
STATE LAND BOARD MEETING

June 8, 1993

State Lands Building

775 Summer Street NE, Salem, Oregon

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1 **GOVERNOR BARBARA ROBERTS:** Okay. I think we're about
2 ready to begin. I just thought I ought to say, Gus, today in
3 our monthly evaluation of the coffee, much improved. Now, this
4 is going to be a monthly agenda item. We're going to go up,
5 down, you know someplace on the coffee, but anyway, it's
6 stronger and it's very nice and we like it. Thank you very
7 much.

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1 AGENDA ITEM NO. 1

2 **GOVERNOR BARBARA ROBERTS:** Okay. Number 1 is request
3 for approval of a short-term agenda for the State Land Board and
4 the Division of State Lands. Gus, would you like to take that
5 item?

6 **DIRECTOR GARY GUSTAFSON:** Good morning, Governor,
7 members of the Board. Last month, as you may recall, we
8 discussed this item, and what it is again, is a short-term
9 agenda over the next four years or so for the Land Board and the
10 Division of State Lands. We decided that it would be certainly
11 appropriate and in concert with our efforts to increase public
12 involvement to go out and solicit public involvement on the
13 short-term agenda.

14 After the last Land Board meeting, we did that. We
15 sent out the list of objectives that would constitute the short-
16 term agenda, and we solicited public comment. We asked folks to
17 get back to us by the 1st of June. At that time, I believe, we
18 had 11 responses, and since then, we have several additional,
19 and I'd just very briefly like to read off the list, both to
20 acknowledge those people who submitted comments and also, in
21 your packet, you may have read through them, and you can note
22 where you'd like, there may be some questions in response to any
23 of those comments.

24 We received responses from Dolan Communications;
25 DOGAMI; Peg Regan, Curry County Commissioner; Ralph Blanchard,

1 Polk County Commissioner; Mike Thorne of the Port of Portland;
2 Rocky McVay, Curry County Commissioner; Cecil Edwards,
3 Legislative historian, which is a very interesting letter;
4 Michael Borreson from Washington County; the Oregon Forest
5 Industries Council, Greg Miller; Rick Fanning, who was the prior
6 kelp lessee down on the south Oregon coast; Martha Pagel from
7 the Water Resources Department; Liz Frenkel, the Sierra Club;
8 Russell Hursh, Malheur County Judge; and in addition, over the
9 last day or so, I've received four additional comments,
10 Representative Tony Fetarichi (phonetic) from District 1,
11 Clatsop and Columbia Counties; also Avis Rana, R-A-N-A; Jim
12 Myron; and Douglas County Board of Commissioners. And I believe
13 copies of the last four should have been distributed to you this
14 morning.

15 Again, some valuable input from a number of these
16 comments, and what I've done is tried to integrate in several
17 places those comments, to make sure that we address some
18 concerns and suggestions that the individuals or organizations
19 have given us.

20 In addition, I have added two additional objectives to
21 the list. That makes, I believe, a total of 18 now. They are
22 number 5, which is perhaps so obvious that we just didn't list
23 it last time, and we figured we'd correct that and make sure it
24 was in here, and that is the completion of the Elliott State
25 Forest long-range management plan. And then the other one that

1 was added is number 17, objective 17, making sure that our
2 removal, fill, education, and enforcement efforts are properly
3 emphasized. And again, that's a statutory directive anyway, but
4 it is certainly worthy of additional interest and perspective.

5 I'd have to say that in looking through all of the
6 comments, probably the majority of them dealt with, oh, three or
7 four specific topics. Public input was important, certainly, to
8 a lot of the commenters. The asset and management plan was
9 commented on by a number of people, and I think, by and large,
10 people are appreciative of that approach, and feel that it's
11 probably long overdue.

12 Revisions to ORS 273 and 274 attracted a fair amount
13 of interest, people interested in what we're going to do and
14 also, in many cases, recognizing that statutes that we have to
15 deal with are somewhat disoriented and need to be changed.
16 Watershed enhancement, something recognized as important,
17 another topic, and then various comments on many of the other
18 individual objectives.

19 I also added, in Appendix A, a graph to give you a
20 visual depiction of how all of this would be addressed over the
21 next four years. Obviously, it would be appropriate, I believe,
22 at least on an annual basis, to go back and look at this list
23 and see what we want to do in terms of updates and revisions and
24 hopefully, if we're on target here, we're going to be knocking
25 off some of these things and moving on to new objectives. And

1 it's guaranteed that a year from now, I'll have a bunch of new
2 burning issues that will attract our attention that we'll have
3 to deal with.

4 Also, we don't want anybody to misunderstand any of
5 these that end. Some of them had ongoing responsibilities. For
6 instance, internal policies. We're always going to have
7 internal policies and that will extend on and the fact that it's
8 listed as ending in 1996 was only reflective of the fact that
9 we've got a lot of policy needs that need to be brought onto
10 paper and brought current. But it doesn't mean that that's the
11 last time we'll ever adopt policies, obviously. So we'll
12 probably amend that.

13 But given this, there may be some folks here who want
14 to speak to this issue, and I'm available, as are staff here, to
15 answer any questions that we have, and the Division recommends
16 adoption of this agenda item.

17 **GOVERNOR BARBARA ROBERTS:** Okay. Comments from either
18 of the members of the Board? No? I've got two people who've
19 signed up who'd like to make comment on the short-term agenda.
20 Les Helgeson from Friends of the Nestucca? It might be useful,
21 Les, once you've identified yourself, if you'll let us know
22 which one of the agenda items, if there are specific ones, which
23 one of the list of the agenda that we're talking about, the
24 short-term agenda that you specifically want to comment on.

25 **LES HELGESON:** Okay. I have some copies of my

1 comments here. Good morning. My name is Les Helgeson, I'm here
2 today representing Friends of the Nestucca and the Nestucca
3 Grange. And I'd like to offer comments on the short-term agenda
4 for the Division and State Land Board.

5 We are generally supportive of the primary short-term
6 agenda of the Land Board, particularly those items which pertain
7 to the Common School Fund. The Division's intent to concentrate
8 additional resources on watershed enhancement protection efforts
9 is also a noteworthy goal. It would be desirable for the Board
10 to set up a working group to be in discussion on amendments to
11 ORS Chapters 273 and 274.

12 But I would like to express some concerns regarding
13 the Division's intent to advance, and I underscore advance, the
14 State's navigability ownership interests. Although I'm not
15 aware of the details of the Chetco River case mentioned in the
16 agenda here, it would be a more desirable goal to generally
17 clarify the extremely complex navigability issue as opposed to
18 necessarily advancing the state's ownership. In fact, there are
19 many cases where the advancement of the state's ownership claim
20 could result in adverse human impacts which would degrade or
21 otherwise compromise habitat for fisheries and other important
22 natural functions.

23 I've indicated goal 15 here, and I realize these have
24 changed on the new agenda. And of course, in cases where severe
25 natural resource degradation is presently occurring, it might be

1 in the state's best interests to assume an ownership role,
2 particularly when the Common School Fund would directly benefit.

3 An additional issue of considerable importance
4 regarding the state's assertion of navigability is the impact on
5 local property tax revenues. As you know, local property taxes
6 are an important source of revenue for our public schools. By
7 removing lands from existing local tax roles, we are removing
8 revenues from our local school districts. This situation could
9 be a problem in cases where the state's ownership assertion is
10 not accompanied by the benefits of the Common School Fund.
11 Compounding this situation further is the well-known fact that
12 Ballot Measure 5, along with the current budget crisis is
13 causing substantial impacts to our school funding.

14 This is, therefore, not the time for the state to
15 necessarily be advancing its interests as Goal 10 apparently
16 purports to do. Just as we cannot necessarily harvest an ever-
17 increasing amount of timber from our forests, we cannot expect
18 to meet the public's unlimited demand for recreational
19 opportunities. On behalf of our children, who depend on the
20 Common School Fund and local property taxes for an education, we
21 are recommending that the Board amend Goal 10 to reflect the
22 clarification and resolution of the exceptionally complex
23 navigability issue, which is deeply rooted in common law and
24 tradition.

25 Thank you for the opportunity to comment in this

1 important matter.

2 **GOVERNOR BARBARA ROBERTS:** Thank you. Are there
3 questions or comments from members of the Board? If not, thank
4 you very much, Les. We appreciate your appearing. Liz Frenkel,
5 Sierra Club?

6 **LIZ FRENKEL:** Liz Frenkel, Oregon Chapter Sierra Club.
7 I can't simply pick out the particular items for your agenda.
8 I have a generic -- you've all been given a copy of what we have
9 sent in. I want to encapsulate in a general sort of way our
10 concern.

11 First of all, we do think, yes, management plans tend
12 to produce better natural resource goals -- it forwards your
13 process towards good goals. We are concerned and have said this
14 before, we'll say it again, that policies are one thing.
15 Implementing rules are another. And policies sort of evolve and
16 come about on a general piece of paper. When you deal with
17 implementing rules, that is a known quantifiable public input
18 process. Folks know how to do it, it is dull and boring and
19 lots of folks don't want to do it. But it is a known process.

20 When you don't have rules on deck, not only have you
21 not gone through the full public process, that's a known
22 process, at the end of the rulemaking process, you have a
23 litigable standard against which an agency can be held
24 accountable. That is if an agency doesn't follow its own rules,
25 then we have a way of dealing with that outside of just going

1 and saying, "Gee, we're not sure that this is quite the way the
2 policy ought to go," then we get told by very nice people and
3 very gracious people, "We're doing the best we can." We go home
4 very unsatisfied, very unhappy. There doesn't seem to be any
5 way we can assure that kind of accountability that we're looking
6 for.

7 So when we're looking at this process and your
8 development, for example, of the assets management plan, which
9 is really the kernel of this process here, we hope -- we want to
10 be involved in a development of the policy. We equally want to
11 be involved in the development of the rules, which are, after
12 all, going to be the real yardstick that we can use as members
13 of the public. So I hope we keep rulemaking tied to policy, we
14 don't get the two separated. I think they have to come
15 together. One simply must follow the other. It is the
16 implementation of policy.

17 I guess that's all I've got to say, and I'd sure
18 appreciate any of your comments as to a point of view, which I
19 gather may not always be a very popular one, but it certainly is
20 at the core of accountability.

21 **GOVERNOR BARBARA ROBERTS:** Questions? Phil? I'm just
22 asking a question. Anne and I were just discussing what I was
23 contemplating, where we go back around, sometimes useful to me
24 in these discussions, but one of the things, I think, Liz, is
25 that we usually think of rules being attached to new law, where

1 law goes into place, new rules go into place, and I don't think
2 we have any intention of avoiding rules where they certainly
3 apply to those very appropriate roles.

