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STATE LAND BOARD MEETING

December 8, 2009

State Lands Building

775 Summer Street NE, Salem, Oregon

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TRANSCRIPT OF PROCEEDINGS

GOVERNOR KULONGOSKI: The Land Board meeting of December the 8th of 2009 will come to order.

DIRECTOR SOLLIDAY: Governor, first item on the agenda is the Consent Agenda and we have six items on the Consent Agenda today. The first is a request for approval of the minutes of the October 13, 2009, State Land Board meeting. The second is request for approval of the addition of a 1714-acre parcel known as the Wood/Beech tract of the Nature Conservancy's Table Rocks Preserve to the register of the Natural Heritage Resources.

And I might mention that this would be the hundredth property added to the register. And this is a voluntary program. The Nature Conservancy, as the landowner, made the request to have this property added to the register. The third item on the Consent Agenda is a request for approval of a permanent easement to the Department of Transportation for a bridge along Highway 101 that crosses the Coquille River in Coos County.

And just as a reminder, ODOT is getting their bridges under authorization as they are doing the upgrade work to each of the bridges around the state. And they have paid the application fee. There is no proprietary fee because this is public infrastructure. The fourth item is a request for approval of a direct sale of a 1.16-acre parcel in Marion

County to Douglas Phelps.

This is to clear up a title dispute. This parcel was an in-lieu land selection by the State of Oregon. And the adjacent landowner believed that he owned this parcel. And he has agreed to purchase the parcel for a price of $8000 plus the $11.60 for the mineral right transaction that's associated with that. There are no expected mineral assets in the subsurface of this parcel.

The fifth item on the Consent Agenda today is a request for approval of a land exchange between Giustina Resources and the Department. This is the final transaction for the exchange agreement that you approved at the last Land Board meeting. Giustina will be acquiring a parcel from us located in South Gate Creek in the McKenzie Basin. This is one of the isolated tracts that we identified for disposal in the 2006 Asset Management Plan.

What we will be acquiring are two parcels within the City limits in Redmond, one of which is fully platted, has utilities and roads already into it containing 63 single residential family dwelling lots, and an adjoining property of a little over 19 acres that is currently unplatted but is zoned for single family residential development.

The trade will involve us writing a check to Giustina Resources for $151,000 from the Land Revolving Fund to make the trade an equal trade based on the purchase price for the

parcels in Redmond and the appraisal of the parcel in Gate Creek.

And then the final item on the Consent Agenda today is approval of the first ever rules regulating activities, designating the first two marine reserves in the state of Oregon, and identifying the regulations that the Department of State Lands will administer within those reserves. The rules that you have before you today were part of a three-agency effort to adopt rules as directed by House Bill 3013, which passed during the 2009 legislative session.

We worked with the Parks Department and the Department of Fish and Wildlife on our rulemaking. We did joint rulemaking hearings, did a similar comment period. We even shared a rules advisory committee with the Parks Department on our rules. After reviewing all of the public comment, which you have in front of you, we have made some changes to the draft rules for the final version.

I might note of significance is a change in the boundary for the Red Fish Rocks Marine Reserve because there were concerns raised about the enforceability, given the way the boundary line was originally drawn. And so the agencies worked with the local proponents of that particular marine reserve and marine protected area and adjusted the boundaries to make that more workable for enforcement folks.

We also had a concern raised by the Siletz Tribe

about the agreement that the State has had in place with them for 30-plus years, guaranteeing them their hunting and gathering rights; although reserving the right for the State to prevent those activities from happening in areas that are set aside for conservation purposes.

And so we've added a provision that recognizes that existing agreement and the rights that exist under that agreement. I would say there were probably a couple of other issues that in the response of comments we chose not to make any changes to this version of the rules; one involving some comments that came in from folks concerned about the ability to lay undersea cables within the marine reserve areas.

Under our rules the way our rules are drafted we would recognize all the existing cables or any other authorized activities that we have in these areas. They would be allowed to maintain them, rebury them consistent with the agreements that we have in place with those folks who already have proprietary authorizations. So we would not violate the terms of any of those easements or contracts that we might have in place with preexisting activities.

Neither of these reserves do we have any proprietary activities or removal-fill activities for that matter. So it does not affect these particular pilot projects. And I think the concern is there at some point in the future could be a proposal that might affect those. And I should point out this

is the first time the Land Board will be adopting rules related to marine reserves.

There will be additional reopening of these rules as additional proposals for marine reserves come forward. So there will be an opportunity at future points to make changes if we find that these rules as currently drafted create some problem out there that was unintended. The other issue was there were several people who wanted us to add a definition of disturbance to the rules.

In talking with Counsel at DOJ the recommendation was because that term was only use in another definition, it wasn't necessary to define it. But I also might mention that the Ocean Policy Advisory Council in making its recommendation to the Governor and putting together its guidance documents did have a definition of disturbance within those documents. And we would look to that if that issue does come up.

I also might mention that the intent is that for each marine reserve that is created in the state of Oregon there will be a local community group, a grassroots group that will work on developing a management plan for each of these areas. And these rules give them some flexibility in terms of what they can allow and not allow within particularly the marine protected areas.

Marine reserves are defined to prohibit extractive activities and activities that create a disturbance to both

nonliving and living organisms within those reserve areas. With that, the staff recommends approval of the Consent Agenda. And I'd be happy to answer any questions.

SECRETARY OF STATE BROWN: Governor?

GOVERNOR KULONGOSKI: Yes.

SECRETARY OF STATE BROWN: A couple quick questions, if I may?

GOVERNOR KULONGOSKI: Please, go right ahead.

SECRETARY OF STATE BROWN: Louise, I met with Mr. McCormick yesterday about a proposed change he had in terms of giving the Department the discretion in the future to allow for laying of cable for -- make the discussion short. I just wanted to clarify, given where we are in terms of the rulemaking process, my understanding is this issue could be discussed further as we do additional rulemaking or as the impact on the proposed sites is further discussed as well. Is that right?

DIRECTOR SOLLIDAY: That's correct. The other thing I might mention is I think it's somewhat unlikely, at least in the short term that the places where these reserves have been proposed; in fact I can tell you that the places where the marine reserves have been proposed currently in the state of Oregon do not have cables in them. And so not just these two, but the other three that are under consideration and the sixth one for which a discussion is continuing at the local level in

the Coos Bay area.

So I think it's not an issue with the proposals that are currently in process within the State of Oregon. That doesn't mean at some point it would not become an issue later on. But I also could say that given the geology on the seafloor, the most likely places that those cables are going to come in are going to be where there's sandy bottom where it's relatively easy to lay those cables and get them up on the beach and connected. And most of the proposals for marine reserves have been around areas where we have rocky reef areas, not very conducive to placement of undersea cables.

SECRETARY OF STATE BROWN: Okay. Governor, a follow-up question, if I may?

GOVERNOR KULONGOSKI: Yes.

SECRETARY OF STATE BROWN: Thank you. And so for example, worst case scenario and there needs to be a cable laid in one of the reserve areas, or at least someone would argue that; my understanding is you would be able to go through the rulemaking process a 90-day period, allow for public comment, allow for there to be an opportunity for folks on all sides of the issue to participate.

DIRECTOR SOLLIDAY: That's correct. At any time anyone can petition the Board for rulemaking, we also have the ability to adopt a temporary rule if we need to if there's some urgency while we go through the formal rulemaking process. So

there are ways to deal with that in the future if there is an issue.

SECRETARY OF STATE BROWN: Okay. And then last question; my understanding in sort of reviewing the comments et cetera is that this process has been fairly collaborative that the parties on all sides of these issues have worked together with the community group being sort of the focus point of the discussion. Is that fair characterization?

DIRECTOR SOLLIDAY: Yes, I would say it is. I think the toughest part of this discussion was the OPAC discussion that got us to the recommendation, which took a little while.

GOVERNOR KULONGOSKI: You think so?

DIRECTOR SOLLIDAY: But I think once we got the OPAC recommendation it made it relatively easy for the agencies to implement the various rules that need to be put in place to administer the program.

SECRETARY OF STATE BROWN: All right. Thank you. Thank you, Governor. We get the easy part. Oh, sure. I'm happy to move approval of the Consent Agenda.

STATE TREASURER WESTLUND: And I second.

GOVERNOR KULONGOSKI: Any further discussion? Before I announce the option of the consent agreement I just want to acknowledge former Secretary of State Bill Bradbury on the last item on the marine reserve. He has been a champion, has worked very, very hard. And I wish he were here because this is a

significant step forward for the State of Oregon because as you know and as you've said that there are three others in the process, another one to get reviewed.

We're into the process about wave (phonetic) parks now to the amendments to the Coastal Zone Management Program by LCDC. So this is a significant step forward for the State. And I just want to acknowledge Bill and everything that he did to get us here. So with that, consent calendar is adopted.

DIRECTOR SOLLIDAY: Great. Thank you. So the only other item we have on the agenda today is an Informational Agenda item where we've invited a number of people to testify in front of the Board today about the future management direction for the Elliott State Forest. And just as a reminder, we began this discussion at the October Board meeting.

And we're going to start with Jim Young just quickly reviewing the options that were presented to the Land Board at the October Board meeting and what that means in terms of the economic return that we have the potential to get from the Elliott State Forest. Following Jim's brief overview, then we're going to have four panels present to the Land Board.

I'm actually going to move and sit next to Mark. I'll be the timekeeper. And as the Governor will remember, I'm a pretty fierce timekeeper. At the Rogue navigability hearing he kept knocking my elbow, saying, "Let them finish, let them

finish." And I said, "No, we need to get as many people up as we can." So I am going to keep people to their five minutes. And they were all told ahead of time that I was going to do this.

I'll have little signs that'll give you two minute, one minute and time's up warnings. And the purpose for that is to make sure that all of the panelists get their five minutes and also get an opportunity for the Land Board to engage in dialog and to ask questions. And so I am going to be merciless when it comes to keeping time and keeping us moving through this item.

GOVERNOR KULONGOSKI: Louise, before we bring them all up I'm going to go back and though we've already moved on the consent calendar, there's one other thing I want to acknowledge about your efforts on the rules on the marine reserves. I also want to recognize the Department of Fish and Wildlife, Roy Elicker (Phonetic) and Tim Woods over at State Parks.

This has been a collaborative effort of all three of you and you've done a wonderful job. It is the way government's supposed to function with three different agencies working very closely together to make this happen. So thank you very, very much.

