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**STATE LAND BOARD MEETING**

**Friday, April 8, 1994**

**State Lands Building**

**775 Summer Street NE**

**Salem, Oregon**

**1:00 p.m.**  
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1           **GOVERNOR BARBARA ROBERTS:**    I will call us to  
2 order and we will begin with Agenda Item Number 1, a  
3 request for authority to adopt the Attorney General's Model  
4 Rules on Procedure.    Gary?

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1 favor will signify by saying aye. Those opposed, nay.

2 The motion is passed unanimously.

3 Item Number 2, request for authorization to repeal  
4 an administrative rule relating to North Tongue Point Marine  
5 Facility in Astoria. Gary?

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1 AGENDA ITEM NO. 2

2 **DIRECTOR GARY GUSTAFSON:** You may recall a few  
3 months back we alerted you to the fact that our existing  
4 administrative rules as they pertain to North Tongue Point,  
5 and only North Tongue Point, provide that we can only  
6 grant leases for terms not to exceed ten years for the  
7 submerged and submersible lands at North Tongue Point. As  
8 a result you authorized us to initiate rule making which  
9 would repeal those rules, and that would mean that any  
10 lease that we would enter into at North Tongue Point would  
11 be subject to the same administrative rules that applied  
12 everywhere else in the state.

13 And again, as a reminder, the rules that are  
14 currently in place for what's called the North Tongue Point  
15 Marine Facility originally came about a number of years  
16 back, and it was thought at that time that that would help  
17 enable us to lease the site. That's not been the case,  
18 as history has proven aptly, and what we need now is to  
19 return this to the point where this facility is on the  
20 same level as all other state lands subject to similar  
21 terms and conditions.

22 We have gone through the rule-making process. We  
23 did get, at one point, an objection, and request for a  
24 hearing by the Port of Newport. However, I called the  
25 Port manager at the Port of Newport, explained what this

1 was all about. He had misunderstood. He went back to  
2 his Port Commission, explained what this was really about,  
3 and as a result the Port of Newport has withdrawn their  
4 objection and request for hearing. So at this point we  
5 have no objections. The only other comment we received,  
6 by the way, was from the Department of Land Conservation  
7 and Development, and they were supportive of this change --  
8 this repeal.

9           **GOVERNOR BARBARA ROBERTS:** Okay. All right. Any  
10 comments or questions by members of the Board? Is there  
11 anyone in the audience -- no one has signed up, but is  
12 there anyone in the audience who might wish to speak to  
13 Item Number 2 since there has been some confusion about  
14 it? If there's someone here for that purpose we certainly  
15 would recognize you. If not, is there a motion?

16           **STATE TREASURER JIM HILL:** Yes, Madame Chair, I'll  
17 move that the Land Board authorize the repeal of  
18 OAR 141-82-050, the administrative rule defining lease  
19 limitations for the North Tongue Point Marine Facility.

20           **SECRETARY OF STATE PHIL KEISLING:** Second the  
21 motion.

22           **GOVERNOR BARBARA ROBERTS:** It's been moved and  
23 seconded. Is there further discussion, questions, comments?  
24 If not, those in favor will signify by saying aye. Those  
25 opposed, nay. The motion is carried unanimously.

1 AGENDA ITEM NO. 4

2 **GOVERNOR BARBARA ROBERTS:** I'm going to skip down  
3 to Item Number 4 just to get the small things out of the  
4 way this morning, or this afternoon. This is the request  
5 for approval of the March 8 Land Board minutes. Is there  
6 a motion?

7 **SECRETARY OF STATE PHIL KEISLING:** I'll move  
8 approval of the minutes of the March 8, 1994, State Land  
9 Board meeting.

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

11 **GOVERNOR BARBARA ROBERTS:** It has been moved and  
12 seconded to approve the minutes of the March 8, 1994,  
13 meeting. Are there any additional comments, corrections,  
14 amendments of any kind? If not, those in favor will  
15 signify by saying aye. Those opposed, nay. The motion  
16 has passed.

17 Now, that gets us down to Item Number 3. I have  
18 one, two, three, four, five people who have signed up here  
19 to speak on Item Number 3. I think we will, if everyone  
20 is comfortable with this, give us an opportunity to hear  
21 from Gary, and maybe for the Board to do some discussions  
22 prior to giving people an opportunity to comment, and then  
23 we can move forward after that. Gary, would you like to  
24 comment on Item Number 3 briefly? You heard that  
25 "briefly", didn't you?

1 AGENDA ITEM NO. 3

2 **DIRECTOR GARY GUSTAFSON:** Thank you, Governor.  
3 The first thing I'll do is ask Jim Brown to come up and  
4 join me, and, Jim, if you have any other staff you want  
5 to bring up. I believe, of course, everyone knows State  
6 Forester Jim Brown, and if anyone hasn't made her  
7 acquaintance, to my right is Jill Bowling, State Lands  
8 Program Manager for the Department of Forestry.

9 With this, I think, probably it would be more  
10 appropriate to turn it over to you, Jim, and let you run  
11 through the staff recommendations relative to the Elliott  
12 Forest Management Plan and the HCP.

13 **JIM BROWN:** All right. Thank you, Gus. For the  
14 record, I'm Jim Brown, the State Forester. Maybe by way  
15 of background, in December of 1991 the Land Board asked  
16 the Department of Forestry to develop a new forest  
17 management plan for the Elliott State Forest in  
18 collaboration with several other State agencies. You  
19 provided us some specific guidance in doing that. We used  
20 what I'd call a goal-oriented planning approach. We set  
21 out some planning principles which were approved, and in  
22 the process, then, put the Forest Management Plan together.  
23 You authorized that to go out for public hearing. That  
24 did go out in late January and February, and we received  
25 76 comments back on the Forest Management Plan.

1           At the same time we had begun the process of  
2 developing a Habitat Conservation Plan in order to get an  
3 incidental take permit from U.S. Fish and Wildlife. Out  
4 of the public comments, and in discussions with the Land  
5 Board assistants, we identified a series of issues. The  
6 three key issues that came out of the public comments were  
7 cryptically what I would describe as owl biology, the use  
8 of an experimental forest approach, and then the riparian  
9 habitat. And then there were several others that were  
10 identified both by your staff as well as ours.

11           We then put together a kind of issue paper  
12 oriented approach -- that really is the content of your  
13 agenda -- where we went through each of those issues,  
14 talked a little bit about the background, and then made  
15 some recommendations to you. Then on Page 24 and 25 of  
16 Agenda Item 3 are the consolidated recommendations that we  
17 are offering you.

18           There were six recommendations, six principal  
19 recommendations, and some sub-recommendations, and I'll  
20 briefly highlight those. To my knowledge there is little  
21 controversy around these except one of them, and that's  
22 Recommendation 2, and I'll cover that in a little more  
23 detail. The first recommendation -- maybe that's too much  
24 detail, Governor. It depends on how--

25           **GOVERNOR BARBARA ROBERTS:** No. No, I think we're

1 doing fine, Jim.

2           **JIM BROWN:** Okay. We recommend endorsement of  
3 the approach taken in the draft plan. That is it's a  
4 long-time, multi-species, strategic plan which sets the  
5 framework for managing the Elliott State Forest, and  
6 recognition that the plan adequately considers target  
7 harvest age, group selection harvest, and other revenue  
8 potentials.

9           The second recommendation from the Department of  
10 Forestry is that they amend a draft plan by substituting  
11 the proposed Forest Practices Rules for the R2 strategy  
12 that's contained in Alternative 6, and that the word  
13 "enhancing" and "enhance" be substituted for "maintaining"  
14 and "maintained" in the fish and wildlife populations goals.