4 I think we were dealing more in part of this with
5 trying to set a management tone for the agency about what our
6 priorities were and the order in which we're going to do them
7 and setting some kind of a public framework for doing them,
8 rather than sort of the behind-the-scenes framework that we
9 often operate with when we manage. Now that really doesn't fall
10 into so much the law as it does just the management priorities
11 of the agency, and I don't think there was any intention to put
12 rulemaking in place where it applies to segments of the law,
13 which this Board and this agency administer. I don't think
14 there was any intention on our part to do that.

15 Liz, let me ask you a question. Are there places
16 where you think that's occurring now that's not just management
17 but really application of the--

18 **LIZ FRENKEL:** Do understand that the public tends to
19 be paranoid, and so there's always that aspect.

20 **GOVERNOR BARBARA ROBERTS:** There's no accounting for
21 paranoia, though.

22 **LIZ FRENKEL:** No. On the other hand, let's deal with,
23 for example, grazing. You have a grazing policy, and the
24 grazing policy -- I recognize some things are going to have to
25 be -- you're going to have to have a better touch tone for how

1 you deal with that, and one of those is going to be fees. I
2 think there probably are other areas in which you need more
3 concrete rules. I think you'll benefit and the public will
4 benefit. That process, I realize, has been put off till the end
5 of the legislative session, which I can understand, but our
6 concern is when a policy is established, we want to immediately
7 begin to see what that means on the ground, how you're going to
8 deal with it on the ground.

9 It's like any kind of plan. The goal, the objective,
10 ultimately, you're going to have to come down to what is that
11 going to mean, and to whom. And I might have one view, a lessor
12 might have another view, a river user might have another view.
13 That has to be sorted out. One of the ways you do that is
14 through rules, and I recognize that rulemaking obviously is the
15 tool for statute implementation, but I think it also is for a
16 lot of policy.

17 **GOVERNOR BARBARA ROBERTS:** Phil?

18 **SECRETARY OF STATE PHIL KEISLING:** Madam Chair. One
19 of the things that kind of comes to mind in reference to this is
20 that we've had cases certainly recently where issues that have
21 been flagged that have come to us from a management point first,
22 and then we have gone to policy and gone to rule. I think a
23 good example of that is the issue having to do with recreational
24 mining on state-designated scenic waterways. That's an example
25 of something that it percolated the surface because, you know,

1 some decisions were made, we kind of stepped back and recognized
2 that there was a need not only to set policy, but to then go
3 into the rulemaking step (phonetic). So there've been cases
4 where we have certainly been moving in that direction. But I
5 think that--

6 **LIZ FRENKEL:** Yes, I'm not pointing big fingers here,
7 I'm just simply saying this is a concern of ours when we start
8 looking at any kind of management plan.

9 **SECRETARY OF STATE PHIL KEISLING:** Sure. Sure.

10 **LIZ FRENKEL:** And most of our -- for example, how you
11 inventory is going to be of great interest to us, because you
12 can inventory by modeling, you can inventory on the ground, you
13 can -- however you design your plan for how you inventory your
14 lands, for example, can in many ways -- is going to make a
15 difference as to what you come out with final results with
16 your -- what's at the end. We'd like to be involved in that.
17 These are -- I guess our concern is that this is becoming a more
18 quantifiable process, and that's great. But we're just not
19 quite sure what the touch tones are along the way, that we're
20 going to be able to say, "Hey, you said you'd do this, but this
21 is happening." We're very trusting, and we do come, and that's
22 why we use these public forums for just these kinds of
23 statements.

24 **GOVERNOR BARBARA ROBERTS:** I would think, as I think
25 about this, Liz, that a public policy adopted by this Board, I

1 would think would have almo -- I'm no lawyer, but I would think
2 would have almost the legal framework that a rule does in terms
3 of avoiding that policy or operating contrary to that policy.
4 I don't know whether that's the case, but I think it would be
5 almost impossible to create a rulemaking process for everything
6 we do in managing our assets. I think it would be remarkably
7 cumbersome and not necessarily productive in the management of
8 those assets, so I think the difference between the kind of
9 things that Phil just mentioned, which is clearly one of
10 those -- some things that we do in other areas where rulemaking
11 like in fill and removal (phonetic) a number of places where
12 it's absolutely appropriate, but I'm not sure that you could put
13 a rule in place for inventory. I mean, that would be very
14 difficult.

15 **LIZ FRENKEL:** I didn't say a place for--

16 **GOVERNOR BARBARA ROBERTS:** Yeah. Okay.

17 **LIZ FRENKEL:** --inventory or that focus. That really
18 isn't precisely implementation.

19 **GOVERNOR BARBARA ROBERTS:** Yeah.

20 **LIZ FRENKEL:** But I'm just pointing out the way in
21 which we look at this is how can we make it, what is our input?
22 Do we just -- I mean, we've dealt with some federal agencies
23 where we spend a lot of time talking, and absolutely nothing
24 happens.

25 **GOVERNOR BARBARA ROBERTS:** We can't account for that.

1 We are not responsible for federal agencies.

2 **LIZ FRENKEL:** Quite. But I don't want to see the
3 state following that procedural path.

4 **GOVERNOR BARBARA ROBERTS:** Well, we appreciate that,
5 and I think our intention on this Board has always been, and in
6 this case, is an intent to expand the input rather than narrow
7 the input of citizens, and that's the reason as we work through
8 the design of this that the number one item became enhancing
9 public input. It was about five or six, and I said, "Move it to
10 the front. That's where it really belongs." And so we continue
11 to hope that that's the kind of input.

12 It's nice to have you commenting today as you sit so
13 patiently through our meetings, meeting after meeting, that we
14 don't get to hear from you often and we appreciate--

15 **LIZ FRENKEL:** Well, today we have three other people
16 here, and each one has a separate interest, so it's an
17 interesting agenda in that all of these items are kind of coming
18 to the fore in terms of how we plan, how this Board acts and
19 responds, so I'm delighted that at this point, the club is
20 really not just me, but--

21 **GOVERNOR BARBARA ROBERTS:** Others.

22 **LIZ FRENKEL:** --a bunch of people.

23 **GOVERNOR BARBARA ROBERTS:** And we appreciate, as
24 always, your input, and your letter was very useful. We took it
25 to heart and applied it in some places where you'll see some

1 revisions in the original policy.

2 **LIZ FRENKEL:** I know there's a couple.

3 **GOVERNOR BARBARA ROBERTS:** Yes. Thank you very much.

4 **LIZ FRENKEL:** Thank you.

5 **GOVERNOR BARBARA ROBERTS:** Is there anyone else who
6 wants to comment on this agenda item before there is potential
7 action taken on it? Okay. If not, is there a motion on the
8 part of the Board?

9 **SECRETARY OF STATE PHIL KEISLING:** Okay. Madam Chair,
10 I'll move adoption of the short-term agenda under -- of your
11 item 1.

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

13 **GOVERNOR BARBARA ROBERTS:** You've heard the motion and
14 the second. Is there further discussion?

15 **SECRETARY OF STATE PHIL KEISLING:** I would just like
16 to say that obviously, this is an evolving process. It's, I
17 think, a real step forward in how we go about doing our
18 business. I'd like to encourage people to continue to comment
19 upon it, because it is going to be revised as we go along, and
20 I think it is key to have that periodic review process, where,
21 in effect, we check back in with how we're doing on each of
22 these items. And I want to encourage everyone who's interested,
23 to assist us as Land Board members to do a good job with that
24 kind of evaluation. But I think it's a real step forward.

25 **GOVERNOR BARBARA ROBERTS:** Fine.

1 **STATE TREASURER JIM HILL:** Madam Chair, I would just
2 like to say that I appreciate this short-term agenda being put
3 forward, because it does give some notice to people as to how
4 we're proceeding, and so I think it, at least partially, goes
5 towards Ms. Frenkel's concern. Thank you.

6 **GOVERNOR BARBARA ROBERTS:** Yeah?

7 **SECRETARY OF STATE PHIL KEISLING:** Madam Chair, I also
8 want to last address a very specific issue on navigability, and
9 ask -- I think, specifically, that a word "advance" be somehow
10 changed to "clarify and resolve." This is one of those issues
11 that I think, when you read the context of the item that talks
12 about a strategy, to say that in effect, where we have ownership
13 claims is where we want to advance where we have them. I think
14 implicit in that is a notion of resolution and clarification.

15 It's probably not the time to discuss it here. I'd be
16 happy to visit with anybody here who's interested in my own take
17 on this. But I think this is something that we have to be
18 careful and strategic about and work with people at the local
19 level to, essentially, strike that balance. Because where we've
20 got an ownership interest, and I think this is often not
21 understood, where we have an ownership interest, this Land Board
22 is vulnerable to a court suit if we fail to assert it. I think
23 there's a sense that somehow, this is a policy choice, that
24 we're choosing to, in a sense, push this in a direction that we
25 could either do it or not do it.

1 And this, which has its roots back in medieval
2 England, much less 18th century colonial America about
3 navigability, and in light of some recent court decisions at the
4 federal level, puts us as a Land Board, at risk for failing to
5 assert what is indeed an ownership interest. So as we implement
6 this, there's going to be a lot of -- we have to do it with
7 great care and communicate, and I think learn some lessons in
8 past instances where we've not always hit everything exactly as
9 we should.

10 But I understand your concerns and recognize them, but
11 I think that the language here, particularly the text, in effect
12 incorporates that distinction there.

13 **GOVERNOR BARBARA ROBERTS:** Yeah. I think you're
14 making an important point, Phil. Having spent some time in the
15 early part of my Land Board years in dealing with navigability
16 at a time when we are newly reinvolved in it as we should have
17 been, I think the issue of not only needing to do it, but having
18 to do it, it was important, and the recognition that we, as
19 three constitutional officers on this Land Board, represented
20 the people of this state and their ownership, if you will, of
21 those navigable streams and rivers, and I think that this
22 represents, as a policy item in this agenda, that ongoing
23 recognition of our obligation, not always even the want, but the
24 have-to, which is appropriate as we represent, I think, the
25 people of the state, so that remains that kind of an item, I

1 believe.

2 Any other discussion on the item? I just would say
3 one more thing. I think of this as a living document, and I
4 think Phil said it earlier, and as Gus did, that you know, there
5 will be ongoing evaluation of this, and I think that it's
6 important we set a framework for working for this Board and the
7 Division, and that we recognize that there will be items added,
8 and maybe items that will actually be completed and we should
9 think of it even though we're talking about something around
10 four years that really is, in fact, a living document, since we
11 represent a lot of living things like trees and streams and
12 animals and other things in the process of managing this, so I
13 hope we'll think of it in that way.

14 You've heard the motion and the second. All those in
15 favor will signify by saying "Aye."

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

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

18 **GOVERNOR BARBARA ROBERTS:** Aye. Those opposed, "Nay."

