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STATE LAND BOARD MEETING

October 12, 2010

State Lands Building

775 Summer Street NE, Salem, Oregon

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1 values existing under these parcels. The exchange will help
2 consolidate state-owned forestlands and will make management of
3 the parcels more efficient.

4 The third item on the consent agenda is a request for
5 a conditional approval of an exchange of minerals, along with a
6 land exchange between the Board of Forestry and Cannon Beach.
7 There are no Common School Fund lands involved in this
8 exchange. The City of Cannon Beach and the Board of Forestry
9 have been working for a couple of years on a land exchange that
10 would allow the City of Cannon Beach to block up lands -- their
11 land ownership in the watershed that provides their water
12 supply for their community.

13 The exchange involves about 805 acres of state-owned
14 forestlands and about 720 acres of city-owned lands. They're
15 desiring to also exchange the mineral rights, and that requires
16 Land Board approval, as the Land Board oversees mineral rights
17 under all state-owned lands. The Oregon Hunters Association
18 has filed an appeal of this exchange, and so this is a
19 conditional approval pending the outcome of that appeal.

20 And then the fourth item on the consent agenda today
21 is a request for the approval of the release of mineral rights
22 underlying the 8.5 acres of land on which the School for the
23 Blind sits. This will allow the Salem Hospital to purchase
24 both the surface and subsurface rights in that land
25 transaction. And that's a transaction that will occur between

1 the Department of Administrative Services and the Oregon School
2 for the Blind. And staff is recommending approval of the
3 consent agenda.

4 **GOVERNOR KULONGOSKI:** Is there any further
5 discussion? Hearing none. Adopted.

6 **DIRECTOR SOLLIDAY:** Next item is the first action
7 item. I believe Mike Carrier is going to present that item.

8 **MR. CARRIER:** Governor, Mr. Treasurer, Madam
9 Secretary. This item is timely because the reappointment of
10 the Director of the Department of State Lands, Louise
11 Solliday -- it is recommended that the Land Board appoint
12 Louise Solliday as Director of the Department of State Lands,
13 or reappoint her.

14 By law, the term of the appointment is limited to
15 four years. An action by the Board is required at this time
16 because their -- her first four-year term has expired. And we
17 would concur that this complies with the statute by
18 (unintelligible). Recommended to you and (unintelligible)
19 reappoint Louise, has worked with the Department, with another
20 four-year term, effective immediately.

21 **SECRETARY OF STATE BROWN:** I'll move for approval.

22 **GOVERNOR KULONGOSKI:** It's been moved. Seconded
23 by --

24 **MR. CARRIER:** You mean second, second.

25 **GOVERNOR KULONGOSKI:** Yes, second discussion.

1 **STATE TREASURER WHEELER:** If just briefly, if I may,
2 Governor. I had a chance to meet Louise (unintelligible) a
3 conversation that we're aware, we see DSL going to where we see
4 the Board going. I was very pleased to hear her make reference
5 to the (unintelligible) customer service. (Unintelligible)
6 this issue, as I see it, is that her evaluation -- in fact, her
7 budgetary evaluation of DSL and the current legislature
8 (unintelligible) Louise.

9 (Unintelligible) Department of State Lands and decide
10 if -- and has gone around the state to talk to people in
11 communities that are impacted by the Land Board's decisions,
12 and the Department of State Land's policies very apparent that
13 there's a strong desire amongst our citizens for more customer
14 service focus and a pragmatic problem-solving approach,
15 trouble-shooting approach, hoping our citizens come into
16 compliance with some of the rules and regulations that the DSL
17 has required in the past.

18 I was very pleased with the conversation we had about
19 that Louise described a strong interest with working towards
20 that (unintelligible) customer service element. She also
21 strongly supports looking for the different (unintelligible)
22 good for problem management, DSL (unintelligible) decentralized
23 DSL operations in communities where DSL policies impact the
24 local economies and the citizens across the state of Oregon.

25 And I was also pleased to hear that she's

1 (unintelligible) legislators look at ways to improve the
2 (unintelligible) issues and resolve some of the outstanding
3 (unintelligible) fees, and the associations of rip-rap
4 (phonetic). And my overall take has been that she is flexible
5 and she's willing to work with us on the Land Board, and she's
6 willing to work with the citizens. She understands the
7 (unintelligible).

8 Therefore, I move we (unintelligible).

9 **GOVERNOR KULONGOSKI:** Any further discussion? Yes,
10 Madam Secretary.

11 **SECRETARY OF STATE BROWN:** If I may, Mr. Chair, I'd
12 like to ask Louise a question.

13 **GOVERNOR KULONGOSKI:** Go right ahead.

14 **SECRETARY OF STATE BROWN:** Ms. Solliday, could you
15 talk a little bit about what you see in the department in terms
16 of the (unintelligible) provide customer service?
17 (Unintelligible) anything (unintelligible) from the past or
18 (unintelligible).

19 **DIRECTOR SOLLIDAY:** Madam Secretary, and members of
20 the Board, I -- when I came here, customer service was a
21 priority for me. And I'm pleased to say our customer service
22 surveys show that we have had increased results, improvements
23 in our customer service surveys, in terms of the number of
24 people who are rating us as excellent or good. Given that --
25 having said that, however, there's always room for improvement,

1 particularly when it comes to customer service.

2 And we are a customer service agency. We run a
3 number of programs that involve engaging with Oregonians,
4 whether it's our proprietary programs where we offer leases and
5 registrations for people who have structures on state-owned
6 lands. Whether it's our -- regulating our Removal-Fill
7 Program. Whether it's our consumer protection programs, the
8 estates program and the unclaimed property program, we interact
9 with a lot of customers across Oregon.

10 And as the Treasurer indicated, I am very interested
11 in making sure that we're not just running programs, we're not
12 just implementing statutes and rules, but we're listening to
13 the problems that people are having out in our counties across
14 Oregon, as they're trying to implement our rules and
15 regulations, and trying to figure out how to help them solve
16 their problems.

17 One of the things we've been looking at in the land
18 management program is we are spending a lot of time on
19 activities that generate small amounts of revenue. So is there
20 a different way to deal with those sorts of activities that
21 will make it more customer-friendly, and get us out of spending
22 a lot of hours of staff time for things that don't generate a
23 lot of revenue? And really focus on those things that are
24 likely to enhance revenue into the Common School Fund over the
25 long term.

1 **SECRETARY OF STATE BROWN:** And Governor, I just have
2 to say for the record, Louise has been a (unintelligible)
3 worker that I have, let me say, corralling, because she knows
4 (unintelligible) time and energy and patience to make very hard
5 (unintelligible). So appreciate her time and energy on that.

6 **GOVERNOR KULONGOSKI:** Let me just -- since I will be
7 leaving shortly, one of the things that, being on the Land
8 Board for the last eight years -- is that in other capacities,
9 is the understanding now of the difficult issues that come
10 before this Board. There's a reason why the three of us are
11 the Constitutional officers of the state and the way it's set
12 up. But it raises -- there are issues that come before us that
13 probably none of us who serve here actually realized the
14 significance, historically, in Oregon. Whether it's the
15 navigability issue, which goes back to statehood, and the
16 submerged and submersible lands issue.

17 It is -- they're difficult because time has passed.
18 People have gotten used to doing things the way that they're
19 doing it, with riparian ownership, or will lead to a riparian
20 ownership of navigable waterways. And it's always difficult
21 when the citizens find out that, under the statehood charter,
22 the state owns that land. The same with submerged and
23 submersible lands. It isn't anything that we've come up with.
24 It was part of the charter of when the state became -- Oregon
25 became a state in 1859.

1 And so I'm learning more and more of how difficult it
2 is to talk with the public about these issues. And I think
3 this is what Secretary -- Treasurer Wheeler and I think
4 Secretary Brown both have -- are talking about, and about the
5 issues of navigability and other issues that come before us.
6 Because the only way that we can do this without conflict all
7 the time is actually with an outreach program to have the
8 public better understand.

9 And having gone to some meetings around the state
10 with the Board, it is very difficult and emotions are very
11 high. But I think that the idea of trying to engage the public
12 more and let them better understand, that doesn't mean they're
13 going to be any happier. But I think that we do have to make
14 that effort to have them better understand why we do the things
15 that we do.