DIRECTOR SOLLIDAY: Thank you, Governor. It's the first time I remember agencies actually collaborating on

rulemaking and sharing public comment process and hearings, and it actually went very well. It made it easier for citizens who were trying to participate in the process.

GOVERNOR KULONGOSKI: Thank you.

DIRECTOR SOLLIDAY: So appreciate that.

STATE TREASURER WESTLUND: Excuse my indulgence, but a very good job.

DIRECTOR SOLLIDAY: So at this time I'm going to invite Jim Young up. Are you coming up with anyone? Okay. And I just remind the presenters on the panel you each have a little name plate to put up here when you come up so everybody knows who you are, so thanks.

JIM YOUNG: Good morning, Governor, Land Board members. For the record, my name's Jim Young. I'm the district forester for Coos District, Department of Forestry. And I just want to do a brief review of the current issues of the Elliott State Forest Management Planning process. As you know, the DSL has asked that the management plan provides over-arching direction for management of Common School Lands including Common School Forest Lands.

And for the forest lands the main direction is to maintain the sustainable even-flow harvest of timber. The current management that we are using right now is the 1995 owl HCP. And the murrelet is no longer included in that HCP. So the management for the murrelet is take avoidance where we do

surveys for each one of our timber sales.

You apply for riparian strategies, prevent plan (phonetic); those are the Forest Practices Act. And since that plan went into effect 1996 through 2009 you've averaged about 25 million board feet from the forest. Proposed agency fees and multi-species approach would cover owls and murrelets and Coho salmon and about a dozen other species that could be listed at some point in the future.

One of the primary features of an HCP is the management certainty that can be achieved with such a plan in terms of unpredictable harvest level from year to year. With this plan we estimate we can produce about 40 million board feet per year. Just to provide a little bit of context, we estimate that the biological growth on the forest is about 75 million board feet per year.

In 2005 there was a cost-benefit study that was done and it assumed that about one-third of the forest would be set aside for threatened and endangered species and the Forest Practice Act measures. Under that analysis the sustainable harvest level was about 50 million board feet per year.

There's a number of current issues affecting the process right now. One of those are the substantive comments that were received from the HCP and the Draft Environmental Impact Statement went out for review in 2008. US Fish and Wildlife Service substantive comments that they've identified

revolve around owl and murrelet habitat.

And the comments that Natural Marine Fishery Service considered to be substantive are -- have to do with the product riparian strategies. We have reached agreement on the most difficult issues with US Fish and Wildlife Service, but have not reached agreement with Natural Marine Fishery Service.

If we were to try to get a Habitat Conservation Plan with just US Fish and Wildlife Service there is a regional joint policy between those two agencies that basically states that if both agencies have listed species, then both agencies must use Habitat Conservation Plan process rather than one using an HCP and the other using a consultation process.

There’s also a lawsuit Center for Biological Diversity suit, US Fish and Wildlife Service over the 1995 HCP. And trying to get US Fish and Wildlife Service to reconsult over the ’95 HCP because of new information primarily about the barred owl. Currently that’s on stay till the end of the year.

And there’s a number of other related issues that could affect the planning process over the next -- possibly over the next several years as those are resolved. Mainly has to do with the owl critical habitat revision and the owl recovery plan. The Department of State Lands and Department of Forestry have been looking at some contingency plans over the last year. And four of them that we’ve been looking at; one is to just retain the ’95 HCP and continue with take avoidance for

the owl -- or excuse me, for the murrelet.

The second one would be to suspend work on the HCP, develop a new plan with just using take avoidance, and then terminate the 1995 HCP. Third one would be to continue managing under the current ’95 HCP until we reach a successful conclusion on the revision process. And a fourth one would be to sell the Elliott State Forest.

All of these have their individual pros and cons. Just to provide a little bit of context on harvest levels back to ‘70s and ‘80s. The harvest level -- harvest levels were significantly higher than they have been in the recent years. When the owl and murrelet were listed in the early ‘90s harvest levels dropped down significantly as we developed the 1995 HCP.

That got us back up to about 27 million board feet. In recent years that has been -- that has dropped down because we continue to add marbled murrelet management areas on the forest that are off limits to harvesting. And basically we are implementing two plans at the moment; the ’95 HCP while maintaining the integrity of the proposed HCP.

If we continued with the ’95 plan using take avoidance for the murrelet, the harvest level would be somewhere around 20 million board feet long term. The proposed HCP harvest level would be about 40 million. If we agreed to the federal services changes that they would like to see in the HCP the harvest level would be about 30 million.

If we could -- if we just did the US Fish and Wildlife Service changes that they are proposing it'd be about 35. A take-avoidance plan using the 2006 Draft Force Management Plan that we have we estimate we could produce about 40 million board feet. And the take-avoidance plan based on Forest Practices Act minimums would be about 45 million board feet.

So basic policy questions is the rest of the cost of meeting (phonetic) the -- the changes that the federal agencies are requesting of HCP worth the management certainty that would provide or looking at take avoidance with increased volume in revenue under take-avoidance plan be worth the uncertainty in sale (phonetic) planning, public trust and the potential legal challenges. That's a brief overview.

GOVERNOR KULONGOSKI: Jim, before you leave, can I go back to your four options, and I want to look at them. And I want to look at them in a timeframe of how much longer this would take us to get a plan if some of these options were exercised. But the first one, retain the '95 owl HCP take avoidance for murrelet; that's in place right now.

JIM YOUNG: That's right, Governor.

GOVERNOR KULONGOSKI: And the only risk in that is the lawsuits.

JIM YOUNG: Well, that's in one of the -- probably short-term risk but the harvest level under that plan, you

know, one of the cons would be the harvest level would be relatively low compared to some of the other alternatives.

GOVERNOR KULONGOSKI: Okay. Take me to the second one; suspend work on revised HCP and then develop the new plan. How long would it take to develop a new plan?

JIM YOUNG: One of the things that we need to do to implement that plan is we need to do owl surveys, two-year owl protocol surveys to clear timber sales if we did not have an HCP in place. So we are planning on owl surveys this coming year, 2010. We'd also need the second-year surveys in 2011. So probably sometime in later 2011 we could implement that if everything went well.

GOVERNOR KULONGOSKI: So that issue is a two-year minimum plus?

JIM YOUNG: Yes.

GOVERNOR KULONGOSKI: Nothing ever goes right. Okay. And now the third one; continuing managing under the 1995 HCP and revised HCP until revision process. How much longer are we going to be in that?

JIM YOUNG: Well, if we could reach agreement with the federal services soon my understanding is that the rest of the NEPA process would probably take about a year. But it depends on when we could reach some kind of agreement. And then get through the final EIS and the rest of the NEPA process.

GOVERNOR KULONGOSKI: How much time? Give me just a

rough timeline.

JIM YOUNG: The earliest would be a year, and from now, a year from now just to get through the NEPA process. But that would be contingent upon reaching agreement with federal services on the strategies and the HCP.

GOVERNOR KULONGOSKI: I keep pushing you. Give me a timeline. Realistically, I mean you're --

DIRECTOR SOLLIDAY: Governor, if I might just sort of jump in here. I think we don't know. We don't know when and if we are going to reach agreement with the services so it's an unknown. We do know that the NEPA -- that concluding the process I have everything in a plan, get the incidental take permit issued and get the implementation agreement signed and in place. We do think that that process would take about a year once we reach agreement.

GOVERNOR KULONGOSKI: Well, I heard that. I heard that. Look it, Jim, this is probably the biggest rub that most people have is that the uncertainty about any of this in time. And all I'm trying to do is to actually as much as board feet is important, as much as about all the HCPs are important; ultimately what we have to factor in is how long does this all take.

The uncertainty is what I get the biggest complaints about; time. And it's the same thing you; you've heard it as well as I have. And when are we ever going to resolve this

issue? And I'm just concerned about the options we have of whether actually they end up extending the timeframe for getting an operational plan on the Elliott. That's what I meant.

JIM YOUNG: I understand.

GOVERNOR KULONGOSKI: Okay. And by the way, I recognize that I'm asking you a lot of questions about things you have no control over. And the fact that you're dealing with the federal government; I understand that. I do the same thing. Time has a different definition for them than it does us. Thank you.

DIRECTOR SOLLIDAY: Okay. Our first panel will be the federal agencies. We have Kim Kratz from the National Marine Fishery Service, and Paul Henson from the US Fish and Wildlife Service. Pull those mikes toward your mouth.

KIM KRATZ: I go first? Rock, paper, scissors? Excuse me, sorry. Governor, members of the Board, for the record my name is Kim Kratz. I'm the director of the Oregon State Habitat Office for the National Marine Fishery Service. And I'd just like to say that I appreciate the opportunity to participate today and to provide you with a brief summary of NMFS, National Marine Fishery Service concerns over the proposed management of the Elliott State Forest with respect to NMFS trust resources; in particular Oregon coastal Coho.

I don't have any materials to pass out today. I am

available after if you have further questions after this presentation. NMFS believes that as currently proposed the strategies underlying the revision to the Elliott State Forest are not adequately protective of the ecological functions upon which Oregon coastal Coho depend.

Therefore, NMFS is concerned that the strategies proposed by the Oregon Department of Forestry, which underlie the Elliott State Forest HCP, Habitat Conservation Plan, are not consistent with the ESA, Endangered Species Act 10(a)(2)(B) issuance criteria for our species. By way of background, NMFS has been engaged in meetings with the Oregon Department of Forestry to revise the Elliott State Forest Management Plan since approximately 2002.

Beginning in March 2005 during the preparation of the Habitat Conservation Plan document it became obvious that there were differences of opinion between NMFS and ODF biologists about the affects of the strategies that were proposed for the HCP. Recognizing the tight timelines on preparing the HCP document that was set by ODF, the two agencies agreed in March of 2006 to postpone our negotiations to resolve these differences and revisit them after completing a Draft Environmental Impact Statement, which when further negotiations could be informed by public comments.

After the public comment period closed in early of this year the consultant team produced a list of 47 concerns

that were identified by the public. NMFS believes that all but six aquatic-related issues could be addressed successfully in the current proposed management strategies with minimal if any changes to the HCP.

NMFS views the remaining six as significant issues. These six significant issues involve stream temperature, wood delivery, delivery, fine sediment, increased road mileage, unstable slope protection and the certainty of proposed compensatory mitigation. Of these six, the two that are likely to have the most significant -- actually the ones that are the largest issues are -- deal with stream temperature and in-stream wood delivery.