15           Now, in contrast, the Department of Fish and  
16 Wildlife believes that R2 is the best strategy as part of  
17 Alternative 6. That it fits better within the framework  
18 of what they felt they were supporting in Alternative 6.  
19 And the difference really boils down to, if you will, a  
20 risk level assessment, and I think that is a policy for  
21 the Land Board to discuss.

22           Recommendation 3 is endorsement of the draft  
23 plan's approach to soil stability, listing the strategies  
24 available to maintain or improve soil stability, but address  
25 soil stability more specifically in the subsequent, more-

1 detailed planning efforts, and in the management practices  
2 employed in the forest.

3           Recommendation 4 is to direct the Department to  
4 amend the draft plan to include a more thorough discussion  
5 of the justification for the preferred alternative, and the  
6 analysis of the other alternatives; and this additional  
7 analysis and justification should incorporate the points  
8 addressed in the Land Board's agenda item. I think that  
9 piece is particularly important, given your fiduciary  
10 responsibility. We need to bring that out.

11           Item 5 is endorsement of the biology assumptions,  
12 including our approach to owl biology used in drafting the  
13 plan, and a direction to continue reviewing and analyzing  
14 scientific research as it becomes available. And when  
15 appropriate, the Department should recommend changes to the  
16 draft plan, and the final plan, including the HCP, once  
17 adopted, based on new scientific information.

18           And as a sidebar, when Jill and I met with Dale  
19 Hall with U.S. Fish and Wildlife the other day, it was  
20 their point that in the HCP, and on the incidental take  
21 permit, they do put in amendment provisions, so that is a  
22 relatively eas -- I won't say it's easy, but it is  
23 considered to be part of both the Habitat Conservation Plan  
24 and the incidental take permit. That's an expectation that  
25 as circumstances change, as laws change, as biology changes,

1 other circumstances changes, that that's available to either  
2 party, either U.S. Fish and Wildlife or you.

3 Item Recommendation 6 is direction to the  
4 Department to continue reviewing and analyzing the remaining  
5 issues raised in the public comments. That is, deal with  
6 the gaps, omissions, and errors that were dealt with.

7 Additionally we recommend that the Land Board  
8 direct us to integrate the above recommendations and  
9 Alternative 6 into the HCP for the Elliott, and with the  
10 adoption of this recommendation you would not accept the  
11 experimental forest concept. Instead we would circulate the  
12 draft HCP to the public for review and comment, and  
13 present the draft HCP to the Land Board for review and  
14 approval at your May meeting.

15 Finally, we recommend that the Land Board direct  
16 the Department, the Division, and the Department of Justice  
17 to continue discussions with U.S. Fish and Wildlife  
18 concerning the ramifications of the Sweet Home decision, and  
19 any subsequent appeals, and report any significant  
20 developments to the Land Board.

21 **GOVERNOR BARBARA ROBERTS:** Thank you, Jim. Gus,  
22 anything from either of you to add to that before we begin  
23 this discussion? Members of the Board? Comments,  
24 questions, your preference in terms of your activity versus  
25 that of the audience?

1           **SECRETARY OF STATE PHIL KEISLING:**     How many  
2 people?     Five or six people?

3           **GOVERNOR BARBARA ROBERTS:**     Five, I believe.     Let  
4 me see.     Five.

5           **SECRETARY OF STATE PHIL KEISLING:**     It might be  
6 helpful to hear what people have to say on this, then we  
7 can ask them questions, and also have questions of staff.

8           **GOVERNOR BARBARA ROBERTS:**     I'm certainly  
9 comfortable with that.     Is that all right with you?     Well,  
10 let me see, why don't I begin now.     Avis Rana is here.  
11 Avis?     Would you like to be first?     You may, indeed, come  
12 up together.     There's strength in numbers, you know.

13           **AVIS RANA:**     Yes, thank you.

14           **LIZ FRENKEL:**     Two doesn't make a mob.

15           **GOVERNOR BARBARA ROBERTS:**     Depends on the two.  
16 I've seen two be a mob before.     You need to come in my  
17 office for a few days and I'll show you how it works.

18           **AVIS RANA:**     Thank you.

19           **GOVERNOR BARBARA ROBERTS:**     Would you please  
20 identify yourself for the tape, and then we'll be happy to  
21 hear your comments or whatever questions you might have.

22           **AVIS RANA:**     Madame Chairman, and members of the  
23 Board, my name is Avis Rana, and I'm here representing the  
24 Oregon Chapter of the Sierra Club.     We've submitted written  
25 statements, and as you can | see, we're a volunteer

1 organization without secretarial service when the printer  
2 runs off at the bottom of the page. My apologies to you.

3 **GOVERNOR BARBARA ROBERTS:** That's quite all right.

4 **AVIS RANA:** And Liz Frenkel is here.

5 **LIZ FRENKEL:** I'll have a comment afterwards.

6 **GOVERNOR BARBARA ROBERTS:** Okay. That's fine.

7 **AVIS RANA:** Our comments first are to commend the  
8 Board and the other State agencies for undertaking a  
9 planning process as a part of state forest operations, and  
10 we appreciate the ongoing thoughtful, thorough work done by  
11 State staff.

12 The framework for the comments below is a truly  
13 sustainable healthy forest ecosystem, such that the school  
14 children of 2095 will have some assurance of the same  
15 level of support as the children of 1995. We hope that  
16 a sufficient margin in planning will be allowed for error  
17 and accident, recognizing the lack of our knowledge and the  
18 many unforeseen things that occur in the natural world.

19 We remain concerned about fish. The goal of  
20 "enhancement" is most appropriate. However, it is important  
21 to provide better stream-side habitat, and we would  
22 recommend using a 100-foot buffer. The stream habitat  
23 survey plans are important, but it is even more important  
24 to carry out, as early as possible, improvement identified  
25 in the stream surveys already done.

1           In the discussion of forest roles, it seems  
2 premature to assign the Elliott a role as the mid-  
3 successional habitat area. We would hope that in the near  
4 future there will be ecoregional planning for the southwest  
5 area of Oregon which would evaluate actual capacities; that  
6 is, of the land, and appropriate functions to achieve  
7 balance among successional stages in this particular  
8 ecosystem.

9           The language throughout, describing ongoing  
10 evaluation and adaptation of forest health and management  
11 practices, provides a base for important activities. We  
12 hope there can be clear direction to indicate that funds  
13 for monitoring, in adequate amounts, will be maintained as  
14 a part of the cost of forest management at a level to  
15 assure ongoing appropriate practices. We have expressed  
16 concern about this before, and we do hope that there can  
17 be clear direction so that we can adapt on a scientific  
18 knowledgeable basis the best we can year by year, and  
19 decade by decade so that we do, in fact, achieve our  
20 goals.

21           We urge great caution with regard to the  
22 feasibility of shifting owl habitat over time. The owl is  
23 more mobile than many other organisms in the ecosystem for  
24 which it is an indicator. Below ground and above ground,  
25 many elements in this highly interdependent community would

1 seem to require very careful consideration as to conditions  
2 and timing of habitat relocation.

3 Plans to develop further interpretation of the  
4 operating and marketing activities should help in  
5 clarification of the plan itself, and in improved public  
6 understanding. The analysis of actual inventory over time  
7 is especially difficult, yet lack of such factual analysis  
8 lies at the base of many current difficulties. It will  
9 be important to develop further the interpretation process  
10 exemplified in today's document.

