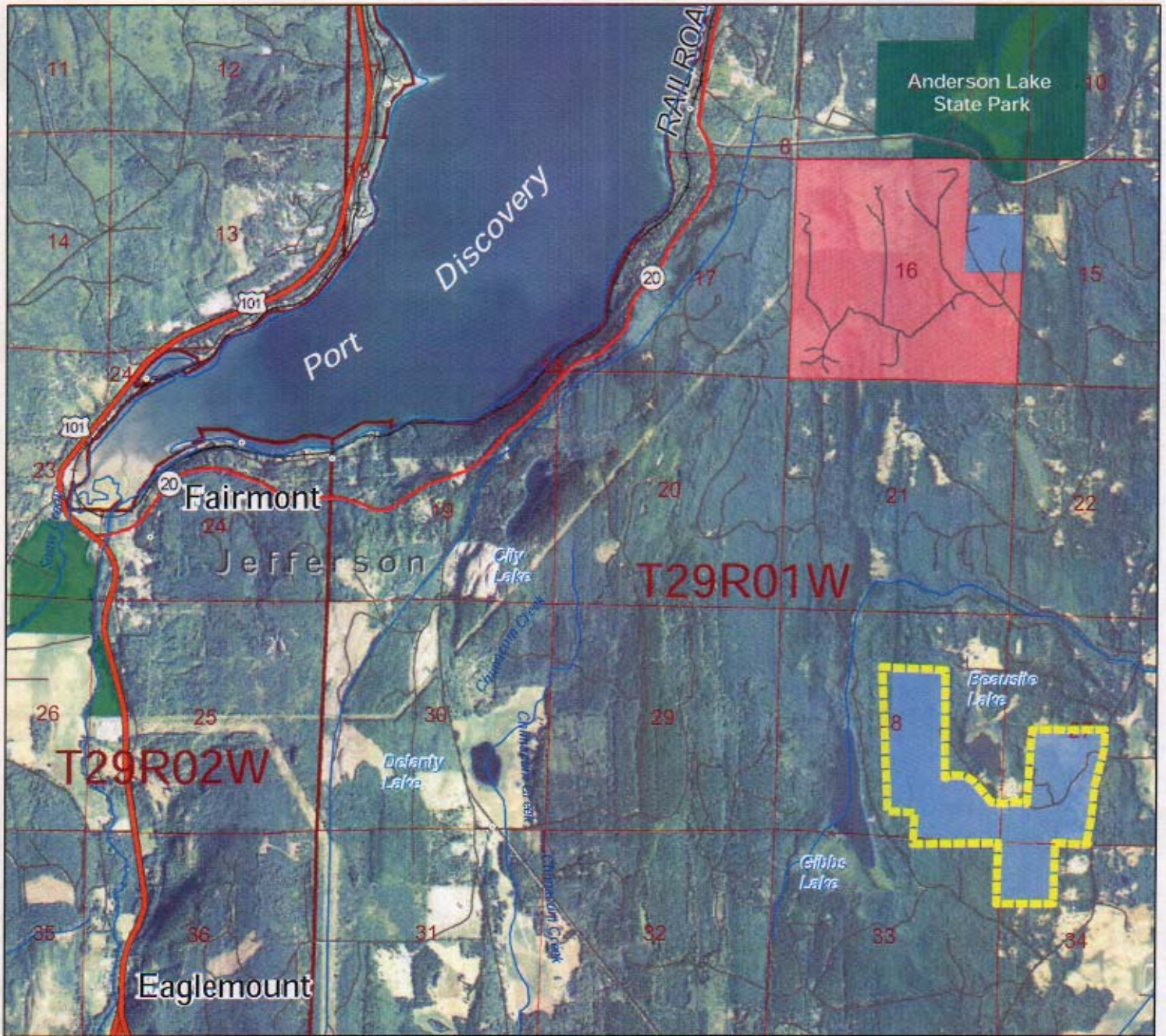
14 Appropriation:

15	State Building Construction Account--State	\$56,345,000
16	Prior Biennia (Expenditures)\$0
17	Future Biennia (Projected Costs)	\$240,000,000
18	TOTAL	\$296,345,000

Trust Land Transfer Program
LEAP Capital Document No. 2013 - 3A
 Developed April 10, 2013

<u>Property Name</u>	<u>Receiving Agency</u>
Morning Star	Department of Natural Resources - NRCA
Columbia Falls	Department of Natural Resources - NAP
Mount Si	Department of Natural Resources - NRCA
Pleasant Valley	Tacoma Public Utilities
Trombetta Canyon	Department of Natural Resources - NAP
Klickitat Canyon	Department of Natural Resources - NRCA
Elk River	Department of Natural Resources - NRCA
Beausite Lake	Jefferson County
Stavis Remainder	Department of Natural Resources - NRCA
Cormorant Bay	San Juan County
Spud Mountain	Clark County
Green River 16	Green River Community College
Eatonville 200	State Parks and Recreation Commission
Green River 36	King County
Knights Lake	Spokane County
West Poulsbo	Kitsap County
Lake Spokane	Lake Spokane Parks

Department of Natural Resources 2013-2015 Trust Land Transfer Project Beausite Lake



MAP LEGEND

- | | |
|---|---|
| Common School (3) | Federally Managed Lands |
| Agricultural School (4) | Other State Agencies |
| Scientific School (10) | County, Municipal or University |
| Normal School (8) | Tribal Lands |
| University - Transferred (5) | TRANSFER PARCELS |
| University - Original (11) | <i>Property boundaries may vary at time of transfer</i> |
| CEP and RI (6) | |
| Capitol Grant (7) | |
| State Forest Board Transfer (1) | |
| State Forest Board Purchase (2) | |
| NAP / NRCA (74 / 75) | |
| Other DNR-Managed Lands | |

**Jefferson
County**
T29N, R01W



January 2013



WASHINGTON STATE DEPARTMENT OF
Natural Resources