16 **DIRECTOR SOLLIDAY:** Governor, I'd agree. While DSL's
17 a relatively small agency, it is one of the most complex
18 agencies in state government. And I've described it to my
19 staff and others, that when I came here having sat as a Land
20 Board assistant to Governor Kitzhaber, I thought I knew a lot
21 about what DSL did and who they were. But I now believe that
22 DSL is sort of like this big onion, and I'm still, four and a
23 half years later, peeling back the layers of the onion. And I
24 haven't got to the core of the onion yet. I'm always learning
25 new things about what we do, and funds that we manage, and

1 customers that we have. And it's -- as I said, it's a very
2 comp -- small agency, but very complicated; does a lot.

3 I'm very committed to the mission. As a former
4 teacher, I am very committed to how we generate more revenue to
5 provide more distributions to schools on a biennial basis.
6 It's really important to me as an individual, and it's why I
7 wanted to be the Director of this agency, because it married my
8 natural resource background with my education background, and
9 allowed me to really pursue something that's going to benefit
10 education, as well as the natural resources of the state.

11 **GOVERNOR KULONGOSKI:** Any more discussion? Clerk,
12 call the roll. Aye.

13 **STATE TREASURER WHEELER:** Aye.

14 **SECRETARY OF STATE BROWN:** Aye.

15 **GOVERNOR KULONGOSKI:** Motion's adopted.

16 **DIRECTOR SOLLIDAY:** Thank you very much. The next
17 action item is a request for the final approval for the sale of
18 eight scattered forest parcels located in Benton and Lincoln
19 counties. In June, we brought to the Board 17 parcels for
20 potential sale in these two counties. After talking with and
21 doing outreach to various governments and interested citizens,
22 we are now recommending that we only sell eight of those
23 parcels. All of the parcels that were identified initially are
24 scattered, isolated parcels. Have relatively high management
25 cost relative to the revenue potential for those parcels.

1 Under the asset management plan, we had identified
2 about 25,000 acres of isolated, scattered rangeland and
3 forestland parcels for disposal. And that's so that we can
4 take the money from those parcels and reinvest them in parcels
5 that are likely to generate more revenue at a lower cost to the
6 Common School Fund.

7 The eight parcels that are before you today for final
8 approval for disposal total 1,059 acres. They have a appraised
9 value at a little over \$4,000,000. And with that, staff
10 recommends approval of the sale of these eight scattered
11 parcels through an open competitive bid process.

12 **GOVERNOR KULONGOSKI:** Do we have one --

13 **DIRECTOR SOLLIDAY:** And we have a public person who
14 wants to come.

15 **GOVERNOR KULONGOSKI:** We have a person who's going to
16 testify. There was an email sent from Mr. Doug Heiken, and on
17 behalf of Oregon Wild, and I'm trying to figure his letter out.
18 I know what the -- I think his -- the content of his letter is
19 applicable to this issue, but he refers to proposed land sales
20 in Lane County. Will you help me?

21 **DIRECTOR SOLLIDAY:** Governor, we actually did our
22 disposal of Lane County parcels back in the spring, so those
23 are sales that have already been completed.

24 **GOVERNOR KULONGOSKI:** Okay. Okay. But the principle
25 that he asked is around the issue that the Land Board look at

1 not only the cost benefits, but also the natural resource
2 benefits to the public. And I believe we do that in all of
3 these issues. But I understand his letter now.

4 **DIRECTOR SOLLIDAY:** Okay.

5 **GOVERNOR KULONGOSKI:** Nancy Denison?

6 **DIRECTOR SOLLIDAY:** Marcia.

7 **GOVERNOR KULONGOSKI:** Is it Marcia? Okay. Marcia.

8 **MS. DENISON:** I'd like to add that the spring sales
9 were never approved by a vote of the Board as required. And
10 they weren't approved at the last meeting, so I assumed that
11 they were to be considered this time. And none of the state
12 laws were followed. They didn't even follow their management
13 plan and they're still not. And like, Blachly parcel was --
14 the deed was transferred a week before the last Board meeting,
15 when approval was supposed to be given. So no approval was
16 even intended for Blachly, which is a roadless old-growth
17 forest in a sea of clear-cuts.

18 And Lane County commissioners are putting together a
19 lawsuit. And you understand that they're having terrible
20 financial problems, just like the state is. And why the state
21 should have to fight the state because the state won't follow
22 their own laws and rules is pretty bad, I think.

23 You know, anyway, I'm asking you to put an injunction
24 on all forestland sales until all of the forest and DSL laws
25 and directives are followed. The -- even the notice -- the

1 notice and the rule that's referred to in the forest
2 management -- the DSL's management plan, come from DAS law, and
3 it says where -- legal at the bottom, and they leave that part
4 out and they construe it as meaning depending upon the land
5 zoning or something. But there's a whole bunch of laws and
6 rules that need to be followed, and none of them have been
7 followed, and all of these are illegal.

8 Please, please give us an injunction and a hearing,
9 because a lot of people want to weigh in on this. It's their
10 public land, and they all have to work; they can't be here.
11 Please.

12 **GOVERNOR KULONGOSKI:** Thank you, Marsha.

13 **MS. DENISON:** Thank you.

14 **GOVERNOR KULONGOSKI:** I'll need my lawyers. I'd like
15 you to tell me that all of the laws have been followed in
16 the -- in this process.

17 **ASSISTANT ATTORNEY GENERAL ADAMS:** (Unintelligible).

18 **GOVERNOR KULONGOSKI:** Thank you. Do you have a
19 motion? Any further discussion? Yes.

20 **STATE TREASURER WHEELER:** I have one question, if I
21 may, Governor. Louise, can you tell -- we started off with 17
22 parcels where we investigated the potential sale of the parcels
23 (unintelligible) classify the others. In general terms,
24 perhaps (unintelligible) and tell us why those are being bought
25 (unintelligible).

1 **DIRECTOR SOLLIDAY:** Treasurer Wheeler, they came off
2 the list for any number of reasons. Some because other
3 governments, Forest Service, BLM, tribes expressed an interest
4 in those parcels. Some of them because they have high natural
5 resource values, and those other entities are interested in
6 preserving those lands for those natural resources and are
7 interested in looking at exchange potential with us for lands
8 that we may be interested in. And we would then dispose of
9 those lands that have a higher value for natural resources to
10 agencies or entities who are interested in preserving them for
11 those purposes.

12 **STATE TREASURER WHEELER:** So if I may ask you a
13 follow-up then. Are you suggesting that some spaces we are
14 still evaluating that it's possible that at the end of the day,
15 these parcels may come back on the list?

16 **DIRECTOR SOLLIDAY:** Treasurer Wheeler, it's a
17 potential. We may at some point bring them back. If we do,
18 we'd actually bring them back to the Board for consideration.

19 **STATE TREASURER WHEELER:** Thank you.

20 **GOVERNOR KULONGOSKI:** Any further discussion?
21 Hearing none, is there any objection? Louise, this is a --
22 this is the fourth item. This is the request for approval to
23 purchase a .45-acre parcel of land in Bend. I've exercised the
24 discretion of the Chair, and I'm going to pull this from the
25 agenda for a couple of reasons.

1 One, I had become aware that we are still looking at
2 some environmental issues on site contamination on this
3 property. And I don't want to make a decision on this until I
4 know exactly what the final report actually says, so I'm not
5 going to -- we're not going to take this up until that is
6 resolved.

7 There's another piece in this that has to do with
8 the -- and this is, again, for Jas and the attorneys. I want
9 you to look at -- in the Department of Justice, to look at the
10 way that this sale came about. There's been some statements
11 made that there were some conflicts of interest involved in it.
12 And I want you and Louise to look into this. And before this
13 ever comes back, I want you to let us know of whether there was
14 or wasn't a conflict of interest in the sale of this property.

15 So I'm going to pull it, and we'll come back at some
16 time when I find out exactly what the results of all this are.
17 Is that okay?

18 **DIRECTOR SOLLIDAY:** Okay. Agenda item number five.
19 We -- the Board received or the Department received several
20 weeks ago a request from the Columbia Riverkeeper organization
21 for the Board to take public comment at this meeting on
22 liquefied natural gas projects. As established per -- or as
23 established practice, the Board does not take public comment on
24 issues that are not in front of it at its meeting. And so
25 because there were no LNG issues on the Board agenda, I

1 indicated to Columbia Riverkeeper that the Board would not be
2 taking public testimony.

