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10 STATE LAND BOARD MEETING
11 January 12, 1993
12 Division of State Lands
13 State Lands Building
14 775 Summer Street, N.E., Salem, Oregon
15 10:00 a.m.
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1 **GOVERNOR BARBARA ROBERTS:** Well, first of all,
2 let me begin by welcoming State Treasurer Jim Hill, as
3 a new member of the land Board in his first meeting,
4 to tell you how pleased we are you're here, and I know
5 the Secretary of State and I and the staff look forward
6 to working with you. I think this is the, I believe,
7 most unique portion of state government, where three
8 statewide office-holders sit and make determinations on
9 the use of all kinds of lands in the state. You'll
10 find it intriguing and frustrating, and demanding and
11 sometimes controversial. And I think more than anything
12 I've done in the years I've been in state government,
13 this has been the one that has been the most
14 interesting to me, and I think you'll find it the same.
15 So welcome aboard.
16 **STATE TREASURER JIM HILL:** Thank you. Thank
17 you very much. It's a pleasure to be here with you
18 both.
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1 AGENDA NUMBER ONE

2 **GOVERNOR BARBARA ROBERTS:** Now, we're going to
3 begin with agenda item number one, which is the
4 appointment of the Director of the Division of State
5 Lands. As you know, our Director has left, and we
6 have a temporary director in place now, and have gone
7 through a process of opening the application process of
8 dealing with a lot of talented people, and have before
9 us today the opportunity to fill this very important
10 appointment. Is there discussion on the part of members
11 of the Board at this point?

12 **SECRETARY OF STATE PHIL KEISLING:** Well, I
13 haven't made the motion.

14 **GOVERNOR BARBARA ROBERTS:** Would you want to
15 do that, Mr. Secretary?

16 **SECRETARY OF STATE PHIL KEISLING:** This was a
17 certain process that went long and far. We've had good
18 candidates from all over the country. I am very
19 pleased to make the motion to fill the
20 position of the Director of the Division of State Lands
21 with Gary Gustafson -- we know him as "Gus," but I
22 suppose that's official, an informal motion, and I think
23 it's also -- as part of the motion that set the salary
24 at step seven of the G range, and with the salary
25 being reviewed in six months.

1 **GOVERNOR BARBARA ROBERTS:** Is there a second?
2 **STATE TREASURER: JIM HILL:** Second.
3 **GOVERNOR BARBARA ROBERTS:** We'll see how this
4 works. Okay. There is a motion and a second that
5 we appoint as the new Director of the Division of State
6 Lands, Gary Gustafson, and that his salary range be at
7 step seven in the G range. Is there discussion on
8 that motion?
9 **SECRETARY OF STATE PHIL KEISLING:** Madame Chair,
10 just to say that Gus has done an excellent job for us
11 as deputy over the past few months and he has dealt
12 with some difficult issues, and will have some more
13 difficult issues to deal with, but it's been a pleasure
14 to work with him to date, and look forward very much
15 to working with him and his crew of professionals,
16 outstanding (unintelligible). I'm a little biased, my
17 wife used to work for here as deputy (phonetic), so
18 (unintelligible). And we have some very important
19 challenges ahead, and we're very pleased that Gus was
20 willing to take this on.
21 **GOVERNOR BARBARA ROBERTS:** Anything further
22 before the vote? If not, those in favor will signify
23 by saying "Aye."
24 **SECRETARY OF STATE PHIL KEISLING:** Aye.
25 **STATE TREASURER JIM HILL:** Aye.

1 **GOVERNOR BARBARA ROBERTS:** Aye. Those opposed,
2 "Nay." The motion is passed unanimously.
3 Congratulations. We will officially swear Gus in later,
4 but we will certainly even short of that formal swearing
5 in, begin the process.
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1 AGENDA NUMBER TWO

2 **GOVERNOR BARBARA ROBERTS:** So in your new
3 capacity as not acting director, but Director of the
4 Division, Gus, would -- we want to discuss now item
5 number two, which is dealing with the area of removal
6 of fill permits and scenic waterways, and a request for
7 rule-making. So if you would lay the foundation for
8 that discussion.

9 **GARY GUSTAFSON:** Good morning, Governor, members
10 of the Board, and thank you again very much. We'll
11 proceed immediately. No rest for the weary here. The
12 first item before you is a scenic waterway policy that
13 as you recall last September was before the Board. The
14 Board at that time was dealing with the issue of
15 proposed sandbags in the Rogue River State Scenic
16 Waterway. And we had, after a lengthy discussion, it
17 was agreed that the Division of State Lands would
18 proceed in developing a policy to return to the Board
19 for discussion. I'm pleased to say that we've done
20 that. I'd like to recognize in particular, John Lilly
21 (phonetic) of my staff who has led the staff effort to
22 put this policy together.

23 I also want to put the policy in context for
24 you because as you know, policies are expressions of
25 intent on behalf of the Division, but we want to take

1 it one step further; we want to make sure that this
2 policy evolves into rules. So one part of our proposal
3 for you today is that this policy be approved in
4 concept, and secondly, and perhaps even more importantly,
5 that we then evolve that into formal rule-making, and
6 that we adapt, eventually, this policy or as we go
7 through the process, use this policy as the beginning
8 point to transfer it into rules. It's our intent to
9 do that sometime later this spring, summer, and certainly
10 to have the policy transferred in and adopted as rules
11 by the end of 1993.
12 Okay. Now, given that entree, I'd like to
13 explain briefly what's in this policy. You have perhaps
14 seen earlier drafts of this. The process that we used
15 is typical of what we've been doing lately to try to
16 educate affected citizens on what we're up to. And
17 what we do is we propose initially a first draft, we
18 then take it out and through a series of scoping
19 meetings and public information meetings -- in this case,
20 we had meetings in Grants Pass, in Bend, in John Day,
21 in Salem, and in Portland. And we got input on the
22 first draft of this policy. We also had an open
23 public comment period in which quite a few folks, well
24 over a hundred, submitted comments. We digested those
25 comments, had individual briefings with many interest

1 groups and individuals that had presented these comments,
2 and then we proceeded next to develop our second draft
3 policy, which has now been sent out, and is what you
4 have before you today.
5 Now, the context of this policy address many
6 things; and specifically, I want to recognize first of
7 all that this policy is only part of a larger umbrella
8 statute. And at this point, I think it would be
9 appropriate, if he's here today, I'll look around quickly
10 to see if Bob Meinen, the Parks Director is here. I'd
11 like to have Bob come on up and join me.
12 **GOVERNOR BARBARA ROBERTS:** These are two
13 relatively new appointments. This is the first time
14 Bob has appeared before the Land Board as a new
15 director of parks, and we welcome you aboard.
16 **BOB MEINEN:** Thank you.
17 **GARY GUSTAFSON:** Well, I'm pleased to have Bob
18 here as well, and the purpose for having Bob here,
19 specifically, is that as you probably know, Parks is the
20 lead agency for the scenic waterway program. We in the
21 Division of State Lands, as well as the Land Board,
22 have a certain statutory responsibility related
23 specifically to the state's removal fill law. While
24 normally we approve anything 50 cubic yards or greater
25 within a waterway of the state, in scenic waterways, any

1 removal fill or other alteration of any size, needs the
2 approval of the Division of State Lands and the State
3 Land Board.
4 So we are conscious of that specific statutory
5 direction, but we also want to make sure that whatever
6 we do, we coordinate with our fellow agency of Parks.
7 So we've done that, we've had a number of meetings with
8 Parks as this policy has evolved.
9 Now, one of the principle issues that has come
10 up during this policy formulation is the impact that
11 this would have on tour boat operations; specifically,
12 those along the Rogue River, but also in other areas
13 around the state, and whether this policy would make it
14 more difficult for some of those operations to continue.
15 Well, this is really how this policy got underway last
16 year, as you recall, and what we have done here is
17 tried to articulate in a much more precise fashion, the
18 standards by which we will be reviewing and considering
19 applications for any activity, removal of fill in a
20 state scenic waterway, and also including what are known
21 as emergency circumstance, temporary permits. As you
22 recall, that is the mechanism by which you can get an
23 immediate turnaround from the Division and the Land
24 Board, if an emergency circumstance arises; something has
25 come up in a state scenic waterway and you need that

1 kind of approval. The statute does provide a process
2 for that, and what we have tried to do is refine that
3 a little bit further to make it more practical.
4 Now, with respect to the emergency circumstance
5 permit process, there is a little internal tension, if
6 you will, between the statute, which says the Director
7 of DSL can approve an emergency circumstance permit, but
8 in doing so he has to consult with the Parks
9 Department, the Department of Fish & Wildlife, and also
10 make a finding. Obviously, if we have a real
11 "emergency" out there in the field, it is not always
12 possible to follow those steps precisely and make the
13 contacts that need to be made, and make the finding,
14 and then get back to the applicant and still be able
15 to successfully deal with the emergency in the time that
16 is available. It just doesn't afford itself.
17 So to do that, we're going to be working over
18 the next several months as we prefer (phonetic) to go
19 to rules, on a proposed memorandum agreement with the
20 Department of Parks and the Department of Fish &
21 Wildlife, to try to refine that process to see if we
22 can preapprove a consultation phase for certain categories
23 of emergency circumstance applications, and also have a
24 verbal approval mechanism for the "emergencies," as they
25 arise, so that we can be more responsive than we have

1 been, in the past at least, to real emergency
2 circumstances and still be faithful to our statutory
3 requirements, to adhere to the scenic waterway law and
4 the removal fill law.
5 Another iss--
6 **GOVERNOR BARBARA ROBERTS:** If I just might make
7 a comment; we've talked about the question of emergency,
8 and I just, as we were discussing it, I think the kind
9 of thing we were concerned about was a weekend where
10 a chemical spill occurred, for instance, and there is
11 no question about the immediacy of that kind of an
12 emergency, and a process that did not allow for some
13 immediate action in that case, might be different than
14 the other kinds of emergencies where you heard if no
15 water is going down or water is going up, and you have
16 some framework to deal with it, or other things that
17 are much less of an emergency in terms of the public.
18 So I think that -- I just raise that because
19 I think if you try to think what's an emergency,
20 sometimes it's hard to think of one where that immediacy
21 would be so important. But there are, I think, in the
22 case of something like a chemical spill, exactly those
23 kinds of emergencies.
24 **GARY GUSTAFSON:** Precisely. Okay. Another
25 issue that has assumed some significance, based on the