19 The motion has passed.
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1 AGENDA ITEM NO. 2

2 **GOVERNOR BARBARA ROBERTS:** We're at Item Number 2,
3 which is the request for the State Land Board to authorize and
4 amend the Division's rules relating to wetlands. Gus?

5 **DIRECTOR GARY GUSTAFSON:** Over the last several years,
6 the concept of identifying jurisdictional wetlands for
7 development and other activities, has been, to say the least,
8 very contentious across the United States, and no less here in
9 Oregon as well. And what we have is a request to allow us to
10 move ahead to amend our existing rules that deal with
11 identification of wetlands, and at the present time, we, in our
12 rules, reference the 1989 federal manual. That's actually known
13 as the federal manual for identifying and delineating
14 jurisdictional wetlands.

15 The federal agencies have evolved to utilize a
16 different manual, rather than the 1989 manual, and that manual
17 is the 1987 manual. And you have to be a soil scientist of some
18 notoriety to detect all the differences, but there are
19 differences. Some of those are subtle, but the federal agencies
20 have now evolved to embrace the 1987 manual rather than the '89
21 manual.

22 But perhaps more importantly is that, as I mentioned,
23 this is an evolving process, and even Congress has recognized
24 this because they have asked that the National Academy of
25 Sciences take yet another fresh approach for the identification

1 of wetlands in the United States.

2 And the National Academy of Science study is now under
3 way. The Division of State Lands is, in fact, providing some
4 input into that in an advisory capacity through our wetlands
5 program. It's not yet clear when the National Academy of
6 Science study will be finished. It may take more than a year to
7 be completed. But when it is, I think we're going to be faced
8 with yet a new approach, a consistent approach, hopefully, this
9 time where all the federal and state agencies can get together
10 with a nationally recognized approach and basically lock arms
11 and proceed.

12 In order to give us the flexibility that we need at
13 the state level, we felt that it was appropriate to amend our
14 existing standards in rules to delete the reference that we now
15 have to the '89 manual. Basically to allow us, rather than to
16 lock us into one particular manual, to allow us to proceed with
17 whatever standards are most appropriate for the State of Oregon.
18 So that's the first part of this rulemaking change.

19 The second change is, again, rather technical in
20 nature, but it involves deleting the buffer mapping and planned
21 designations from our Wetland Conservation Plan inventories, and
22 the reason for that is they are not solely an inventory
23 requirement, but rather that of planning. The requirement to do
24 these is still going to be there, but it's not going to be in
25 the inventory section. Again, these amendments would also

1 clarify that wetland boundaries must be surveyed before actual
2 development takes place and would help avoid confusion over how
3 to address wetland mosaics in that inventory.

4 Now, hopefully, I haven't confused you too much about
5 this. This is something that my wetland technical people tell
6 me is actually something that they've learned through the
7 process of applying these inventories and will help us move
8 forward.

9 **GOVERNOR BARBARA ROBERTS:** Phil?

10 **SECRETARY OF STATE PHIL KEISLING:** Yeah. Gus, just so
11 I understand particularly the first change. It's, you know, now
12 July of 1993, we've adopted this and somebody calls you up and
13 says, "I own some land. I'm thinking about going ahead and
14 developing it, but I'm not sure whether I've got wetlands on it.
15 What can you send me to tell me to help me figure that out, or
16 how will you assist me as an agency to figure that out?" What
17 are you now going to be telling them?

18 **DIRECTOR GARY GUSTAFSON:** What we're going to do is
19 tell them depending upon what they want to do and the nature of
20 the activity, we'll first of all, identify the permitting
21 responsibilities and the agencies involved in that. And very
22 likely, that's going to be ourselves and probably the Army Corps
23 of Engineers, depending upon the size and the nature of the
24 operation.

25 We're also going to reference them to the current

1 federal delineation standards, which are the '87 manual, because
2 if the Corps is involved, they're going to be using that, as is
3 the EPA now, as the result of a recent change.

4 **SECRETARY OF STATE PHIL KEISLING:** Okay. So if the
5 Corps isn't involved or the EPA, if it's just the state
6 involvement, we're going to -- and they say, "Well, what's the
7 manual to help me determine what kind of -- I'm just interested
8 in myself, it's kind of a do-it-yourself, send me the kit."
9 You're going to now send the '87 manual to them?

10 **DIRECTOR GARY GUSTAFSON:** Well, at the present time,
11 under our rules, we would have to reference them to the '89
12 manual.

13 **SECRETARY OF STATE PHIL KEISLING:** Right.

14 **DIRECTOR GARY GUSTAFSON:** With the rule change, then
15 we could reference them to the '87 manual.

16 **GOVERNOR BARBARA ROBERTS:** Or to both?

17 **DIRECTOR GARY GUSTAFSON:** Yeah, or to both.
18 Whatever--

19 **GOVERNOR BARBARA ROBERTS:** Because this doesn't
20 specify one or the other, isn't that correct?

21 **DIRECTOR GARY GUSTAFSON:** That's correct. Whatever we
22 felt would be most appropriate for our circumstances.

23 **SECRETARY OF STATE PHIL KEISLING:** Okay. So the
24 trade-off is that it obviously interjects a little bit more --
25 it interjects more, in a sense, discretion for us, possibly some

1 ambiguity for them, but the thinking is that that's better than
2 the situation right now, where we're kind of locked into a
3 manual that, in effect, could be irrelevant as far as the
4 federal determinations are involved. And most of these
5 instances are going to involve both agencies.

6 **DIRECTOR GARY GUSTAFSON:** Yeah. First--

7 **SECRETARY OF STATE PHIL KEISLING:** So in an effort to
8 get the two in more sync, although obviously not in complete
9 sync guaranteed all the time.

10 **DIRECTOR GARY GUSTAFSON:** Yeah. I think the history
11 of this program has been such that Oregon does what's right for
12 Oregon, first and foremost, but having said that, we also
13 recognize that we really need to be consistent with our federal
14 agencies that are involved in a good many things that are
15 ongoing. So we try to provide for that degree of consistency.
16 And that's why we're very hopeful that eventually, we will get
17 a process in place, that everybody is going to be lock, step,
18 and use, and that'll be the result of the National Academy of
19 Science's study. In the meantime, we'll hopefully through this
20 process, eliminate the direct reliance in every case on the '89
21 manual, and give us the flexibility to use whatever approach we
22 feel is appropriate. It may be the '89, it could be the '87
23 manual, it could be, hopefully, a new approach, which we can
24 embrace in the near future.

25 **GOVERNOR BARBARA ROBERTS:** Do you have any questions?

1 Is there a motion on item 2?

2 **STATE TREASURER JIM HILL:** Madam Chair, I'd move that
3 we authorize the Division to amend the administrative rules
4 relating to wetland inventories.

5 **SECRETARY OF STATE PHIL KEISLING:** Second.

6 **GOVERNOR BARBARA ROBERTS:** You've heard the motion and
7 second. Is there further discussion? If not, those in favor
8 will signify by saying "Aye."

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

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

11 **GOVERNOR BARBARA ROBERTS:** As opposed, "Nay." Motion
12 is carried.

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1 and that is to fill all the cells with representative samples
2 across the State of Oregon.

3 We're about halfway there, so I think yes, indeed, you
4 will see additional nominations in the future. Whether they'll
5 be nine at a time, we'll have to see if that's the way it works
6 out. But at this point, we do have nine new nominations. The
7 landowners have concurred in those nominations. I think they're
8 appropriate to what the Natural Heritage Resource Base is all
9 about and we recommend that they be added.

10 **GOVERNOR BARBARA ROBERTS:** Is there discussion or a
11 motion?

12 **SECRETARY OF STATE PHIL KEISLING:** Madam Chair, I'll
13 move adoption of Agenda Item 3, adding the nine additional sites
14 to the Oregon Register of Natural Heritage Resources.

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

16 **GOVERNOR BARBARA ROBERTS:** You've heard the motion and
17 the second. Is there a discussion? Hearing none, those in
18 favor will signify by saying "Aye."

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

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

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

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1 AGENDA ITEM NO. 4

2 **GOVERNOR BARBARA ROBERTS:** A very short agenda item,
3 number 4, for the approval of the May 11 minutes.

4 **STATE TREASURER JIM HILL:** I move approval of the
5 May 11 minutes.

6 **GOVERNOR BARBARA ROBERTS:** It was your turn, yes.

7 **SECRETARY OF STATE PHIL KEISLING:** My turn to second?

8 **GOVERNOR BARBARA ROBERTS:** Yes, absolutely. That was
9 a second, was it not?

10 **SECRETARY OF STATE PHIL KEISLING:** Second.

11 **GOVERNOR BARBARA ROBERTS:** Okay. Those in favor of
12 the approval of minutes will signify by saying "Aye."

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

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

15 **GOVERNOR BARBARA ROBERTS:** Aye. Motion's passed.
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1 AGENDA ITEM NO. 5

2 **GOVERNOR BARBARA ROBERTS:** Now, we have several
3 informational items. I see Representative Dominy is here. I'm
4 trying to think if we -- how's your schedule, Sam?

5 **REPRESENTATIVE SAM DOMINY:** I'll be all right.

6 **GOVERNOR BARBARA ROBERTS:** Okay.

7 **REPRESENTATIVE SAM DOMINY:** I'm listening until--

8 **GOVERNOR BARBARA ROBERTS:** Okay. I just want to make
9 sure that we're not taking you away from vital activities, so if
10 you get short on schedule, let us know, and we'll take our
11 agenda a little out of order. Informational item number 5, on
12 the Dammasch property planning efforts.

13 **DIRECTOR GARY GUSTAFSON:** Governor, I'd like to ask
14 John Lilly, my staff to come up and join me for this item. And
15 while John is stepping forward, just to set the stage, as you
16 recall, about three months ago, this Board authorized the
17 purchase of, as we call it, the Dammasch surplus property
18 outside Wilsonville. And we were also asked at that time to
19 come back in three months and give you an update on our progress
20 to develop a site-specific management plan for that property.
21 So it is, indeed, three months later, and here we are.

22 I'd like to have John give you a short briefing as to
23 the progress of that planning effort. John is leading the
24 planning effort, and then remain available for questions. John?

25 **GOVERNOR BARBARA ROBERTS:** John?

1 **JOHN LILLY:** Thank you, Gus. Good morning. Probably
2 the biggest thing that's happened over the last few weeks in
3 connection with this project is we held a public workshop on
4 April 29 at the Dammasch State Hospital. That was an evening
5 meeting. We had about 30 to 35 people show up, and you have, in
6 your packet, a list of those who attended, as well as a summary
7 of the meeting, and what we told to the folks.

8 The purpose of the meeting was to kind of try to begin
9 a dialogue with the people in the community and anyone else who
10 was interested in what we're doing with the project. We laid
11 out our planning process for them, and we spent a lot of time in
12 questions and answers trying to kind of clear the air, so to
13 speak.