3 The Board has in front of it a draft resolution on
4 public participation in Land Board decision-making for its
5 consideration today. And that resolution recognizes the
6 importance of public participation in its decision-making, and
7 indicates that the Board will make a greater effort to get out
8 and hold meetings out in the public, to listen to Oregonians
9 about issues that affect them in the areas where those
10 decisions have impacts. And so today, you have a resolution in
11 front of you for consideration for adoption.

12 **GOVERNOR KULONGOSKI:** Before I -- Treasurer Wheeler
13 is going to speak on the resolution. Let me just -- because
14 there are a number of people that have signed up, and I'm
15 trying to pick a course on this, what is the fairest to
16 everybody, because some people have come to testify. There is
17 nothing on the agenda today relating to LNG.

18 **DIRECTOR SOLLIDAY:** That's correct.

19 **GOVERNOR KULONGOSKI:** There is going to be a
20 resolution introduced and adopted that is going to deal with
21 public participation in Land Board decision-making. What I'm
22 going to do, after Treasurer Wheeler speaks about the
23 resolution, is the people who want to testify, the very correct
24 thing to do is hold the testimony to the resolution.

25 But I know people want to talk about LNG, and I'm

1 going to exercise the prerogative of the Chair, and I'm going
2 to let the people who want to talk about that -- they have one
3 minute to say what they want about that and the resolution
4 both. So that I can actually get -- and they can get on the
5 record by stating their name and their address and their
6 position on it. But there's no sense in engaging in a
7 discussion without something before me or the Board that we're
8 going to have to vote on. So with that --

9 **DIRECTOR SOLLIDAY:** And Governor, I might mention,
10 I've received on, I think, on -- and I think several Board
11 members have also received somewhere between 50 and 100 emails
12 in support of this resolution. And so I just wanted to make
13 you aware that we have been receiving a number of emails
14 supporting the resolution.

15 **GOVERNOR KULONGOSKI:** Okay. Chairman Wheeler.

16 **STATE TREASURER WHEELER:** Thank you, Governor. Just
17 to be brief, obviously, the purpose of this is to open the door
18 (unintelligible). It should be obvious to everybody that the
19 three-person (unintelligible) board. That means the three
20 (unintelligible) that actually communicate with each other
21 directly on any Land Board issue. And I hope you will just
22 stipulate to the issues that we're talking about, whether it's
23 forestlands or navigability or anything else. These are fairly
24 complex issues.

25 And as I've gone around this state, I've certainly

1 heard from people, or at least parts of the state, about how
2 Land Board decisions and policies impact the local economies,
3 as well as families in those communities. And rather than
4 having us individually go around this state and hear individual
5 messages about how our policies are impacting communities, I
6 believe it would be very useful for us to go around and hear
7 what people are saying collectively as members of the Land
8 Board. And have a better understanding of how particular
9 issues impact certain parts of the state.

10 So it's in that spirit which I offer up the
11 resolution. I won't read the whole thing, but I would like to
12 read the results, if I may, Governor.

13 **GOVERNOR KULONGOSKI:** Go ahead.

14 **STATE TREASURER WHEELER:** The Oregon State Land Board
15 values public engagement and will continue to seek ways to
16 increase that engagement on issues and in policy, to remain to
17 the State Land Board's Department of State Lands. And two, the
18 Oregon State Land Board should, whenever feasible, hold public
19 meetings in areas around the state and those affected by Land
20 Board policy decisions. Number three, to (unintelligible), the
21 Department of State Lands will assist the Land Board in
22 identifying appropriate meeting locations throughout the state,
23 as well as identifying opportunities for listening sessions for
24 members of the Land Board to engage citizens on a broad range
25 of Land Board issues.

1 So that is the spirit and the intent of this
2 particular resolution. And obviously, I'm excited about it.

3 **GOVERNOR KULONGOSKI:** It's yours. There's one other
4 thing that I would like to -- just to let the public know what
5 Treasurer Wheeler said. This -- as I was telling you about the
6 issues that confront this Board, there's another unique piece
7 about it, because three of us, before this meeting, cannot talk
8 about any of these issues that are before the Board. And the
9 reason is, it's the public meetings law, because it says that
10 public officials cannot -- a quorum of them cannot meet and
11 discuss unless we do it in public. And the problem we have is
12 that any two of us constitute a quorum.

13 So we don't talk to each other about these things.
14 And we basically find out a lot of it through the Land Board
15 assistants, and from Louise coming and talking to us. And so
16 she sometimes has to talk to each of us three individually to
17 get a sense about what is going to happen or something, so it's
18 a difficult process. But I just want the public to know that
19 there are three of us. And I'm not sure -- has there been an
20 LNG issue before us?

21 **DIRECTOR SOLLIDAY:** There has not.

22 **GOVERNOR KULONGOSKI:** There has not been yet, and I
23 have not talked to any of the other members about this. So
24 you're going to come up here in a very short period of time as
25 I call your name, and understand that a lot of what you say is

1 going to be the first time that we've talked about this issue
2 among -- or been in a forum like this where we've talked about
3 it and had it talked to us in a public forum. So with that,
4 let me get the resolution and move it forward, and then I'll
5 open it up to testimony. Do you want -- we can adopt it?

6 **STATE TREASURER WHEELER:** I move the resolution
7 adopted.

8 **SECRETARY OF STATE BROWN:** I'll second it, Governor.

9 **GOVERNOR KULONGOSKI:** Okay. Before we adopt it --

10 **SECRETARY OF STATE BROWN:** Public comment.

11 **GOVERNOR KULONGOSKI:** -- I'm going to have the public
12 comment.

13 **SECRETARY OF STATE BROWN:** Governor, if I may just --

14 **GOVERNOR KULONGOSKI:** Go right ahead. I'm sorry,
15 Kate.

16 **SECRETARY OF STATE BROWN:** -- with the public coming
17 up. I also wanted to encourage the public and I know that -- I
18 assume that no voters in this room would hesitate. But I know
19 that I have received a number of emails on the LNG issue, as
20 well as other forestry issues. And while I can't talk to the
21 good Treasurer Wheeler about particular Land Board issues, I
22 can talk with other people. For example, I met with the Sierra
23 Club and (unintelligible). We really encourage you. While I
24 can't respond to always 600 individual emails about information
25 we have, we certainly appreciate (unintelligible) and encourage

1 you (unintelligible) or public policy lobbying.

2 **GOVERNOR KULONGOSKI:** Olivia Schmidt. I'm going to
3 keep everybody to the minute time.

4 **MS. SCHMIDT:** My name's Olivia --

5 **GOVERNOR KULONGOSKI:** Olivia. If you --

6 **MS. SCHMIDT:** Do you want my name and address? And
7 I'm going to really fast.

8 **GOVERNOR KULONGOSKI:** Your name and your address
9 doesn't count (unintelligible).

10 **MS. SCHMIDT:** Okay. I was wondering about that. My
11 name is Olivia Schmidt. I live at 16915 Southeast Oakfield
12 Road in Milwaukie. I work with the Oregon Citizens Against the
13 Pipelines, which is a grassroots organization of landowners
14 impacted by LNG-related proposals. We are here today to
15 support the passage of this resolution.

16 When we thought LNG was going to be on the agenda, we
17 had 70 people ready to come here. In respect of your time and
18 agenda, we have limited that. And there are 17 people in this
19 room representing Clatsop County, Washington County, Yamhill
20 County, Clackamas County, Marion County, and Multnomah County;
21 residents from all those counties who have traveled here today
22 to support this resolution.

23 We are supportive of this because we are eager to see
24 a change in the opportunity for a public process and
25 participation in decisions about state lands, specifically,

1 about LNG.

2 As I'm sure you all know, the existing LNG terminal
3 leases for Oregon LNG, specifically, did not include public
4 notice, opportunity for public comment, or any analysis of a
5 benefit to Oregon for this project prior to granting a lease to
6 the Oregon LNG Company for publicly owned lands. We're eager
7 to see that change with your consideration of the submerged
8 lands lease for both Jordan Cove and Oregon LNG. Thank you for
9 considering this resolution.

10 **GOVERNOR KULONGOSKI:** Thank you. Thank you, Olivia.
11 Very nicely done. Lolita Carl.