1 number of comments we've received, is the issue of
2 recreational prospecting. Now, you may know that the
3 statute specifically prohibits placer mining in state
4 scenic waterways. It is the responsibility, however,
5 under statute, of the Water Resources Department to
6 define placer mining. They have adopted a rule some
7 time ago that provides that placer mining includes
8 activities that involve motorized dredges and so on, of
9 larger than four inches in diameter. And we have
10 situations today of course where we have miners wishing
11 to go into state scenic waterways and mine the bottoms.
12 The way they do that is normally use these motorized
13 dredges that are on inner tubes or large floats, and
14 then move them up and down the rivers and the
15 tributaries.
16 And they can apply under the existing water
17 resources rule right now for a permit to do that within
18 a state scenic waterway if they use a motorized dredge
19 that has an intake of a diameter of four inches or
20 less. They at least have the opportunity to come in
21 and obtain a permit for that activity in a state scenic
22 waterway. It's not prohibited under the Water Resources
23 rule.
24 Now, based on a concern expressed by many
25 people last year, we requested that the Water Resources

1 Department review that rule to see if they would choose
2 to alter it in any way. They have agreed to that
3 request, and will be reviewing the rule. I don't know
4 that it's been scheduled as yet, but I'm assured that
5 it will be in the next several months.
6 With that in mind, I want you to know that
7 there are a number of commenters that have dealt with
8 us throughout this process, who feel very strongly that
9 any kind of motorized activity, or anything related to
10 placer mining, should be prohibited, and feel that the
11 law should be more explicitly interpreted to prohibit
12 anything that smacks of mining activity; particularly,
13 motorized. And I think that's one constant theme that
14 quite a number of the commenters have given us, and I
15 wanted to share that with you.
16 I know that we will probably have people here
17 speaking to a number of these issues; the sandbagging
18 proposals and how they affect some of the tour-boat
19 operators in southern Oregon, particularly on the Rogue
20 River. Also, I'm sure we may have people here who
21 may wish to speak to the last issue that I mention,
22 and that is the recreational prospecting allowance that
23 can go on with a permit in a state scenic waterway.
24 So with that, I'll consider the stage set, and
25 see if Bob Meinen wishes to add anything to painting

1 the big picture.

2 **GOVERNOR BARBARA ROBERTS:** Bob?

3 **BOB MEINEN:** Thank you, Governor, and members
4 of the Land Board. I sincerely appreciate the
5 opportunity to be here today and speak to you. Our
6 staff, and the staff with State Lands, have worked
7 extremely close on this particular issue. And I'd like
8 to first of all say that that's a very important key
9 to this thing is cooperation and communication on it.
10 And it's one of those things that we feel very good
11 about, the policy and the direction it's moving, and
12 we're, you know, I would like to try and express to
13 you that we're very supportive of this policy that is
14 before the Land Board today; the fact that I think it's
15 extremely strong in the area that it has spelled out,
16 the actual agency roles, which is extremely important to
17 this particular issue. There's been confusion, I think,
18 in the past on this, and now, it clearly sets that
19 forward, and I think that's an important piece of that.
20 The other thing is is that this policy is a
21 tight policy, and I think from that standpoint, it helps
22 in creating good regulations that'll come out of this,
23 and good reasoning that puts the Land Board in an
24 extremely strong position to make good rules for the
25 future.

1 The framework and the processes that we're in,
2 as Gary indicated, where we need to go forward with a
3 memorandum understanding, we're very anxious to do that,
4 and we feel strong that we can come out with a good
5 agreement and work together on this.
6 I would encourage the Land Board to support
7 this and direct in the move forward to rule-making.
8 And we stand as an agency to ready to work arm-in-arm
9 with them and make this thing work well.
10 **GOVERNOR BARBARA ROBERTS:** Thank you, Bob.
11 Any questions now of either Gus or Bob before -- we
12 have two other people signed up who may wish to comment
13 on this and there may be others. Any comments or
14 questions at this point?
15 **STATE TREASURER JIM HILL:** Thank you. Yes,
16 about the memorandum of understanding. Has that been
17 used before in a context like this?
18 **GARY GUSTAFSON:** Treasurer Hill, the concept of
19 the memorandums of agreement of course obviously have
20 been used many times by state agencies on similar types
21 of activities. I don't know that we've had any exactly
22 like this on scenic waterways, at least not that I'm
23 aware. So this would be a new process. Specifically,
24 we're trying to zero into this consultation requirement,
25 which can be quite lengthy, and if we can sort of

1 preapprove consultation for certain categories of
2 activities, that's the target that we're shooting for
3 here. And that's what we're going to flesh out in the
4 next couple of months.
5 **STATE TREASURER JIM HILL:** Thank you.
6 **GOVERNOR BARBARA ROBERTS:** Okay. I just would
7 say, Jim, that in some other areas of state government
8 where particularly where short-term matters a great deal
9 in the emergency area; for instance, with a flood or
10 a fire, something of that nature, there are some
11 memorandums of understanding that lay in place that move
12 a process more rapidly -- not to try to alleviate the
13 process or jump around it, but rather to deal with an
14 emergency setting, so no, it hasn't been used here, I
15 think we've used it in other settings in state
16 government.
17 **STATE TREASURER JIM HILL:** Thank you.
18 **GOVERNOR BARBARA ROBERTS:** We do have two other
19 people; one from the Water Resources Department, and one
20 other who are signed up who may wish to make comments,
21 and there may be others, so Water Resources -- Rick,
22 where are you? There. Would you like to come up and
23 make whatever comments you would choose? Please identify
24 yourself on the microphone, if you would.
25 **RICK BASTASCH:** Thank you, Governor Roberts,

1 and members of the Board. My name is Rick Bastasch,
2 I work for the Water Resources Department. Director
3 Martha Pagel would have liked to have been here today
4 but a scheduled conflict kept her away, so she sends
5 her regrets, and me, to convey to the Land Board our--
6 **GOVERNOR BARBARA ROBERTS:** Those are not
7 synonymous. I just know they're not.
8 **RICK BASTASCH:** Our support of the policy, we
9 believe it to be sound. We termed it a milestone in
10 our letter to Director Gustafson, we find that the
11 background provided in the policy, it's extremely useful,
12 spells out the roles of the different agencies and their
13 involvement with scenic waterways. There is a very
14 strong emphasis on interagency coordination, with permit
15 review, and I hopefully (unintelligible), and there is
16 clearly expressed review standards for permit approval
17 that we think adds up to a <u>great help through the</u>
18 <u>resource</u> (phonetic), to the agencies involved, to the
19 public, and to the <u>regulative</u> (phonetic) community. That
20 is to say that Water Resources Department has been
21 claiming a perfect understanding of the policies, impacts.
22 We've got a number of areas that we're interested in
23 pursuing with the Division of State Lands; one of them
24 has already been brought up, and that is the issue of
25 the definition of placer mining, and indeed are

1 revisiting . not only our definition of placer mining but
2 all of our definitions relating to the beneficial use
3 of the water. We would hope to have something hit the
4 streets on that by early summer.
5 We also are interested in gaining a better
6 understanding of the relationship between WRD's permit
7 process, that is to say, the water rights issue, and
8 scenic waterway permits, and generally activities that
9 (unintelligible) waterway to make sure that we're getting
10 the information that we need from our applicants in a
11 way that satisfies the needs of the Division of State
12 Lands to be sure that we understand the impacts of what
13 we permit are aired with regard to how that affects the
14 scenic waterway itself.
15 We also are interested in making sure we
16 understand our obligations under the law, and have this
17 policy letter articulate regarding stream gating (phonetic)
18 stations in terms of leases, licenses, and making sure
19 that we're doing what we need to do to meet the letter
20 of the law, and the state has objected to the policy.
21 So we look forward to working with the Division
22 in defining (phonetic) the policy, in any subsequent
23 rule-making he had any ultimate implementation. With
24 that, I conclude my remarks.
25 **GOVERNOR BARBARA ROBERTS:** Rick, would you

1 define a technical term, "hit the streets this summer"?
2 Does that mean you'll be through with the rule-making
3 or that you won't even arrive at rule-making until
4 summer?
5 **RICK BASTASCH:** It was intended to convey the
6 idea that we believe we'll go to hearing early in the
7 summer. So we expect to have the Water Resources
8 Commission approve a hearing draft of the amendment to
9 one of our rules that defines water uses, and we would
10 expect to have the hearings proceed sometime early summer
11 or thereafter.
12 **GOVERNOR BARBARA ROBERTS:** Okay. The reason
13 I raise the question, I don't know whether the type of
14 recreational mining that is going on now is fairly well
15 confined to summer months when it's easy to be on the
16 river, and it's not a flood stage, and other kinds of
17 things, I don't know whether that's the circumstance, but
18 if it is, and we're going to arrive at another summer
19 without any potential change in policy or clarification
20 of policy, I would have a little bit of concern about
21 that. I don't know whether it's shared by the other
22 Board members, but I would have a concern that we would
23 find ourself a year later from the problem we had last
24 summer, or at least the questions that were raised last
25 summer, to another summer without definition.