14 One of the key things we did was we wanted to hear
15 from those who attended what they felt our options were for the
16 property. And by and large, the crowd that was there told us
17 that they liked the property in its current condition, and I
18 don't think that's too surprising to those of us who have been
19 involved in this project for a while. They supported the
20 current farm use on the property. They recognize that the site
21 is outside of the current urban growth boundary in Wilsonville,
22 which provides some protections from change in the current land
23 use, but on the other hand, they recognize also that there are
24 urban pressures moving in that direction.

25 Our next step is to conduct some more in-depth

1 inventories of the property. We have retained the Natural
2 Heritage data base to take a look at threatened and endangered
3 species on the site to determine if there are any there. That
4 is the first step.

5 We're also in the process now of developing a contract
6 to retain an archeological team to do an archeological
7 reconnaissance of the site and see if there's anything that we
8 need to be concerned about from that resource aspect.

9 In addition, we're in contact with the people at
10 Clackamas County Planning Department, the City of Wilsonville,
11 a number of groups in the area, and we'll be making contact with
12 realtors and commercially-oriented folks in the Portland area as
13 a whole to really get a good, broad spectrum of ideas and
14 possibilities for the property.

15 We intend to hold another workshop probably late July,
16 early August, to report back to those who would like to attend
17 about what we have found in our inventories and our contacts at
18 that point, and then kind of draw together a draft plan,
19 circulate that for review, and come back to you with a proposal,
20 probably in the fall.

21 So that's where we stand at this point, and at that,
22 I'd be glad to answer any questions.

23 **GOVERNOR BARBARA ROBERTS:** Okay. Jim? Phil? Well,
24 it's good to hear the update. There was obviously a great deal
25 of input at your hearing and a fairly consistent viewpoint with

1 some variables on it that was interesting. I thought you might
2 get much more variety in the views in that hearing, so it's
3 interesting how fairly consistent, with a couple of exceptions,
4 they were in that. So we appreciate the ongoing work. I know
5 you've done a lot of work on this, John, and we appreciate how
6 it's going and the community input as part of this. It's a
7 valuable asset, and I think we all want to make sure that it's
8 used that way, and this will be our opportunity to see if we can
9 plan to do exactly that. So thank you very much.

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1 AGENDA ITEM NO. 6

2 **GOVERNOR BARBARA ROBERTS:** Item number 6, an update on
3 the Elliott State Forest Plan. Gus?

4 **DIRECTOR GARY GUSTAFSON:** Governor, I'm actually going
5 to turn most of this over to Jill Bowling, from the Department
6 of Forestry, who you all know, because this has become a regular
7 item. What we're trying to do is brief you about every three
8 months on the progress to complete the Elliott State Forest
9 plan.

10 And I just also want to recognize for the record, that
11 I think the Department of Forestry has made considerable
12 progress, and I am very pleased, as I've worked with Jill and
13 her staff and other folks at the Department of Forestry to see
14 this progress. I think it's really been great, so welcome,
15 Jill.

16 **JILL BOWLING:** Thank you, Gus. And for the record, my
17 name is Jill Bowling with the Department of Forestry. Governor
18 Roberts, members of the Land Board, I'm pleased to let you know
19 what's going on with the planning for the Elliott plan. You
20 have a small brief that I prepared for this meeting, and what
21 I'm going to do is walk through that brief and flush it out a
22 little bit more to give you some more details.

23 To start off with, we are on target with the planning
24 process. At this stage, for the technical part of the planning,
25 we're actually in the resource issue analysis phase and we're

1 meeting regularly with state folks to analyze the data that we
2 have at hand and progress the assessment of that work.

3 And in terms of our public involvement, we are now in
4 the second stage of our public involvement, which is informal
5 contacts with interest groups.

6 Overall, the team is working very well together.
7 We've been able to pool together, I think, a very creative and
8 talented group of people consisting largely of resource
9 specialists from the natural resource agencies in the state.
10 We're also getting a lot of help from a lot of other people as
11 well, and we've had a lot of input from our public meetings, so
12 we've got a good team working together.

13 I want to start out just giving you some background on
14 the public involvement part. As I said, Phase 1 of the public
15 involvement, which was briefing and listening, has been
16 completed. We held three public meetings, two down near the
17 Forest in Roseburg, and also in North Bend, a third one in
18 Salem, and we also had a tour of the Elliott, back a few months
19 ago. All of those have been completed and the import from those
20 meetings and the tour have been assessed.

21 We sent out a letter in late March to our distribution
22 list, asking first if they want some informal meetings or
23 briefings with us. We've actually prepared a video of the
24 Elliott Forest, and we have that to either send to groups and
25 we, as group members, team members, are also available to go and

1 meet with anyone who expresses an interest to get some more
2 detailed information from us. Not many groups have taken us up
3 on that request, so we're now in the process of phoning up
4 everyone on our distribution list to see if they'd like a
5 briefing. It's, at this stage, touching base with all members
6 on our distribution list and a little bit of an informal contact
7 to tell them how we're doing and a personal invite to get them
8 to have us come out and brief their groups.

9 We are also planning a public workshop. You'll notice
10 there it says early August. We're actually going to do it in
11 September and what we want to do there is discuss the guiding
12 principles that we've developed for the Forest, and also our
13 management objectives and strategies. It'll be a time when
14 people can come and talk about the general pieces of the plan.

15 I think one thing we've found so far is that many
16 people are used to commenting on plans, and they've got a
17 tangible plan to comment. It's very difficult to give comments
18 when there's nothing there to react to. So this meeting in
19 September will be an opportunity for folks to get a little bit
20 of the writing that we've done, the guiding principles, and our
21 management strategies and objectives. They're not set in
22 concrete at that stage. They'll definitely be documents that
23 we're continuing to work on, and it will be an opportunity to
24 get some input from folks, as we work on them.

25 The public comments that we've received to date have

1 been summarized and they're going to appear as a record in our
2 planning document.

3 The second issue of expectations, our newsletter is at
4 press at the moment, and we're actually starting on page one of
5 the expectations. We've been summarizing the public meeting
6 comments and that summary is there for everyone to read.

7 Two holes that we've found out about during the public
8 comment process, we've tried to plug. The first one was a lot
9 of comments on the social economic impacts and importance of the
10 Forest. And due to the large number of comments on that and the
11 fact that we didn't get a lot of information that we had
12 available in state, we're now working to do some social economic
13 modeling. It's going to be a three-month project, which we're
14 undertaking with members of the Department of Forestry and the
15 state economist, and we'll be looking at impacts of the Forest
16 on local communities, and actually modeling that work.

17 The second hole we saw was in fish habitat. We didn't
18 have a lot of information on the fish habitat in the Forest, so
19 we're now consulting with ODF&W, and they're providing some
20 folks who'll start work later this month to do some in-stream
21 survey work. What we'll be doing is meshing our data on fish
22 availability in the Forest. We'll be meshing that work with the
23 habitat work, and then we'll be looking at opportunities to
24 improve stream quality as a result of that work. So things
25 we'll be looking at are turbidity, stream flows, temperatures,

1 down material in the streams, et cetera.

2 So those are two things that I thought were real
3 useful that came out of the public comments, and we're working
4 now to plug those gaps in our knowledge.

5 In terms of the technical information that we've
6 received, we've analyzed all that we've received to date, and
7 we've done some work to update our inventory on the timber
8 resources. We had folks working throughout the winter on the
9 Elliott, updating the timber inventory there. We have put our
10 data into a GIS format, a geographic information systems format,
11 and we have that format up and running now. We have layers of
12 information for timber, rivers and streams, for roads, for
13 soils, for aspect and slope, for land ownership, and we have our
14 threatened and endangered species also on those layers.

15 We've been using the state GIS Service Center to do
16 this work, but as of last week, we now have a computer within
17 our department so we can do some rudimentary manipulation
18 ourselves. This has been quite a learning curve for us on the
19 GIS and I feel really pleased with the progress, because now we
20 can, in-house, play with some of that data and manipulate it.

21 I think the GIS is real important, because we can
22 produce maps of the resources of the Forest, and so it's a
23 really good communication tool for when we meet with folks and
24 brief them. It also enables us to ask "What if" questions very
25 quickly. "What if we change this on the Forest, what are the

1 implications going to be?" So the GIS is going to enable us to
2 answer those questions clearly and accurately, and I think it's
3 going to be a very useful tool for this whole analysis.

4 We have hired some OSU folk, some students, to do a
5 recreation assessment on the Forest that's going to start
6 shortly, and what they're going to do is spend a couple of
7 months over their summer break, and they'll be looking at
8 recreation opportunities on the Forest, something we haven't
9 looked at very much in the past, and something we think we need
10 to do a bit more work on.

11 In terms of the structure of the plan, we've actually
12 written up background sections on the plan. We're trying to get
13 as much writing done as early on as possible. We have written
14 sections on the history, and we've completed all the resource
15 assessments, the summary work on the resources, like
16 agriculture, recreational resources, wetlands, et cetera, et
17 cetera.

18 We have also done some work on -- we've developed some
19 guiding principles. These are the principles, we've got 13
20 guiding principles, and they're the overriding principles that
21 we'll be using when we develop our strategies and objectives for
22 the Forest.

23 After the guiding principles, there's a hierarchy.
24 We're working on objectives, which are general for each of the
25 resources, and then specific strategies for each of those

1 resources. For example, when it comes to timber, fish, and
2 wildlife, Forestry and Fish and Wildlife Departments are meeting
3 regularly and they're working on some strategies for those
4 resources together. It obviously involves a lot of discussions
5 about threatening endangered species like owls and murrelets.
6 It involves things like looking at different servicultural
7 (phonetic) work on the Forest, thinnings, longer age rotations.

8 At the moment, we're casting very wide and looking at
9 a number of different strategies that we can use on the Forest,
10 and then we're looking at how to mesh those together for a final
11 plan. Again, it's still early days in terms of the assessments
12 for those.

13 The objectives for all the other resources,
14 agricultural, special products, et cetera, et cetera, we have
15 some of those objectives and strategies written up and we're now
16 working with the state agency representatives to ground truth
17 those and review those, the work that we've done on those.

18 One of the guiding principles that we've developed for
19 the Forest concerns addressing biodiversity on the Forest.
20 We're working to get a consultant on board who can review the
21 objectives and strategies that we develop and act as a reality
22 check on those. And we hope to have this person or persons in
23 place by the end of June. And that person will be reviewing the
24 work we do and making sure that we don't miss anything else, or
25 we haven't done some major, major omission somewhere along the

1 line there.