12 **MS. L. CARL:** Lolita Carl. 13324 Carl Road, Hubbard,
13 Oregon. Our family farm is in -- it's been in our family for
14 95 years -- is in the pathway of the Oregon LNG pipeline. And
15 I support the public participation resolution. If it passes, I
16 hope the meetings will consider whether or not LNG is a public
17 benefit to Oregon. When the LNG companies talk about the needs
18 of our region, they neglect to inform us that the FERC
19 definition of our region is a whole bunch of western states,
20 including California. And I know a lot of us are wearing red,
21 but we're not Rashneeshies, and I really appreciate your
22 willingness to listen to at least citizens. Thank you.

23 **GOVERNOR KULONGOSKI:** Thank you. Thank you.

24 **MR. CARRIER:** Sixty seconds.

25 **GOVERNOR KULONGOSKI:** Is it Lori Durham? Lori?

1 **MS. DURHEIM:** Well, I'm Lori Durheim. 398 Atlantic
2 in Astoria. I left at 5:00 this morning to get here. I, too,
3 support the resolution to have public participation in your
4 decisions, not just with LNG. Of course, that's -- I've been
5 fighting this for six years. But for other things, too. I go
6 to all the port meetings, and they have some issues with DSL,
7 also. And so I ask that when you pass this resolution, that
8 you come to Clatsop County to have one of the meetings there.
9 We're a hotbed over there. Thank you.

10 **GOVERNOR KULONGOSKI:** I think every one of us know
11 that. Thank you very much. Ted Thomas.

12 **MR. THOMAS:** My name -- my name is Ted Thomas, and I
13 live at 398 Atlantic. I, too, left from Astoria, Oregon this
14 morning at 5:00 in the morning to be here. This is my first
15 time appearing before you, Mr. Governor. Thank you for the
16 opportunity.

17 The reason why I'm here, of course, is to speak in
18 favor of this resolution in the matter of public participation
19 and land-use decision-making. I understand that we are --
20 we're so concerned are obligated to reserve our comments to the
21 proposed LN -- to reserve our comments to this subject in
22 deference towards addressing this first step in adopting a more
23 robust mechanism to entertain the guidance from the electorate.
24 I hope that you take this preliminary step and I'd like to add
25 my voice in chorus to support this resolution.

1 Taking the invitation of the Governor to speak
2 briefly about the LNG, I'll say this. The LNG terminals
3 proposed in our state have from their very conception been
4 planned as export terminals, the primary effect of which will
5 be to increase the Hub price of domestic gas, affecting every
6 aspect of our economy. Thank you.

7 **GOVERNOR KULONGOSKI:** Thank you. Kathleen Carl.

8 **MS. K. CARL:** My name is Kathleen Carl. 407 21st
9 Street Northeast. I'm -- I only came about ten blocks. But I
10 am part of a farm family and part of the farm operation. And I
11 just want to say that I support the resolution to have public
12 testimony on the liquefied natural gas pipeline. I believe
13 public participation is vital to making decisions about the
14 liquefied natural gas terminals. And I'm particularly
15 concerned about the needs and public benefits for this, and how
16 it affects many, many farmers and forestlands -- public
17 forestlands and private forestlands. And that's it. Thank you
18 for the opportunity to speak to you on it.

19 **GOVERNOR KULONGOSKI:** Thank you very much, Kathleen.
20 Daniel Serres.

21 **MR. SEARS:** Dan -- excuse me. Dan Serres. 8955 --

22 **GOVERNOR KULONGOSKI:** I'm sorry; I mispronounced --

23 **MR. SEARS:** Yeah -- no, that's fine. It's not
24 phonetic.

25 **GOVERNOR KULONGOSKI:** With a name like Kulongoski,

1 you'd think I'd learn.

2 **MR. SEARS:** 8955 North Portsmouth, Portland, Oregon.
3 I just want to thank you all for having us here and giving us
4 the opportunity to speak. I know that people traveled a long
5 way to come here, and it's really gracious of you to allow
6 people to speak freely, despite the fact that I know you don't
7 want to have an LNG meeting today. So I'm here, along with
8 everyone else, to support this resolution. And thank you very
9 much for taking this step in increasing the public involvement
10 in this.

11 The question of whether submerged lands leases are
12 going to be granted for LNG is really the crux of a lot of
13 interest around the state from thousands of people whose lives
14 are directly impacted by the pipelines. So again, thank you
15 very much.

16 **GOVERNOR KULONGOSKI:** Thank you. I'm going to --
17 there's one more. Martha, I took you last because of the fact
18 that -- I take it you're representing the firm, or you have a
19 client.

20 **MS. PAGEL:** Are you ready for me?

21 **GOVERNOR KULONGOSKI:** Yes. Before you come up, I
22 just want to tell all the participants, the reason I limited it
23 is because -- what I don't want to have happen is -- and I know
24 the people that are here are very passionate about this issue.
25 And if it does come up before the Board, I would not want you

1 to think that because you spoke before the Board six months
2 ago, that somehow that that is sufficient.

3 Now, that isn't that we're not listening, but at the
4 time -- as you well know, is the time to strike on one of these
5 things is when the issue is before us. And there will be a lot
6 of other people involved in it at the same time. But I just
7 want you to stay involved with it and when we do -- it does
8 come forward, you'll get your chance to spend a longer period
9 of time and work together, and there'll be a lot of other
10 people speaking then at that time, also, so thank you. Martha,
11 please.

12 **MS. PAGEL:** Thank you. For the record, I'm Martha
13 Pagel with the law firm of Schwabe, Williamson, and Wyatt. I'm
14 actually here, I guess, on my own today just as an interested
15 citizen and someone who has a very long history of working with
16 the Land Board and DSL. I've sat in Jas's chair, advising the
17 Land Board. I've sat in Louise's chair as the Director. I've
18 sat in Mike's chair as the Governor's advisor. And I've sat in
19 this chair many times addressing you -- excuse me -- on behalf
20 of my clients.

21 And I just wanted to speak generically in very strong
22 support of this resolution. And just three quick points. One
23 is that, as you've already acknowledged, the Land Board is such
24 a unique body, and it is so difficult to have access to you
25 because of that. You know that and you understand that. Your

1 meetings have to be highly orchestrated. You run a tight
2 agenda. You have tight time limits. So the idea that you
3 could provide a mechanism for having more general public input
4 on important policy matters, I think, is really important.

5 And second is the timing of that. That I encourage
6 you to have this kind of input early on in the process so that
7 you're not just facing a final decision on a final
8 recommendation. But rather, that you're helping to advise and
9 formulate this policy from the ground up.

10 And third, with respect to the location, I really do
11 appreciate your interest in wanting to get out into the local
12 communities. I would just say, I hope that doesn't constrain
13 you, because I think it's -- you know, due to your own time
14 constraints and budget constraints, that's very difficult. And
15 people like this are willing to come to you. It's the idea
16 that it's on your agenda and they have a chance to speak to
17 you. So I encourage you to just keep these -- schedule these
18 issues. There are a lot of important issues that you have to
19 deal with. And I look forward to coming and participating in
20 some of those discussions in the future.

21 **GOVERNOR KULONGOSKI:** Thank you, Martha. Thank you.

22 **SECRETARY OF STATE BROWN:** Governor, I really
23 appreciate her -- the point she raised about the ability to put
24 all three of us somewhere other than Salem. And then hoping
25 that won't (unintelligible) challenges to our calendars. But

1 the fact that we still invite the public to provide us
2 information here, also making it more practical. So I really
3 appreciate the points that she just raised.

4 **GOVERNOR KULONGOSKI:** Well, it's -- we all know that
5 the Board does travel. And I've been through a number of
6 communities on the navigability issue, with hundreds of people
7 showing up and very, very passionate about it. So I think we
8 can work it out. And you know, this issue around LNG has been
9 in the public mind for over two years now. And I do not know
10 where this administration is going with it, and I don't know
11 where the federal regulatory agency, FERC, is at. But I do
12 think that the Board will make the effort to get around into
13 the communities that would be most directly impacted.

14 And the dilemma is that the siting of the facility, I
15 can tell you where the three are. The pipeline issue is in
16 much more conflict, because it's a longer issue in the sense
17 that it impacts numerous communities and counties in the state.
18 And that one may be more and more complex.