The reason for this is that these two issues demonstrate the largest deference between ODF's determination of affects and National Marine Fishery's determination of affects. And therefore, probably represent the largest deferences that -- largest changes to the proposed strategies --

GOVERNOR KULONGOSKI: Could you go back; what was the temperature again?

KIM KRATZ: Stream temperature as it is affected by riparian condition. Again, these are the largest deferences because they -- they demonstrate the largest deferences between the opinions of ODF biologists and National Marine Fishery Service biologists. And they also would require probably the

largest changes needed to adequately protect OC Coho in order to meet ESA 10(a)(2)(B) issuance criteria.

We met informally with ODF in March of this year to express our concerns over these issues. And we also provided examples of strategies that might be used in the HCP in order to meet the ESA issuance criteria. ODF responded with a letter with scientific disagreement over our conclusions and their justification for the strategies remaining, and indicated their interest and their intent to continue with the current proposed management strategy for the Elliott.

In July we responded to ODF saying that we did not consider the strategies proposed in the ODF -- by ODF for the Elliott State Forest HCP as consistent with the ESA 10(a)(2) issue criteria. And we recommended that if they did not propose to change these strategies, that they might consider removing NMFS trust (phonetic) species from the HCP.

Despite some subsequent discussion with ODF, which we have appreciated on revisions to the proposed strategies, NMFS' conclusions and recommendations remain the same today. In closing, I would like to say that we have very much appreciated the hard work and the collaboration demonstrated by ODF staff throughout this entire HCP process.

We are also NMFS -- well, at present NMFS and ODF biologists simply disagree on the underlying science behind the management strategies currently proposed for the Elliott State

Forest. NMFS remains committed to working with ODF and W -- or I'm sorry, ODF if the opportunity exists to resolve these issues in order to insure that the Elliott State Forest HCP is consistent with ESA section 10(a)(2)(B) issuance criteria for Coho salmon. Thank you.

GOVERNOR KULONGOSKI: I think I'll let you both talk now because I have a question. Go ahead.

PAUL HENSON: Okay. Thank you, Governor. My name is Paul Henson. I'm the State supervisor for US Fish and Wildlife Service in the State of Oregon. Thank you for the opportunity to talk to the Land Board today. The US Fish and Wildlife Service continues to support the State's goal for completing an HCP for the Elliott State Forest.

Although the HCP process is very difficult, time consuming, laborious, expensive, the only thing worse than an HCP is no HCP. That's -- that's kind of a working slogan we've developed over the years. And so we strongly support finishing an HCP for State Lands. We acknowledge that there are new scientific and economic challenges and some opportunities facing management of State forest lands recently.

Climate change, fires, barred owls, depressed timber markets and evolving public expectations all interact in ways that make finalizing long-term plans extremely difficult for public land managers. This is not just on State lands. Following public comment and additional agency review of the

Draft Elliott HCP, Fish and Wildlife Service determined additional mitigation measures and take-avoidance goals were needed for spotted owls and marbled murrelets.

We've worked closely with ODF and DSL during the past year to refine the HCP and make it as compatible as possible with potential revisions to the spotted owl recovery plan forthcoming, as Jim Young mentioned. We're still working on this goal closely with ODF and DSL. We believe this goal is attainable and we're committed to working with ODF and DSL to make it happen.

But we're also committed to exploring any new opportunities to resolve deferences including some of the ones that Kim mentioned between various agencies on the concerns of the public. For example, by considering alternative revenue sources to the State and incorporating that into the plan, for example from carbon credits and the emerging voluntary and regulatory carbon markets that we're hearing discussed quite often these days.

The possibility of a short-term permit while some of the deferences are resolved that might either come about through additional public comment or when we finalize our EIS and go through NEPA. And three, by submitting respective positions of the agencies to an objective scientific panel and agreeing to abide by the outcome of that as Kim -- Kim also mentioned the need to resolve some scientific disputes.

Our fundamental goal remains to reconcile conservation and natural resources with providing economic benefits. And we have to do that, and so we're committed to doing that. And that's really just the -- the basic position of the Fish and Wildlife Service on this Elliott HCP. Thank you.

GOVERNOR KULONGOSKI: Kim, can I ask you a question? And I want to go back to this stream temperature issue because that seems to be the one about the coastal Coho. It seems to be the divide. And just very candidly, is it the fishery's position that in fact that the Oregon Forest Practices Act for setbacks from riparian zone and the management of the land in those setbacks, whatever they are, is the dispute that you're having with this issue right now?

KIM KRATZ: Governor, the dispute that we have with this particular issue in stream temperature is that no, Fisheries disagrees with the site-specific temperature increases that are estimated from -- let me start over again. No, Fisheries disagrees with the affect of the current strategies for riparian management in the DEIS.

The DEIS -- excuse me, information that we gleaned from the US -- or the EPA, Oregon Department of Environmental Quality and Washington Department of Ecology indicate that the proposed strategies will have a greater cumulative affect on stream temperatures than is estimated in the DEIS.

GOVERNOR KULONGOSKI: Let me try it another way.

KIM KRATZ: Okay. Sorry.

GOVERNOR KULONGOSKI: Since the Department of Forestry is bound by the Oregon Forest Practices Act and they're trying to manage under that act, your agency has a disagreement with that particular rule on setbacks. Is that a fair statement? Because it does affect stream temperature; we all acknowledge that. I'm just trying to help you.

KIM KRATZ: Yes.

GOVERNOR KULONGOSKI: You want more setback.

KIM KRATZ: We would like -- we -- setback is not the largest issue. The largest issue that we have is for this particular action is the percent of shade -- potential shade that are on those stream systems. So it can be setback; it can be -- management can be -- you can achieve that from different ways.

GOVERNOR KULONGOSKI: What are some of -- just to help us because you're all the foresters. Tell me; what are those other things other than just distance that you're talking about.

KIM KRATZ: Governor, I appreciate that but I'm not a forester. And I apologize; I did not come prepared for that sort of clinical discussion.

GOVERNOR KULONGOSKI: Well, look it, I'm just trying to find a way. And this is a little bit broader, is to move us

forward because the dilemma for us right now is, as I said, the certainty issue about trying to move this forward on the Elliott. The problem is, is that I've got an agreement, are moving toward an agreement it appears to me with US Fish and Wildlife. But I seem to be hung up with marine fisheries.

And what the dilemma for me is, is you don't have a statutory obligation to collaborate like you do, but you have a policy between the two agencies. So I can't resolve this unless I get you both on board. And it appears to me that the only other option for me is to try to convince the federal government not to change the policy. And then I'll deal with you separately.

But I don't want to do it that way. I just want to better understand what it is that at the crux of it what the problem is for you and the State Department of Forestry to reach an agreement on this. And I understand what the issue is. But I can't find out what the solution is unless you tell me this is what you should do. Now, if you're suggesting I change the State Forest Practices Act I'll talk to you about that. But I need to know what it is.

KIM KRATZ: The Natural Marine (Phonetic) Fishery Service is committed to referring this (phonetic) this HCP to a successful conclusion. And our response to ODF after the public comments where -- where we identified the issues that remained we provided examples of completed HCPs on the western side of

the Cascades, which -- which had management strategies which did meet our issuance criteria under Section 10.

We provided those as a starting point to begin further discussion to see if we could resolve these scientific differences of opinion. We -- I would encourage that we go back and have discussions centered around those examples.

GOVERNOR KULONGOSKI: Paul, before you leave, can I ask you one question? You raised an issue of carbon credits.

PAUL HENSON: Uh-huh (affirmative).

GOVERNOR KULONGOSKI: Have you worked -- I know that there was some agreement reached down in California in the Red Woods.

PAUL HENSON: Right.

GOVERNOR KULONGOSKI: Are you looking at that type of an arrangement?

PAUL HENSON: Yeah, and I -- I actually prior to coming back to Oregon this past year had worked in California for the previous five years out of Sacramento on -- on some of those issues. And you know, there’s a bit of a guinea pig effect going on down there on some of those markets and some of those, you know, how to -- how to actually value those credits; how to -- the -- that issue of additionality, how to sort of -- you know, what are you going to -- what do you have to do anyway.

And then how much are you doing on top of that, as

they say, a conservator of carbon and thus how much credit should you get in a -- in a market. What -- the reason I mentioned it here was that it isn't to suggest that the Elliott State Forest should become a carbon sink and the State should, you know, either sell that or provide that service per se.

But just to the extent that we have a disagreement; and it's a legitimate scientific disagreement. And this issue that Kim raises is playing out, in fact, in California in spades (phonetic) in many ways as serious as what we're discussing here, if you're following what's going on in the -- in the Sacramento delta (phonetic).

So to the extent we have a difference, can that difference be -- be made up in a carbon. So if we're -- if we're disagreeing on five million board feet but we still agree on 30 or 35 or 25 or whatever it might be, can we actually make that potential difference up and overall move forward so the State can get -- have reliable revenue sources now, in this case from two sources; carbon, selling carbon credits for example or actually providing those credits to other State agencies, for example, that might need the carbon for their activities. But not to say that all of the Elliott should be dedicated to that; it's just to make up that difference to let us move forward.

GOVERNOR KULONGOSKI: The other element in that, though, that I have to deal with are the jobs that are created

in the industry.

PAUL HENSON: Correct.

GOVERNOR KULONGOSKI: I can actually pick something up like if it's 30 and I get down to 25, I understand the carbon credit issue of how you could do that, particularly with an HCP. But the fact is, is that it doesn't do me much good on the jobs issue.

PAUL HENSON: Right.

GOVERNOR KULONGOSKI: Because people aren't going to work for carbon credits. They're going to work to produce lumber.

PAUL HENSON: Can I -- can I comment on that?

GOVERNOR KULONGOSKI: Yeah, go ahead, please.

PAUL HENSON: Just briefly I -- I think that's a very important point and -- and something that I -- I think the -- the carbon credit advocates are going to have to address. But having said that in terms of managing those forests the -- the expertise of -- of the Oregon Department of Forestry is going to be needed to manage, to inventory, to maintain, to enhance those credits.

So there is still an important role for State and local private entities and -- and personnel to manage those forests in such a way as to -- to actually make the carbon market work. They're just going to be doing activities that are somewhat different than what have been done previously in those

forests.

GOVERNOR KULONGOSKI: I think the carbon credit is a tool in our toolbox to do the things that we're trying to achieve. But it isn't the complete answer.

PAUL HENSON: Yeah, I would agree with that.

DIRECTOR SOLLIDAY: We need to move on to the next panel but I don't want to cut the dialog.

SECRETARY OF STATE BROWN: Thank you.

GOVERNOR KULONGOSKI: Go ahead.