11 We appreciate the opportunity to comment.

12 **GOVERNOR BARBARA ROBERTS:** Thank you. Liz?

13 **LIZ FRENKEL:** I want to add a couple of  
14 comments. Liz Frenkel for the Oregon Chapter, Sierra Club.  
15 I got a phone call this morning from Pacific Rivers  
16 Council from Louise Willheimer (phonetic), and she  
17 authorized me to stress and underline the concern for the  
18 riparian corridors. And Pacific Rivers Council also would  
19 like something closer to 100-foot corridors. The statement  
20 that was made to me was a very interesting one. Louise  
21 pointed out that the new forest rules, if passed, are  
22 basically a consensus, a political consensus, going before  
23 a political body, and of course there's always a lot of  
24 concern for that, in particular with the Elliott where you  
25 are dealing with a single owner, this is the State. It

1 would be perhaps preferable to have your riparian corridor  
2 based on scientific evidence rather than the result of a  
3 compromise. Thank you.

4 **GOVERNOR BARBARA ROBERTS:** Thank you. Questions  
5 or comments from either Board members? Phil?

6 **SECRETARY OF STATE PHIL KEISLING:** I just want  
7 to make one comment, and underscore the importance of the  
8 point you made about data, and inventory. You know, when  
9 we first got started on -- well, when I first kinda came  
10 on it is in 1991, we had some options foreclosed because  
11 we didn't have some information that we really would have  
12 wanted about the owl, and of course, now as we're looking  
13 at the petition in particular, but it's beyond that. I  
14 just want to also underscore the point it's real important  
15 to get that inventory work done, that analysis done, of  
16 what's going on so we have the information. So we can  
17 hope for the best, but prepare for things that are less  
18 than best that might happen in the future. So I very  
19 much agree with you about the importance of having that  
20 information.

21 **GOVERNOR BARBARA ROBERTS:** Anything else? Thank  
22 you very much, both of you. Appreciate it. Greg Miller  
23 from OFIC?

24 **GREG MILLER:** Thank you. For the record, or  
25 members of the Land Board, Governor, and for the record,

1 my name is Greg Miller, I'm the director of the State  
2 Timber Purchasers Division of Oregon Forest Industries  
3 Council. I guess I'd just like to start off by noting  
4 that a historical moment of agreement between State Timber  
5 Purchasers Division and Sierra Club. We, too, would  
6 support--

7 **GOVERNOR BARBARA ROBERTS:** We'll take note of  
8 this.

9 **GREG MILLER:** We, too, would support the notion  
10 of collecting as much stream information, stream surveys,  
11 habitat information that's going on with our streams so  
12 that we can make those adjustments.

13 I want to focus specifically on the recommendation  
14 by the Department of Forestry to adopt the new stream  
15 rules before the Board of Forestry. We would support that  
16 recommendation, given the time and the energy and the  
17 science that has gone into developing that package. We  
18 believe that would be a consistent strategy throughout the  
19 state. We also believe that that package provides a  
20 greater amount of flexibility on a site-by-site basis. We  
21 think that those riparian areas that need enhancement on  
22 the Elliott would benefit from that ability to be enhanced  
23 by management practices; for example, interplanting of  
24 conifers, the growing of coniferous species to provide that  
25 component for the riparian area.

1 I'd also like to have you think about what else  
2 is in the plan that relates to riparian areas. A lot of  
3 discussion surrounds the upland part of the forest, and as  
4 the scenario has been described for Alternative 6 -- I get  
5 confused with Option 9, excuse me--

6 GOVERNOR BARBARA ROBERTS: It does become  
7 confusing.

8 GREG MILLER: Freudian slip. The idea of longer  
9 rotations, while we have some disagreement on, say, the  
10 length, the idea and the philosophy behind that is carrying  
11 those stands longer. And that contributes to the health  
12 of the riparian, and ultimately to the health of the  
13 tributaries that flow into the main streams. It's one  
14 that I don't think has been widely acknowledged in terms  
15 of the contribution to the health of the streams. We seem  
16 to be focusing -- if we're going to be focusing on  
17 ecosystem management, and across the landscape, unfortunately  
18 the recommendation for, or to focus on just the stream as  
19 an element kind of ignores the role of the overall  
20 prescriptions that are being proposed for the Elliott in  
21 general. And I would say that the longer rotation spread  
22 throughout some of the basins are a contributor to the  
23 health of the riparian zones, so I'd like to have you  
24 think about it in that context as you make your decision.

25 By way of a regional context, I think it's

1 appropriate that the Elliott be viewed in its regional  
2 role, and certainly any point where we can make  
3 contributions to the health of the fish, and that issue  
4 we'd also like you to remember that this is a 98,000-acre  
5 forest, and somewhat our contributions are small on the  
6 grand scale up and down the coast of Oregon. Not to  
7 diminish them, but I think you should look at it in that  
8 context.

9           The other elements of the recommendations, we  
10 would also agree with particularly the -- and I want to  
11 have this straight in my mind if this is how the Board  
12 views the recommendation that speaks to working at more  
13 science, additional science, and kind of keeping the door  
14 open so that as we go down the road we can have the  
15 opportunity to make those changes, and we would view that  
16 as something very important to this process. And I'll  
17 just cite a real quick example. COPE, many of you are  
18 aware of the COPE effort through OSU, a cooperative  
19 research effort looking at coastal Oregon, and the results  
20 from that scientific endeavor, I think, ultimately will  
21 provide information that would benefit the Elliott.

22           And the last point I'd like to cover is the  
23 recommendation regarding the continued review of the Sweet  
24 Home case. I think that is appropriate, and we think that  
25 the recommendation proposed by Department of Forestry would

1 be beneficial, because ultimately it's our view that that  
2 court decision, if it becomes the law of the land, will  
3 have a significant impact on how Fish and Wildlife Service  
4 will interpret take, and also provide, I believe, some  
5 greater flexibility for the Elliott in terms of management.  
6 So with that, I will stop and answer questions.

7 **GOVERNOR BARBARA ROBERTS:** Questions? Phil?

8 **SECRETARY OF STATE PHIL KEISLING:** Yeah, just one,  
9 Greg. I take it then, I guess I just want to run it by  
10 you, we have a recommendation in here that speaks  
11 specifically to scientific research about the owl biology.  
12 You know, I take it your point is that that ongoing review  
13 ought to include more than just owl biology, looking at  
14 riparian management, and other factors that may come to the  
15 fore as we get into this HCP?

16 **GREG MILLER:** Absolutely. I think that that is  
17 important that we broaden the scope of our ability to look  
18 at new information, scientific research, and it ought to  
19 speak to the riparian -- what I'd like to see is an  
20 opportunity to become consistent with that endeavor that  
21 we're completing in front of the Board of Forestry, and I  
22 believe that as we go forward with stream surveys for '94,  
23 those instream surveys will be beneficial and could provide  
24 information that would allow that to happen.

25 I'd also like to add the recommendation made by

1 the State Forester, I think, is a very strong one for  
2 adoption of those riparian rules, and we would support  
3 that.

4           **GOVERNOR BARBARA ROBERTS:** Jim, any questions or  
5 comments? Greg, let me just -- I want to focus on  
6 exactly the same thing the Secretary of State did with a  
7 little bit different perspective. The recommendation that  
8 we be able to review and analyze as we learn, which is  
9 really what we're talking about here, that process, is a  
10 little bit contradictory to some earlier things the industry  
11 said 18 months ago or so when they said, "If there's one  
12 thing we need it's certainty." And obviously it can't be  
13 both ways. And this seems to me to give all of us an  
14 opportunity to learn as we go; and I just want to make  
15 certain that this is not in conflict with earlier  
16 discussions about what we can't get is any certainty, and  
17 I just wondered if you'd comment on that as it relates to  
18 what we have before us today?