19 But on the -- as Martha said, on the submersible and
20 submerged lands, I think that's one that we'll make the effort
21 to actually get out to the communities. And we'll just work
22 our way around these (unintelligible).

23 **DIRECTOR SOLLIDAY:** Governor, I just might add,
24 particularly for all of the folks who have an interest in
25 liquefied natural gas projects, the Department is likely to

1 face several decisions in the next couple of years related to
2 these projects. We've already had some decisions.

3 I would encourage everyone who's interested in LNG to
4 sign up on our automated system that will notify you when we've
5 got applications that have come in that are out for public
6 review, so that people can, in fact, participate in the public
7 review process, whether it's on Removal-Fill permits or on
8 leases or easements for submerged and submersible lands. So I
9 would encourage everyone to get their name signed up so that we
10 can contact those folks when we're ready to go out for public
11 review. And holding hearings in areas of interests is always
12 an option for us to do -- to consider on these highly
13 contentious issues.

14 **GOVERNOR KULONGOSKI:** I have a motion on the
15 resolution. Is there any further discussion? Any objection?
16 The resolution is adopted.

17 **DIRECTOR SOLLIDAY:** Thank you. That concludes our
18 action agenda for today. We have three informational items.
19 And first, Marvin Brown, the State Forester, is here to provide
20 the annual report on management of the Common School Fund
21 Forestlands.

22 **MR. BROWN:** Good morning, Governor, members of the
23 Land Board. I'm Marvin Brown. I'm the Director of the
24 Department of Forestry. I'm here to do two things. One, to
25 give you just a brief report on the fiscal year 2010

1 performance of the Common School Forestry Lands. And also, to
2 just give you a quick update on where we're at with the
3 planning process for the Elliott State Forest. Excuse me. Try
4 not to cough on it. I'm also getting an early version of my
5 yearly winter cold, so I'm -- try not to --

6 **GOVERNOR KULONGOSKI:** I want to compliment you on the
7 forest fires this year. You did a great job, Marvin.

8 **MR. BROWN:** The weather did better, but we'll take
9 credit, so thanks. In terms of the fiscal year 2010, the
10 volume that we removed from the Common School Forestlands was
11 24.8 million, which was down from 2009 by about 4.5 million
12 feet. The net transfer that that resulted in to the Common
13 School Fund was \$5.8 million which was also down by about
14 \$2.9 million from fiscal year '09.

15 The thing that that was due to, there was lower
16 volumes, trying to get to some harvestable stands within some
17 of our constraints that we've been operating under, with the
18 current HCP, and also Marbled Murrelet take avoidance. And
19 there was also lower prices during the period where a lot of
20 those sales were sold.

21 We did lower costs, also, though. And I feel that
22 was due to the staff work, and I'm really pleased that they
23 took that effort. Costs were down by \$1 million for the fiscal
24 year 2010, trying to keep in balance with the revenue.

25 The good news is the sales that have been purchased

1 during this period, which will be harvested over the next three
2 years, we were able to take advantage of some spikes in timber
3 prices. And actually, our stumpage value for the 2010 sales
4 that we've sold was about \$330, versus last year's \$232. So
5 that's a good thing. And also, I might point out, though,
6 that's still not back to the good old days. I looked at 2008
7 to 2004, our average stumpage value was \$475 a 1,000. So \$330
8 is still much better than it was last year, but we've got a
9 long way to go to get back to where we were several years ago.

10 In addition, you know, in trying to move the harvest
11 level towards what we are hoping to get from a new HCP or from
12 a new plan that involves take avoidance, we actually had 45.5
13 million feet purchased in 2010. And again, those sales will be
14 removed during the next three years. But the combination of
15 that much larger volume, and you know, about a 40 percent
16 increase in price, that should help the net return to the
17 Common School Fund. For the next three years, see it move up a
18 little bit.

19 **GOVERNOR KULONGOSKI:** Marvin, on that issue, can I
20 talk to you? And this is -- you've had a very broad background
21 in the industry, not just here in Oregon. You know what my
22 concern is, is that going forward, I know the sales that have
23 been had. But unless there -- something happens in the housing
24 market, residential housing market, there is no demand. And
25 I'm just trying to get an idea of what the legislature -- when

1 it comes this next session and they're looking at revenue, and
2 particularly, this is a piece of the school revenue, what
3 assurance -- they can cut over three years, but if there's no
4 demand, you're not going to -- my assumption is they won't be
5 able to market their product, even if they mill it. Where are
6 we going with this?

7 **MR. BROWN:** It's a really good question. If I had
8 the perfect answer, I'd probably be the CEO of a large timber
9 company right now. You know, the projections that are coming
10 out right now -- yeah, we've had housing start projections ever
11 since we got into this downturn. And essentially, every six
12 months, we get a new projection and they move the up-tick in
13 housing starts back six months. And you know, right now, we
14 had a housing increase projection for September of 2010; moved
15 it back. And they're hoping at this point that the curve
16 starts moving up the middle of 2011.

17 And -- but when it does move up -- in the past, with
18 these housing cycles, there's been pretty sharp jumps, you
19 know, back to normal. And really what everybody is speculating
20 now is it's going to be a very gradual curve. It's going to
21 take a number of years, and even at that, it's probably not
22 going to get back to levels we were at, you know, just two or
23 three years ago, in terms of housing starts.

24 The one thing that -- there's a couple things that
25 help the lumber market right now. The biggest is the big box

1 home improvement market. You know, even when people aren't
2 buying houses, there's typically lots of repairs going on. And
3 actually, as one analyst was explaining in a meeting I was just
4 at, the fact that so many of these houses that are going to be
5 purchased are foreclosed homes, in the near future, many of
6 those are not going to be in very good shape. You know,
7 they're kind of ravaged before they were abandoned. And
8 that -- they're thinking that's actually going to increase
9 lumber demand from -- you know, just from people moving back
10 into those vacant houses at some point.

11 So folks are optimistic that we're at the bottom, and
12 see a curve. Hopefully, it won't get pushed out another six
13 months, but it'll start happening, you know, June to July,
14 August of 2011. But it's not going to be a real abrupt rise;
15 it's going to be very gradual.

16 **GOVERNOR KULONGOSKI:** The reason I have a concern is
17 that -- you can help we with the numbers, if you would. This
18 is the lowest -- this last year was the lowest volume of timber
19 that was actually harvested since the Great Depression here in
20 Oregon. Second, it is since records have been kept in the --
21 starting in the early '40s, this is the lowest volume of milled
22 softwood lumber that the state has produced.

23 And those -- and it just -- you know, there's one
24 thing about, you know, about harvesting -- my greatest
25 concern -- put it this way, unless this turns and turns

1 quickly, we're going to lose our capacity to be able to mill
2 lumber when the recovery occurs. And that's what I think the
3 challenge for Oregon is right now.

4 And you know, I read in the paper where the president
5 wants to put, I think, 150 million -- 150 billion into highways
6 and everything. I'm not opposed to that. But I would rather,
7 to tell you the truth, see him put that money into the housing
8 industry to revitalize the housing industry. Because that is
9 what I think will move this economy forward, is when people
10 actually are buying homes and we're reducing the inventory and
11 building new ones. It helps the commercial development.

12 Because the public sector cannot continue to cover --
13 carry this. It just isn't possible for us to do it. We don't
14 have the capacity. And we have to revitalize the construction
15 industry on the private side. And I just think it needs a
16 great shock from the federal government to be able to get us
17 going.

18 **MR. BROWN:** No, I don't disagree. I mean, it's
19 pretty proven that housing drive --

20 **GOVERNOR KULONGOSKI:** It is.

21 **MR. BROWN:** -- has driven many economic recoveries.

22 **GOVERNOR KULONGOSKI:** Especially here in Oregon.

23 **MR. BROWN:** Yeah. And it's a crit -- deeply
24 critical. You know, we've lost some mills during this
25 downturn, and I don't expect they're going to come back. You

1 know, in terms of how that affects overall production, it's a
2 little hard to say at this point.

3 One thing that I think bodes well for the mills in
4 Oregon as things do start to improve, is the Asian markets have
5 been utilizing a lot more wood. There's been a lot more export
6 to China, Korea, Japan. And the Canadian folks have really
7 taken large advantage of that. And the fact that they're
8 shifting a lot of their supply that direction, plus they're
9 running a lot -- out of a lot of what was the beetle kill that
10 generated a lot of standing volume for a short period of time.