SECRETARY OF STATE BROWN: Thanks, Governor. A couple questions; Paul, you mentioned that having -- not having an HCP is worse.

PAUL HENSON: Right.

SECRETARY OF STATE BROWN: I'm really struggling. I'm new to the Land Board. I do not have a background in natural resources. I'm really struggling with why not having an HCP would be worse. I -- I don't have a sense of it all because of the time it's taken to get to where we are at this point.

PAUL HENSON: Right, and I apologize (phonetic) to Winston Churchill for borrowing his a statement on democracy but the -- from our perspective and -- and I think from the land manager's prospective too; certainty is worth a lot. And so when you don't have an HCP and -- and something that's locked in from the federal agencies and our spotted owl permit,

for example, was a long-term permit.

The marbled murrelet permit was a much shorter permit, as Jim Young mentioned, because of the conservation status of the marbled murrelet at that time. But a take-avoidance strategy with no HCP permit; you're living sort of day to day. You're living, you know, timber sale and spotted owl survey to spotted owl survey, number one.

So there's uncertainty for that. Personally from the public perspective, from the conservation perspective it's also uncertain that since you have no long-term strategy you're not able to plan in -- in a kind of a landscape sort of vision, in a landscape sort of way. And so you're piece-mealing the landscape.

And there's a greater potential for fragmentation of habitats, a much greater potential to lose watershed level and larger landscape level benefits that you'd get if you had a plan that everyone agreed to and was able to weigh. And we've seen what happens when you just manage timber sale to timber sale and you end up with a much more fragmented landscape.

SECRETARY OF STATE BROWN: Governor, if I may follow I -- I think, Paul, my frustration is that I feel like we have nothing at this point. And we are really struggling to meet our fiduciary obligations under the constitution and the Common School Fund because we're at basically -- we're very minimally harvesting right now. I feel like we -- we're really grasping

at straws. So not having an HCP is really --

PAUL HENSON: Well, clearly I think you're correct that the total harvest levels did go down as Jim presented from the 1970s, the 1980s then as -- as species were listed and -- and other values, other societal values and other statutes kicked in that reduced that.

So but there was also I -- I mean when I look at -- at some of the harvest rates, you know, there is -- it's -- it's fairly consistent albeit at a lower rate. And Jim mentioned you went down to 25, I think an average of 25 million board feet a year. So it's not that there wasn't any harvest going on.

It's just that it's happening at reduced rates in order to accommodate these other values that have been placed upon that landscape to produce. So instead of just producing timber it's producing water, fish, spotted owls, recreation, aesthetic value. And that -- that's what we see has happened.

SECRETARY OF STATE BROWN: I -- I think my other frustration I guess I would throw this at both of you and I understand you're both messengers, and that is that it's taken us so long. I -- when I ran for this office every single candidate in my race supported implementing a multi-species Habitat Conservation Plan. I don't think I understood at the time that we had been working on implementing it for seven years, eight years, and now it's nine years.

And I just -- as a person who's been in State government for 17 years now; I just find that the nine-year timeframe absolutely and totally unacceptable. I just -- I'm frankly -- I'm -- I'm shocked that there isn't more outrage by the citizens of this state at the federal government than there is.

And I just am really frustrated that it's taken so long to get to this. My concern about pursuing the multi-species HCP is that I don't know that we will ever have -- it doesn't feel like to me that we will ever have an end goal. So --

PAUL HENSON: Did you -- would you like me --

SECRETARY OF STATE BROWN: Sure, if you want to respond, great.

PAUL HENSON: I guess I -- I will say that I personally as a -- as a wildlife biologist or wildlife professional and a representative of the federal government who occasionally, as the Governor has said, does have a -- there's a different time standard sometimes for -- for all of us in government. But I share that frustration.

But I will tell you quite frankly that that -- that goes both ways, you know. The -- there -- a lot of us driving this debate right now is the current economic market, the current timber market and the need to generate revenue for -- for what that force (phonetic) has provided. In other times

when timber prices were higher and the demand on that -- the need for that revenue as it translates to a total volume figure, and then the impacts that can have on -- on the other resources that are valued on that landscape would be different.

So that uncertainty that you're expressing or that creates the conditions that you're expressing frustration about is not just from a federal regulatory perspective. There's a lot of other forces at work that drive that, that we have to deal with and while providing scientific consistency as much as possible and statutory compliance.

SECRETARY OF STATE BROWN: Did you want to respond, Kim? No?

KIM KRATZ: I -- I appreciate what Paul just said.

SECRETARY OF STATE BROWN: Okay.

GOVERNOR KULONGOSKI: Thank you both very, very much.

PAUL HENSON: Okay. Thank you, sir.

GOVERNOR KULONGOSKI: Thank you for being patient. Thank you.

DIRECTOR SOLLIDAY: Okay. Our next panel is the conservation panel and on that panel will be Mary Scurlock from the Pacific Rivers Council, Frances Eatherington and Noah Greenwald from the Center for Biological Diversity.

MARY SCURLOCK: Okay. And which is the microphone that has amplifications?

DIRECTOR SOLLIDAY: Just pull it to your mouth, we

don’t have amplification.

MARY SCURLOCK: Okay. Great. Good morning, members of the Board. This is a great opportunity for us. We really appreciate being here today. I hope -- I hope that -- wanted to start by saying before I start putting up pictures of fish that environmentalists are people too. I have children in the public school system. I’m well aware of the -- of the pressures that you all are under. And I balance those also myself on my own level every day.

We also could speak to our family recreating here on the State land in northwest Oregon. So I’m -- I’m a big fan of -- of State land stewardship. Oregon coastal Coho; you’ve heard a lot of about. These first two slides I’m going to flip pretty quickly through because the Natural Marine Fishery Service’s concerns have already been raised.

I wanted to say that we validate those concerns. We think their science is excellent. Coastal Coho is listed; is probably going to stay listed. That’s been part of the uncertainty here for many years. As you know, private and State lands are a big piece of this population’s land base. A lot of the habitat is on State lands and private lands; 90 percent on State, is a significant piece of the landscape.

We wanted to point that Habitat Conservation Plans are voluntary in both directions. And that NMFS has a duty to meet their ESA standards. If they don’t find that your

proposal meets it, they can't grant it. Otherwise you won't receive the benefits that you seek from an HCP, which is insulation from litigation. We think the top two concerns having to do with riparian management and roads impacts are -- are valid.

These are their six reasons again; stream temperature is part of it. Wood delivery is another; those both have to do with riparian management including the size of the riparian areas in the retention in the riparian areas up to how they're managed (phonetic). The objective here that NMFS is seeking, 90 percent site potential shade we think is -- is solid.

We do have concerns about the extent to which thinning is being proposed in -- in riparian areas. And again, we think their science is solid. Here's an example of a small buffer. These buffers have to work very hard to mitigate effects from land -- intensive landscape level harvest providing all the many functions that entire watersheds would have naturally provided.

So it is important that those riparian areas be adequate in size and management. The two big -- or three big issues are roads (unintelligible) activity. Roads become conduits for sediment directly to streams. This creates huge water quality and ecological problems for salmon and the species (unintelligible) aquatic species you have here.

Oregon Department of Forestry is actually already

involved in litigation over this issue under the Clean Water Act. Road density -- here's an example of a -- a road-related landslide; some kind of problem. Road density is a big problem in this landscape. It's not being clearly focused on but it is a metric that's relevant in ESU. And Elliott State Forest has high road density, is not being addressed in the proposed plan. But new road building is being proposed per this example.

Private lands are not a model here. Forest Practices Act is not what we're using here. It -- we have been managing to a higher standard on the State lands versus time (phonetic). And yet NMFS concerns are still significant and valid. We do not keep private lands here as an option for a model Forest Practices Act minimum; no way, not for trust purposes.

Primarily because it does -- it cannot under any reality that I know of earn federal assurances under the Endangered Species Act. And we think that that's the only responsible way to go forward here is to -- is to do what needs to be done. Amphibians are also affected by most of the concerns that have been raised by NMFS. And if we aren't meeting salmon's needs, then we're very likely not meeting amphibian needs; again exposing us to further risking litigation (phonetic).

Harvest expectations are not realistic under this reality. And I do think very strongly that if -- that seeking a ESA sufficient HCP is within your discretion and in fact your

duty as the State Land Board. Thank you. Sorry to be so frank (phonetic).

FRANCES EATHERINGTON: Is this one here okay? Hello, I'm Frances Southernton. I work with several conservation groups. I've been working on Elliott issues for the past eight years. And this morning I'd like to talk to you about maybe some options and some of the choices you might be able to make; options you haven't yet looked at.

And I'd like to use the marbled murrelet as an example of what could really be improved in your plans. The marbled murrelet is a seabird and it depends on the Elliott for large trees to raise its young. The Elliott contains the most important murrelet habitat of any State lands in Oregon. While we all use -- well, the murrelet has come as you know on some hard times due to logging in its habitat.

Now, we all use the wood products that we get from this logging. But we also have an obligation to share these forests with the other creatures that depend on them too. So we ask, how much should we leave for the murrelet? On the Elliott we've already clear cut about half of it. Half; that should be fair, about half to leave for the murrelet.

The half of the Elliott that is left uncut is critical to the survival of this species. The murrelet is surrounded -- you want to go ahead a couple slides. Forward? Forward. And you'll see a map here of the Elliott that's

surrounded by private land on three sides. And all the white areas that you see here are -- have no murrelet habitat.

They're all private lands. So the Elliott is a critical place for the murrelet on the south Oregon coast. One of the biggest threats to murrelet from logging -- you can go forward -- are from fragmenting the forests. Seventy-two percent of murrelet nests are unsuccessful even before the chicks are born, mostly due to predation by corvids, like jays and ravens who eat murrelet eggs.

But corvids cannot fly into interior forests where the murrelet nests are safe. But murrelet -- the murrelet recovery plan determined 600 feet from the forest edges needed to protect interior forests. But unfortunately the new HCP only gives them 164 feet. Now, we can give you several examples of how other items on the forest is inadequate to protect the murrelet.

And please ask me. Go ahead, forward some slides here, forward again, again, go ahead. And we have some murrelet reserves set aside. We have a lot of roads in them, no interior habitat, go ahead forward. Campgrounds right in the murrelet reserves, go ahead forward. This is the Bowl Bound Beaver sale where the new road is built right through the murrelet reserve, totally decreasing its interior habitat.

Go ahead, forward again. Now, this is management in the murrelet reserves currently and a lot of the new plan.