1 Now, if indeed this mining is done on a year-
2 around basis, that's not a valid concern. But I don't
3 know the answer to that question.
4 **RICK BASTASCH:** I would expect there are others
5 in the audience here that could answer that with more
6 assurance. But I would expect that if it's recreational
7 mining that it would coincide with the recreational
8 season and summer, so your point is well taken. And
9 because we were attempting to, in a comprehensive
10 fashion, address all the water-use definitions--
11 **GOVERNOR BARBARA ROBERTS:** Right.
12 **RICK BASTASCH:** Which is a fairly complicated
13 job, perhaps there's a way to elevate this particular
14 point or element of all of our beneficial use
15 definitions and accelerate <u>their booming process</u>
16 (phonetic).
17 **GOVERNOR BARBARA ROBERTS:** Well, I certainly
18 understand wanting to be comprehensive and thorough
19 because that's the way it ought to be done. But since
20 it is the revision of the policy, it's a little
21 different than if you were starting with a brand new
22 one. And I raise the concern because I don't want to
23 find us in here again this summer with people -- as
24 concerned as they were last summer about this being
25 inappropriate activity in a scenic waterway, and we don't

1 have an answer yet, so any questions or comments on the
2 part of the other Board members for Rick? Okay.
3 Thank you very much.
4 **RICK BASTASCH:** Thank you.
5 **GOVERNOR BARBARA ROBERTS:** Liz Frenkel has a
6 potential sign-up here -- not now? Okay, Liz. Is
7 there someone else who wishes to comment or ask
8 questions or anything with regard to this policy
9 question? Let me be clear that what we are doing here
10 is in a sense developing and accepting an interim policy
11 only for purposes of moving us toward the rule-making
12 where we will define with more clarity the issues that
13 have been discussed here and are involved in the policy.
14 Anyone else who has any questions or comments? Okay.
15 **SECRETARY OF STATE PHIL KEISLING:** Madame Chair,
16 one of the things that obviously prompted this was this
17 issue of the motorized, mechanized dredging,
18 I guess the question that I had to Gus. I think at
19 some point we may have labored under the understanding
20 that given the Water Resource Department rule that we
21 had no choice but to allow a motorized dredging
22 operation that complied with the WRD rule. In
23 rethinking that, I guess I'm coming around to the belief
24 that we actually do have a discretion within policy that
25 we set, and that the ideal situation would be to have

1 this all resolved in the kind of timely manner that
2 people don't arrive next summer with these applications
3 and wonder what's going on. But at a minimum, Gus,
4 can't we communicate, if the Board desires, an intent
5 that -- at least our end of the policy; it would
6 certainly send a signal to the Water Resources Division
7 that our end of the policy is not to allow it, you
8 know, in effect say regardless of how that discussion
9 comes out that it's our policy not to authorize removal
10 fill permits that include motorized lease agreements
11 (phonetic).
12 Your reading is that we have the -- does the
13 Board have the legal authority to do that?
14 **GARY GUSTAFSON:** I believe that indeed is the
15 case, and I'll glance over to Bill Cook here--
16 **SECRETARY OF STATE PHIL KEISLING:** To Bill
17 (unintelligible) for final confirmation?
18 **GARY GUSTAFSON:** (unintelligible)
19 **GOVERNOR BARBARA ROBERTS:** He's so happy to be
20 called on, sure.
21 **GARY GUSTAFSON:** I'm not having my legal
22 shingle out, (unintelligible) I take Bill's in lieu of,
23 but that's precisely what I believe the statute provides
24 for that our overriding interest here is of course the
25 scenic waterway act itself and the removal fill law.

1 **SECRETARY OF STATE PHIL KEISLING:** Well, given
2 that, Madame Chair, if it's appropriate 'cause we've
3 heard discussion, I'd like to move that we concur in
4 concept with the Division policy and add to that motion,
5 that it would be the intent that we include in those
6 proposed rules that a provision explicitly prohibits the
7 mechanized dredging of any kind associated with
8 recreational--
9 **GOVERNOR BARBARA ROBERTS:** Mechanized or
10 motorized? There's a difference.
11 **SECRETARY OF STATE PHIL KEISLING:** Mechanized
12 or motorized.
13 **GOVERNOR BARBARA ROBERTS:** But there's a
14 difference, I think, between mechanized and motorized,
15 isn't there?
16 **BILL COOK:** There could well be.
17 **GOVERNOR BARBARA ROBERTS:** Yeah. Motorized--
18 **SECRETARY OF STATE PHIL KEISLING:** Well,
19 motorized--
20 **GOVERNOR BARBARA ROBERTS:** It means it has a
21 motor on it. You can have a mechanism that has no
22 motor at all. Is that accurate?
23 **BILL COOK:** I tend to agree.
24 **SECRETARY OF STATE PHIL KEISLING:** Well, let's
25 start with motorized, and we can talk about it later

1 in the rule-making process, I think, the specific issue
2 that came up. I think we need to give some certainty
3 to the people who have an interest in it, and it may
4 not be answer that they want, but I think, you know,
5 we have only a few rivers and a few river miles
6 compared to the total, that have these kinds of -- that
7 are scenic under the scenic and wild classification.
8 And so the motion would be to concur a concept with
9 the policy and to say that it's the intent of the
10 Board to include a provision explicitly prohibiting
11 motorized dredging.
12 **GOVERNOR BARBARA ROBERTS:** Is there a second?
13 **STATE TREASURER JIM HILL:** Second.
14 **GOVERNOR BARBARA ROBERTS:** The motion is that
15 we accept in concept the policy that we have encompassed
16 in today's agenda prior to the rule-making process, and
17 that we add to that policy an additional prohibition
18 against motorized-dredging for recreational purposes in
19 those scenic rivers--
20 **SECRETARY OF STATE PHIL KEISLING:** And I'll
21 study the difference between mechanized--
22 **GOVERNOR BARBARA ROBERTS:** Okay. My father
23 was a machinist and I had to learn all those words in
24 my youth, so I think there is a difference, so is
25 there discussion regarding the motion at this point in

time? Hearing none, those in favor of the motion as
1 amended, will signify by saying, "Aye."
2 **SECRETARY OF STATE PHIL KEISLING:** Aye.
3 **STATE TREASURER JIM HILL:** Aye.
4 **GOVERNOR BARBARA ROBERTS:** Those opposed, "Nay."
5 The motion is passed unanimously and we will move
6 towards not only the use of this policy, but -- as an
7 interim direction, by the rule-making process that will
8 allow the public input of potential changes as we go
9 through the process. Ann is right, there was no
10 amendment that's literally how the motion was made. It
11 was an amendment to the policy not the motion. Thank
12 you. We're real technical up here today. Okay.
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1 AGENDA NUMBER THREE

2 Item number three, which is again an opportunity for
3 the Board to -- and the Division to propose policy and
4 potential rule-making, this time in the management of
5 state lands for grazing. Do you want to set the tone
6 for us on that, Gus?

7 **GARY GUSTAFSON:** Thank you, Governor, members
8 of the Board. Again, as you accurately portrayed, this
9 is the first step on our way to rule-making, and we
10 propose to you that you adopt the grazing policy that
11 is attached here as Appendix A, and that you authorize
12 us to proceed with rule-making. Again, the timing for
13 that would be we will proceed with reasonable dispatch,
14 but to get the policy translated into rules, certainly
15 no later than the end of 1993. So we'll get done
16 this year.

17 With respect to the proposed grazing policy,
18 again, I want to recognize one of my staff members,
19 Jeff Kroft, in fact I think I'll ask Jeff to come up
20 here and join me, if he wouldn't mind. Jeff has been
21 the key staff associated with this process. And Jeff
22 has spent enumerable hours talking grazing. I think he
23 now knows a heck of a lot more than any one person
24 could reasonably be expected to, and has even gone out
25 and, you know, rode the range, so to speak, to get

1 more familiar. It's been a revealing process for all
2 of us, and I'm glad if for nothing else that this
3 process certainly served to educate folks, a lot of
4 people in the Division of State Lands about grazing
5 practices. And I think that will pay off in the long
6 run as we proceed.
7 The first step that we used when we initiated
8 this process, was first to canvas all of the western
9 states to see what already existed out there, to see
10 where we might, you know, pick up on strengths and
11 avoid weak and problem areas. And so we solicited
12 grazing programs for all the western states. We also
13 looked at the BLM and Forest Service programs to get
14 a pretty good handle on what the universe was.
15 We knew that the grazing program in the State
16 of Oregon, even though it's been in use on state land
17 for many, many years, the last time that the grazing
18 program had really been before the Board for a formal
19 adoption of anything close to a policy, was about ten
20 years ago. And since that time, obviously we've had
21 a lot of activity happening, a lot of people have been
22 looking with increased scrutiny on what's happening in
23 our range lands, not just state, but certainly private
24 and federal lands. Riparian areas have come under
25 increased attention. Watershed health is very important.

1 We've had problems associated with the drought in eastern
2 Oregon that you're very familiar with. And all of this
3 has really meant that we need to take a close look at
4 what's going on out there on these state lands.
5 Secondly, we were triggered by the Elliott trust
6 opinion, which we originally imagined we were going to
7 get advice that dealt with the Elliott State Forest, but
8 the Attorney General was kind enough, if you will, to
9 make sure that we understood that the trust opinion
10 applied to all common school lands, including our grazing
11 lands. And it's a fiduciary responsibility that we all
12 have, the Board has, for our grazing lands, it's the
13 same as all common school fund land. And it's
14 essentially that we must maximize revenue over the long
15 term, taking into account other considerations as well,
16 but that is our overriding objective here, and the
17 Attorney General specified that we're to attempt, and we
18 have the responsibility -- I shouldn't say "attempt," the
19 responsibility to get market value for these lands. And
20 again, it doesn't have to be immediate, it can be over
21 the long term.
22 So after looking at the other programs that we
23 were able to gather, we sat down and prepared a draft;
24 a first initial draft, which we then set out for public
25 comment and review. We sent it out to all of our

1 existing lessees that use state land; we have
2 approximately 170 of them. We got also involved
3 simultaneously with the senate interim committee on
4 grazing, which was looking at both state and private
5 grazing practices. I sat as a member of that committee
6 and participated. We worked to some degree with that
7 committee to make sure they were aware of what we were
8 doing, and as it happened, our efforts coincided with
9 some of the things that they were looking at. We also
10 went way beyond some things that they were looking at.
11 We then refined the first draft, after talking
12 to a great many people, including agencies and so on,
13 came up with a second draft. That draft was taken
14 out again. This time, we also went out into the
15 hinterlands and held meetings in Jordan Valley, in Burns,
16 in Lakeview, in Bend, Portland and Salem. We gathered
17 input on that draft, and we got a lot of input. And
18 frankly, I hope that everyone who has participated in
19 this program recognizes that we made a lot of changes
20 from draft to draft. We ended up, then, with a third
21 draft, which is the one that is now before you, and
22 has recently been circulated to all of the folks who
23 are on a rather extensive mailing list; and believe me,
24 we have a lot of people on that mailing list now.
25 We've received numerous comments. We've