11 Actually, you know, in a number of analysts minds,
12 that means there could be less export coming from Canada once
13 things do start picking up. And if that happens, Oregon's
14 really well situated. So you know, despite the fact that
15 there's going to be a slow increase in housing, maybe this kind
16 of external circumstances will help the mills get back to a
17 higher level of production.

18 **GOVERNOR KULONGOSKI:** I actually told Marvin -- the
19 Prime Minister up in British Columbia, when I knew about the
20 reference in China, the export into that market, I told him --
21 I said I will lead a trades mission over from Oregon to help
22 him get into that market, because I see it just exactly like
23 you said; that that's their market. When this does recover,
24 we're going to be able to put a lot more lumber into the
25 American market with Canada. For a number of unfair reasons,

1 they've been able to push a lot of their softwood lumber down
2 here.

3 **MR. BROWN:** Yeah. China can buy all the subsidized
4 lumber --

5 **GOVERNOR KULONGOSKI:** That's exactly what I told him.

6 **MR. BROWN:** -- they want, and then we'd still have
7 the good stuff.

8 **GOVERNOR KULONGOSKI:** (Unintelligible) -- all you
9 want. I said, get out -- get out of our market. Okay. Thank
10 you.

11 **MR. BROWN:** Yeah. Appreciate it. So essentially,
12 I've kind of done with the numbers for the 2009 and 2010. Like
13 I said, you know, we've done pretty good putting volume up in
14 2010. And that plus, you know, about a 40 percent increase in
15 stumpage value should show a little better results the next few
16 years in what's returned to the Common School Fund. So if you
17 don't have any questions about the numbers, maybe I'll just say
18 a few words about where we are at in the planning process.

19 **GOVERNOR KULONGOSKI:** Go ahead. Please. Kate? AG?
20 Okay, go ahead, Marvin.

21 **MR. BROWN:** You know, at the -- I think it was the
22 February meeting, you all reviewed where we were at with the
23 current plan, and you gave us some fairly specific directions
24 that said, you know, to give us until the end of this year
25 essentially to negotiate an agreement around an HCP. And if

1 that didn't happen, to go ahead and move towards a plan that
2 was based on take avoidance. At the same time, you asked that
3 we initiate a science review on some of the issues that seemed
4 to be kind of at odds between us and the NOAA Fisheries.

5 The science review is in a very early draft right now
6 that we're looking at. So you know, we'll have more on that at
7 some future meeting. We are studying what they had to say
8 right now. But it looks to me, and I'd -- you know, this is
9 just my opinion; I wouldn't want to speak for Director Solliday
10 or anything. But I still think it's going to be difficult to
11 get to agreement with NOAA Fisheries on anything that would end
12 up being an HCP that yielded the kind of volumes that we feel
13 are, you know, responsible use of the asset.

14 So we're moving ahead with the take avoidance plan,
15 you know, or with it -- in the event that that holds true. The
16 take avoidance plan will roughly match the volume that we were
17 hoping to get under an HCP; about 40 million feet a year. But
18 it comes with much less certainty. And you know, the certainty
19 is what we were after with the HCP. So there could be some
20 variation in that as we move forward. That plan is due to be
21 completed, I think, in December of 2011. And sometime after
22 that, we'll be able to start implementing it, based on
23 negotiations to get out of the current HCP.

24 But again, that's all contingent on not reaching
25 agreement. We've still got two or three more months to find

1 agreement. But you know, frankly, I'm not terribly optimistic.

2 **GOVERNOR KULONGOSKI:** Kate.

3 **SECRETARY OF STATE BROWN:** Thank you, Governor. Any
4 public comments on HCP (unintelligible). Is there any
5 strategies we could take as individual Land Board members
6 (unintelligible) where it is more cooperative and more
7 collaborative in this process? And I think that could go to
8 either you or Louise.

9 **MR. BROWN:** You know, I'd speak to that, Secretary
10 Brown. You know, I think, when you look at the basic policy
11 approach between where we're at and where they're at, you know,
12 there's a lot of talk about extra precaution about reducing
13 uncertainty around desired future conditions. And you know,
14 folks pretty frequently refer to, well, you know, if there's
15 uncertainty, then you use a precautionary approach. And I
16 think that's very much reflected in the policy, you know, kind
17 of stance that we're seeing right now.

18 And where I always go to is -- you know, in our case,
19 we have to ask, it's precaution against what? You know, in
20 their case, it's strictly a precaution against one very narrow
21 issue, which is salmon; you know, endangered species. In our
22 case, it's precaution against, you know, what are we doing to
23 the economic value of the asset? You know, precaution against
24 what are we doing to the communities, you know, that depend on
25 this economic activity?

1 And it's just -- you know, it's a different policy
2 philosophy. Ours is about, you know, the fact that we account
3 for a much broader set of public values. And when you bring
4 those in, we take a much different philosophical policy
5 approach. Which says, yeah, that piece that you're worried
6 about is important, but so are these other pieces. And we have
7 to exercise some of the precaution on each of those. And if
8 you can convince them to change, that would be great, but I
9 don't know that you're going to.

10 **STATE TREASURER WHEELER:** Could I?

11 **GOVERNOR KULONGOSKI:** Go ahead.

12 **STATE TREASURER WHEELER:** I'm just going to latch
13 onto what the Secretary said. I agree. I'm concerned we're
14 getting locked down here. And at the end of the day, I too
15 will be disappointed if we spend another year on this process
16 (unintelligible) no consensus and no further movement on this
17 issue. We need to get people in our communities to get back to
18 work. We need to be more proactive in managing state lands,
19 both in terms of getting a good return, combined with a sense
20 of urgency driven by the fact that this is one of our best
21 investment opportunities (unintelligible) public schools
22 throughout the state (unintelligible).

23 So I guess I'll fall back on an old saying, which is
24 there's no good idea (unintelligible) process in the state of
25 Oregon. And I would like to know what we can do to

1 (unintelligible) leadership and move this process forward. And
2 if I'm not sure that allowing every single idea and every
3 single value in the state of Oregon to counterbalance every
4 other idea and value is necessarily a good outcome. I think at
5 some point in that, our statutory obligation is how to fund the
6 public schools.

7 And so I'd like you to go away with the challenge
8 that Secretary of State Brown (unintelligible) has laid out
9 neatly on the table. It's just that -- what strategies we seek
10 to implement to pursue and move this process forward. We still
11 haven't (unintelligible) --

12 **MR. BROWN:** Well, yeah.

13 **STATE TREASURER WHEELER:** And I'm going to go a
14 little farther out on a limb here. While we're in this holding
15 pattern, I don't think we're either being particularly good
16 environmental stewards, nor do I think we're being particularly
17 good stewards of investments. (Unintelligible). I think we
18 need to reach a decisive conclusion and move on and manage
19 these state lands (unintelligible). And this process is, in my
20 opinion, just being an outsider looking in, it's starting to
21 bog down a little bit. I want to hear (unintelligible)
22 listening to the ways that we can move it forward (phonetic).

23 **MR. BROWN:** Well, I appreciate --

24 **GOVERNOR KULONGOSKI:** Marvin, let me answer it this
25 way.

1 **MR. BROWN:** Okay.

2 **GOVERNOR KULONGOSKI:** And have you think of it this
3 way, because I think we're, the three of us -- and I know you
4 get frustrated with this as well. The most direct thing we can
5 do is to tell, "We're not going to negotiate anymore over an
6 HCP. Stop it." Now, there are repercussions for that in
7 dealing with the federal land agencies. And I'll tell you
8 that -- and let's just manage on a take avoidance; and there's
9 risk in that. And the question is, is whether you want to walk
10 away from any negotiations with Fish and Wildlife and NOAA.
11 And just say, "Well, we can't seem to get an agreement, so
12 we're going to do this." Go down that path and tell me where
13 that takes you.

14 **MR. BROWN:** And that's exactly where we're at. And
15 maybe I apologize if I was unclear, Treasurer Wheeler. We've
16 got a drop-dead date, and that's just a couple of months from
17 now. And if we don't achieve an HCP by then, we'll be moving
18 towards a take avoidance plan, and it implements the 40 million
19 feet. That -- the drop-dead date is the end of December. So
20 we're on that path, and you know, that is my recommendation at
21 this point. Unless there is some radical change in what the
22 federal agencies expect out of us, I think a more responsible
23 use of the asset is to go to take avoidance.