Forward. The scientists at the Pacific Seabird Groups state that all remaining suitable habitat on the Elliott is essential to survival of the marbled murrelet in Oregon and should not be logged. And that was a quote.

We agree. Continuing to clear cut endangered species habitat on the Elliott will continue to generate controversy, legal gridlock and volume uncertainly. Instead, the State Land Board should consider utilizing other ecosystem services from the Elliott that was talked about this morning such as carbon credits. Go ahead.

For instance, a study found that 60 percent more carbon is attained in unlogged forests than in plantation forests. So the State Land Board; we really believe that contributing to climate stability is a gift that we must pass on to our children. The State Land Board should immediately appoint a task force to explore the potential of the Elliott to generate revenue by using the Elliott Forest's ability to store carbon along with timber receipts from thinning in the already-logged portion of the Elliott. Elliott revenue from any source will never be enough.

DIRECTOR SOLLIDAY: Time's up.

STATE TREASURER WESTLUND: You're doing well on your time.

NOAH GREENWALD: My name's Noah Greenwald. I'm the endangered species program director with the Center for

Biological Diversity. I appreciate the opportunity to speak to all of you. New thinking is (unintelligible) to Elliott State Forest. Oh, I wanted to add one other thing about myself. I'm a former northern spotted owl surveyor on the Elliott State Forest as well. So I am quite familiar with the area and with problems related to northern spotted owls.

Next slide, please. So there's a number of well-documented biological problems in westside forests and those include a dearth of large trees as -- as live trees, snags or large woody debris. This is a well-documented problem. We all -- we all know this. And it has significant affects on fish and wildlife resources.

So this is one of the main reasons why we're in the situation where the northern spotted owl is declining and it's endangered; why the murrelet is declining and endangered; why we don't have sufficient large woody debris in our streams. And the Coho is threatened under the Endangered Species Act. So this is a well-known problem. We have a dearth of large trees which take hundreds of years to grow and form.

Secondly, we have a loss of forest cover and forest continuity because of extensive clear cutting, which again fragments habitat for spotted owls, murrelets, et cetera; raises stream temperatures. Another well-documented problem. Thirdly, we have pollution in streams from sediments from -- from excessive roads and logging. So we have -- we have

sediment pollution to our streams.

And finally we have the problem which is more recently documented but -- but well documented, which is that logging contributes to greenhouse emissions and to climate change. And in fact scientists at OSU estimate that -- that more carbon is removed from our forests in western Oregon than is contributed by all the emissions of all motor vehicles in Oregon.

And sure, some of that carbon is stored in wood products. But the majority is not; the majority is released as emissions. So logging is a significant contributor to greenhouse gas emissions. And given the state's focus on reducing greenhouse gas emissions is one that has not seen much focus at all and -- and has not -- has not received the attention that it really deserves considering the contribution it makes to the problem.

Next slide, please. So those are the problems that we're facing. And you know, the decision that you make now means that the Elliott will either contribute further to these problems or it'll start to reverse these problems. And we would hope that you would make a decision that begins to reverse these problems.

The 1995 HCP in many ways did not do that. It allowed cutting of 22,000 acres of old-growth forest; of older forest I should say. It -- in addition to over -- almost 2400

acres of unsurveyed murrelet habitat. So it allowed substantial harm. The owl population was roughly 24 sites in 1994 before the HCP was approved.

The HCP allowed them to take that down to 13 owl sites. In 2003 the last survey, and I'll note as -- as a minor digression that the last survey of owls was in 2003. Somehow ODF was proceeding with the new HCP without having -- without having current information. We don't know what the status of owls are on the Elliott currently. Instead, we just have this old survey.

In 2003 six of the sites were -- had barred owls near them so it indicated that the owls were in trouble on the Elliott. So the '95 HCP in a sense would allow this harm to occur to the spotted owl and in exchange ODF and the State made a promise. They made a promise to -- to enact certain protections under this HCP. Now, the State is instead of sticking to those protections which would have provided some long-term benefit; instead is going back for another HCP, which allows further cutting.

So the -- the State is in my view not keeping their promises that they made under the 1995 HCP. Next slide, please. So of these options it's our view that none of these -- just one quick second. None of these options will reverse the biological problems that are well identified in western Oregon forests.

And we -- we -- what we would like to see happen is -- is a cessation of cutting of older forests on the Elliott in the short term. A committee or -- or some sort of process to explore carbon credits as a solution to provide revenues to Common School Funds, and development of a new plan that does reverse these biological problems we've identified. Thanks.

GOVERNOR KULONGOSKI: Thank you.

SECRETARY OF STATE BROWN: Governor, thanks. Mary, I'm going to pick on you because I know you the best of this group. So I think what you commented was that the Forest Practices Act was not a model for these lands. And I guess I would maybe agree with you if these were regular State lands. These are trust lands. And so I'm going to ask you the question is again, is why do you see the Forest Practices Act as not a model for these trust lands?

MARY SCURLOCK: Well, there's some technical reasons and there's some policy legal reasons. So the policy legal reasons would be that I believe that it is -- I promote a public policy whereby the State seeks to have ESA compliant State and private land. And I do not believe that we are going to get there. We've got EPA, Fish and Wildlife Service and NMFS all united on the fact that there are minimum DMPs plus (phonetic) management practices for forest lands in the state do not get us there.

SECRETARY OF STATE BROWN: Okay.

MARY SCURLOCK: So that argues I think why we have the State lands being managed to a -- a more -- a less risky for natural resources type standard. We already have larger riparian areas protected on the State lands. And yet they have also drawn serious concerns from those concerned about aquatic species. And the -- the reason is that they still do not get us to a place where the services can see their way clear to grant a plan and associated take permit that meet the ESA section 10, section 7 standard.

Now, because it’s a voluntary setup, you’re absolutely right. We could go forward without a Habitat Conservation Plan. The uncertainty there is really quite high in terms of the vulnerability, not just to -- to the fish and amphibians associated with the practices under the plan, but your vulnerability to litigation.

And if you compare the proposed plan to the Habitat Conservation Plan in Washington state on their trust lands, they have very similar legal requirements. It is -- it does address the concerns that NMFS has raised in terms of retention in riparian areas and limitations on management. I think primarily it’s the smaller -- some of the smaller streams that are at issue here.

SECRETARY OF STATE BROWN: Okay. Thank you.

STATE TREASURER WESTLUND: Is it Norm?

NOAH GREENWALD: Noah.

STATE TREASURER WESTLUND: Noah. Noah, I noticed during your presentation that you kind of slipped in and out of old growth versus older growth. And it seems like you were catching yourself. And I guess the question to you to help someone understand; I know there's a difference. But for you what's the difference between old growth and older growth, and are you using them interchangeably in your presentations and discussions?

NOAH GREENWALD: Sure. Sure, that's a good question. You're right, I did catch myself on that. You know, there's -- there's differences in the scientific community on how old growth is defined. And I -- I think the term "older forest" is -- is a more accurate characterization and sort of avoids some of those differences.

Much of the Elliott burned in the -- in the late 1800s in the 1870s. And so a lot of the Elliott is natural regeneration from those fires, and have many characteristics that are -- that are typical of older forests such as large trees, multi-layer canopy, snags, extensive large woody debris on the forest floor. And these are all things that are important to the wildlife species such as northern spotted owl, such as Coho salmon, et cetera. So -- so the term that I -- I prefer is "older forest." Does that answer your question?

STATE TREASURER WESTLUND: Yes, my only comment is that I think it'd be helpful when we start talking glossary

(phonetic) in these controversial subjects that we have an agreement on what the words mean.

NOAH GREENWALD: Sure.

STATE TREASURER WESTLUND: As we go forward because what I was hearing was two different things and four people could come away with three different meanings. And so as we go forward in these delicate discussions, clarity of glossary, I think.

NOAH GREENWALD: Sure, let's use the term "older forests" then.

STATE TREASURER WESTLUND: But there is a distinction.

NOAH GREENWALD: Sure, some scientists sort of reserve the term "old growth" for you know, sort of this super old growth, you know; over -- over 400 years, you know, et cetera. And -- and it's a more limited subset of what's important to -- to wildlife species, to endangered species in specific.

STATE TREASURER WESTLUND: Just so we're talking the same.

NOAH GREENWALD: Sure.

DIRECTOR SOLLIDAY: Okay. Thank you.

GOVERNOR KULONGOSKI: Just a second. Can I ask Mary a question? Mary, I want to thank you and Frances for going on our field trip this last week. I learned a great deal about

the marbled murrelet, as you well know, in the questions. I am interested, you said a minute ago, and I'm trying to get to where the dispute right now is between the Department of Forestry and our people and NMFS and Fish and Wildlife. And I want to go back what I was focusing with Kim on.

And you said that there were three -- you were talking about the Oregon Forest Practices Act. And I'm well aware that for State forests that the Department manages to a higher standard, particularly on the Elliott, than they do with the Oregon Forest Practice Act. But you said something about Washington now. If my memory serves me, NMFS has signed off on the State forest plans on their Habitat Conservation Plan in Washington.

MARY SCURLOCK: Right.

GOVERNOR KULONGOSKI: Is that correct?

MARY SCURLOCK: Yes.

GOVERNOR KULONGOSKI: I'm trying to figure out, and I don't know what the Washington law is, to be very frank with you. So what is the Washington law and where we're at; how large of a chasm is there between what they did in Washington or what we're doing here?

MARY SCURLOCK: It was the nightmare I had last night that you were going to ask me the exact provisions of the Washington --

GOVERNOR KULONGOSKI: No, don't bother.

MARY SCURLOCK: But I would say that I did not know if NMFS -- if you all have come up with the 30 million board feet production figure based on NMFS' concurrence that if you did what they wanted you to do, that would be what you would get. So it's about -- in timber it's apparently about five to ten million board feet.

I think it's -- it's a matter of larger riparian areas on the -- on the small perennial streams with more retention, higher basil area retention I would say is -- is the -- the main thing. And that's going to provide the shade that they're concerned about as well. And probably further riparian buffering on the very smallest streams.

And then probably some headwall (phonetic) protection, so those extremely likely-to-fail slopes that are on the very, very top of the system, which unfortunately the Elliott has quite a few of.

GOVERNOR KULONGOSKI: Just one last question. Take this as a well-intended defendant (phonetic). When you see this over the Oregon salmon plan and I'm just interested to -- coastal Coho, I'm sorry. It was the listing of it that you -- and I just want to know what you're thinking of, of the Oregon Salmon plan is as to whether --

MARY SCURLOCK: Well, it's interesting you should ask. I -- first of all, we never sued over the Oregon plan.