19           **GREG MILLER:** Well, it might be kind of a  
20 philosophical answer. I don't think--

21           **SECRETARY OF STATE PHIL KEISLING:** Before the  
22 afternoon (phonetic).

23           **GOVERNOR BARBARA ROBERTS:** Yes. It's all right.

24           **GREG MILLER:** Okay. Well, what the heck.

25           **GOVERNOR BARBARA ROBERTS:** This weekend.

1           **GREG MILLER:** Right. Any time you enter into a  
2 planning process, I don't think there's ever any certainty.  
3 I guess the philosophy from the private land owning  
4 community has been to use scientific information. The  
5 processes do allow for certainty. I don't think it's in  
6 conflict or even contrary to what we've said in the past  
7 in terms of at least this process, which is different than  
8 what we've experienced at the federal level. The goal  
9 posts always shift, and we don't get much certainty out of  
10 that, and I think sometimes those comments are made in  
11 that context. I think in this instance the certainty for  
12 us is built in the fact that there's a planning process  
13 available to us, and the use of information as we go down  
14 the track. I think you have to live on the merits of  
15 the scientific information as it comes forward, and I'm  
16 confident that what we see come out of stream surveys, our  
17 experience has been in '94, and on the surveys for our  
18 private lands, have showed that the streams are in better  
19 condition than we thought, and that, I believe, that on  
20 the merit of that information that we would have the  
21 opportunity to have a better plan.

22           **GOVERNOR BARBARA ROBERTS:** Anything else? Thank  
23 you, Greg, very much. Appreciate your being back. Okay.  
24 Dave McAllister is here from Oregon Department of Fish and  
25 Wildlife. Dave?

1           **DAVE MCALLISTER:**    Good afternoon, members of the  
2 Land Board.    My name is Dave McAllister, and I'm Lands  
3 Program Manager with the Oregon Department of Fish and  
4 Wildlife.    And really what I'm intending to do today is  
5 just have the Department of Fish and Wildlife go on record  
6 in asking the Board to adopt the riparian management  
7 recommendations that were developed in the draft plan.

8           And they really include three elements, and I want  
9 to emphasize that.    One element is the riparian strategy,  
10 and it's viewed as an interim protection strategy as we  
11 move on to do watershed analysis as part of this plan.  
12 The second one, I should say, is this commitment to do  
13 watershed analysis.    And the outcomes of watershed analysis  
14 as we see it, which is a broader picture of the stream  
15 than we have historically characterized it.    That new  
16 information will then be used to develop more tailored  
17 riparian prescriptions.    And lastly, the continuing aquatic  
18 survey work that the forest has been engaged in for last  
19 year, and the information that we have gained from those  
20 analyses and the ability to, I think, management those  
21 aquatic systems better into the future.

22           And with that having been said, I also want to  
23 emphasize that the Department of Fish and Wildlife endorses  
24 all other aspects of the draft Elliott State Plan.    This  
25 has been a very interesting experience for all the planning

1 team that worked on the Elliott Plan, and frankly, we have  
2 learned a lot about working together, and we have come a  
3 long way in developing this cooperative plan, so there is  
4 a lot of good that's come out of that plan. And I  
5 really would like to just address any other questions that  
6 the Land Board may have for me regarding the question of  
7 riparian protection or others.

8 GOVERNOR BARBARA ROBERTS: Anything?

9 SECRETARY OF STATE PHIL KEISLING: Just one. So  
10 your thinking is to recommend that the Board go in with  
11 R2, but that in the future, and on a site-specific basis  
12 as we learn more, there may be cases where going maybe  
13 even to new FPA or something in between would be  
14 appropriate, or something greater, but having the  
15 flexibility as we go along to address site-specific kinds  
16 of ways of dealing with riparian areas. Is that a fair--

17 DAVE MCALLISTER: That is surely the goal.

18 SECRETARY OF STATE PHIL KEISLING: Characterization  
19 of--

20 DAVE MCALLISTER: Yes.

21 SECRETARY OF STATE PHIL KEISLING: Okay.

22 DAVE MCALLISTER: Mr. Secretary, the way I'd like  
23 maybe to elaborate on that a little bit, if I may, what  
24 we're really trying to do is say that the nature of site-  
25 specific management recommendations for a particular site on

1 a riparian area is very difficult to evaluate in terms of  
2 its impact on the system because there is no context for  
3 that. You don't know what the other elements of the  
4 system, of the other functions of the watershed, that that  
5 may or may not have affected the historical context of  
6 which that particular activity is being conducted.  
7 Watershed analysis allows you to broaden that perspective  
8 to include those, and in fact, yes, what you may, in fact,  
9 be able to do is tailor, given the specific nature of that  
10 particular watershed, areas where you may have some similar  
11 protection, areas where you may not necessitate as much  
12 protection as this interim protection applies.

13 We are constrained currently, and it's something  
14 the Board may think about, with the Forest Practices Act  
15 as a legal minimum. So this a different way of thinking,  
16 clearly, using watershed analysis, and if it would merit  
17 that certain areas could actually drop below Forest  
18 Practices Act standards, that's an interesting question.  
19 But in fact, the question is more on tailoring the  
20 specific protection to a given particular situation.

21 **GOVERNOR BARBARA ROBERTS:** Thank you very much,  
22 Dave. Appreciate your taking the time to join us today.  
23 James McCauley's here, Associated Oregon Loggers.

24 **JAMES MCCAULEY:** Thank you. For the record,  
25 Madame Chair, and other Board members, my name is Jim

1 McCauley, representing Associated Oregon Loggers. The  
2 comments I want to get to in a moment are going to  
3 discuss, again, the riparian standards that the Department  
4 of Forestry has been recommending in their latest analysis  
5 and summary. But first off I just want to offer general  
6 support to the plan itself and the various objectives and  
7 goals that are contained within the plan, and the decisions  
8 that have been made over the last year to try to look at  
9 a variety of innovative methods to deal with many news  
10 values and many additional values that the public is now  
11 looking at off of state forest as well as trying to  
12 provide for continued timber supply to the local communities  
13 as well as the State. I think the staff people need to  
14 be commended again for their efforts and their involvement  
15 and interest in trying to look at a plan that would be  
16 able to achieve a number of different recommendations that  
17 are out there.

18 Before, I guess, I move on to some riparian  
19 comments specifically, there's been a discussion, as  
20 described by the Department, about whether or not to use  
21 the word "maintain" or "enhance" when dealing with fish and  
22 wildlife goals; and whether it's "maintain" or whether it's  
23 "enhance" it doesn't really make any difference to me.  
24 What I think is probably a larger point of interest to  
25 look at is whether or not the Elliott State Forest can

1 actually maintain or enhance populations. Because of the  
2 other factors that are involved, whether it's wildlife  
3 species such as deer or elk, or whether it's fish species,  
4 the Elliott really has no control over the direct influence  
5 of those populations; and I would suggest that instead of  
6 reference to maintaining and enhancing populations, it would  
7 be maintaining and enhancement of habitat, fish habitat  
8 specifically, as well as wildlife habitat that would be  
9 consistent with the goals that are on the Elliott. And  
10 that, in fact, would be a much more manageable objective  
11 for the Department of Forestry, as well as the Elliott, to  
12 provide in the long term.