1 attempted to deal with them all. I want to just
2 clarify one aspect, though, because this gets confusing
3 for some people. I think it's well known in the
4 national arena that the federal government, through the
5 United States Congress, has been looking at grazing fee
6 increases. That's one thing that we need to pay
7 attention to. We also need to look at our grazing
8 fees on state land, but we have not addressed the issue
9 of grazing fees as part of this policy. We intend to
10 do that when we promulgate the rules. But it is not
11 a part of this policy.
12 So key parts of this policy include a ten-year
13 lease term. We've got a provision for competitive bid
14 process in which we would offer our leases, those leases
15 that are available to all members of the public, and
16 where we have more than two individuals bidding, we
17 could go to competitive, high-bid process. We also have
18 what we call a good stewardship approach which rewards
19 and recognizes lessees that have utilized their lease
20 hold in good faith and complied with all terms of their
21 lease and done a good job, they would have a preference
22 to obtain a renewal. That was a significant alteration
23 from the earlier draft that we had out there.
24 We've also got a provision in here for
25 findings; that's something that I feel personally very

1 strongly about, I think my staff does too, that we have
2 an obligation, whenever we approve any action, to make
3 sure that the public, who's land we manage, is aware
4 of what we're doing. And so we're going to do a
5 finding for every one of these to make sure that the
6 public understands why we took whatever decision we took.
7 And in most cases, that finding will be out there
8 before we take the decision, it'll be in a draft sense
9 where the people can see it and comment on it, before
10 we take that action. Then, if they should disagree
11 with us, they know exactly where we're coming from, and
12 likewise, if they agree with us, we'll know. That kind
13 of documentation has not always been there in the past
14 and it needs to be there.
15 Another key component of this is a grazing
16 management plan concept; it's something we picked up from
17 other states. It's a way that we can enter into a
18 long-term vision, if you will, over the ten years of
19 the grazing lease with the lessee, to ensure that
20 generally speaking, we know how that land is going to
21 be utilized.
22 Now, it's not going to be down to, you know,
23 a detailed refinement kind of level, but it will
24 generally tell us how the pasture rotation is being
25 used, the number of cattle that are out there, how the

1 riparian areas might be protected, and those sorts of
2 things will all be interwoven into the grazing management
3 plan.
4 Now, we are going to be requiring grazing
5 management plans for all lease holds by 1998. We
6 recognize that given our staff constraints we cannot
7 immediately go out there and get everybody on the
8 grazing management plan even though we might like to.
9 So we're going to take the higher priority areas first;
10 the sensitive watersheds, the wetland areas, the larger
11 tracts, and that sort of thing, and get them under a
12 grazing management plan first, and then systematically
13 over the next six years, we'll roll in all the rest,
14 so that by 1998, we'll have grazing management plans in
15 for all of our leaseholds. And I'm aware of the kind
16 of staff commitment that that takes, and frankly, we're
17 going to be looking at that and strengthening some of
18 our capabilities in eastern Oregon to handle that
19 workload, and also relying as has been discussed among
20 a lot of the natural resource agencies, of some degree
21 of sharing with other agencies so that they can pick
22 up some of the things in the field that perhaps can
23 alert us to the conditions that we wouldn't ordinarily
24 be aware of because we've got other agencies that are
25 out there taking a look at things, and they can alert

1 us to what's going on. Okay. At this point, you
2 know, I've given you an overview of the main components
3 to this process. As I mentioned, it's the process that
4 we would use to test drive this vehicle, if you will,
5 until we get the rule-making. We've got a lot things
6 yet to address and to formalize through rule-making, but
7 I think it's been a great educational process for us
8 to get this out there, to discuss it with people. And
9 we've learned a lot, I hope they've learned a lot about
10 what our responsibilities are. We've tried to do our
11 very best to make this a policy that will work, both
12 given our fiduciary responsibilities, and given the
13 realities that face ranchers and others in the west
14 about what they need to do to make a living off this
15 land.
16 **GOVERNOR BARBARA ROBERTS:** Thank you, Gus.
17 Let me just briefly make a couple of comments as we
18 get into this discussion. I know that the Western
19 Governors' Association has been, as the federal government
20 has been, looking at this issue with, I think renewed
21 awareness of renewed interest -- in the federal
22 government's case, increased fees, but there have been --
23 I think there is much more awareness of the issue of
24 grazing. And when you think of, you know, of this
25 Land Board having not really looked at this policy issue

1 for ten years, considering the acreage we have in the
2 state in grazing, I think it's fairly remarkable, and
3 it means new things are happening as it relates to
4 grazing lands.
5 I want to be really clear that what we're
6 talking about here is, again, an interim process with
7 rule-making coming. We are not, as I understand it,
8 talking about any current leases being taken away, but
9 rather, honoring everything that is in place, and moving
10 from this point forward to what we will do as leases
11 are renewed, or come up for renewal.
12 I think that this is an issue that we have
13 a great deal of learning to do about, and as you have
14 learned, I think you will find this Board will need to
15 learn more and more about this process. We know a
16 great deal about working on the river issues, and we
17 know a great deal about the timber issues and other
18 things we do. This is one I think we've spent less
19 time on, and it will be important that we as a Board
20 become much more aware of the kinds of questions that
21 exist in terms of the grazing lands. I really want
22 to thank the leasehold community as well who in the
23 process of going out and beginning this process, were
24 there, helped us understand, brought issues, and as a
25 result, changed the draft as we went through it. And

1 I think that was a contribution that gives us a much
2 better beginning place as we go into rule-making.
3 We have several people who were signed up today
4 who would like to comment on that, on this policy.
5 Before we do anyone else, I notice that Representative
6 Denny Jones has just come into the room. I know the
7 legislature is in session, and if he would like to make
8 any comments or suggestions while he's here, we would
9 be happy to take him first. Would you -- do you have
10 anything you'd like to share with the Board,
11 Representative Jones?
12 **DENNY JONES:** (unintelligible)
13 **GOVERNOR BARBARA ROBERTS:** Well, you want to
14 come up here where we can use the microphone?
15 **DENNY JONES:** (unintelligible)
16 **GOVERNOR BARBARA ROBERTS:** Yeah, if you would.
17 I know that you're on a tight schedule, and we would
18 appreciate if you could -- with your long experience in
19 the grazing area, if you could share comments with us.
20 **DENNY JONES:** Thank you very much, Governor,
21 and other members of the Board. This is a privilege,
22 and by the way, I might add that this is my first
23 trip into the new building even though I've been around
24 awhile and I remember all that we went through to get
25 it and all that kind of thing. So I appreciate that.

1 **GOVERNOR BARBARA ROBERTS:** We appreciated your
2 support on the building while we went through. It's
3 good to have you here.
4 **DENNY JONES:** To make some brief remarks, and
5 I went through your new proposed policy, and there's
6 some real good things in there for us, and I'd like
7 to commend the staff for putting this together, and once
8 it's all ironed out, to, you know, to the rule-making
9 process, I hope that we can do these things in there
10 because -- let me back up and start all fresh because
11 I want to declare a possible conflict of interest. And
12 you know, I want to make this statement also; at the
13 E-Board meeting the other day, I said I'd like to make
14 this statement for the whole session, so that I don't
15 have to do this everyday.
16 **GOVERNOR BARBARA ROBERTS:** I don't think it
17 works that way, Denny.
18 **DENNY JONES:** Well, it might, and we just
19 might do that, you know, so that every time that we --
20 by the way, we have a small block, and we had the
21 first block in the State of Oregon, back in 1939, and
22 it's only 4,000 acres, but we're the first ones that
23 put a block together. And we did that on an exchange-
24 of-use basis because you couldn't transfer title at that
25 time. Since then, the Division and the BLM have got

1 together and they've changed titles so that they own --
2 you know, you own the land now, and it used to be
3 scattered all over the State of Oregon, if you remember.
4 However, we still have the 4,000-acre block, and I
5 wanted to declare that conflict of interest, and if
6 you'll remember here, some of you were here about --
7 some ten years or 12, or whatever it was back, we kind
8 of got an agreement together where the fees would be
9 tied to the price of cattle, and then for years we
10 didn't go through that hassle every year, you know, of
11 trying to decide what the fees were. And they've more
12 or less been pretty stable ever since that time. And
13 I think that's an approach or a concept that's worked
14 real well.
15 However, to get back to your proposed policy
16 issues, there's several things that's real critical for
17 the State of Oregon and for the livestock people, and
18 that is renewal of these releases, and I noticed in
19 your exemption from the competitive bid process in number
20 seven, in your proposal, is that gives the Director,
21 then, the leeway to work with people and renew these
22 leases. Where there is some things that are real
23 scary, if you took the lease away from an individual,
24 and you have some large blocks, as you well know, and
25 in fact, there are two large blocks in the Jordan

1 Valley area of 25,000 each, then there's the big block
2 in Harney County out by the Princeton area of about
3 50,000 acres, and to take these leases away from that
4 base -- the base ranch and so on, would be almost
5 devastating. And who would you give it to? If you
6 give it to an outsider because of the competitive bid
7 process, because they were able to overbid the recent
8 lease holder, then, and they only stay around a year
9 or two, then where are you going to be? And these
10 are pitfalls that we could get into from the competitive
11 bid process.
12 Another thing that I noticed that's just
13 happened sort of recently, and that is that you have
14 given some 20-year leases, and most of them are ten,
15 and I'm wondering, you know, why this one person
16 deserves a 20-year lease, and his neighbor only get a
17 ten-year lease. And those are, you know, those are,
18 again, critical issues, and why the discrimination?
19 And in your policy, I notice that you have
20 the -- unless he is abusing the land and so on, you've
21 got a right to take it away from him, and there's
22 nothing wrong with that. And then you're also proposing
23 various management plans. Well, most of us have
24 management plans from the BLM anyway, and that's good,
25 there's nothing wrong with that policy at all. It's

1 just the fear of what you might do to a base setup
2 that has had these blocks tied to their ranches and so
3 on, and then they lose them.
4 The other thing is that many of those -- or
5 at least some of those large blocks have given up their
6 BLM right, and totally, then, are dependant on the state
7 lands for their grazing. And that happened in the Bill
8 Ross block of 29,000 acres out of Jordan Valley.
9 However, that's changed hands now and it belongs to
10 (unintelligible). But to -- for him to lose that
11 block, as an example, and have already given up his
12 BLM, what does he do? And these are real critical
13 issues in this process that we're going through right
14 now.
15 And I noticed in the minutes of the comments
16 of the hearings that's been held around over the state,
17 there's some good comments from the different meetings,
18 and I don't know how many have attended those. I'm
19 not sure (unintelligible) Johnson has attended those, but
20 there are good comments and real, real stable comments
21 there from people in the areas like Bend, and Lakeview,
22 and Burns, and Jordan Valley; that's I believe four of
23 the meetings that's been held, and the statements in
24 there, which are on paper, and which I have a copy of,
25 are really important.