24 And that's what the plan we're working on right
25 now -- it will be ready to implement as soon as we get it done.

1 I think your directions said to have it done by a year from
2 now, and you know, it's very much in process right now, so
3 we'll be there. The only -- you know, as an honest broker of
4 information, the only thing I would say, again, is that when we
5 go to take avoidance, we increase uncertainty. Because, you
6 know, those are natural systems and you never know how many
7 owls or Murrelets are going to show up when. But you know,
8 we're going to do our best to manage that. We're going to be
9 operating in basins that we haven't operated in for a long
10 time. We don't really know what's going to be there. But
11 that's where we're at, and it starts in just a few months.

12 **GOVERNOR KULONGOSKI:** Okay. Thanks, Marvin.

13 **MR. BROWN:** Sure.

14 **DIRECTOR SOLLIDAY:** Our last information item is just
15 our biennial report to the Board on our Removal-Fill Program.
16 And with that, I'm -- invite Bill Ryan, who is the assistant
17 director, up to summarize the report.

18 **MR. RYAN:** Thank you very much, Board.

19 **GOVERNOR KULONGOSKI:** Mr. Ryan, is this your first
20 time before the -- testifying?

21 **MR. RYAN:** It is indeed.

22 **GOVERNOR KULONGOSKI:** Did you come over from ODOT?

23 **DIRECTOR SOLLIDAY:** Yes.

24 **GOVERNOR KULONGOSKI:** Welcome.

25 **MR. RYAN:** Thank you very much.

1 **GOVERNOR KULONGOSKI:** Thank you.

2 **MR. RYAN:** So as the Governor said, this is my first
3 time. I've been the assistant director since June of last
4 year, so it would have been four months in the position, and
5 have enjoyed it thoroughly so far. This is the biennial report
6 for the fiscal years 2009 and 2010 for the Removal-Fill
7 Program. The Wetlands and Waterways Conservation Division is
8 continuing to pursue its mission of conserving, restoring, and
9 protecting the waters of the state through the Removal-Fill and
10 wetland programs.

11 And we do do so, as Louise had mentioned earlier,
12 with very much a focus on customer service. My staff
13 frequently acts as a -- sort of in a consulting role with
14 project applicants, trying to help them to negotiate not only
15 our regulatory process, but also federal and local regulatory
16 processes as well.

17 When -- a key part of our program is conservation and
18 restoration activities. And so we provide regulatory and
19 technical support to watershed councils, state and federal
20 government agencies, and other entities for habitat restoration
21 and fish passage projects. And we have a handful of special
22 streamlined permits, called general authorizations, in place to
23 facilitate those types of activities. And in the past
24 biennium, we authorized 314 such projects. Under also
25 additional projects that were performed under exemptions that

1 were actually put into statute during the past biennium for
2 specific habitat restoration projects, as well as using
3 individual permits.

4 My staff has provided active participation in the
5 Oregon Plan for Salmon and Watersheds core team, as well as the
6 Stream Restoration Partnership to try to facilitate habitat
7 restoration projects, and in particular, those that benefit
8 salmonid fisheries. And during the past biennium, we recorded
9 356 acres of net gain of wetlands, as well as over 3,600 acres
10 of enhanced wetlands permitted through our program.

11 We also continued in our environmental streamline
12 efforts. Basically, we continue on the path of moving toward
13 less of an out -- or more of an outcome-based approach and a
14 less proscriptive regulatory process, with the intent of
15 reducing efforts on low-risk projects, so that we can free up
16 our resources to focus on higher-risk projects, and therefore,
17 come up with a better -- achieve better environmental outcomes.

18 And so in those -- previously, I've already mentioned
19 that we had some statutory -- well, actually, we got statutory
20 authority to -- through rulemaking have exemptions for certain
21 stream restoration activities, so we've authorized that in a
22 past rulemaking. We also participate in the Economic
23 Revitalization Team. And we've participated in nine regional
24 teams, and actually chair three of those teams. And have, over
25 the course of several years, actually, assessed the wetland

1 potential issues for 140 candidate industrial sites, mostly in
2 the Willamette valley.

3 We also participated in Oregon Solutions projects as
4 they relate to our Removal-Fill Program. And in particular,
5 the Tillamook Flood Control Solutions project, as well as the
6 Vernonia School District's rebuilding.

7 We've also coordinated with Army Corp of Engineers to
8 align federal and state regulatory processes and to make sure
9 that they say for the intent of making it easier for applicants
10 to meet both our requirements, as well as the federal
11 requirements. And so in that effort, we have developed three
12 joint state and federal permits. One addressing impacts to
13 vernal pools in the White City/Medford area. One for the
14 Tenmile Lake Watershed on the coast, which basically permitted
15 a suite of fish passage and roadway and drainage improvements
16 in that area.

17 And also, a joint permit, which is suffering some
18 legal challenges right now, regarding aggregate operations in
19 the Chetco River. But we were able to align our state and
20 federal processes for that. There's a legal challenge to that
21 process now, but we were able to align with the Corp on that.

22 We've also, in the biennium, approved five additional
23 wetland mitigation banks, so there are a total of 20 wetland
24 mitigation banks. And mitigation banks provide an opportunity
25 for project applicants to offset their wetland impacts at an

1 already developed mitigation site, which has benefits for
2 streamlining permanent processes. It's easier for applicants
3 than actually them having to provide their own mitigation. And
4 also, it tends to result in better environmental outcomes. So
5 this is -- that's what we've done with our streamlining
6 efforts.

7 During the past biennium, the economic downturn has
8 reduced our permit volumes a bit. And so there's been sort of
9 a steady decline since 2007 in the number of individual
10 permits. However, there has been an increase in general
11 authorizations. So the use of our streamlined permits -- and
12 that's actually shown in figure one of the report.

13 An interesting thing to see in that is that during
14 that same period, the number of placer mining general
15 authorization applications has increased dramatically. And I
16 think that also is likely due -- well, there are a couple of
17 things. There's the economy and the price of gold having gone
18 up. And then there's also the moratorium on placer mining in
19 California that just went into effect last year. And so we're
20 seeing, at least anecdotally, more folks coming up from
21 California to do placer mining in Oregon's systems.

22 But those applications have actually increased 230
23 percent since 2007, so pretty dramatic uptake in that. The way
24 we currently report those or -- and have -- and issue those
25 authorizations, we don't know who actually ends up using the

1 authorizations. It's an online form that they can fill out to
2 get authorization, do that activity. And so we're looking at
3 ways to increase the reporting from the folks who have used
4 those authorizations, so we can get a better handle on who
5 actually -- or actually, how many folks are actually doing
6 placer mining, what kind of volumes of material are they
7 working with?

8 **GOVERNOR KULONGOSKI:** Go back. Go back and just --
9 you told me how many have applied. How many have been
10 authorized?

11 **MR. RYAN:** We've actually authorized, in 2010, 1,110
12 applications, so quite a few. And that's up from 482 in 2007.

13 **GOVERNOR KULONGOSKI:** Tell me what that process is.

14 **MR. RYAN:** The process is there's an online form, and
15 it's a very simple process. Basically, they just indicate that
16 they're interested in doing placer mining. They indicate
17 whether they're -- they planning on doing it in state and
18 scenic waterways or essential salmonid habitat. And they
19 basically sign, saying that they are going to meet the terms of
20 the general authorization, which are listed online. And then
21 they're able to do that activity.

22 Now, they also need to get a permit from the
23 Department of Environmental Quality. And that has a -- I
24 think, a \$25 fee. There's no fee for our general
25 authorization. So it's a very, very simple process.

1 **GOVERNOR KULONGOSKI:** Do you know how many that have
2 gone through the DEQ process?

3 **MR. RYAN:** I do not know the total figures on that,
4 but there were -- I know there were several hundred last year.

5 **GOVERNOR KULONGOSKI:** Do we just rely upon their
6 representations that they're not into scenic rivers and
7 habitat? Is it just their statement that they're not going to
8 do that?

9 **MR. RYAN:** Well, Governor, yes, we do. There are --
10 there is enforcement by the State Police. And there's also
11 enforcement by our staff when they're in the field. However,
12 it's pretty spotty. And the reality is that they can be
13 anywhere in the state's rivers and streams, so there's -- you
14 know, it's pretty -- it's a pretty difficult thing to enforce.