13           Moving to the riparian protection standards that  
14 are established within the Elliott, having been an advisory  
15 board member of the group that put together the new stream  
16 regs, I have a close personal attachment with what we  
17 proposed in the last year. I think it includes a wealth  
18 of knowledge, a wealth of new scientific understanding about  
19 the streams, and about how management activities affect  
20 those streams, and what we can actually provide for down  
21 the road.

22           The surveys that have been done over the last  
23 year by Oregon Department of Fish and Wildlife, as well as  
24 the Department of Forestry, throughout the state as well  
25 as specifically on the Elliott, really point to some

1 serious concerns about what those habitat conditions are  
2 like at this point in time. And I think as a member of  
3 the board it's my opinion that we made the appropriate  
4 choice when we started out this process, was that we were  
5 going to develop rules that were going to be able to  
6 change those conditions in time. We knew, or at least  
7 it's my opinion that if we establish a philosophy that  
8 goes off of no-touch buffers, in many cases you will never  
9 reach a riparian condition that is going to be able to  
10 support productive fisheries. And that's basically the  
11 philosophical movement that we made within that rule  
12 package.

13 We developed a strategy that was going to provide  
14 some assurance that would protect habitat that was in good  
15 condition. We made some amendments, or we developed some  
16 strategy that would be flexible enough to provide riparian  
17 conditions an opportunity to be enhanced or grow into  
18 conditions that we wanted to achieve in the long term.  
19 And we also made provisions to allow landowners to change  
20 their conditions rapidly if there would be never be any  
21 opportunity for those streams to change throughout time.

22 And I think the stream surveys that have been  
23 done on the Elliott really point to what we're finding  
24 throughout most of the coastal ranges, is that we have a  
25 large number of stream isles that have no conifers

1 alongside them. And without any active management within  
2 those riparian areas I don't expect to see any long-term  
3 establishment of conifers. I think the earlier discussion  
4 about the R2 strategy as being interim, and to consider  
5 the additional information as it comes along is maybe an  
6 appropriate mechanism, but I also think that it's important  
7 to consider what the Department of Forestry has recommended  
8 in their summary statements. And with that, I'll be happy  
9 to answer any questions.

10 **GOVERNOR BARBARA ROBERTS:** Jim? Phil? I'm going  
11 to try to -- this is what happens when you've been at  
12 this too long -- the comment you made about maintaining or  
13 enhancing, your reference to doing habitat rather than  
14 populations, is it safe to assume that part of that  
15 discussion is because the area covered by the Elliott is,  
16 if you will, a postage stamp in a larger framework of  
17 population areas, and that the population can't be really  
18 altered by what happens in the Elliott? Is that part of  
19 the reason for the discussion?

20 **JAMES MCCAULEY:** Yeah. That's part of the  
21 motivation, but there is a much larger, and more important  
22 part of that. And that is, in my opinion anyway, it's  
23 difficult to expect the Elliott management activities to be  
24 able to manage for a fish population, for example, when it  
25 has no control over the other variety of factors that are

1 out there. But what it can do is provide habitat that  
2 will be used, and will be able to provide a population  
3 base for the fisheries.

4           **GOVERNOR BARBARA ROBERTS:** Jim, the reason I'm  
5 asking that question is because I'm, as I said, this is  
6 when you know you've been at this too long, is I'm going  
7 back to a discussion we had in this room maybe a year ago  
8 where the argument was about the scientific debate over  
9 habitats. What habitats would a spotted owl survive in?  
10 Not could you make the spotted owl survive, but what were  
11 the habitats that would keep that spotted owl surviving and  
12 not dwindling in population? In fact I see Commissioner  
13 Ross back there, and he showed us pictures of spotted owls  
14 on the fence post, and spotted owls on tractors, or  
15 whatever all those things were, and argued that second  
16 growth was as good as old growth, and all the things we've  
17 gotten about the habitat arguments.

18           If, in fact, there are debates, even scientific  
19 debates, about adequate habitat, correct habitat, the right  
20 habitat, the real habitat, whether it's fish or spotted  
21 owls or whatever it might be, if that's the case, how do  
22 you speak to maintaining or enhancement arguments and opt  
23 for the habitat as being the answer rather than the  
24 population? I mean if we're going to take Item Number 2  
25 and say that we will reevaluate it in some way in Item

1 Number 5, if my objective here is not to enhance species,  
2 I mean if I didn't want there to be more fish, there  
3 wouldn't be much of a debate here. And we know a great  
4 deal more, I think, about fish habitat maybe than we do  
5 owl habitat, but I think there's significant debates in  
6 both of those areas, so I'm just trying to think about  
7 this in the context of the debates about habitat, but  
8 there's no debate about the population, for instance, on  
9 fish. No one disagrees that we ought to enhance fish  
10 population, not maintain, but enhance. So help me  
11 understand, with those scientific debates on habitat, how  
12 I move to habitat here rather than population growth.

13 **JAMES MCCAULEY:** Okay. Well, I guess clearly the  
14 end result is what we want is more fish.

15 **GOVERNOR BARBARA ROBERTS:** Okay.

16 **JAMES MCCAULEY:** And in order to get to that end  
17 result there's going to have to be a number of different  
18 policy decisions that are going to have to be made  
19 affecting more than just forest land, and more than just  
20 the Elliott, for example. I think the answer in that  
21 context of what Elliott can provide, or what habitat can  
22 provide, is if it's going to be able to provide, if  
23 managed correctly, basically, I guess, the hotels, if you  
24 want to call them, for the fish to use. And it seems,  
25 at least to me, more appropriate to expect goals that will

1 achieve that habitat function for the Elliott.

2 I think it's important, certainly, to mention that  
3 you want to enhance and then maintain overall fish  
4 populations, but physically what can be expected out of the  
5 Elliott is really more towards habitat, and then maybe  
6 recognition of what that contribution of habitat protection  
7 will provide to that population. I don't know if that--

8 **GOVERNOR BARBARA ROBERTS:** Okay. I don't think  
9 we're disagreeing, and I don't mean to create a  
10 disagreement where none exists. Clearly it is the habitat  
11 we speak of that will hopefully enhance the populations;  
12 that's what we're about, and whatever language does that.  
13 But I guess it was just a little contrary to the  
14 scientific debates we'd had about what habitat did what  
15 when we knew what our end product was, which was,  
16 hopefully, enhancement of the species; and in changing that  
17 I was just trying to understand, obviously you need one to  
18 do the other, but in changing the language here did we do  
19 what we intended to do.

20 **JAMES MCCAULEY:** Yeah. It's, you know, in my  
21 experience, at least how we addressed Forest Practice  
22 regulations, is we did not address them in terms of  
23 population levels because we knew the Forest Practice Act  
24 in and of itself could not provide for fish populations.  
25 It could only provide that function of the freshwater

1 habitat. And we certainly recognized that we want to have  
2 more fish out there in that process, but just, again,  
3 getting back to what the Elliott was physically capable of  
4 doing in this management process.

5           **GOVERNOR BARBARA ROBERTS:** Well, that's the reason  
6 I asked you in the beginning this sort of postage-stamp  
7 question. We realize we are a component in a much larger  
8 puzzle, and if one portion of land does their habitat very  
9 well, and the others surrounding it do not, then we really  
10 haven't probably enhanced fish populations or any other  
11 populations, and so you're right about the habitat issue.  
12 I was just thinking about it in this context of the end  
13 product we were after, and in a sense I thought this spoke  
14 to the end product, but there may be a combination of  
15 those two things that this language needs to say. Maybe  
16 it should speak to the creating a habitat that would, in  
17 fact, aid in the enhancement of the population, and maybe  
18 there's a way we can do that in this language that will  
19 do that. So I don't think we're in disagreement. I was  
20 just trying to think it through in the way we've discussed  
21 it in the past in this room. So Jim, I appreciate that.