2 We're also bringing in a writing consultant. We went
3 and visited Simpson in California, who've written an HCP
4 recently for owls, are currently writing an HCP for murrelets,
5 and one of the pieces of advice they gave us for HCPs was to get
6 a writing consultant. It greatly speeded up their process.
7 They saw that as being a fairly major piece of getting the
8 project done on time. So we've taken their advice. We've got
9 a writing consultant who can start in the next few weeks, and
10 what she'll be doing is just making sure we have consistency
11 across the products. She'll be helping us in the design as well
12 as the production of the draft work, and she also has naper
13 (phonetic) experience, which is necessary for the habitat
14 conservation plan. The naper is something that we haven't
15 worked with directly for our planning process before, and we
16 just felt we needed a bit of extra help, someone who's been
17 through the process and can get us through the hoops for that.

18 Alluding to the habitat conservation plan, just to go
19 over where we are in terms of structure, what we're doing is
20 lining up three targets. There's the Elliott Management Plan
21 itself, there's a habitat conservation plan for owls and
22 murrelets, and then there's the state conservation plan. The
23 state conservation plan is being written by Oregon Department of
24 Fish and Wildlife, but the folks who are writing that plan are
25 meeting with us very regularly, and so we're insuring some sort

1 of consistency between the product that ODF&W produces and the
2 Elliott plan itself.

3 We're also meeting very regularly with U.S. Fish and
4 Wildlife Service to make sure we're lined up on the habitat
5 conservation plan side of things. It's, again, been a learning
6 curve for us to find out the steps involved in putting that
7 package together. It involves the Habitat Conservation Plan
8 itself and accompanying documentation, including an environment
9 assessment. So we've been working with U.S. Fish and Wildlife
10 Service to get the right process for that.

11 And just, again, as a sideboard here, the Habitat
12 Conservation Plan will allow, basically, for management of the
13 Forest and it will also enable habitat protection for owls and
14 murrelets. We're using that plan for both of those threatened
15 species. And it is going to be the first habitat conservation
16 plan in the state of Oregon.

17 In the latest copy of Expectations which should hit
18 the streets any days now, we said it was just at the printers,
19 we have an article on the Habitat Conservation Plan for the
20 Elliott, where we talk about why we've gone that route, and a
21 little bit about what a habitat conservation plan means.

22 So really, in summary, I'm pleased with how we're
23 going. We're on track in terms of the timetable for getting a
24 draft out by the end of this year, we've been able to mobilize
25 some extremely talented people to work on this project, and

1 they're working very well together as a team. So thank you.

2 **GOVERNOR BARBARA ROBERTS:** Good. Thank you very much,
3 Jill. I just want to say thank you on the part of the Board for
4 keeping a very complex and large job on track. We don't
5 necessarily have the models to follow with everything we're
6 doing, and I think that this is more complex because of that,
7 and it would be complex enough even without that, a lack of a
8 model to follow. And I think you've done a remarkable job of
9 keeping this on track and on time, and I'm pleased about that.

10 Comments from either member of the Board?

11 **SECRETARY OF STATE PHIL KEISLING:** (unintelligible)

12 **GOVERNOR BARBARA ROBERTS:** Yeah, I think we'd second
13 and third that one, Jill, so--

14 **JILL BOWLING:** Thank you very much, Governor.

15 **GOVERNOR BARBARA ROBERTS:** --thank you very, very
16 much.

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1 AGENDA ITEM NO. 7

2 **GOVERNOR BARBARA ROBERTS:** Okay. Item number 7, the
3 marketing forest products from state lands.

4 **DIRECTOR GARY GUSTAFSON:** Actually, Governor, perhaps
5 now is the time to bring Representative Dominy forward.

6 **GOVERNOR BARBARA ROBERTS:** Right. This may have some
7 relationship to this. Sam, are you coming up here to do a
8 commercial? Come on. Welcome.

9 **REPRESENTATIVE SAM DOMINY:** Good morning. For the
10 record, my name is Sam Dominy, State Representative, House
11 District 44. Thank you for taking the opportunity to present an
12 alternative method to logging in the Elliott Forest.

13 Approximately one month ago, I received a copy of a
14 letter to Congressman Bob Smith, addressing the light touch.
15 According to Marvin Filbert (phonetic), regional director of the
16 United States Department of Interior, this logging technique
17 resulted in a successful harvest of 10 million board foot of
18 timber--

19 (T.N. Noise from videotape.)

20 **REPRESENTATIVE SAM DOMINY:** Not yet.

21 **UNIDENTIFIED MALE VOICE:** Sorry about that.

22 **LIZ FRENKEL:** You got our attention.

23 **REPRESENTATIVE SAM DOMINY:** Right on cue or something
24 like that.

25 **GOVERNOR BARBARA ROBERTS:** Looked around to see what

1 was in the room.

2 **SECRETARY OF STATE PHIL KEISLING:** We let the birds
3 in.

4 **GOVERNOR BARBARA ROBERTS:** Yeah, it sounded like it.

5 **REPRESENTATIVE SAM DOMINY:** This logging technique
6 resulted in a successful harvest of 10 million board foot of
7 timber, yet introduced no threat to nesting spotted owls.
8 Aerial logging is not the solution, but it is one of many
9 options that offer an ecology-safe method for timber harvesting.
10 This morning, I had a 10-minute video that explains how the
11 Ashland aerial-logging project was conducted.

12 Additionally, Jim Neal to my left here, and Steve
13 Martin, who is someplace back here, both having a role in the
14 Aerial Forest Management Foundation, and Greg Miller from OFIC
15 will be available to answer questions. And I think Greg had
16 something to say, and then we'll just do the video. I know that
17 time is limited.

18 **GOVERNOR BARBARA ROBERTS:** Yeah, okay.

19 **GREG MILLER:** I appreciate the opportunity, and
20 certainly it fits in with--

21 **GOVERNOR BARBARA ROBERTS:** Would you identify
22 yourself, please?

23 **GREG MILLER:** I'm sorry. For the record, my name is
24 Greg Miller and I'm the director of the State Timber Purchasers
25 Division. I guess the single most important message that I hope

1 you gather from the video that you see is that forestry and
2 wildlife do coexist. And we've heard an explanation and a
3 briefing of the Elliott planning process, and we're very much
4 involved in that, and I think that this video is an example and
5 this discussion about aerial lift, helicopter logging, skyline
6 cable logging, gives the planning process a flexible option, or
7 something in addition, creative way to look at forest management
8 as opposed to forest set-aside. And since we're kind of on a
9 tight timeline, I'll make this very brief. The Elliott does
10 have a history of cable logging. It also includes cable
11 thinning, and there's people in the room that have much more
12 information that relate to that, but the fact is that we have
13 spotted owls in the Elliott. We have a forest composition that
14 seems to provide for these spotted owls, and we've been
15 practicing forestry in there for quite some time. So the idea
16 of bringing you this message and this video about helicopter
17 logging, about aerial lift, about a full range of techniques is
18 a creative way to look at how we might address some of the
19 management situations in the Elliott. And with that, I would
20 just -- maybe now, I can get this thing to work, and sit back
21 and enjoy a little bit for about ten minutes.

22 (OFF THE RECORD)

23 **GOVERNOR BARBARA ROBERTS:** Thank you.

24 **REPRESENTATIVE SAM DOMINY:** Thank you. There is a
25 longer version if anyone on the Board is interested, I think

1 there's a half-hour version of this that goes a little more into
2 the details of how the logs were taken out, those kinds of
3 things, so if anyone on the Board is interested, I'm sure that
4 they can provide it for you.

5 With that, we'll just stand for some questions, I
6 guess and--

7 **GOVERNOR BARBARA ROBERTS:** Questions, Phil? Jim? Is
8 that a comment?

9 **GREG MILLER:** Yeah, I'd like to make kind of a very
10 quick summary comment, and if Jim would like to add anything,
11 and is I wouldn't want the impression left with the Land Board
12 that the Elliott State Forest is indicative of southern Oregon
13 and vice versa in terms of the tree types and whatnot. There
14 were some real site specific differences there, but the idea
15 that we -- once again, to talk a little bit about the bigger
16 messages that forestry and harvesting operations can occur and
17 coexist with wildlife goals and objectives and that there are
18 some specific limitations and uses for aerial lift techniques,
19 and it could be possible that those are represented on the
20 Elliott, and hope that we could take a look at that.

21 **GOVERNOR BARBARA ROBERTS:** Thank you. Jim?

22 **JIM NEAL:** I just have one comment I'd like to make.

23 **GOVERNOR BARBARA ROBERTS:** Would you identify
24 yourself?

25 **JIM NEAL:** I'm Jim Neal, with Aerial Forest Management

1 Foundation. And we make this offer every place we go, but if
2 anybody on the Board would like to come to southern Oregon,
3 northern California, or any other place, and look where some of
4 these kind of things have taken place, with not only helicopter,
5 but conventional systems. This has been going on for quite a
6 while, without a lot of publicity. We'd be happy to conduct a
7 field trip and show any of you that are interested where this
8 has went on. And again, not only helicopter, but conventional
9 systems.

10 **GOVERNOR BARBARA ROBERTS:** Well, I think clearly, and
11 probably Cathy Golden said it very well, what we are learning to
12 do is be a lot more creative about how we do what we've done to
13 allow us to do it at all. And I think the work that we're doing
14 in looking at the management of the Elliott, I think this
15 certainly falls into the category of options that should be
16 considered here and in other places where State Forestry has
17 obligations to manage that land in today's world, and not
18 yesterday's world, and I think that's what we're all about right
19 now in this process of reevaluating what we do. So this is a
20 good piece of input for us today.

21 **REPRESENTATIVE SAM DOMINY:** Thank you, Governor.
22 Also, I've given you some testimony, and along with it, I've got
23 a copy of the letter to Bob Smith from the Department of
24 Interior. I think maybe you've already seen it, but it details
25 what I kind of outlined real lightly about what happened in the

1 Ashland, and how they were able to pull out 10 million board
2 foot.

3 **GOVERNOR BARBARA ROBERTS:** Well, I do know that the
4 state has -- I don't know the details of it specifically, but
5 has even requested a couple helicopter bids on specific forests
6 in the state and so it is something that Forestry's looking at
7 in managing other state forests as well as something that
8 certainly falls into the options as we talk about marketing and
9 managing the Elliott and other parts of our state forests.

10 Phil, did you--

11 **SECRETARY OF STATE PHIL KEISLING:** No, I just want
12 to -- I know Sam and Greg, I see Bill Markham and--

13 **GOVERNOR BARBARA ROBERTS:** Hi, Bill.

14 **SECRETARY OF STATE PHIL KEISLING:** --(unintelligible)
15 all involved in the Elliott process as well, but also encourage
16 Aerial Forestry -- that's the right term -- the Aerial Forestry
17 Foundation, to be involved in that as well.

18 I'd like, Sam, if you have a chance, if you're able to
19 get some cost breakdowns. I'm just curious about the experience
20 in Ashland and depending on what the cost breakdowns were for
21 this kind of logging.