GOVERNOR KULONGOSKI: No, I know. I know.

MARY SCURLOCK: We're very supportive of the Oregon plan. But we thought the Oregon Forest Practices Act part of it, which in our view at the beginning when Governor Kitzhaber first started that plan two -- two major things with regard to State and private forestry were identified that needed to be done. One of them was develop a Habitat Conservation Plan for State Lands that would address the needs of coastal Coho.

And the second one was to create a stakeholder group that would come together to address the -- the number of shortcomings on the Oregon Forest Practices Act site that had been identified in the listing materials. Some of that stuff appeared in the Federal Register. And what's kind of hilarious about it is that many of them are the exact same issues now 14 years later that we're hearing about with regard to this Habitat Conservation Plan.

So this -- this kind of thinking's been going on for some time. So I'm kind of in the box with Noah where I feel as -- as if the promise that was made was that we would get an ESA sufficient Habitat Conservation Plan on State lands as part of the Oregon plan.

GOVERNOR KULONGOSKI: Let me ask you about the Oregon plan. It has a feature in it. And understand it has a voluntary compliance mechanism. Do you agree or disagree with that?

MARY SCURLOCK: I think that voluntary component of -

- of an overall program to meet natural resource needs can be very, very effective. And in fact, I understand you to define (phonetic) the entire Forest Practices Act may not become voluntary. So it's excellent that we had a model. The voluntary component in terms of the additional voluntary leaving of additional stream buffers, the road upgrading and other types of work that private -- State and private landowners had -- have done is still -- needs to be assessed in terms of its habitat recovery benefits.

But I'm absolutely for it, but do I think that we can reach the place that we need to be in terms of meeting the needs of Coho salmon on State and private lands through entirely voluntary measures I -- I'm afraid I don't. I don't think we've reached the end of the useful life of increased regulatory --

GOVERNOR KULONGOSKI: Would it be fair to say, then, the federal listing is the hammer that actually gets done what you're looking for?

MARY SCURLOCK: Unfortunately I have considered the -- I mean we have always considered the Coho listing to be an incentive to increase the -- the conservation burden of all the land managers that are implicated, not just the State lands (phonetic).

GOVERNOR KULONGOSKI: The only reason I ask you about this is that I wear another hat as the Governor other than the

Land Board. And I'm always interested around the Oregon plan and whether in fact I can still keep the private landowners involved in this, is if in fact if they think that we're not moving forward. And then what's happening is that the federal government is going to come in and manage for this. And this is a very difficult problem.

MARY SCURLOCK: No, I -- I don't want that to happen either. I mean that's not what I want. But I -- I -- I'm certainly -- and I'm -- I'm all for a robust timber industry. That's not -- not something that -- that I have on my agenda. But I do think that we need to recognize what a pitfall (phonetic) the federal agencies are in when they have -- have other plans in other states that, you know, have -- have gone further than what's being proposed here. And the ecology is virtually the same.

GOVERNOR KULONGOSKI: Thanks a lot.

MARY SCURLOCK: Thank you.

GOVERNOR KULONGOSKI: I appreciate it. Thank you.

DIRECTOR SOLLIDAY: Okay. For our next panel is our timber industry and tribal representatives, Bob Ragon from the Douglas Timber Operators; Jim Dudley for forest products, and Tim Vredenburg from the Coquille Indian tribe. I guess in terms of doing an overall time check, we have 40 minutes left in this meeting. I'll take 35 minutes to do the remaining presentations unless you have a Land Board Governor who will

stay (phonetic) past noon.

BOB RAGON: We still get five minutes, right?

DIRECTOR SOLLIDAY: You do. And you're up first, Bob.

BOB RAGON: Good morning, Governor Kulongoski, Madam Secretary and State Treasurer Mr. Westlund. Pleasure to be there this morning. I'm Bob Ragon, Executive Director of Douglas Timber Operators, located in Roseburg, Oregon, represent a small trade association membership in Lane, Coos and Douglas Counties, which by the way are the three largest timber-producing counties in the state.

You have with you a briefing book that we provided to you that hopefully I'm -- I hope your assistants have had a chance to go through it. There's some information there that I think is different than what you may have seen from the State agencies. I want to summarize just quickly what's in there. Part of it says that an HCP was never necessary for ESA compliance on the Elliott State Forest.

That the proposed plan and HCP for the Elliott will cost the Common School Fund as much as $715 million in foregone revenue over the next 50 years. The incidental take permit for a revised HCP we believe is highly unlikely to pass the hurdles set by the Ninth Circuit Court of Appeals. I believe strongly that a new HCP is at high legal risk of passing the bar.

Withdrawal of the 1995 HCP does not require

mitigation (phonetic) on your behalf. ODF's presentation to the State Land Board on this issue has not really explored all the wide opportunities in front of you. And finally, the Board of Forestry has decided not to take the path you are looking at today.

They have abandoned the pursuit of a multi-species Habitat Conservation Plan. And that to me tells them, tells you I think that the continued pursuit of this process is very difficult for you to achieve. I'd like to go quickly to some modeling ones that are in your book, if I could. Go ahead. Excuse me, and you can pass that along up too. This is the reserves under the HCP, it's about 25,000 acres. The reserve's under a Forest Practices Act alternative 12,000 acres. We have basically doubled the amount of reserves under the HCP as proposed as -- as what would be under the (phonetic) Forest Practices Act.

Interestingly enough, within the proposed plan ODF modeled a take-avoidance strategy as right here with 20,000 acres of reserves; significant amount of reserves under take-avoidance strategy. Next line. These numbers are hard to read. This is the harvest level under the HCP. It's 40 million feet.

The ODF wood emphasis is 55 million feet. The intermediate alternative that we took the practice -- the Forest Practices Act alternative, which had 75 million foot,

1 added further reserves to it. And that alternative developed
2 62 million foot harvest level. Next line.
3 The present net value of the HCP of the Elliott is
4 $359 million. The ODF put emphasis alternative is $556 million.
5 The intermediate alternative, 612, and the Oregon Forest
6 Practices Act 747. Next slide, please. The cash flow; the
7 cash flow of the HCP is $600 million over 50 years over the --
8 with the ODF wood emphasis take-avoidance strategy it's over a
9 billion dollars in 50 years. (unintelligible) is a billion
10 three, and the Forest Practices Act is almost a billion seven.
11 Next slide, please. This shows you what the HCP does
12 for the Elliott Forest. You're going to take that inventory
13 from 2.3 billion feet of standing timber up to almost four
14 billion feet in 50 years. You're just going to continue to
15 stack up wood out there. One left; perfect. Next slide,
16 please.
17 This is the harvest off the Oregon's forest lands for
18 five years averaging from 2004 to 2008. The industry harvested
19 an average of 2.8 billion board feet. This is the Board of
20 Forestry lands, 272 million feet. These are tribal lands, 63
21 million; small wood lots, 363 million. The BLM, 121 million
22 feet is the average harvest off BLM lands the last five years.
23 This is the Forest Service and this is of the public.
24 Next slide, please. This is the harvest the State of Oregon
25 under Habitat Conservation Plans. There's two of them. One is

the Weyerhaeuser tree farm. Average harvest there off 200,000 acres is 100 million feet. And this is the HCP on the Elliott. This is all the harvest that takes place in the state of Oregon under HCP. The rest is all harvested under a take-avoidance strategy. Thank you.

GOVERNOR KULONGOSKI: His time's up but there is something. I just wanted to get your -- what do you think about selling the Elliott?

BOB RAGON: We don't -- we don't favor it.

GOVERNOR KULONGOSKI: Okay. That's all you have to tell me.

BOB RAGON: But -- but we -- we think a new management strategy is badly needed.

GOVERNOR KULONGOSKI: Okay. Thank you. Go ahead.

JIM DUDLEY: Good morning, Madam Secretary, Governor, Treasurer Westlund. My name is Jim Dudley. I'm the timber manager for Roseburg Forest Products. I hold a degree in wildlife biology from Humboldt State University. And I'm also a licensed professional forester. So I've dealt with the spotted owl issues and marbled murrelet issues since 1992.

I'm here today to help the Board understand how they can employ the same take-avoidance strategy that private industry uses. And obviously as Bob said, 97 percent of the four billion feet that's harvested in the state each year is done without an HCP. First thing you need to understand is the

State's obligation under ESA is simply to avoid take.

There's no obligation for recovery. Obviously until you get onto -- to asking for an HCP you don't have to deal with recovery. It's simply to avoid take. The Endangered Species Act defines take to mean to harass, harm, pursue, hunt, shoot, wound, kill, capture, collect or attempt to engage in any such conduct. Obviously with timber harvest management we're not out trapping, pursuing or -- or hunting these animals. All we really need to address is harm.

The US Fish and Wildlife Service defines harm as an act which actually kills or injures wildlife. So how does the rest of the industry avoid killing or harming wildlife? I'll specifically address the spotted owl with regards to time. So basically what you have to do is determine presence or absence of the animal of -- of question; the owl in this case.

The State has a database where past activity centers are -- are identified. The average landowner throughout this fragmented ownership in the Cascade -- or the western side of the Cascades; typically your adjacent landowners or the BLM or other private timberland owners, they all have databases of activity centers as well.

So if you determine that there's been activity in the past within your project area or adjacent or you've got habitat to support the species of concern, surveys are in order. Contrary to Mr. Young, there actually is a one-year approach

under the US Fish and Wildlife Service protocol whereby you do six surveys in one year, then you have seven months to complete your project prior to the beginning of the next breeding season when you would have to begin surveys again.

So the two-year method I agree is the most logical because at the end of two years if you haven't identified any nesting birds you basically have two additional years without survey for the person that bought your timber sale to complete the activity. So all we really need to worry about is when you do find an animal. When you do find an animal you establish a 70-acre pour (phonetic) around the nest site.

And you need to maintain 500 acres within .7 miles of the activity center. Now, .7 miles radius is equal to 985 acres. So basically you have to maintain half of that .7-mile circle in suitable roosting, foraging or nesting habitat. So when we talk about reserves, if you got 16 pairs of owls, that's 8,000 acres you're setting aside.

The -- the next obligation is determine nesting status. If you have a nesting pair of owls you also have an additional quarter-mile buffer area. So this limits timber falling, logging, hauling so that you don't cause the -- the birds to abandon the nest. This runs through August 31st by which time the chicks have fledged and -- and theoretically are capable of -- of foraging and -- and living on their own.