1 And I think with your delegates here that I've
2 made the point. I think you're on the right track,
3 and I think that we can all work together and maybe
4 bring these into a rule process that we can all live
5 with, and for the benefit of the State of Oregon.
6 One other final comment is that if you do
7 these -- some of the things that were originally
8 proposed, and you went to competitive bidding and change
9 and so on, and you're going to put a lot of extra
10 time and effort into watching these lands and so on,
11 then you're going to take away some of the income to
12 the State of Oregon, through the cost of doing that.
13 And I think that needs to be balanced out.
14 If we, as lessees, and land users, enter into
15 a new grazing management plan with you, then all you
16 would need would just be periodic review of the land
17 and how we're handling them. Now, like I said, we've
18 had ours since 1939, and we seeded about 600 acres of
19 Crescent Creek grass on that at our own expense. Never
20 asked you for help, and didn't expect any. And of
21 course, some of that took and some of that didn't, but
22 the part that did take is a real benefit, an asset,
23 and an increase in the forage there. And those are
24 management practices that are real important. So you --
25 I'm sure that you have a lot of people here to testify

1 today, and you've got a lot of work to do, and so
2 have I, so I appreciate you listening to me for a
3 little bit.
4 **GOVERNOR BARBARA ROBERTS:** Representative Jones,
5 we appreciate you being here. Do either member of the
6 Board have questions for Representative Jones? Thank you
7 very much for taking the time to come over today.
8 **SECRETARY OF STATE PHIL KEISLING:** Thank you.
9 **GARY GUSTAFSON:** Thank you.
10 **STATE TREASURER JIM HILL:** Thank you.
11 **SECRETARY OF STATE PHIL KEISLING:** And we'd
12 like to know if they've chosen a new senate president--
13 **GOVERNOR BARBARA ROBERTS:** Have they chosen a
14 senate president while we've been over here?
15 **DENNY JONES:** Well, I doubt it.
16 **GOVERNOR BARBARA ROBERTS:** I think that was an
17 editorial comment. Okay. I have three other people
18 signed up; W. C. Laird from Plush (phonetic).
19 Mr. Laird?
20 **MR. LAIRD:** You know, (unintelligible) snow
21 blowing around, and since the drought and everything has
22 been there, that people have been having trouble feeding
23 their cows and everything, and I contacted just about
24 everybody in Lake County that had leases, directly or
25 indirectly, and I was the only one that could make it

1 because of my schedule. And--

2 **GOVERNOR BARBARA ROBERTS:** Mr. Laird, will you

3 tell people how much snow there is, that has fallen in

4 Lake and Klamath Counties?

5 **MR. LAIRD:** Well, there's 37 inches supposedly

6 on the ground at Lakeview, and right outside of

7 Lakeview, there's a Camus (phonetic) -- what we call

8 Camus Prairie, it's out on 140, I would say it has

9 just as much snow on it as the Willamette Pass did

10 yesterday coming over.

11 **SECRETARY OF STATE PHIL KEISLING:** My gosh,

12 eight feet?

13 **GOVERNOR BARBARA ROBERTS:** Yeah.

14 **MR. LAIRD:** Yeah, it's blowing in some -- it's

15 real hard to get around, and we had our meeting in

16 Lakeview there, and Jeff came down and he did a real

17 fine job of conducting it. I commend you on that,

18 Jeff. But--

19 **GOVERNOR BARBARA ROBERTS:** Well, I just didn't

20 want them to think from eastern Oregon that you were

21 wimpy about the snow. This is serious snow, and so

22 I just wanted to, you know, protect your eastern Oregon

23 reputation.

24 **MR. LAIRD:** Well, we had -- we have quite a

25 few concerns about it, that we're being attacked from

1 every angle, from everything that's from the government
2 now on our leases, and like Denny said, most of these
3 things are tied in; these state leases are tied in with
4 our base property and with our BLM permits, and we see
5 other point, we can't operate that way; the stability
6 of these small communities. We need what we have.
7 I mean, that's what we -- we met with you about ten
8 years ago, the Land Board, and they said, "Well, we
9 want to give you 20-year leases. We want to put these
10 blocks together. That you are our backbone." And then
11 all of a sudden we get these -- we get this concept
12 here that we're going to bid these -- these blocks, and
13 there's a lot of concerns there, about who's getting
14 them? What's going to happen to the money we put into
15 them? There's a lot of questions that aren't answered
16 on here, and that's basically what we're most concerned
17 about there, is where is the credibility on the thing.
18 I mean, we don't know where you're going on these
19 policies. The last policy I think you had was
20 everybody was supposed to get 20-year leases. Well,
21 none of us got the 20-year leases. That goes back to
22 '83. You have a copy of that, don't you?
23 **JEFF KROFT:** 1983, yes. December 16.
24 **MR. LAIRD:** Like I say, we have got -- that's
25 basically it. We just got all the things. I have

1 a letter here that I'll hand to Jeff, it goes with the
2 policies that I (unintelligible) wrong with them, but
3 like I said, the main thing we're concerned about is
4 the stability of these communities and how important
5 these state leases are to us. I mean, we've had these
6 state leases a long time, and we kind of consider them,
7 basically, our property. They're not, they belong to
8 the state, but we take care of them, these big blocks,
9 and I think very well.
10 I'd be happy to answer any questions if anybody
11 has one.
12 **GOVERNOR BARBARA ROBERTS:** I think part of what
13 raised the question, Mr. Laird, that has now caused us
14 to look at the policy after ten years again, was an
15 Attorney General's opinion as we dealt with forest land,
16 that said we had an equal obligation on these grazing
17 lands to make certain that we had met our responsibility
18 to those as common school lands, and out of that has
19 come a need to clarify here, as we must do on other
20 state lands. So I don't think it in any sense
21 represents what is intended to be a threat, but rather
22 to recognize as Oregon changes and as we move through
23 our responsibility, which grows by those kinds of
24 opinions, that we have met that obligation to make sure
25 that those lands are being used well, and that we talk

1 about that rather than just assume it's okay. And I
2 think federal government certainly has discovered there
3 are places that the federal grazing lands have not been
4 used well. I think we as a state don't want that to
5 happen, and though most lease holders are good stewards
6 of those lands, I think we need to be certain that
7 continues, and the financial pieces, the fiduciary piece
8 is part of what has caused this to be looked at, is
9 are we meeting that responsibility under the constitution?
10 So I don't think it's intended to be
11 necessarily a disruptive process, but I think anytime
12 you raise questions about something that's been in place
13 that long, it causes a certain amount of discomfort.
14 But I think the question that was raised by
15 Representative Jones represents part of our problem here
16 is that everyone is not being treated equally in the
17 process; if one gets a ten-year lease and one gets a
18 20-year lease, that means we as a Board need to look
19 at a policy where people are treated equally, and that
20 clearly is not one of the places where that's occurring.
21 So wherever we can clarify that and make it quality in
22 that system, I think it's important, too, and you know,
23 if one person gets a ten-year lease or another gets a
24 20-year lease, that doesn't seem very fair, and we ought
25 to be treating all Oregon lease holders the same in the

1 process, so I think that's its intention.

2 **MR. LAIRD:** Well, we have now, at Oregon State

3 we have some experts down there in the extension field.

4 So I think you should get their comments and go with

5 them. There's three people that are world-renowned on

6 grazing polices and stuff--

7 **GOVERNOR BARBARA ROBERTS:** Yeah.

8 **MR. LAIRD:** And we talked to them, and they're

9 not really involved in your process, and they should be

10 some of the key players.