22 **REPRESENTATIVE SAM DOMINY:** Okay. I would be glad to
23 find you some numbers. I'm sure they are available.

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

25 **REPRESENTATIVE SAM DOMINY:** I don't think anyone's

1 going to tell us it's cheaper.

2 **SECRETARY OF STATE PHIL KEISLING:** I understand. I
3 understand. But I'd like to just see how much more expensive,
4 just to give me a ballpark sense of that.

5 **REPRESENTATIVE SAM DOMINY:** Yeah, and sometimes cost
6 is in two or three ways. One way is the actual dollars, and
7 other ways is what we may do to the environment, so--

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

9 **REPRESENTATIVE SAM DOMINY:** --I think when we're
10 weighing, when we're looking at a dollar bill sign, we also need
11 to look at the whole environment.

12 **SECRETARY OF STATE PHIL KEISLING:** Thank you.

13 **GOVERNOR BARBARA ROBERTS:** Well, I think we've seen
14 that in discussions I've had with people on this exact subject
15 in terms of when you don't lay new roads, as Cathy said, when
16 you don't build new roads, you don't do a number of other
17 things, you have to take that cost out of the cost, it begins to
18 get much more cost-effective, and when you're dealing in steep
19 areas, like part of this Ashland cut was, in some cases, you're
20 dealing with forest situations where you couldn't really even
21 log them. It would be very difficult. And this is another
22 option that makes a difference in those kinds of steep
23 landscapes, so I think we know that. Jim, anything? Okay.
24 Thank you very much.

25 **GREG MILLER:** Thank you for your patience in my

1 (unintelligible)--

2 **GOVERNOR BARBARA ROBERTS:** That's all right. We're
3 all learning if there's anything that stops people, it's video
4 machines, you know, trying to figure out how to do them, so
5 thank you. We still are on this agenda item. Representative
6 Markham, good to see you here.

7 **REPRESENTATIVE MARKHAM:** Good to see you Governor,
8 Land Board.

9 **GOVERNOR BARBARA ROBERTS:** I'll see you at 1:15 at
10 another thing we're doing, I think. I think I'm seeing you at
11 1:15 on a bill signing today, so--

12 **REPRESENTATIVE MARKHAM:** Oh, thank you.

13 **GOVERNOR BARBARA ROBERTS:** Okay. Gus, we're still on
14 the marketing item, I believe.

15 **DIRECTOR GARY GUSTAFSON:** I'd introduce Ray Craig,
16 Assistant State Forester, and of course, Jill Bowling, and you
17 should have in your packet a May 21 memo from Jim Brown, dealing
18 with this issue.

19 **RAY CRAIG:** Madam Governor, members of the Board, my
20 name is Ray Craig, Assistant State Forester. I think this next
21 presentation will fit under your remarks that you had at the
22 last presentation, Governor, of one more step towards creativity
23 and a different way of doing things on the Elliott State Forest
24 as well as other state forest lands in Oregon.

25 The purpose of this presentation is to brief the State

1 Land Board on the concept of exploring different ways to market
2 forest products from state forest lands, and then secondly, to
3 look for any concerns or comments that you might have today,
4 which we would then incorporate into the concept and then
5 proceed with some research after today.

6 The Department of Forestry is currently examining the
7 concept of selling logs versus stumpage, and we're looking at
8 doing this on all state lands that the Department manages, which
9 includes the State Land Board lands and the Elliott State Forest
10 as well as the Board of Forestry lands in northwest Oregon and
11 other places.

12 And a traditional way of selling timber and one which
13 the Department utilizes today is selling stumpage, which means
14 that trees are basically sold, there's some various calculations
15 that are made, values are determined, the purchaser currently
16 works on a three-year contract, has three years to remove the
17 timber. There are various costs allowed for the operations
18 associated with removing the timber, and the proceeds are
19 distributed back, in the case of State Land Boards, to the
20 Common School Fund, and this concept would examine alternative
21 ways of doing that.

22 And maybe just a real quick sound (phonetic) bite
23 might be we'd sell logs. The Department would actually employ
24 the loggers, and we would overshadow all the work that the
25 purchaser now does and then sell logs on the open market or

1 other ways. And this is what we want to explore.

2 The Department is very excited about this concept at
3 all levels. The State Forester, Jim Brown, down to the unit
4 foresters that we have, both on the Elliott and other places
5 around the state. And really, there are four principal drivers
6 to the Department exploring this concept.

7 One of them is to reduce the exposure to litigation.
8 As we've discussed in the past, these three-year contracts comes
9 with that, a certain risk of litigation. Second of all, the
10 Department believes that this concept could increase revenues to
11 the Common School Land, and to the counties through the lands
12 that we manage. Third, it would increase the certainty of our
13 marketing. We feel like we can take advantage of fluctuations
14 in the market of forest products, as well -- and part of the
15 certainty to the purchaser is the same certainty for us, and
16 that is dealing with threatened and endangered species, and
17 other unknown elements now that are causing some certainty to
18 both us and purchasers. And fourth, and finally, then, we
19 believe this would enhance the Department's ability to control
20 the logging operations themselves, and thus improve civil
21 cultural -- through civil cultural techniques, overall ecosystem
22 management and biodiversity.

23 And so this concept, as in many other cases, we feel,
24 there's a lot to gain, but there's also, we feel, could be a lot
25 to lose, and in order to minimize the possibility of losing and

1 increase the probability of gaining, we feel that we need to do
2 some rather thorough research on this concept. And our idea is
3 that we would talk to various interest groups, such as forest
4 industry, and forest industry organizations, environment groups,
5 other state forestry organizations, and the idea would be to
6 find out how these organizations do their business, and you
7 know, take things that they have learned and are willing to
8 share with us, and apply it to our situation.

9 And we feel that the research that we do, then, again,
10 we lower the risk of legal or financial problems down the road.
11 So to give you an idea of the time frame that we're thinking of,
12 we have a structure in place, actually, now, and we've started
13 to do some work. We have a person on our staff, Logan Jones,
14 who has actually prepared an outline of a concept paper, we've
15 talked with our own field people, and so we actually have put
16 together a field and staff working group within the Department.
17 Again, that's resulted in support, but it's also resulted in
18 some preliminary discussion.

19 After today's meeting and taking into account any
20 concerns or comments you might have on this proposal, we would
21 begin the research project per se, which would involve sending
22 out letters and arranging for interviews and otherwise
23 discussing with the groups that I mentioned, and then we would
24 analyze the data that we receive back and evaluate it, and our
25 idea is that we would have draft concepts that would be

1 available for the State Land Board Assistance to review in early
2 August, and that we would, if there were further research that
3 we needed to do at that point in time, or we'd take any comments
4 from the State Land Board Assistance, and we would then bring a
5 final paper to the State Land Board in September.

6 We think that this implementation of this program can
7 be phased in. We may decide that we want to do one or two pilot
8 projects, perhaps even in the interim, maybe even between now
9 and September, just to kind of get a better idea of how this is
10 going to work. We believe we have the legal authority to do
11 that.

12 And full implementation may take, you know, some
13 period of time, but we would work towards a full implementation,
14 whatever that might be, but that certainly would not restrict,
15 from our point of view, any phase-in or you know, staggered
16 implementation. The idea, I think, is to plan the need to move
17 rather quickly on the one hand to resolve the major issues that
18 we have with caution and business prudence on the other, and
19 wind up downstream with a business plan, so to speak, that makes
20 sense for the resource, makes sense to the State Land Board, and
21 the Department, and to the purchasers of state timber.

22 So with that, Governor, I'd be glad to answer any
23 questions that you might have.

24 **GOVERNOR BARBARA ROBERTS:** Well, let me see if I can
25 make a couple of comments and lay a couple of questions out sort

1 of to get us started on the discussion. First of all, as we
2 look at these items on the bottom of the first page of the
3 May 21 memo, it seems fairly clear to me that you don't
4 necessarily choose an alternative, that many of these are
5 alternatives that can work together in conjunction that would
6 give us full flexibility in our marketing program. So I hope
7 we're not saying, you know, "Let's look at four options and
8 choose one," because quite frankly, I'm not sure that we can't
9 do all of these and do them effectively in the management and
10 marketing that we're talking about.

11 Secondly, as you talked about draft concepts in
12 August, I mean, we're not talking -- well, let me see if I can
13 do it another way. My concern is that we don't do too much
14 detail in the first draft. I don't think we need it to get the
15 idea of what the policy choices are. I don't think we need one
16 that dots the I's and crosses the T's and does all of that to
17 show us what these four concepts that are listed here, what the
18 pros and cons of some of those might be. It seems that there
19 might be more immediacy with which we could at least begin that
20 discussion on the Board, and begin to allow public input on
21 those concepts, and at least recognize what some of those pros
22 and cons might be.

23 The other question I would add, and then one other
24 comment, you mentioned about we want to make sure we're going to
25 enhance our ability to make money and not lose money. I'd like

1 to know why we'd think that we would lose money, since others
2 make money every time they cut our timber, I don't know why we
3 would think we are suddenly not going to be able to hire
4 contract loggers any differently than someone else does, kinds
5 of things, so I wonder what the concern is about losing money on
6 timber this valuable. I have a little trouble with that
7 concept.

8 And then again, as we talk about what I believe to
9 some degree was a commitment this Board made that we would do
10 some harvesting this year, if we delay too long, understanding
11 the options to move forward and market, I want to make certain
12 that we haven't basically walked away from our commitment to do
13 what responsible harvest that we can do in this year, and
14 suddenly we're in June, and you begin to see something in
15 August, and it doesn't take long to figure out that we wouldn't
16 be harvesting if we delayed these decisions by waiting for too-
17 detailed a draft too late rather than something less detailed a
18 little earlier for discussion and policy making.

19 So those are my comments to at least start the
20 discussion and lots of them.

21 **RAY CRAIG:** Thank you, Governor.

22 **GOVERNOR BARBARA ROBERTS:** Phil?

23 **SECRETARY OF STATE PHIL KEISLING:** Yeah, I want to
24 make a couple of additional points, too. We, in fact, have
25 about four streams converging at once over the next three

1 months. We've got revision of the forestry contract between us,
2 which fits into whatever it is we decide about this. We've got
3 the options that are being outlined here to explore. We've got
4 the issues of the sales on the Elliott, you know, what sales
5 will there be in the future, and then the fourth is, we've got
6 an owl survey going and a murrelet survey, the results of which
7 are going to be coming clear around the same time as well. And
8 these things all kind of fit together, and I think it's
9 important, in a sense, that we you know, don't get into this
10 kind of, you know, "Well, we can't do this until we do that,"
11 and then this and that. They all have to work as part of a
12 coherent approach.

13 The other point I'd like to make about just these
14 options, and obviously, I don't know if these are just -- you
15 know, I don't think you're saying these are the only four.
16 There's combinations and there's things that might be in
17 between, but I see them, in a sense, as part of a continuum.
18 You haven't laid them out in the way you've listed them as a
19 continuum.