22           Other questions or comments on the part of the  
23 Board? Okay. Thank you very much. Appreciate your  
24 expertise today. Gordon? Now that I've identified you in  
25 the audience, Gordon Ross, County Commissioner from Coos

1 County.

2 GORDON ROSS: Thank you, Governor Roberts.

3 GOVERNOR BARBARA ROBERTS: I just want you to  
4 know that means I listened to what you said all those  
5 times, Gordon.

6 GORDON ROSS: I was flattered. And I have no  
7 new pictures today, but I have this packet.

8 GOVERNOR BARBARA ROBERTS: Oh, I'm so  
9 disappointed.

10 GORDON ROSS: I have this packet. May I  
11 approach the--

12 GOVERNOR BARBARA ROBERTS: This does not come with  
13 it. Certainly.

14 GORDON ROSS: May I pass these packets out before  
15 I begin so you can follow along?

16 GOVERNOR BARBARA ROBERTS: Sure, that's fine.

17 GORDON ROSS: And there's no mistake to find.  
18 The question here today--

19 SECRETARY OF STATE PHIL KEISLING: There's no  
20 mistake there.

21 GOVERNOR BARBARA ROBERTS: Oh, I'm so thankful.  
22 On Friday afternoon it's so hard for me (phonetic).

23 GORDON ROSS: If there is a mistake it's not  
24 intended for that purpose.

25 GOVERNOR BARBARA ROBERTS: Well, I'm going to be

1 down in your county this next week, so I--

2           **GORDON ROSS:** I realized why the Board meeting  
3 was changed from Tuesday till today.

4           **GOVERNOR BARBARA ROBERTS:** Yes, because now you  
5 know why.

6           **GORDON ROSS:** And I told Mr. Mobley that I have  
7 a land use hearing at the same time; I said, "Governor  
8 Roberts can come and cut the ribbon, and we intend to  
9 continue to cut the red tape."

10           **GOVERNOR BARBARA ROBERTS:** Oh, gosh, I wish I'd  
11 have said that.

12           **GORDON ROSS:** Actually we had him in and out of  
13 the planning department in 35 minutes, and I'd hate for  
14 that to get around because we have people down there who  
15 have been waiting 60 days to get through the planning  
16 process.

17           **GOVERNOR BARBARA ROBERTS:** I don't think I'd  
18 spread that rumor around, yeah.

19           **GORDON ROSS:** I want to thank you again for the  
20 opportunity for Coos County to be heard on this matter.  
21 Our testimony last Land Board hearing was centered around  
22 concern about some of the longest rotations, and shortening  
23 some of those so we didn't get those overripe areas that  
24 would result in catastrophic fires like in the past in the  
25 coast range, and particularly in the Elliott; and, of

1 course, talk about relocation of species, in three days,  
2 300,000 acres burned there in 1968.

3 Today we'd like to direct our testimony toward the  
4 riparian stream management portion of your plan, and I want  
5 to read just one paragraph from our short letter. Of the  
6 two choices proposed, we favor the Board of Forestry's  
7 proposed riparian rules because it allows for management and  
8 stream restoration at the time of harvest, as opposed to  
9 just a regulated setback, or a hands-off approach. Any  
10 timber sale that incorporates only a subscribed setback  
11 offers no benefits to the anadromous fish, while a stream  
12 enhancement opportunity at the time of harvest can be shown  
13 to not only mitigate for any adverse impact, but may have  
14 a definite definable enhancement opportunity.

15 And I would like to draw on just two contrasting  
16 situations that have come to my attention recently. And  
17 in this respect, included in your packet is a -- the  
18 second item in your packet, I believe, is the spawning  
19 escapement index by river and region for the coast of  
20 Oregon. This was put out in February by Oregon State  
21 University using Oregon Department of Fish and Wildlife  
22 statistics. And it does show the South Coast to be  
23 continuing to improve in the amount of coho returning to  
24 our streams.

25 I've highlighted for you the Coos and Coquille

1 Basins. The Coos where we have 268 miles of stream of  
2 spawning habitat at 42 fish per mile. The long-term  
3 escapement goal is 11,256 salmon -- coho, that is, this  
4 year; 17,956 returned. On the Coquille, 16,000 is the  
5 escapement goal, 35,000 returned. Now, last year you'll  
6 notice in 1992 on the Coquille you had a very low return,  
7 but if you go back to the 1989, which was the brood year  
8 for those returning, you have only a 5,000 that year, but  
9 in the long run here you can see a continual rise in  
10 numbers.

11 And I would say that probably the Coos and  
12 Coquille Basins are the most heavily managed for forest  
13 production of any basins on the coast. We probably have  
14 more miles of road and logging road per mile of spawning  
15 habitat than any basins on the coast. And I'm not saying  
16 if you want more fish what you need to do is log, but I  
17 am saying--

18 **GOVERNOR BARBARA ROBERTS:** I'm glad, Gordon.

19 **GORDON ROSS:** That accompanying those activities  
20 have been many activities to help the streams both within  
21 the private industry, and within the BLM, as our County  
22 Plow-Back (phonetic) funds from the O&C receipts have been  
23 used in stream enhancement. And of course, the many  
24 activities we've had going on down there which are managing  
25 the riparian zone rather than just a set aside.

1           Immediately when I mention this, somebody draws to  
2 our attention, yes, but the big return this year is due  
3 to no season last year on the ocean. And this makes the  
4 contrast even greater because in the northern part and the  
5 central portion of the coast where we see the very poor  
6 returns, those are the fish that went through the maturing  
7 off of Coos Bay in the southern part of the coast, while  
8 the ones returning to the Coos and the Coquille go through  
9 their maturing period a year and a half off the coast of  
10 California where there was still a season last year.

11           In contrast to this I would indicate that from  
12 a standpoint of the layaway plan, the set-aside plan, if  
13 there were that much value to just doing nothing and hope  
14 nature did something for you, the South Slough Estuary and  
15 Sanctuary wouldn't probably be needing to apply for a  
16 \$300,000 grant at the present time partly to enhance salmon  
17 runs on the tributaries of South Slough. For over 20  
18 years we have ceased to have human intervention in that  
19 basin. We removed all the cows. We removed all the  
20 people. We took out the tide boxes. We breached the  
21 dikes. And we still don't have the returns that we would  
22 hope to have. And we want to do some work there. And  
23 I'm not downplaying what we feel is a bright spot in our  
24 area down there, and we want to invite you to all come  
25 and see our South Slough Estuary and Sanctuary. I'm just

1 saying that management is important, and I think the  
2 Sanctuary, from a standpoint of measuring things, has done  
3 a benefit right here in measuring this, too.

4 So the other item in there is the status of the  
5 Southern Oregon coho measurements of population rebuilding.  
6 This came out in December before this year's returns were  
7 available, so some of the information in here is not as  
8 bright as it could be, but it's a preliminary report that  
9 is being done by the 18 western Oregon counties to help  
10 the National Marine Fisheries Service in getting all the  
11 information before them that we can.