11 **GOVERNOR BARBARA ROBERTS:** Well, in a sense,

12 we've really just started the process, and that's what

13 we're trying to do today is just to begin with an

14 interim set of discussions so that we can move forward

15 on the rule-making and involve more and more people in

16 the process so that the end product will be one that

17 works for everyone. I mean, that's its intention. So

18 no one is intentionally excluded, it's just, I think

19 really early in the process, and it will take a long

20 time to do this, and I think to do it well, and to

21 meet the needs of the leaseholder and the state, and

22 the communities, and I think that's the intention of

23 this, is certainly not intended to be exclusionary, but

24 quite the contrary, we want to include those kind of

25 peoples' expertise. And I don't think that any one of

1 the three of us expected to gain the kind of expertise
2 that Oregon State University's very talented grazing
3 people have. I don't think we have any intention of
4 arriving with that kind of knowledge, but just the
5 knowledge to make good policy with that kind of
6 expertise in front of us. And I hope that we're going
7 to be able to call on that expertise, as we have in
8 the past, with the -- Oregon State people and Forestry
9 have been very helpful to us as we've looked at the
10 forestry issue. Questions or comments from the members
11 of the Board for Mr. Laird?
12 **SECRETARY OF STATE PHIL KEISLING:** I just have
13 one, and I appreciate your coming all this way; one of
14 the general concepts, as you know, in this policy, is
15 in effect to have a system where you allow the
16 renewable leases, tying it to a stewardship program, and
17 the point you make about Oregon State is even more
18 important, or any institution, because as we get into
19 the management plans in deciding how to assess how well
20 people are doing, it's all the more important to have
21 that kind of expertise.
22 I was wondering if you would just speak
23 generally to that concept, which is renewal of lease,
24 the leases that are tied to some kind of management
25 plan, stewardship program. You might also just tell me

1 a little bit about your own operation and give me a
2 sense of how it might affect you personally.
3 **MR. LAIRD:** I don't really understand what
4 you're--
5 **SECRETARY OF STATE PHIL KEISLING:** Well, maybe
6 we need to do a better job of explaining it.
7 Actually, part of what is going on is this concept kind
8 of came up as we heard a lot of comments. And it
9 is sort of evolved over three separate drafts. This
10 is the third draft, and I think when you -- you
11 probably had a chance to look at both the first and
12 the second one.
13 **MR. LAIRD:** Well, you've changed the drafts
14 tremendously. Okay. I will give you one illustration
15 which I think is (unintelligible). If we have state
16 (unintelligible) blocks, the State of Oregon, the <u>three</u>
17 (phonetic) legislature, I think they give $200,000 a
18 year -- or $100,000 or something, for the improvement
19 of these blocks, and we went in and sprayed these
20 blocks, seeded them, we have built fences, we have
21 watered, and we have all these things we have put in--
22 **SECRETARY OF STATE PHIL KEISLING:** Right.
23 **MR. LAIRD:** And the one, I think we started
24 in '83 -- see, we're up right now.
25 **SECRETARY OF STATE PHIL KEISLING:** Okay.

1 **MR. LAIRD:** See, this is what bothers some of
2 us down there, so many of them started right at that
3 time, we've only got a one-year lease, and that's not
4 a lease (unintelligible). We put the improvements --
5 okay. Now, if you just -- for example, if you go out
6 and bid that out, that I will probably not get it.
7 Now, wait. Now, wait, let me finish.
8 **SECRETARY OF STATE PHIL KEISLING:** I understand
9 your point.
10 **MR. LAIRD:** Okay. Okay. You know, there's
11 the possibility that I can get it. Now, if I have
12 a little personality conflict with the range
13 (unintelligible) down there, we don't get along, well,
14 he'll say, "Mr. Laird, here, is not good to work with.
15 Maybe we should get" -- you're putting a lot of burden
16 right there, see. Okay. So we bid this block.
17 Okay. I have $20,000 worth of improvements on it.
18 I'm just throwing this out--
19 **SECRETARY OF STATE PHIL KEISLING:** All right.
20 **MR. LAIRD:** For just (unintelligible). Okay.
21 You have your appraiser come in and say they're worth
22 $5,000. So where are we? You bid my block away from
23 me, the state has. I have no moral obligation to or
24 anything, I'm going to go to court with you over my
25 $20,000. So we're in litigation for two or three

1 years. The block sits there. See, there's a lot of
2 these things that come into our mind.
3 **GOVERNOR BARBARA ROBERTS:** Can I--
4 **MR. LAIRD:** And this--
5 **GOVERNOR BARBARA ROBERTS:** Can I ask a question
6 right there before you get removed from that? As an
7 agricultural or cattle operation, it wouldn't be difficult
8 to prove how much you had spent and invested in the
9 land because your taxes would indicate what you'd put
10 in seed and fencing and other kinds of things. I
11 mean, there wouldn't be a debate, I don't think, about
12 money between the state and the leaseholder because your
13 records would clearly -- I mean, it wouldn't be our
14 evaluation of what you spent, I think your records would
15 indicate what you'd spent.
16 **MR. LAIRD:** Okay. By our tax statement you
17 have "X" number of years to depreciate something.
18 **GOVERNOR BARBARA ROBERTS:** Okay.
19 **MR. LAIRD:** Okay. And it depreciated down
20 (phonetic) to ten years.
21 **GOVERNOR BARBARA ROBERTS:** All right. Okay.
22 **MR. LAIRD:** (unintelligible) want to be just
23 as good as the day it was when it was put in.
24 **GOVERNOR BARBARA ROBERTS:** Okay. Okay.
25 **MR. LAIRD:** See, you would -- how many hours

1 of labor did I put in here? It might take me six
2 hours to build this certain amount of fence, and it
3 might take you one hour.
4 **GOVERNOR BARBARA ROBERTS:** I'm a very fast
5 fence-builder.
6 **MR. LAIRD:** You see? You see, this is a
7 very bad point, in--
8 **GOVERNOR BARBARA ROBERTS:** Yes.
9 **MR. LAIRD:** In that particular thing.
10 **GOVERNOR BARBARA ROBERTS:** Yes.
11 **MR. LAIRD:** This is a litigation problem.
12 **GOVERNOR BARBARA ROBERTS:** Okay.
13 **MR. LAIRD:** That's all I'm--
14 **SECRETARY OF STATE PHIL KEISLING:** Right.
15 **GOVERNOR BARBARA ROBERTS:** Yeah.
16 **SECRETARY OF STATE PHIL KEISLING:** Okay.
17 **MR. LAIRD:** --I just brought it up for
18 example.
19 **SECRETARY OF STATE PHIL KEISLING:** Right.
20 **MR. LAIRD:** But I question the financing of
21 the thing, too. How much is this going to cost to
22 get -- is the school fund going to go in the negative?
23 Are these -- do you -- the rural communities--
24 **SECRETARY OF STATE PHIL KEISLING:** It's a good
25 question.

1 **MR. LAIRD:** Are they going to -- are we going
2 to be sacrificing -- I think you have a letter from
3 the Lane County Commissioner with this concern. But
4 we've inventoried things to death, I think. I realize
5 there's certain other things we have to inventory, but
6 we don't have to -- surely you don't have to inventory
7 the land use (phonetic).
8 **SECRETARY OF STATE PHIL KEISLING:** Right. One
9 of the -- you know, one of the things that we face
10 as the Land Board, is that in a sense the legal
11 requirements on our acre of land are different than the
12 legal requirements on, let's say, a BLM acre of land.
13 We have this long-term trust responsibility and the like.
14 I think the basic thinking is if we simply just did
15 automatic renewals for everyone under any circumstances,
16 that we would run the risk of litigation against us,
17 that we are violating our trust responsibility.
18 So the intent of this general policy is to
19 say we want to allow situations where there's in a
20 sense automatic renewals of leases, to give people more
21 certainty. And I know Jeff will correct me if I'm
22 wrong, if I misunderstand this, to give automatic
23 renewals of leases, no competitive bidding -- we're not
24 even talking about that entering in, with the proviso,
25 though, that in order to get to that situation, that

1 certain standards of stewardship would be met; and my
2 guess is, standards that you and the vast majority of
3 operators are already meeting. And that's the concept
4 that evolved, in a sense, out of these hearings, because
5 I think initially that wasn't even in there, that
6 possibility of the automatic renewal tied to the notion
7 of stewardship.
8 And I guess that was the idea that I wanted
9 to ask you about. You may not have had a chance to
10 look fully at this latest draft.
11 **MR. LAIRD:** I have reviewed it very, very
12 carefully.
13 **SECRETARY OF STATE PHIL KEISLING:** Okay. Okay.
14 Because I understand your concern about the litigation
15 and about the competitive bidding situation, and how that
16 might serve to be a lose/lose situation for everyone,
17 I think is your point.
18 **MR. LAIRD:** But you're also writing a grazing
19 plan for every acre of state land. Okay. I have a
20 3,600 acre of crescent wheat, in what -- and it's
21 probably pretty well down in how we use it, what time
22 of year and everything. That would be very easy to
23 do that. What about the guy with 20 acres in the
24 middle of these fields? That plan?
25 **SECRETARY OF STATE PHIL KEISLING:** Uh-huh.

1 **MR. LAIRD:** How are you going to work those,
2 them isolated tracts?
3 **SECRETARY OF STATE PHIL KEISLING:** Uh-huh.
4 **MR. LAIRD:** These isolated tracts? And here
5 the last policy was they were going to be sold, and
6 now you're in a thing that we're going to write a
7 grazing plan for. And there's no easy solution--
8 **GOVERNOR BARBARA ROBERTS:** Yeah.
9 **SECRETARY OF STATE PHIL KEISLING:** It may make
10 more sense to try to get rid of that 20-acre tract.
11 **MR. LAIRD:** Yeah, I'll be bringing those up.
12 But these are things that we question. It don't make
13 any difference to me what happens to the 20 acres.
14 **GOVERNOR BARBARA ROBERTS:** And I don't think
15 we're going to stop the process of trying to block
16 lands, which we've been working very hard on for the
17 last five or six years. I don't think that process
18 would stop, and it might be, you know, I think Gus
19 indicated they would take priority looks at grazing
20 pieces that have high priority. I would think the 20-
21 acre site would not have very high priority in spending
22 time or energy on, and is likely to be one of those
23 that eventually would end up with some kind of blockage
24 or sale, and so I think we won't stop that. What I
25 think, and I think what Representative Jones indicated,

1 is a very responsible way to manage state lands is to
2 keep them blocked, or make them blocked so that we can
3 manage them, and that the leaseholder can manage them
4 more effectively.
5 **MR. LAIRD:** Well, this plan should be commended
6 to (unintelligible) for the big blocks and the isolated
7 blocks. So you don't have to spend all of your time
8 on the isolated tracts. Those smaller tracts, that is
9 something that (unintelligible).
10 **GOVERNOR BARBARA ROBERTS:** Okay. Anything else?
11 Thank you very much, Mr. Laird, and particularly for
12 driving all the way from Lake County in the bad
13 weather. Kathy Myron? Did I get that right? I have
14 to be able to read all kinds of handwriting.
15 **KATHY MYRON:** Thank you, Governor Roberts, and
16 State Land Board members. I'm here today, first as a
17 volunteer for the organization, Rest the West, and as
18 a Board member of the Oregon Wildlife Federation, and
19 the Chair of its fisheries committee. I'm a former
20 member and activist, you could say, for Oregon Trout,
21 and have worked extensively in eastern Oregon for Oregon
22 Trout, and I also participated throughout the entire
23 process of the recent senate interim grazing subcommittee
24 process.
25 **GOVERNOR BARBARA ROBERTS:** State (unintelligible)?