20 But in my mind, they're useful to think about in terms
21 of where we are now, which is, in a sense, a fairly low -- the
22 State is involved, but only up to a certain point, at which
23 point, we let others be the main actor. All the way to the
24 other end of the spectrum, which is almost, in effect, the
25 states gets down to even conceivably milling. You could even

1 put an option down there, we mill the lumber and we sell it.
2 Now, I don't think that's something you look at, but you start
3 stepping back from that, and you see you have a continuum.
4 Well, we log it, but someone comes in and takes it and hauls it
5 out of the forest. We log it, we also haul it out of the
6 forest, we take it to the mill. Or a log yard. We take it to
7 the log yard, and then we separate by grade, and then we sell
8 it. Just a continuum of all those things.

9 And in a sense, it's a discussion of some of the
10 issues involved. There are some risks, you know, different
11 points of that continuum, liability questions arise, obviously
12 some trade-offs, economically, to make. I think that just might
13 be useful as you approach this, and I would echo the Governor's
14 interests in maybe seeing a broad conceptual take on this if,
15 you know, as soon as it would be possible.

16 But just a way to think about it as you lay out the
17 conceptual -- those conceptual options, as they, in a sense, fit
18 a spectrum of -- and the key-defining issue is the extent to
19 which the state, DSL, and Department of Forestry is directly
20 involved, as opposed to turning it over.

21 **GOVERNOR BARBARA ROBERTS:** And I think one other issue
22 I would add to your list of sort of all these things happening
23 at once that we're involved in is the work the Board of Forestry
24 is doing right now on both harvest practice issues, and
25 marketing issues, so that is another--

1 **SECRETARY OF STATE PHIL KEISLING:** Right. That's
2 true.

3 **GOVERNOR BARBARA ROBERTS:** --piece of the continuum
4 that affects us as it affects those lands as well, so I think
5 that's another one that obviously is there. Jim, did you have
6 comments or questions?

7 **STATE TREASURER JIM HILL:** Yes, I would like to focus
8 on the timeline and it seems as though when this subject came
9 up, there was a comment about a timeline, and I'd like to ask
10 Gus how does the timeline set forth by the Department fit?

11 **DIRECTOR GARY GUSTAFSON:** We were discussing this at
12 the Land Board Assistance meeting last week about
13 expectations -- no play on the magazine, by the way -- and I
14 think there is the realization among all of us, and this -- I'm
15 parroting a Land Board meeting two months ago, I believe, that
16 we wanted to get this information as soon as possible, but it
17 obviously needs to be meaningful. And I think we're at that
18 point now where some options have been identified, and they have
19 to be flushed out.

20 Some of the ideas included in these options are, to
21 say the least, interesting, and could be controversial. It's
22 not meant to say at all that anybody needs to back away from
23 those, but rather that we need to understand them as we get to
24 a point ready to make decisions. I think we all want to get to
25 that decision phase as soon as possible, but Forestry has

1 repeatedly emphasized to me, I think, in the Land Board
2 Assistance, that they have to have enough time to do the job, to
3 get some meat on those bones so that when we do come forward
4 with this broad conceptual document, as we're now describing it,
5 that at least there is enough there to make some key decisions.

6 **GOVERNOR BARBARA ROBERTS:** I think, Gus, and I don't
7 want to speak for anyone else on the Board, our concern, I
8 think, is, we're not rushing to decision without information.
9 I don't think that's what we're asking. But as the Department
10 works towards building alternatives for us to see, if you look
11 at the bottom of this first page, they've listed four options
12 there. There may be others, and there's some multiplicity in
13 those, even in the ones that are listed there. But if you think
14 about that as sort of being the first cut at it, we know that
15 between then and some kind of a detailed draft document would be
16 interim steps that they took.

17 I think what we're saying is they look at those
18 interim steps to building those designs and options. I think
19 we're just, from a policy standpoint, prepared to talk about an
20 unfinished document, but at least policy discussions on these
21 options, as you go through them, I think this Board feels
22 there's no reason we can't go through them with you. So if
23 you're starting to work on an option that we think is absolutely
24 unacceptable, we can say to you, "Don't waste any more time or
25 money or staff or anything on this. Stop, it's not real. We're

1 never going to give you a vote on this no matter what you do to
2 it."

3 But there may be places we would like to at least have
4 some feel for it, because we don't want people to go down the
5 road waiting for a finished document, which is often what we
6 get, and then everybody's done the work, and we say, "We don't
7 like the option," and you've wasted the time and the energy and
8 the expertise and the money, and I think we're feeling like
9 there might be some early input important on this. We
10 understand, I think, all of us, that it has political
11 ramifications, that it has controversy, that we're talking about
12 doing things that others have made money at before, and so
13 obviously, they're not going to be real thrilled at our looking
14 at doing that.

15 But I think we started out with a question about the
16 fact that the long-term contracts we were using for marketing
17 our timber were getting us into legal situations, they were
18 delayed in harvest long enough that we ended up paying legal
19 costs for a contract we put out in good faith because time and
20 circumstances had changed, and we ended up being the recipient
21 of costs that were completely outside of our realm of being able
22 to change them. And yet, we hadn't done anything inappropriate
23 in the process.

24 So we started out, remember at first, just saying,
25 "Maybe we should talk about short-term contracts." That was the

1 original thing, maybe the long-term contracts are our problem.
2 Now, I think we've clearly moved past that to a broader range of
3 options we have, in managing these forests for the best return
4 of our taxpayers, our citizens, our schools, and the Common
5 School Fund. So we really have laid out a set of options here.

6 But from my standpoint, I'd like to see the policy
7 discussions that you're moving to get the draft to touch base
8 with us as frequently as possible in this process and to see if
9 we're all headed in some common direction. I don't think we
10 need to see the final document to know that. And I guess that's
11 the concern that we're having, at least that is mine, and I
12 think I've heard it expressed by others, and we're asking for
13 input along the way, rather than with a finished product. Does
14 that -- Phil?

15 **SECRETARY OF STATE PHIL KEISLING:** You know, there's
16 a conceptual difference between a draft of a document that has
17 recommendations on it, and maybe we just need to kind of clarify
18 expectations in a way that we're all just really comfortable,
19 'cause I got the impression that it's being thought of by the
20 Department in terms of a draft that will, in effect, have some
21 recommendations to it or very close to that versus, in effect,
22 what is almost a scoping document, in a sense, coming back to us
23 relatively early, and saying, "We've done a scoping of the range
24 of options that maybe, you know, range from the ridiculous to
25 the sublime," with a discussion of some of the concerns, some of

1 the trade-offs, some of the things that people have expressed
2 and the like, and in a sense, come back to us not with -- in
3 effect, come back to us about "This is a scoping document about
4 what would be identified and what would be involved in looking
5 at it further. What's your reaction about what looks like we
6 ought to give our priority in terms of pursuing?" I think it
7 doesn't involve more work overall, it just involves some, you
8 know, demarkation lines along the way that will help both of us.

9 Maybe if we -- I don't know if that's a more
10 comfortable way to see it from your perspective, because I know
11 it's not like you don't have enough to do with this, but does
12 that distinction help at all? And I think -- is that in keeping
13 with -- that's kind of how I see it.

14 **GOVERNOR BARBARA ROBERTS:** It's sort of like a broad
15 conceptual document with some of the pros and cons maybe at the
16 next meeting. Then that allows the discussion to go on between
17 this board so you can then lay a deeper foundation, not broader,
18 but a deeper foundation in the documents that you work on so
19 that by September, we would have -- we'd be ready to finalize
20 what it takes to get ready to sell the harvest that meet that
21 criteria by then.

22 I mean, I'm really concerned that suddenly, a whole
23 year's going to have gone by, and all the commitment we made
24 that we would try to harvest responsibly on that land will have
25 been lost, and I'm really concerned that we may be heading there

1 if we don't think about where we're going on the time frame.

2 **JILL BOWLING:** Governor Roberts, members of the Board,
3 if I can just respond to that. That sounds real doable. What
4 we're trying to do here is flush out a number of ideas. We've
5 mentioned four here, but there's a whole universe of other
6 ideas, and what we're trying to do is talk to a lot of people,
7 and I think as we talk to more people, other ideas will come up,
8 ranging from maybe the sublime to the ridiculous.

9 And so that would be real doable for us to put those
10 ideas into some sort of early format, work through them, and
11 present them early to you and just keep on updating as we work
12 through these ideas and the others that come to us. That's real
13 doable.

14 **GOVERNOR BARBARA ROBERTS:** And I think the discussions
15 are clearly going to become much more public now on this issue,
16 and as I said, we don't have any illusion that this will be
17 without controversy, but I don't -- as long as we keep people
18 well informed and they have an opportunity for input in that
19 process, I think we can't be afraid of the controversy that
20 might be created by the discussions. And I think we're fully
21 prepared that those who clearly made very large dollars off of
22 these lands may not be happy with some of the discussions, but
23 I think our responsibility requires those discussions to be made
24 at this point in time, and that we really can't go back and say,
25 "Well, controversy prevents us from having this discussion," so

1 our job, I think, is to do our responsibility here on this Board
2 and in the Department, reflective of what we're doing for the
3 people of the state in this process as well. Gus?

4 **DIRECTOR GARY GUSTAFSON:** Governor, I just want to add
5 to that that I'm not even sure that we have a choice, given the
6 time available, that the owl and murrelet surveys are going to
7 be completed towards the end of September, and decisions are
8 going to have to be made, so I think you're right on target that
9 we have to get this stuff flushed out, and you know, you're
10 never going to get everything to the nth degree done, but I
11 think that's what Treasurer Hill was getting at, too, is that
12 time is of the essence and you know, we've got to get as much as
13 we can out in front of us.

14 **GOVERNOR BARBARA ROBERTS:** Well, and I don't -- it's
15 like the document we talked about earlier on the long-term
16 agenda -- or short-term agenda. I think the truth is as
17 managers of these forests, once we make a choice to try
18 something or to use something, we're not obligated to stick with
19 that forever, particularly when we have the flexibility of
20 several options before us, which we may use all or any of.

21 And so I think if we move to try shorter term
22 contracts or contract logging, or whatever we do, it doesn't
23 mean that we're stuck there for the next ten years if we decide
24 that wasn't effective, or there was a more effective way to do
25 it. But I think the greatest mistake we could make is to get

1 bogged down in the bureaucracy of it and be unable to make any
2 decision at all.

3 **RAY CRAIG:** Governor Roberts, if I could, Ray Craig
4 again. Just to respond to a couple of your concerns that you
5 asked one question of what is the concern about losing money.
6 Perhaps a time to do that -- we could return in July with the
7 policy discussion that you're talking about, and perhaps if you
8 would like to have me cut at this answer now, or we could more
9 fully discuss that at that time.