12 I think the Elliott, and the tributaries of the  
13 Elliott, I'm thinking of Palouse Creek, I'm thinking of the  
14 tributaries that go into Ten-Mile Lake, and I'm thinking  
15 of those that go through Ash Valley. We've having very  
16 good returns of coho in there, and we know that the  
17 Elliott by stream survey is short on structure. So we  
18 know there's an opportunity for it to continue to enhance  
19 the fishery returns, and for that reason we would like to  
20 see a Forest Practice in regard to riparian zones that  
21 allows for enhancement at the time of harvest rather than  
22 just a set-aside area.

23 I liked your term about a postage stamp area  
24 because that's just a small picture in a large picture,  
25 but the large picture with the salmon is, of course, the

1 estuaries, the ocean, the activities in the ocean,  
2 predation, and all of those. And what we can do is we  
3 can provide the very best upstream, and if we ever get the  
4 really good ocean conditions again I think we're in good  
5 shape for some real salmon runs because we know we've been  
6 in the in and out of the El Nino phase now for some  
7 time. Is there any questions that I can try to help to  
8 answer?

9 **GOVERNOR BARBARA ROBERTS:** No, I don't think so.

10 **GORDON ROSS:** Thank you again, so much, and  
11 you'll see me--

12 **GOVERNOR BARBARA ROBERTS:** I'll just tell you,  
13 Gordon, we're going to manage our postage stamp better than  
14 the post office is managing theirs. Thank you very much.  
15 Jim Brown, Oregon Department of Forestry?

16 **JIM BROWN:** Thanks. Just signed on as staff,  
17 Barbara.

18 **GOVERNOR BARBARA ROBERTS:** Okay. You're just on  
19 here. Oh, I didn't think you wanted to talk. I knew  
20 you didn't want to talk, Jim, so okay. Is there anyone  
21 else who would like to speak to this issue prior to the  
22 Board making comment or -- yeah. You want to come up and  
23 identify yourself. I would ask you to sort of be certain  
24 we're not too long. I let people talk at length based  
25 on how many were signed up, so since I saw you come in

1 late I'll give you another opportunity here.

2           **DAVID MOSKOWITZ:** Thank you. Good afternoon,  
3 Governor Roberts, Treasurer Hill and Secretary Keisling.  
4 My name is David Moskowitz with Oregon Trout, and with me  
5 is Paul Ketchum from Portland Audubon Society. We  
6 apologize for arriving late and not signing up. We've  
7 only recently learned of the change recommendations from the  
8 Department of Forestry to the Land Board regarding the  
9 Elliott. We don't have any prepared testimony, but we  
10 have been able to discuss the issue with some folks prior  
11 to the meeting.

12           Let me just begin. Oregon Trout is a native  
13 fish conservation organization based in Portland with  
14 membership throughout the Pacific Northwest. The first  
15 issue I'd like to bring up is a public process issue  
16 regarding the Elliott and your considerations today. And  
17 that is that the public had an opportunity to review the  
18 draft Elliott plan, and comment on the recommendations  
19 therein, and at this point this recommendation is not  
20 receiving the kind of public review that the entire plan  
21 did. And the Forest Practice Act draft rules, the  
22 proposed rules, could have been an alternative in that  
23 plan, and thus subject to public review, though the rules  
24 have received quite a bit of public review independent of  
25 the Elliott. So that concerns us as you deliberate them

1 today.

2 Another issue I think that's been brought up a  
3 number of times today by prior speakers, and they view the  
4 proposed riparian on the Elliott, the so-called R2, as  
5 being a no-touch, or the set-aside, and it's our  
6 understanding that in the Elliott plan that restoration  
7 work, enhancement work, stand improvement work, would be  
8 allowed in areas that are identified as being deficient of  
9 large woody debris, of conifers, and that that flexibility  
10 is in the current plan, and would be allowed under the R2  
11 scenario. So we think that it's a little bit of a  
12 misleading argument to say that once we adopt this 100-foot  
13 no-cut buffer that we lose our flexibility. That's simply  
14 not the case. We maintain that flexibility. That  
15 flexibility is in the draft forest rules, but it's also in  
16 the current Elliott Plan. So that's an important issue to  
17 keep in mind.

18 Another interesting issue is the fact that the  
19 proposed Elliott rule and the management plan there has  
20 been in effect in our postage stamp here for four years  
21 apparently. So we think that is taking a step backwards  
22 at this time, do we have the justification that what it  
23 is doing is not working, or is too much? And I don't  
24 know if we have seen that analysis, so perhaps we don't  
25 need to take this step back, because we do view it as a

1 step back.

2           Regarding the Forest Practices Act rule process,  
3 the draft rule is going to be considered by the Board of  
4 Forestry later this month. Both Paul and I have been  
5 members of the advisory committee with Jim McCauley and  
6 some of his colleagues with excellent assistance from State  
7 agency folks from Forestry, DEQ, and ODFW. That process,  
8 as you well know, it's been a long, difficult one. We  
9 think that there are aspects of that rule, many aspects of  
10 that rule, that are going to be effectively applied,  
11 they're going to be difficult for some people to take,  
12 perhaps not enough for others, but it's a big step forward  
13 in many respects.

14           However, the Department of Forestry materials that  
15 you received has described this process as being one where  
16 we all got together and took the best science and came up  
17 with the best rule. Unfortunately, we don't believe that's  
18 the case. That rule process, it was a collaborative  
19 process, which meant it wasn't consensus. We didn't have  
20 to all come to agreement; there would be disagreement.  
21 If there was disagreement, we couldn't move forward,  
22 Department of Forestry would take the action forward.  
23 They'd make the decision. We all faced huge gaps of  
24 information, huge disagreements in what the available  
25 science that was there, what that meant. We couldn't

1 agree on that. So Forestry really had a big burden to  
2 come up with a draft rule, and we commend them in making  
3 it through that process with cats on both sides fighting  
4 them.

5 But you cannot describe the draft rule as the  
6 best science, and so with all due respect to the  
7 Department of Forestry, we believe that that statement is  
8 not accurate. And why that's important here is because  
9 we're talking about different kinds of land. We're talking  
10 about State lands, but not private lands. We're talking  
11 about interest for the future for the generations yet  
12 unborn. We're talking about fiduciary duties to present  
13 and future generations of all Oregonians for all resources.  
14 If this is sounding like a lecture, I'm sorry, because  
15 you're the Land Board and you bear that fiduciary duty.

16 **GOVERNOR BARBARA ROBERTS:** We've been lectured at  
17 before, David, it's okay.

18 **DAVID MOSKOWITZ:** Okay. I'll try to change my  
19 tone.

20 **GOVERNOR BARBARA ROBERTS:** It's okay.

21 **DAVID MOSKOWITZ:** In any case, in the plan  
22 itself, and I can't remember exactly the page, it says the  
23 Elliott State Forest are State common trust school lands,  
24 forestry lands, that are supposed to be managed in an  
25 exemplary fashion. And we believe that sets it aside.

1 And that's in statute. And the constitution says special  
2 things about this land as well.

3 The rule that Forestry would have you adopt is  
4 a rule that was brought together from people in places far  
5 apart, and it doesn't represent the kind of management that  
6 State land deserves, particularly the common trust land.  
7 During that process we often suggested to the Board that  
8 they divide private and State land, and come up with  
9 different standards for management on private and State  
10 lands because you have different ownerships, you have  
11 different responsibilities, you have different needs. That  
12 was turned back at every turn.