1 **KATHY MYRON:** Uh-huh. Okay. One, I would
2 like to commend DSL and the entire staff for getting
3 this policy out as they have, and for beginning the
4 process to address the concerns that a great many of
5 us do have with grazing on lands in Oregon. And I
6 would also like to note that we hardily support the
7 rule-making process and we look forward to participating
8 fully in that public process. And we encourage the
9 Board to instigate that as soon as possible.
10 We do have a few concerns in the policy, as
11 stated. We intend to address those in the rule-making
12 process wherever that's appropriate, and I will be
13 participating and most likely submitting written comments
14 to that effect, rather than getting into a great deal
15 of detail today. Thank you very much.
16 **GOVERNOR BARBARA ROBERTS:** Thank you. Any
17 questions or comments by the Board? Thank you very
18 much, Kathy. Liz, you were signed up with a question
19 mark, would you like to do that now?
20 **LIZ FRENKEL:** Very briefly. I also feel that
21 this is very much a step in the right direction. Ten
22 years is a long time. Lots of things have changed,
23 and obviously, of all times and all places, the State
24 Land Board is in a position now of maximizing its
25 potential in a fiduciary fashion. You have not much

1 option. I would again stress or underline the fact
2 that one of the things that I see in the policy is
3 the emphasis upon sustained forage. And it may well
4 be sustained forage is going to wind up being your
5 ultimate goal. But one of the things you that have
6 to look at is sustained forage may well be a result
7 of a whole series of other issues involved on your
8 land. For example, water quality, water quantity, some
9 of the watershed issues will be very very significant,
10 and one of the things that I anticipate happening in
11 rule-making is that you begin to develop standards for
12 how you -- you mention a healthy watershed at one
13 place. Well, a healthy watershed is a result of that,
14 could well be sustained forage. But the process that
15 you get to that would be a series of standards related
16 to water quality, how you manage water on the ground,
17 etc. And I was just a little bit uneasy about the
18 goal being sustained forage, whereas in fact your goal
19 has to be the ultimate health of that land, because
20 that's what's going to in the long run give you your
21 value for your dollar over time, which is after all,
22 your responsibility. We will be working with you
23 through rule-making and are very pleased with this first
24 step. Thank you.
25 **GOVERNOR BARBARA ROBERTS:** Thank you very much.

1 Is there anyone else in the audience who would like to
2 make comments about the policy under discussion?
3 Anything else from members of the Board?
4 **STATE TREASURER JIM HILL:** Madame Chair, I'd
5 like to ask Gus a question if possible.
6 **GOVERNOR BARBARA ROBERTS:** Sure.
7 **STATE TREASURER JIM HILL:** Yes. Thank you,
8 Madame Chair.
9 **GOVERNOR BARBARA ROBERTS:** Okay.
10 **STATE TREASURER JIM HILL:** Gus, the question
11 that I wanted to ask was a question that Phil Keisling
12 raised concerning the renewal of these leases on the
13 condition of good stewardship of the grazing land. I
14 guess my concern is, how objective is that standard
15 going to be? Because as Mr. Laird mentioned, apparently
16 a lot goes into the stewardship of keeping this up over
17 the years, and of course the renewal after all that is
18 done, is very important, and I guess my concern is
19 about this litigation of what exactly would good
20 stewardship practices be? Because if you don't have it
21 as being objective, there will be a lot of litigation
22 over it. And I guess I just wanted to know how
23 objective it is, good stewardship of grazing land, what
24 kind of standards are those and how objective would they
25 be so that they could be determined pretty readily by

1 everyone involved?

2 **GARY GUSTAFSON:** Treasurer Hill, the proverbial
3 "between the rock and the hard place," you know, comes
4 up often when you address topics like this. I think
5 it's always difficult for an agency to properly,
6 objectively, list everything that someone would need to
7 do without leaving some leeway. The fact of the matter
8 is that when you're in the field applying things, you
9 of course need to have some free board there. But our
10 challenge here will be through rule-making to come up
11 with objective standards that will avoid what was just
12 mentioned from the gentleman from Plush, and that is our
13 range manager arbitrarily deciding that he doesn't like
14 what's going on because he and the individual have a
15 feud, or whatever it may be. We have got to have
16 those standards. And what we're trying to do here is
17 recognize the need for a stewardship reward, which we've
18 heard continually throughout this process. And in fact,
19 other states are doing it through reductions in grazing
20 fee rentals, or their improvement programs, and even BLM
21 is considering that right now, by the way. So
22 recognizing that in some way, but at the same time,
23 coming up with the standards. I cannot lay the
24 standards in front of you right now and say, "Here's
25 exactly what it's going to be." We have got to refine

1 that. And it's going to be one of those assignments,
2 always tough, where they've got to be objective, but
3 still provide some free board to meet the conditions in
4 the field.
5 And whenever you do that, there's always some
6 subject of risk, and that could involve litigation, and
7 that's just the matter of the beast. What we're going
8 to try to do in the months ahead, though, is define
9 that so our range managers can pick up a lease, work
10 with the lessee to do that grazing management plan, and
11 say, "Here are our expectations over the ten-year term
12 of your lease. And if you are able to meet all of
13 these, and we've got definitions already defined, by the
14 way, in our policy here, and if you can meet all of
15 these, then we will consider you to be a good steward
16 of the land, because this is the way that we are
17 prescribing this tract of state land to be managed over
18 these ten years. This is the way we as the owners
19 would like to see it managed."
20 **STATE TREASURER JIM HILL:** As long as there's
21 the meeting of the minds, that's my only concern about
22 the subjectivity. So, okay. Thank you.
23 **GOVERNOR BARBARA ROBERTS:** You're welcome.
24 Phil?
25 **SECRETARY OF STATE PHIL KEISLING:** I just want

1 to clarify a point just so I'm clear about the concept
2 of policy. First of all where you do meet the
3 stewardship standards in whatever they are, is very, very
4 key, the idea behind this policy is that that will
5 allow for an automatic renewal. Okay. There's a
6 second scenario under which for some reason that doesn't
7 kick in if you go into a competitive bidding situation.
8 There's still a provision in this concept that if the
9 current leaseholder loses in that competitive bid
10 situation, they in effect by matching the winner's bid,
11 they could continue to hold the lease. Now, obviously
12 that's no guarantee, but at least it provides a
13 situation if you get edged out by all of, you know,
14 $50, that you could just say, "Well, I'll throw another
15 $50 into the kitty and continue to hold the lease,"
16 that's a part of the concept. Okay.
17 I assume there's also a -- is there a scenario
18 under which we would terminate a lease for some kind
19 of cause that would not allow someone to come in under
20 that situation? I'm thinking of the scenario that
21 somebody has just clearly abused the land, has done "X,
22 Y, and Z," that's just, you know, outside the rent
23 (phonetic), you then say, "Okay. Now, we're going into
24 the competitive situation." Would they still have the
25 ability to come back and by simply matching whoever won

1 the bid, just renewing the land or--

2 **JEFF KROFT:** Mr. Secretary, members of the Land

3 Board, yes, there is a provision in the policy, and

4 that would be that everybody who wants to bid on that

5 has to submit an application. And the Division could

6 refuse an application based on past--

7 **SECRETARY OF STATE PHIL KEISLING:** Okay.

8 That's how you would stop -- that's obviously a very

9 rare exception, but the idea is--

10 **JEFF KROFT:** Yes.

11 **SECRETARY OF STATE PHIL KEISLING:** That even

12 if you go into a competitive bidding situation, there's

13 that ability to match?

14 **JEFF KROFT:** Yes, there is.

15 **SECRETARY OF STATE PHIL KEISLING:** In most

16 cases. Okay. I just wanted to clarify that.

17 **GOVERNOR BARBARA ROBERTS:** Anything further from

18 the Board, questions, concerns, comments? Well, what we

19 have before us now, as you know, is a concept, and we

20 need to take some kind of action today in terms of

21 that concept, and the move towards rule-making. Is

22 there a motion? Phil, did you have a motion?

23 **SECRETARY OF STATE PHIL KEISLING:** I'll move

24 that we adopt the concept and proceed with rule-making

25 under item number three.

1 **GOVERNOR BARBARA ROBERTS:** Is there a second?

2 **STATE TREASURER JIM HILL:** Second.

3 **GOVERNOR BARBARA ROBERTS:** You have heard the
4 motion and the second. Gus, can I ask you before we
5 vote on this, the time frame for the rule-making as
6 you perceive it right now?

7 **GARY GUSTAFSON:** Governor, what we're trying to
8 do right now is reconcile of course a lot of proposed
9 rules that we've got in the Division. These -- this
10 one and scenic waterways will be initiated fairly soon,
11 certainly by summer, and they will both be completed by
12 the end of 1993.

13 **GOVERNOR BARBARA ROBERTS:** Thank you. I think
14 it's useful to sort of have the time frame in place.
15 Any discussion on the part of the Board now that the
16 motion is on the table. If not, those in favor will
17 signify by saying, "Aye."

18 **SECRETARY OF STATE PHIL KEISLING:** Aye.

19 **STATE TREASURER JIM HILL:** Aye.

20 **GOVERNOR BARBARA ROBERTS:** Those opposed, "Nay."
21 The motion is passed unanimously.

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1 AGENDA ITEM FOUR

2 **GOVERNOR BARBARA ROBERTS:** Item number four
3 should be very brief; the December 8, 1992, State Land
4 Board regular session and executive session minutes. Is
5 there a motion?

6 **SECRETARY OF STATE PHIL KEISLING:** Well, you
7 keep looking to me, Madame Chair, (unintelligible) and
8 there wasn't a--

9 **GOVERNOR BARBARA ROBERTS:** (unintelligible)
10 leeway, you know.

11 **SECRETARY OF STATE PHIL KEISLING:** I will move
12 approval of the minutes for the December 8, 1992, Land
13 Board minutes.

14 **STATE TREASURER JIM HILL:** Second.