10 And you also raised the concern about the 30 million
11 board feet harvest off of the Elliott State Forest this year,
12 and the Department has totally committed to making that timber
13 available, and we're on track to do that. So I would like to
14 allay any concerns that you might have in that regard.

15 And then finally, would just add as you pointed out,
16 that the work that we're talking about here does fit, and is
17 very consistent with a briefing that we had of our own Board of
18 Forestry, and they're also expressing perhaps some of the same
19 concerns but at the same time, the same commitment to move ahead
20 and look at these options, and I think that this discussion here
21 is very consistent with that, and perhaps I might just see if we
22 could leave it this way, that we would commit to return during
23 your July meeting if you have time on the agenda and would like
24 for us to come back then to--

25 **GOVERNOR BARBARA ROBERTS:** We can make time.

1 **RAY CRAIG:** --to leave with you the policy discussion
2 that you are talking about. I must apologize if I led you to
3 the impression that these alternatives were mutually exclusive.
4 I didn't mean to do that, and I think we--

5 **GOVERNOR BARBARA ROBERTS:** Well, I just wanted to make
6 sure we weren't thinking of them that way.

7 **RAY CRAIG:** We definitely would agree with you that
8 we're going to have a continuum of possibilities, depending on
9 a lot of different variables, and we definitely intend to
10 proceed along those lines.

11 **GOVERNOR BARBARA ROBERTS:** Thank you. Anything else
12 from members of the Board? Thank you again. We keep sending
13 you back with more work, and we appreciate that you keep coming
14 back with results, so thank you.

15 **RAY CRAIG:** Thank you, Governor, members of the Board.

16 **SECRETARY OF STATE PHIL KEISLING:** We keep sending him
17 back for more work.

18 **GOVERNOR BARBARA ROBERTS:** No, that's right. Yeah.
19 It's the results that cause that. Okay. I believe -- oh, is
20 there anything else on the marketing? Are we sort of finished
21 with that at this point? Okay. Apparently, we have one other
22 item that's not listed on the agenda, someone who's requested to
23 speak from Lake County, is that correct? Would you please come
24 and identify yourself and your issue?

25 **JERI COHEN:** Madam Governor, members of the Board, my

1 name is Jeri Cohen. I'm an attorney with the Eugene law firm of
2 Hoyt and Associates. I'm here today representing the Board of
3 Commissioners for Lake County in connection with the anticipated
4 sale of Division of State Land inholdings on Heart Mountain.

5 As you may know, the Board of Commissioners is very
6 much interested in acquiring the Deer Creek parcel, which is
7 part of the inholdings intended for sale. The Commissioners
8 themselves had hoped to be present today to provide you with the
9 history of this parcel, and its significance to Lake County.
10 They regret being unable to do so.

11 The Commissioners' interests in acquiring the Deer
12 Creek parcel for Lake County resulted in an offer to exchange
13 approximately 580 acres of county land for it. If the proposed
14 exchange is consummated, it is the Commissioners' intention to
15 retain the Deer Creek parcel in county ownership. One of the
16 things they envision is making it available to groups which are
17 willing to provide appropriate assurances of compliance with all
18 laws and regulations by which the county is bound.

19 The Commissioners are cognizant of the natural
20 resource that Deer Creek parcel represents, and intend to
21 respect its integrity. We believe Oregon law grants counties a
22 preference after other state agencies when the Division disposes
23 of land it controls. Mr. Gustafson has been provided with
24 written support for our position, so I will not present you with
25 the basis of our belief at this time.

1 We are aware of Attorney General opinions which
2 provide authority for the position that the Division need not
3 strictly adhere to statutes which interfere with its
4 constitutionally-mandated responsibilities. We interpret those
5 opinions to be applicable to situations involving management
6 functions, and believe the disposition of land to be something
7 different than management.

8 Authority of the Division to exchange land with the
9 counties appears in more than one Oregon statute. We
10 respectfully request that Lake County be granted the preference
11 in acquiring the Deer Creek parcel, to which we believe it is
12 entitled, in conjunction with the Board of Commissioners' offer
13 of exchange as authorized by Oregon law.

14 We have, in addition to support for our position that
15 Lake County has a statutory right to acquire the Deer Creek
16 parcel before bids are solicited, provided Mr. Gustafson with
17 written comments expressing our concern about the decision to
18 sell the Heart Mountain inholdings as a package, rather than
19 offering the property for sale by individual parcels. I am
20 confident he will share our comments with you, so I will not
21 address those issues at this time, either.

22 I'd like to thank you for providing me with the
23 opportunity of speaking with you today, and will be happy to
24 answer any questions you might have.

25 **GOVERNOR BARBARA ROBERTS:** Questions? You're not

1 county counsel to Lake County?

2 **JERI COHEN:** No, I'm not.

3 **GOVERNOR BARBARA ROBERTS:** You're a privately-hired
4 attorney for the county on this issue--

5 **JERI COHEN:** For this specific purpose.

6 **GOVERNOR BARBARA ROBERTS:** On this issue?

7 **JERI COHEN:** That's correct.

8 **GOVERNOR BARBARA ROBERTS:** Well, I just would comment
9 briefly, Ms. Cohen that, you know, the decision to not sever or
10 parcelize the sale was because clearly by doing that, we
11 disadvantage ourselves financially by allowing someone to buy
12 out the most productive or desirable piece of the package and
13 leave us with the land that surrounds it, which would
14 disadvantage the State financially by parcelizing or severing
15 the sale, and I think we've been very clear about that. I don't
16 think there's anything that would indicate an intention to
17 change that process at this point in time. I don't know whether
18 Gus would want to comment on that or others might.

19 **JERI COHEN:** I think in the written comments, which
20 I'm sure Mr. Gustafson will provide to you, that may very well
21 be accurate. We believe an alternative-type bid package might
22 be most physically responsible. I offer it for sale as a
23 package and offer also individual parcels and whichever yields
24 the greatest return, then, would be the proposals that is
25 approved.

1 **SECRETARY OF STATE PHIL KEISLING:** Madam Chair, let me
2 kind of clarify just where we are with the overall thing. Gus,
3 we are preparing to go out for bid on the whole package,
4 correct?

5 **DIRECTOR GARY GUSTAFSON:** That's correct.

6 **SECRETARY OF STATE PHIL KEISLING:** And we anticipate
7 that going out within -- very soon?

8 **DIRECTOR GARY GUSTAFSON:** It would be soon. I
9 honestly can't give you a date, because right now, we're
10 completing the last few steps, including identification of any
11 possible mineral values so that we have all the bases covered
12 before we establish a base price.

13 **SECRETARY OF STATE PHIL KEISLING:** Now, that's an open
14 process? The county, any federal entities, any private
15 individuals, can bid on that land--

16 **DIRECTOR GARY GUSTAFSON:** Yes.

17 **SECRETARY OF STATE PHIL KEISLING:** --is that correct?
18 It is then up to the Land Board as to whether to accept any of
19 those bids, if we get any, correct?

20 **DIRECTOR GARY GUSTAFSON:** Correct.

21 **SECRETARY OF STATE PHIL KEISLING:** So there is a
22 scenario under which we get bids or whatever happens, we have
23 that process, we come back, and we decide that none of those is
24 an acceptable bid, is that right? Is that a--

25 **DIRECTOR GARY GUSTAFSON:** That is possible.

1 **SECRETARY OF STATE PHIL KEISLING:** --possible
2 scenario?

3 **DIRECTOR GARY GUSTAFSON:** It's possible.

4 **SECRETARY OF STATE PHIL KEISLING:** In which case, we
5 may, you know, need to ask the question, "Well, what do we do
6 now, if anything?" I don't know if Lake County has any
7 intention of bidding on the whole package or not, but they
8 certainly -- I just want to clarify there's nothing that
9 prevents them from bidding on that package, of which the Deer
10 Creek parcel is a part.

11 **DIRECTOR GARY GUSTAFSON:** That's correct.

12 **SECRETARY OF STATE PHIL KEISLING:** I don't know if
13 Jeri wants to comment on that, or--

14 **JERI COHEN:** Obviously, there are going to be very few
15 entities which are going to be financially able to bid on the
16 whole package. It's my understanding Lake County is not in that
17 position.

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

19 **GOVERNOR BARBARA ROBERTS:** Jim?

20 **STATE TREASURER JIM HILL:** Have the Commissioners on
21 the proposed exchange of land that you've mentioned, have the
22 Commissioners held a public hearing on that?

23 **JERI COHEN:** No, they have not at this time, and they
24 would, of course, be required to do so if the offer is accepted.
25 At that point, public input would be solicited and it would go

1 through a process, I suspect, very similar to the process that
2 the State would need to go through in order to consummate the
3 transaction.

4 **STATE TREASURER JIM HILL:** Oh, in other words, they
5 would hold the hearings after an offer was made or -- I'm trying
6 to understand.

7 **JERI COHEN:** No. The statutes authorize the counties
8 to dispose of land. This is not, as far as I know, tax-
9 foreclosed land, which -- there are different processes
10 applicable to different types of land, depending upon how the
11 county acquired it.

12 **GOVERNOR BARBARA ROBERTS:** But they're not disposing
13 of land in this case, they're acquiring land.

14 **JERI COHEN:** They are exchanging land. They are
15 disposing of 500 -- proposing to exchange 500 acres of county
16 land for the Deer Creek parcel.

17 **GOVERNOR BARBARA ROBERTS:** But there--

18 **JERI COHEN:** So it is--

19 **GOVERNOR BARBARA ROBERTS:** --there has been no
20 community input on that issue, though?

21 **JERI COHEN:** Not specifically.

22 **GOVERNOR BARBARA ROBERTS:** Okay.

23 **JERI COHEN:** That has been raised at the
24 Commissioners' hearings, which are open to the public, and
25 members of the press were present, so I assume it has been

1 reported in local newspapers.

2 **GOVERNOR BARBARA ROBERTS:** So those public meetings
3 would have also included the hiring of an attorney to assist
4 with this issue?

5 **JERI COHEN:** That's correct.

6 **GOVERNOR BARBARA ROBERTS:** In addition to county
7 counsel. Okay. Anything further? Thank you very much.

8 **JERI COHEN:** Thank you.

9 **GOVERNOR BARBARA ROBERTS:** Anything further?

10 **DIRECTOR GARY GUSTAFSON:** That's it.

11 **GOVERNOR BARBARA ROBERTS:** A motion to adjourn?

12 **SECRETARY OF STATE PHIL KEISLING:** I'll move to
13 adjourn.

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

15 **GOVERNOR BARBARA ROBERTS:** It's been moved and
16 seconded. Those in favor, signify by saying "Aye."

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

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

19 **GOVERNOR BARBARA ROBERTS:** Aye. We are adjourned.

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