15 One thing that we are changing is -- there's a
16 requirement that they agree to when they sign up for the
17 authorization, to do an annual report saying this is the --
18 these are the materials that we've dealt with and these are the
19 locations. However, the response rate for that is very low;
20 it's less than 20 percent. And so we're changing our rules to
21 basically have a process where if -- if they owe us a report,
22 they don't get an authorization for the next year.

23 **GOVERNOR KULONGOSKI:** Tell me this. Do you treat
24 residents of the state the same as out-of-state?

25 **MR. RYAN:** Yes.

1 **GOVERNOR KULONGOSKI:** Why?

2 **MR. RYAN:** Well, I can't answer that. Do you want to
3 answer that, Louise?

4 **DIRECTOR SOLLIDAY:** So Governor, normally when there
5 is a different treatment, it's in a fee schedule. And we are
6 prohibited by statute from charging a fee for placer mining
7 permits currently.

8 **GOVERNOR KULONGOSKI:** Is it by the legislature?
9 Legislation?

10 **DIRECTOR SOLLIDAY:** That's correct.

11 **GOVERNOR KULONGOSKI:** Louise, let me ask you this.
12 When I -- it seems obvious to me that if there's a resident,
13 and they have an address and I know where they're at, that's
14 one thing. But if somebody from out of state, and the number
15 of them -- I -- it's just -- this seems to be a very nebulous
16 process to me, and it's --

17 **DIRECTOR SOLLIDAY:** Governor --

18 **GOVERNOR KULONGOSKI:** I'm concerned about it because
19 I think the volume of them is one. And I'll be right up front,
20 I'm not a fan of placer mining -- placer mining -- and I just
21 don't like it. And I just think that -- are you looking at any
22 legislation that's coming here on this?

23 **DIRECTOR SOLLIDAY:** So Governor, Senator Atkinson
24 is -- has expressed concerns about the numbers of people who
25 are on rivers in his area, southern Oregon, and has been in the

1 newspapers. In fact, there was actually an article carried in
2 the New York Times about this issue, which quotes him
3 extensively. Where he actually he went out and observed what
4 was going on on the Rogue River and was very concerned. And
5 he's an avid fisherman.

6 And we have -- I have communicated with him an
7 interest in working with him on legislation, as is Fish and
8 Wildlife and DEQ. So we have all communicated with Senator
9 Atkinson our willingness to sit down with him, to try and draft
10 legislation that makes sense. I understand that he's gotten
11 some feedback of concerns from Oregon's placer miners. And so
12 I heard a rumor that maybe his thinking is now towards dealing
13 with the out-of-state folks, as opposed to the in-state folks.
14 So I think there'll be some serious discussion about that
15 during the session coming up.

16 **GOVERNOR KULONGOSKI:** Would you do me a favor, and
17 just between now and the December meeting, just check with all
18 those different agencies and Senator Atkinson and find out
19 where it's at, and give a report back to us, just about where
20 this is at?

21 **DIRECTOR SOLLIDAY:** Absolutely. Sure.

22 **GOVERNOR KULONGOSKI:** Because I -- you know, the
23 thing that concerns me most, other than the degradations of the
24 river system, I believe, that is a result of this, is the fact
25 that we've all known -- I remember when the Attorney General, I

1 wrote an opinion about the size of the pipe you could put into
2 the river. Remember that, Jas? When we reversed an earlier
3 opinion and restricted it.

4 But what I'm worried about is this -- it's the out-
5 of-state volume that's coming in here. And I think that's the
6 first step that you have to deal with. And not antagonize and
7 get everybody here upset at this time, but just try to deal
8 with this issue of out-of-state. I do not like them being
9 treated equally like this. I just -- something tells me this
10 is not -- they're not -- it's not that they're from California.
11 Don't ever think that I would ever think that. But I just -- I
12 just don't see any good coming out of this for us.

13 **DIRECTOR SOLLIDAY:** Governor, I will say this. The
14 California Fish and Game Department, the moratorium is a
15 temporary moratorium in California. The California Fish and
16 Game report is due by the end of this year. And once that
17 report is issued, the legislature, I expect, in California will
18 take some action early next year to either continue the placer
19 mining or limit it somehow, based on the results of that
20 report. And Senator Atkinson was looking at doing something
21 similar here. I think, when he was initially looking at this
22 issue, putting some sort of moratorium in place and having our
23 Department of Fish and Wildlife do some assessment of the
24 impacts to fisheries habitat.

25 I will say this. There was a report done by the

1 Parks Department, and I'm not going to remember the year. But
2 when the issue came up about scenic -- motorized placer mining
3 in scenic waterways, the Parks Department was directed to do a
4 study of the impacts of placer mining on scenic waterway
5 values. And I think the Institute for Natural Resources or
6 someone actually did that report -- and that report still
7 exists, I think, in our filing cabinets here somewhere and in
8 Parks -- which was inconclusive in terms of impacts.

9 And so -- however, motorized placer mining in scenic
10 waterways is no longer allowed. You can only go out with a
11 pan. You can't use a dredge motor in scenic waterways. And
12 one of the things we might want to consider in the state of
13 Oregon is applying that same thing to central salmonid habitat
14 streams, which are mapped and identified as well, so that we're
15 not having those conflicts with areas where we're trying to
16 restore fisheries.

17 **GOVERNOR KULONGOSKI:** Yes.

18 **SECRETARY OF STATE BROWN:** (Unintelligible) getting
19 it. But my concern with that is that the legislature
20 (unintelligible) another nine months (unintelligible). Whether
21 the Land Board or other agencies (unintelligible). Do we have
22 any authority?

23 **DIRECTOR SOLLIDAY:** I'm not sure that there's
24 anything we could do through rulemaking. The statute lays out
25 the permission for placer mining to occur. I think you'd have

1 to have statutory changes.

2 **GOVERNOR KULONGOSKI:** Yes. Go ahead, Michael. Go
3 ahead.

4 **MR. CARRIER:** He does have authority. And when their
5 permit authorization expired on June 30th, they went through a
6 process revising their permit and the standards for permits,
7 and conformed them to the more restrictive standard that DSL
8 was applying to these general authorizations. At the same time
9 the DEQ adopted the revised permit, they committed to taking a
10 hard look at the California study and using that to inform
11 potential revision to their standards, including the outright
12 prohibition.

13 But the problem, as Louise pointed out, with the
14 Parks study -- and it's been the same with all studies
15 regarding placer mining is -- so far, the results have been
16 fairly inconclusive. So we're hoping that the California
17 process, because it's a very, very comprehensive environmental
18 quality analysis, will be informative. The DEQ could, at the
19 end of the day, (unintelligible).

20 **GOVERNOR KULONGOSKI:** Louise, your task, if you so
21 choose, is to find something in Oregon that I can close down,
22 and everybody goes down to California. And they may get upset
23 about -- (unintelligible) sit down and negotiate with them. I
24 just don't know how to do --

25 **DIRECTOR SOLLIDAY:** That's an interesting task.

1 **GOVERNOR KULONGOSKI:** I think Jas can come up with
2 something. Motor homes.

3 **DIRECTOR SOLLIDAY:** ATVs. There you go.

4 **GOVERNOR KULONGOSKI:** Yeah, ATVs. Anything else?

5 **MR. RYAN:** No. Thank you for the backup, Louise.

6 **GOVERNOR KULONGOSKI:** Thank you.

7 **MR. RYAN:** But that concludes the report.

8 **GOVERNOR KULONGOSKI:** Thank you.

9 **DIRECTOR SOLLIDAY:** Governor, we have nothing else to
10 come before the Board today.

11 **GOVERNOR KULONGOSKI:** Thank you very much, all of
12 you, for this. And thank you. I'll see you in December.

13 **DIRECTOR SOLLIDAY:** You'll see me when?

14 **GOVERNOR KULONGOSKI:** In December.
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CERTIFICATE

I, Stephen V. Wright, 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 53, both inclusive, are the true, accurate and complete transcript of the proceedings adduced had upon the said meeting.

WITNESS my hand as electronic transcriptionist this 15th day of October 2010.

Stephen v. Wright, Transcriptionist

sw/srv/sw