15 **GOVERNOR BARBARA ROBERTS:** Second. Yeah, I'm
16 going to second it this time, 'cause you weren't
17 here -- I'm going to make it easier for you, Jim.
18 It's been moved and seconded to approve the minutes.
19 You've heard the motion. Those in favor will signify
20 by saying, "Aye."

21 **STATE TREASURER JIM HILL:** Aye.

22 **SECRETARY OF STATE PHIL KEISLING:** Aye.

23 **GOVERNOR BARBARA ROBERTS:** Those opposed, "Nay."
24 The motion is passed.

25 The informational item on North Tongue Point is

1 that just for reading purposes at this point, Gus, or--
2 **GARY GUSTAFSON:** If you'd prefer, it can be,
3 yes.
4 **GOVERNOR BARBARA ROBERTS:** Yeah. Any questions
5 on the part of the Board about that right now? Okay.
6 Why don't we leave it here. Before we take other --
7 and before we adjourn, I can't think of any reason we
8 couldn't go ahead and do your oath of office right now,
9 Gary, if that meets with your approval and the Board's
10 approval. And even though I hate to keep looking at
11 Phil, I understand you really do have the appropriate
12 process there in place, and that as Secretary of State,
13 you can help us with that.
14 **SECRETARY OF STATE PHIL KEISLING:** I can, and
15 I will be happy to do that.
16 **GOVERNOR BARBARA ROBERTS:** Well, and
17 interestingly, (unintelligible) the traditional way
18 yesterday, and they have to (unintelligible).
19 (T.N. Part of swearing in not audible)
20 **GARY GUSTAFSON:** Of director of the Division
21 of State Lands and Deputy Land Commissioner.
22 **SECRETARY OF STATE PHIL KEISLING:** According to
23 the best of my ability.
24 **GARY GUSTAFSON:** According to the best of my
25 abilities.

1 **SECRETARY OF STATE PHIL KEISLING:**
2 Congratulations.
3 **GOVERNOR BARBARA ROBERTS:** If he does John
4 Hancock, we're not going to give him the job, I swear
5 to you.
6 **SECRETARY OF STATE PHIL KEISLING:** Okay. My
7 turn?
8 **GOVERNOR BARBARA ROBERTS:** Thank you. Thanks,
9 Phil. Phil, I believe swore in the State Senate
10 members. Did someone tell me you did that?
11 **SECRETARY OF STATE PHIL KEISLING:** I did, and
12 I forgot to give Gus the option that I gave the
13 senators. I told them if they preferred not to
14 solemnly swear, they have the option of solemnly
15 affirming.
16 **GOVERNOR BARBARA ROBERTS:** A different legal--
17 **SECRETARY OF STATE PHIL KEISLING:** Some people
18 don't like to solemnly swear.
19 **GOVERNOR BARBARA ROBERTS:** Yeah, it has
20 different connotations. I do that when I swear people
21 in to Boards and Commissions. You can give them the
22 choice of which they do. We have all these little
23 technical things; it's like motorized and mechanized.
24 Gus, do you have anything else--
25 **SECRETARY OF STATE PHIL KEISLING:** Still trying

1 to anticipate other things.

2 **GOVERNOR BARBARA ROBERTS:** That needs to come

3 to the Board?

4 **GARY GUSTAFSON:** No, other than to say thank

5 you very much, and I look forward to the years ahead.

6 **GOVERNOR BARBARA ROBERTS:** We look forward to

7 working with you, and you're going to do a marvelous

8 job. You've done a great job as interim Director, and

9 we're looking forward to working with you, and it's good

10 to have you here, Jim.

11 **STATE TREASURER JIM HILL:** Well, thank you.

12 **GOVERNOR BARBARA ROBERTS:** And we're going to

13 enjoy having you and Rollie with us, and we thank you

14 for a first meeting. We will not let you off so easy

15 next time.

16 **SECRETARY OF STATE PHIL KEISLING:** Well, Madame

17 Chair, I think we also should introduce Rollie, who is--

18 **GOVERNOR BARBARA ROBERTS:** Well, I didn't do

19 that. I'm sorry. Would you like to do that, Jim?

20 **STATE TREASURER JIM HILL:** Yes, it's my

21 pleasure to introduce not only my executive assistant,

22 but my very good friend, Rollie Wisbrock. And one of

23 the pleasures of being elected to a state office is to

24 bring in some very good people to do some good things,

25 and Rollie is that caliber of person.

1 **GOVERNOR BARBARA ROBERTS:** Welcome aboard,
2 Rollie.
3 **ROLLIE WISBROCK:** Thank you.
4 **GOVERNOR BARBARA ROBERTS:** Now, we need a
5 motion to adjourn, Jim? Oh, wait. We have a hand
6 up in the audience. I'm sorry. Pardon?
7 **UNIDENTIFIED MALE VOICE:** (unintelligible)
8 **GOVERNOR BARBARA ROBERTS:** That was not an
9 agenda item, to raise a new issue?
10 **UNIDENTIFIED MALE VOICE:** Yeah, (unintelligible).
11 **GOVERNOR BARBARA ROBERTS:** If you can do it
12 briefly, I think that would be fine.
13 **MARK LEAR:** My name is Mark Lear, I'm the
14 conservation coordinator for the Forest Conservation
15 Council, and I just want to bring up a little bit of
16 new information about the Marbled Murrelet, sales on the
17 Elliott State Forest. I'm sure the Board knows the
18 background about this information board sold (phonetic)
19 sales within 120 acres of an activity center, that three
20 of these are occurring on the Elliott. Basically just
21 over the last week, I've received information from
22 Richard Slepp (phonetic), and he had reviewed the sales
23 for the US Fish & Wildlife Service. Forest Conservation
24 Council had done a Freedom of Information Act request
25 to use the Fish & Wildlife Service on December 15, and

1 we haven't heard anything back, but anyway, when I
2 talked to Richard Slepp, basically just saying, "Look,
3 you know, we've requested this information and we haven't
4 gotten anything. We have statements from Margaret
5 Planner (phonetic) from the US Fish & Wildlife Service
6 saying that the state should presume a take if it
7 harvests and suitable habitat, unless there's additional
8 information to prove otherwise, but we can't get any
9 additional information, so you know, what can we do?
10 I'm basically going to have to quit working on this
11 issue, 'cause I've got lots of other things that I need
12 to work on. Well, he basically told me at that point
13 that one of the sales in the Elliott, the
14 (unintelligible) timber sale, had a survey card, was one
15 of the things we requested in the Freedom of Information
16 Act request, that indicated that there were birds calling
17 from within the harvest unit. It seems to me, I mean,
18 the statement you get from Margaret Planner, that this
19 would be additional information that if it doesn't prove
20 otherwise, it proves that you probably would be more
21 likely to be involved in a take on this sale. I
22 after that point called the District Office, or the
23 timber sale administrator for Coos County and asked about
24 the sale, well, it turns out that 60 percent of the
25 sale has been clear cut since the listing, because the

1 state has been unwilling to provide any protection for
2 the sale. It's disturbing on the part of the Forest
3 Conservation Council that these sales, which are suitable
4 habitat within a 120 acres of activity center,
5 specifically (unintelligible) sale, we have indications
6 from the US Fish & Wildlife scientists or
7 (unintelligible) scientists, I'm not sure who did the
8 survey, that they're actually calling from inside the --
9 or sounds from inside the harvest unit, and Rich Slepp,
10 specialist of the Marbled Murrelet, told me that the
11 Marbled Murrelet are a very colonial species and if you
12 hear a bird calling, it's a very strong indication that
13 the nest site is coming from where the sounds are, and
14 that the sounds were coming from within the harvest
15 unit. It seems pretty clear to me even beyond the
16 statements of the US Fish & Wildlife Service that this
17 would be involving the take. I just would like to
18 bring this to your attention.
19 **GOVERNOR BARBARA ROBERTS:** I appreciate you
20 doing that. I hope that you will, first of all,
21 before you leave today, sign up here so we have a name
22 and address so we can get a hold of you. And if you
23 would take a few minutes after the meeting to check
24 with Gus and see what, you know, where we are on this,
25 and as it relates to the Land Board. The care with

1 which we moved on those sales, I would not want to
2 have any difficulty. But if you would take a few
3 minutes afterwards to meet with Gus, that would be
4 (unintelligible).
5 **MARK WISBROCK:** Right. And I just one other
6 brief point; when I checked on where the location of
7 the sale was, it's inside one of the interim reserve
8 areas, or the two interim reserve areas. I think it's
9 a little bit misleading about the interim reserve areas.
10 I mean, there's three -- there's four Marbled Murrelet
11 sites, and the (unintelligible) protecting those sites,
12 all three of the sales are within 120 acres of the
13 activity center are inside your interim reserve area.
14 You're allowing the harvest of sales already planned to
15 continue within those IRAS I think that is
16 a very misleading document.
17 **GOVERNOR BARBARA ROBERTS:** Thank you very much.
18 Anything further? Okay, Jim.
19 **STATE TREASURER JIM HILL:** Madame Chair, I move
20 we adjourn.
21 **SECRETARY OF STATE PHIL KEISLING:** Second.
22 **GOVERNOR BARBARA ROBERTS:** So moved and seconded
23 that we adjourn. Those in favor will signify by
24 saying, "Aye." Aye.
25 **SECRETARY OF STATE PHIL KEISLING:** Aye.

1 STATE TREASURER JIM HILL: Aye.

2 GOVERNOR BARBARA ROBERTS: And we are adjourned.

3 Thank you for being in attendance.

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CERTIFICATE

I, Debra S. Jennings, hereby certify that I am a transcribing machine operator and I prepared from a mechanical recording the aforegoing typewritten transcript of the State Land Board Meeting, the time and place set forth in the caption hereof; and that the foregoing pages, which are numbered 1 through 71, both inclusive, contain a full, true and correct record of all oral proceedings had upon the said meeting;

WITNESS my hand as transcribing machine operator this 22nd day of January 1993.

Debra S. Jennings/ckt

Transcribing Machine Operator

Proofreader/Editor: DSJ/SR/dsj