So under a take-avoidance strategy you're only

required to protect the areas around the birds themselves. Your focus is strictly on finding them and protecting them where they live versus setting large buffers aside and hoping that the birds will use those buffers. It does not require large set-asides for perpetuity and actually allows the birds to move around and continue protection as they move versus being stuck within a single reserve. So that's -- that's the short version of how you accomplish a take-avoidance strategy. Thank you.

GOVERNOR KULONGOSKI: Thank you.

TIM VREDENBURG: I want to thank you for the opportunity to share with you this morning. And I really want to thank Director Solliday for offering us this same location to be included and participate. Those of you that have spent time with --

GOVERNOR KULONGOSKI: Would you just state your name and who you're representing?

TIM VREDENBURG: I'm sorry. Tim Bradenberg, I'm the director of land resources and environmental services for the Coquille (Phonetic) Indian Tribe. Those of you that have spent time with Coquille Indian Tribal leadership know that they never fail to articulate that their number one priority is education.

Have been chosen not to isolate their youth by creating tribal schools on reservation, but rather send

their -- their youth to public schools and have chosen to support those schools -- that school system with the idea that their -- their children can be recognized and respected members of the community.

With that in mind the -- the health and funding of the Common School Fund is -- is important to the Coquille Tribe. Second, the -- the tribe manages its land on a longer rotation management strategy along with other conservationist partners in the state and in the region. The -- that strategy of growing younger trees into larger trees is only successful if there's a place to take the larger trees when they -- when they come of age and are ready to go to market.

Our current infrastructure is viable as it is propped up (phonetic) from logs coming from Canada and the state of Washington. But it's placed a very significant role for the Elliott State Forest in supporting that infrastructure. If that infrastructure goes away, that strategy goes away with it. We know from what we've learned on the east side when the -- when the infrastructure goes away it's very difficult if not impossible to get it back.

We think that pursuing an HCP actually introduces less certainty in the management that -- that it opens the state up to a different kind of litigation. That recent litigation, not-so-recent litigation makes it very difficult and challenging for the two services to -- to offer incidental

take permits that -- that can withstand those legal challenges.

Finally, you know, I want to recommend that you be bold in -- in looking at other alternatives and thinking outside the box as you evaluate new management direction moving forward.

GOVERNOR KULONGOSKI: Anybody? Okay. Thank you very, very much.

DIRECTOR SOLLIDAY: Thank you. Our last panel is our other interested parties panel and on that panel we have the Honorable Susan Morgan, the Douglas County Commissioner; Chuck Bennett from the Confederation of Oregon School Administrators; John Charles from the Cascade Policy Institute, and then Jon Souder from the Coos Watershed Association.

SUSAN MORGAN: Can you pass those out?

DIRECTOR SOLLIDAY: Yes.

SUSAN MORGAN: To the members of the Land Board?

GOVERNOR KULONGOSKI: Who’s going to go first?

SUSAN MORGAN: For the record, my name is Susan Morgan. I’m Douglas County Commissioner. And I’d like to thank you for the opportunity to speak with you today about the management of the Elliott State Forest. I’ve been asked to represent the perspective of the counties in today’s discussion.

The counties closest to the Elliott are of course the southwest Oregon counties of Lane, Coos, Curry, Josephine,

Jackson and Douglas. All of these counties, but especially in Coos, Curry, Josephine and Douglas Counties, poverty and unemployment are the biggest issues for our citizens. Take a look at the spreadsheet that I've given you today.

The first display on the spreadsheet, the one to the farthest left, shows the percent of our citizens who live in poverty across all age groups. The data is from the US Census Bureau. I rank the Oregon counties from highest level of poverty to lowest. Oregon's average is highlighted in blue. The southwest Oregon counties are highlighted in yellow.

The second set of data shows the percent of child poverty. This is children under the ages of 18 years old. Again, the data is from the US Census Bureau. The third data set shows the percentage of students signed up for free and reduced-cost school lunches. The data is from the Oregon Department of Education.

The fourth set shows the percentage of Oregonians who are out of work. This data is from the Oregon Unemployment Department. Clearly southwest Oregon counties need help with our poverty and unemployment problems. The best way to counteract poverty and unemployment is to create and retain jobs.

The next information on the next sheet in that I'd like to give you also comes from the Oregon Employment Department. Because of the short time I have, I'm only going

to show you Douglas County's information. But the information from Coos, Curry and Josephine Counties are very similar to this. Note that in the first two lines of the data that all ownerships, which is the first yellow highlighted line, the average pay which is on the far right-hand side in Douglas County is just under $33,000 a year.

The next line down is private sector jobs, which average about $2000 a year less. Direct forest product jobs, which are the next three highlighted lines, average between $35,000 and just over $40,000 a year. So these jobs pay substantially more than the average wage. In all of the southwest Oregon counties direct forest products jobs pay substantially more than the average wage.

So my message to you is straightforward. As you work towards a plan to manage the Elliott, creating and retaining jobs in the forest products sector is the straightest line to a positive impact on the southwest Oregon counties. These are family-wage jobs and they are critical in stabilizing our families and our communities. Thank you.

GOVERNOR KULONGOSKI: Thank you, Susan.

CHUCK BENNETT: Thank you, Governor, Secretary Brown, Treasurer Westlund. My name's Chuck Bennett. I represent the Confederation of Oregon School Administrators. I've been asked to speak in behalf of beneficiaries to the Common School Fund, which is as you know primarily in education. I just want to

kind of give you a little background.

We -- the education beneficiaries meet regularly with staff from the Department of State Lands to discuss all aspects of the Common School Fund, including updates on land -- land management policies. And we are in regular agreement with the approach the Land Board has been taking. We are particularly concerned about policies that provide certainty in association with management of the Common School Fund lands.

Common School Fund stability is important to us. It contributes about $95 million to the -- annually to State support of education. The Elliott is the largest land contributor to this fund. But I want to make it real clear; the Elliott’s contribution is to the fund. The schools derive their funding from earnings off the fund, percentage of earnings off the fund so that direct impact from the Elliott on funding of education in Oregon is -- we’re not talking a large amount of money.

So as you consider this and as the discussion goes on, I often listen to the discussion and -- and am concerned that it sounds like it’s a kind of dollar-for-dollar exchange for the education of children, that the Elliott produces $9 million somehow to children of Oregon, directly receive $9 million. The primary interest of education beneficiaries is, as it will always be, to maximize harvest on the Elliott, but also in terms of its long-term management objectives.

We have supported the level of harvests that have been talked about up to 40 million board feet as an appropriate level of cutting. But again we -- just to echo I think what the Governor was asking about earlier we have a particular certainty in this area. The biggest issue for I think educators in this area aside from the money is the impact that was just outlined by Commissioner Morgan on the local economy and what's going on in the counties and school districts that are directly affected by employment caused by harvesting on the Elliott.

I would ask you to look very closely at that as part of your consideration, understanding you have a fiduciary responsibility to the fund. We also believe that the local employment (unintelligible).

JOHN CHARLES: My name is John Charles, and I'm president of Cascade Policy Institute. I'm here to urge the Board to sell the Elliott or consider a long-term leases arrangement with a private entity. I understand that this is probably your least favorite option. A natural tendency in a dysfunctional situation is to just keep doing the same thing over and over again.

State Lands on the Elliott will never generate the returns it accrued. Predecessors were told this back in 1994 by John Beuter (Phonetic), consultant with DOF, who concluded that, "Selling the Elliott is the only marketing alternative

likely to significantly increase net annual income to the CSF." 2005 consultants to DSL reached a similar conclusion. They found that direct benefits to selling the Elliott could be as high at $206 million in addition to indirect benefits of $400 million in the form of new jobs and tax receipts.

Today we will be offering yet another analysis showing that sale of the Elliott or a long-term lease would provide four to eight times as much funding to Oregon schools as retaining ownership by the State would. Given your trust obligations, we believe you should seriously consider this option. I will save the rest of my time to Dr. Eric Fruits, an economist who has performed the analysis at the request of Cascade.

ERIC FRUITS: Hi, thank you for having me. As you can see in the -- the slide behind me the -- the revenues from the Elliott have been declining over time. And right now they average at about $7.9 million a year. That average is probably a little bit high because we have had declines. There's also some thinking at some point that when the housing market recovers that perhaps we can get more money out of the Elliott.

I think we need to be careful about pinning your hopes on that because when you look at 2005, which was the peak in new home construction, we only had a fairly small blip in revenues from Elliott State Forest. So I think that really the only argument that -- that under current management we are

having both low and declining returns on that forest.

Based upon testimony from Mr. Lily I believe in the last meeting, he said that the returns were about equal to one percent on that forest. If you apply that to the Elliott that would give the Elliott a value of about $800 million. Other studies I believe Mr. Ragon had presented would put it about 747. So I -- I split the baby on that and said okay, well, let's assume that we could sell the forest for $750 million.

And again, as Mr. Charles pointed out, it's probably very unpopular to sell the forest. But that -- that doesn't mean you have to sell it. There's a lot of ways that you can use it without actually selling it, you can enter in a long-term lease arrangement for the pending ownership. You know, one of the things -- to give you an idea of how meager the returns are on the Elliott State Forest, you don't have to look any further than the US Treasury.

The returns are actually less from the US Treasury. You could sell the state forest for $750 million, put it in US Treasury. Perhaps the state has invested around (phonetic), and you would actually generate approximately -- and that would be on the next slide; three. You would generate about $18.2 million a year for the school fund. That's about three times what you're generating now.

I'd also depending on (phonetic) what's in the Monte Carlo simulation of what -- what would happen if that money was

put in the Oregon Investment Council, the same group that manages the PERS funds and other State investments. They generate fairly good returns over time, 7.74 percent per year after costs. And I looked at -- at a range of what would happen based on crediting and so forth.

Found in the worst case scenario you get about $25.7 million a year. In the best case scenario you'd get about $51.8 million a year for the school fund. What I call the median scenario is about $34.6 million a year. Again, these are four -- about four to eight times more than what current management of the Elliott State Forest is providing. Thank you.

JON SOUDER: Governor Kulongoski, Secretary Brown, Treasurer Westlund, my name is John Sauder. When I met with you last week out on the Elliott State Forest it was in my role as executive director of the Coos Watershed Association. I believe I've been asked here today more based on my experience in trust land management. Starting in 1988 I worked with Professor Sally Fairfax at the University of California Berkley.

In the first comprehensive studies of State Trust Land Management that had -- had occurred since 1920s back when federal income tax was being first considered the results of those studies from 1988 to essentially when I took my current job in 2000 resulted in a dissertation from me a book on state

trust lands management about a dozen law review articles, consultancies with four states, including Oregon, the Forest Board in Oregon.

And I've also served as an expert witness for the Washington State Attorney General's Office in their defense of their Habitat Conservation Plan on State forest lands. So I've been down this road before, written about it and -- and thought about it a lot.

The Elliott State Forest is oftentimes characterized as the crown jewel in the State trust fund portfolio. And as any jeweler knows, the value of a gem can be either significantly enhanced or significantly diminished according to how it's cut. And I think both literally and figuratively that's what the debate is here for it.

So what I'd like to spend my time talking a little bit about and I believe I've provided an article that -- that you've received an essay on prudence as a fiduciary decision-making criteria. And would like to kind of quickly go through that because I think it's important. You have a wide perspective of options here to look at and evaluate everything from selling the forest or some similar arrangement to turning it almost into a carbon credit for us.

And so now you have to make a decision on -- on what avenue to pursue for that. And it's not an easy decision. In the essay that I wrote on prudence we really look at pension

funds as a model for fiduciary decision making. And while in this economic climate pension funds may not be fairing well, there are a significant number of requirements for their management that actually begin to define fiduciary decision making.

And so I'll rely on that article really to -- to make the major points in there. One of them is this question about balancing risk and potential benefits. And that's really the key because every one of these options that you're considering has risk associated with it, and also has potential rewards from pursuing that.

A second area that's important that was raised particularly in the discussions on the federal agencies was this question of are you applying generally accepted methods in identifying management options, generally accepted procedures. Are you -- do you have adequate expertise and do you understand the expertise that you're being -- being provided with that.

And then finally this question of what is the irreversible commitments that you're making as you pursue an option. Is there a reversibility involved in this? Can you step back from it? Can you adjust it as time goes by? And what is the exit strategy? What exit strategies are available to you if things go south on you? And are you actually -- do you have effective capacity to evaluate that and to monitor the actions as they go along?

So those were some of the -- the major criteria that -- that the Board developed based on assessment of pension fund management. But there's a couple of things. I -- I've lived with this HCP for ten years now as well. And there's a couple of options that -- that I'd really like to ask that you consider as you move forward with this. First of all, I've never understood why this process hasn't availed itself of a couple of really innovative policy avenues that -- that Oregon has developed; and that's the Oregon Solutions Program and the Oregon Consensus Program at PSU.

Those both offer avenues, I think, to try and resolve some of these differences that -- that I would encourage you to pursue. And then secondly, it's clear that there needs to be some higher level of federal decision makers involved in the process here. And I'm wondering why, Governor, you don't just pick the phone up and call Secretary Salazar and Secretary Luchenko and just say, "Send me somebody who can make a decision." So I will -- thank you for your time.

GOVERNOR KULONGOSKI: Actually, you may be surprised that I had a conversation with the Secretary --

JON SOUDER: That's all the decisions you had.

GOVERNOR KULONGOSKI: And there is a commonality between these two and it's one of the issues about the Oregon Solutions is always is whether the federal (phonetic) government, particularly NMFS and Fish and Wildlife, ONC or ESA

do a process like this. It's a great discussion forum but though they have worked with us before. I still think fundamentally that the questions I was asking are what's at the heart of this whole thing. We have to find a way. But I have talked to him about it.

JON SOUDER: Okay.

GOVERNOR KULONGOSKI: Thank you.

SECRETARY OF STATE BROWN: Governor, I have a question.

GOVERNOR KULONGOSKI: Oh, I'm sorry. Go ahead.

SECRETARY OF STATE BROWN: Commissioner Morgan, I'm going to put you on the hot seat here. There were four options available to us. Do you have a particular approach you would encourage us to use or do you have a strategy you would use if you were in our shoes?

SUSAN MORGAN: Madam Secretary of State, I think one of the things I'm reminded here of is that probably all the easy problems got solved in the '50s and the '60s. The ones that we're left with today are pretty thorny (phonetic). The -- I -- I don't know what the best option is going to be.

I would ask you to consider that there is probably no ability to get to total certainty on this. There -- there isn't any way to find a solution to this where there -- where everyone is going to agree to it. And so that's probably not a -- a reasonable or rational goal to even try to aspire to.

I think that clearly from the perspective of the communities in southwest Oregon the economic issues, the job creation issues and the family and community stability issues are the big issues. And that the environmental issues I can remember when I sat on the Natural Resource Ways and Means Committee asking for that study on selling it because we were mired in these very same issues back then. I

And as you pointed out, it's going on nine years now that this discussion's been going on. I think that clearly you want to aim for a high cut because that provides the greatest return to the school -- the trust fund and also to the -- the local communities. How you get there; if I knew that I would tell you.

GOVERNOR KULONGOSKI: I'm going to -- I started the conversation and this is why I keep pushing on this riparian issue. There were a number of reasons why Wafford (Phonetic) failed. And I am absolutely committed to trying to get a forest management plan -- a plan on the ONC lands because if in fact we're not able to renew the county payment program, we have to have something in place that generates revenue for the counties around the state; the ONC counties.

And I'm absolutely committed to that and I had this conversation with Secretary Salazar of how important this is. But the dilemma is forests and I'm going to go back to where I started about this riparian issue. Though there was a legal

issue about the failure to consult under the ESA with NMFS and Fish and Wildlife, which was a fatal flaw, which resulted in the reversal by Secretary Salazar of the Wafford Decision or record of decision.

The issue though ultimately is, is whether in fact that you're listening to the debate about the HCP and you're talking about coastal Coho, of whether in fact on ONC lands it would deal with the Fish and Wildlife and you're going to deal with NMFS again; whether in fact that you can actually get them to sit down and come up with a reasonable riparian setback because the problem with the Wafford is how you got the 502 million acres.

You had a very restricted riparian area, which you got more timber out of. And that caused a lot of people a lot of heartburn. And it's the same issue here. And I'm just trying to figure out and it may be that there's somebody else that a fresh face has to be brought into this to try to bridge this thing and trying to find out how we can do this. And whether Washington is the model that you want to use here or not, I don't know.

The foresters are going to have make that and Jim Brown -- I mean Mark (Phonetic) and all these other people who are involved in this are going to have to work on this. But I still think that's the crux of who's out in this (phonetic) HCP is trying to figure out how you're going to do something around

the riparian zone. And what that issue is, I don't know. Thank you.

DIRECTOR SOLLIDAY: We have one last item we want to take care of today. I'd like to ask John Lily to come forward. John Lily is retiring from -- has retired officially from State service after 36 years of service to the State. And we want to take a moment here to say thank you to John and talk a little about John's career with the State of Oregon. And we have a little gift to give to him despite his best efforts to prevent us from doing that.

As I mentioned, John has spent 36 years with the State of Oregon. He started with the Parks Department back in 1973. He spent 17 years working at the Parks Department in various positions. He started as a park planner. He was the park manager for Silver Falls State Park. He was also the program manager there as well as ending his career at the Parks Department as the assistant director responsible for the State Historical Preservation Office and along with long-range planning personnel and budgeting for the Parks Department.

He spent considerable amount of his time at the Parks Department working on the Scenic Waterway Program, which is where I first met John many, many years ago when I was an advocate for the State Scenic Waterway Program. And also worked very hard on the planning of the entire Oregon park system.

In 1990 he decided he had fixed all he could fix-it parks and moved to the Department of State Lands, and started here as a waterway planner, working on the lower Willamette Management Plan, which the Land Board adopted. And then became the assistant director for Policy and Planning for the agency, overseeing a number of programs including our efforts to streamline the Removal Fill Program, working on the development of a 404 assumption (phonetic) and a statewide program permit efforts, and also was instrumental in making revisions to several of our general authorizations (phonetic).

But I think what most of us will remember John for is his work on the Asset Management Plan at the agency. And I think that's a legacy that he leaves to DSL. He worked on the original plan in 1995, was major author of the 2006 plan that the Land Board adopted years ago. And he has been the asset manager with the Department since 2005, has done a number of things as the asset manager for the agency, including helping to get our GIS efforts up to snuff here, working on our land administration system and making sure that that functions to all of our divisions.

He's also been the committee chair for the Asset Management Committee of the Western States Land Commissioners Association. And I know the Asset Management Plan; that John was instrumental in developing here in Oregon. It has been a model for other states around the west, as they developed Asset

Management Plans.

We also want to recognize John's work for his work on forestry issues very relevant to today's discussion. In fact, he was a signatory because he was the acting director at the time to the 1995 HCP Implementation Plan. So it's his fault. But he's also in the past served on the Elliott State Forest Planning Committee Steering Committee. And I think in talking to ODF staff, one of the thing -- his greatest strength has been his commitment to service.

And I would say that that's been throughout his 36-year career at the State. And just as an interesting side note, he and Greg Greenmeyer (Phonetic), who was on the tour with us last Monday, and Terry Thompson are all graduates of OSU. And John actually served on the track team with Terry Thompson. And John, I've had the opportunity to work directly with you as the Director of the Department since 2006. And on behalf of everybody in the Department I want to thank you for your years of service to DSL.

You've been the epitome of great public service and a great public servant. And to thank you for your work here, we want to present you with a coffee table book of Oregon, which I think you'll recognize many of the places in here as places that you have worked to protect over your career. And so I want to thank you for that and present you with this book.

GOVERNOR KULONGOSKI: Yeah, I want to get them all

in. We're not officially closed. Let me -- so that Louise can put the hammer down.

DIRECTOR SOLLIDAY: You have the hammer, Governor, not me.

GOVERNOR KULONGOSKI: I want to thank everybody who came up today. And it's been very, very informative. And it's not an easy issue and Mike Carrier just looked at me after listening to all this. He says, "This is the old adage that do you want your dad to leave you the farm or just take the money?" There's some truth to it.

But it is a very, very difficult decision. And I just wanted to let you all know that the public involvement and Louise having got everybody together on this; there is no easy answer to this. But we'll work our way through it so thanks a lot. Anything else? We're adjourned.

CERTIFICATE

I, Jayne Rosamond, hereby certify that I am an electronic transcriptionist for Business Support Services of Salem, Inc., that as such electronic transcriptionist I prepared from an electronic recording provided by Business Support Services, Inc., the foregoing typewritten transcript of the meeting had upon the matter at the time and place set forth in the caption hereof; and that the foregoing pages, which are numbered 1 through 78, both inclusive, are the true, accurate and complete transcript of the proceedings adduced had upon the said meeting.

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