13 We also proposed, a number of conservation groups,  
14 including Portland Audubon, Oregon Trout, we proposed a  
15 100-foot no-cut buffer with the provision to allow  
16 alternative management to allow the kind of enhancement of  
17 stream-site areas that were deficient in conifers and large  
18 woody debris. That proposal received fairly short shrift  
19 before the Board, despite having much support from agency  
20 scientists and academic scientists. We were heartened and  
21 encouraged when that standard became the recommended  
22 proposal for the Elliott, and we still believe that that  
23 is a good management tool for the Elliott right now.

24 Oregon Trout would urge you to proceed on the  
25 course that you had set earlier. We would recommend that

1 you not adopt Department of Forestry's recommendations  
2 before you today.

3 A couple of other short comments. We heard some  
4 talk about the Sweet Home case. In your agenda item  
5 packet on Page 24 they talk about some different  
6 discussions, and different interpretations of that case.  
7 Certainly an important case. There's probably enough  
8 lawyers in the room we could argue all day about what that  
9 case means. But the last paragraph there we think is  
10 probably the most important. And the case of Palila would  
11 probably still apply in Oregon despite what Sweet Home  
12 says. At this point until the Supreme Court tells us  
13 more, until we learn more about it, we think that pointing  
14 towards Sweet Home as some kind of wedge in here is not  
15 quite appropriate. We don't know what it means yet, and  
16 the Ninth Circuit Case is the law of the land for this  
17 land and this postage stamp.

18 Oregon Trout applauds the industry's willingness  
19 to conduct fish surveys, and to do monitoring. We have  
20 a lot to learn, all of us, and any amount of effort that  
21 we can all appoint in that direction we certainly  
22 encourage, and we hope to be able to contribute as well  
23 if not in money, in able and willing volunteers.

24 We've heard talk about measurable goals for fish  
25 populations versus habitat, and I think that's a very

1 interesting discussion because there's no one factor that's  
2 depressing our salmon, steelhead, and trout, but habitat is  
3 certainly one of the most important issues. And in  
4 looking through the Elliott State plan you don't define  
5 (phonetic) measurable goals necessary for fish populations,  
6 or for habitat; and if we're talking about defining  
7 measurable goals for habitat, which we heard some agreement  
8 with from people who were often in disagreement with, we  
9 should see things like pool riffle ratios (phonetic) per  
10 mile, temperature standards, sediment road standards, gravel  
11 embeddedness standards, pieces of large woody debris per  
12 mile. Those are the kind of measurable goals for habitat  
13 that Forestry and Fish and Wildlife should be able to come  
14 to agreement on and put into place for State lands for  
15 exemplary management. We don't believe the Forest Practices  
16 Act would necessarily get us to that exemplary standard,  
17 and I think before my mouth goes any drier, and before I  
18 take up anymore important time--

19 **GOVERNOR BARBARA ROBERTS:** There's some water  
20 right there.

21 **DAVID MOSKOWITZ:** Thank you. But thank you very  
22 much for the opportunity, and I'll turn it over to Paul.

23 **PAUL KETCHAM:** Thanks. Governor Roberts,  
24 Secretary Keisling, and State Treasurer Hill, thank you very  
25 much for the opportunity to be here today. I'm Paul

1 Ketcham; I'm the conservation director for the Portland  
2 Audubon Society. Dave has already outlined in a very  
3 clear fashion some of our concerns with the recommendation  
4 before you today by the Department of Forestry. I would  
5 just like to reiterate that we have concerns with the  
6 public process here in the sense that the draft plan that  
7 went out for public review contained riparian scenarios.  
8 The draft proposed Department of Forestry rules were not  
9 among those scenarios discussed in the draft Elliott State  
10 Forest plan. And we think to make a wholesale  
11 substitution today would be bad public policy because  
12 inadequate public review and comment had been received on  
13 that issue.

14 Second of all, from a substantive standpoint, not  
15 just a procedural standpoint, we voice our objection to the  
16 Department of Forestry's riparian rules as being the guide  
17 for riparian management on State forest lands. I think  
18 Dave did an eloquent job of describing the different  
19 mandates that apply here: private lands versus State-owned  
20 lands. This has been an issue of concern in the  
21 conservation community for quite a number of years, and  
22 that the same logging and harvest regulations apply to  
23 State lands as well as to private lands. And we think  
24 that there is precedence in allowing a higher standard of  
25 management on our publicly-owned lands. Let's remember

1 these are public lands, and they're not private lands, and  
2 the present Forest Practices rules which basically amount  
3 to a minimum standard for protection of public values is  
4 not necessarily appropriate for application to publicly-owned  
5 lands where a higher degree of protection is justified  
6 because of the values and the ownership present in those  
7 areas.

8           Essentially, if you compare the Department of  
9 Forestry's proposed rules draft with the Scenario 2, which  
10 is the recommendation under the preferred alternative, you  
11 will see that the Department of Forestry's draft rules is  
12 a high risk proposal. As Dave eloquently described, both  
13 of us were on the advisory committee that led to the  
14 development of this rule package. We sat at the table.  
15 We were involved with it as much as we could possibly be.  
16 And we feel that the draft rules, again reiterating Dave's  
17 points, do not represent the best science, but in essence  
18 attempted to be based on scientific standards which are  
19 tempered with political and economic considerations.

20           The high risk element of the proposed draft  
21 Department of Forestry rules is that they have not been  
22 tested in the field. There is a morass of silvicultural  
23 theory. It's basically a lot of these assumptions in the  
24 draft rules have not been proven. There's an assumption  
25 that these conditions and assumptions will be borne out

1 with time, and that can only be proven with monitoring  
2 strategies, and we don't have the data yet to show that  
3 the Department's approach is going to work in the long  
4 run.

5           However, Scenario 1, which is part of the  
6 preferred alternative, essentially is a more conservative  
7 approach, a lower risk approach, which mirrors those being  
8 applied by federal agencies on federal lands under President  
9 Clinton's Forest Plan, and which is now being discussed by  
10 the Eastside's management team on federal lands east of the  
11 Cascades in Washington and Oregon. Of those scenarios,  
12 including pack fish, recommend a much, much greater degree  
13 of protection to riparian zones than is even being  
14 considered by the State Land Board under the Elliott State  
15 Forest plan. So in a sense what you have is a very  
16 protective strategy on federal lands, a proposal under the  
17 Elliott State Forest plan that is less restricted than  
18 federal lands, and then you have the most lenient  
19 restrictions under the Department of Forestry's proposed  
20 rules.

21           I think if you look at the context of the  
22 Elliott State Forest it does play a significant role in  
23 the recovery of the spotted owl and the marbled murrelet,  
24 two species on the federal endangered species list. The  
25 spotted owl, of course, is on the State endangered species

1 list. There are, as you are aware, a State coho petition  
2 to the Fish and Wildlife Commission, and a federal petition  
3 to list the coho in Oregon and in the Pacific Northwest  
4 because of continued threats to the habitat of that  
5 species.

6 It would be a prudent course of action for the  
7 State Land Board to maintain management options by adopting  
8 a more conservative riparian management approach, and we  
9 think that the proposed rules by the Department of Forestry  
10 shoot the dice and we don't know how the dice are going  
11 to end up, and we don't think a high risk approach is  
12 warranted or is wise.

13 I'd also like to point out that the evidence is  
14 quite clear, if you do a comparative analysis between the  
15 Department of Forestry's rules and a 100-foot protection  
16 strategy under Scenario 2, that there's a vast difference  
17 in protection levels to the resource under those two  
18 scenarios, they're not close. All you have to do is look  
19 at the buffer width requirements and the amount of large  
20 conifers required to be retained along the streams.  
21 There's a big difference between those two proposals. And  
22 as is very well indicated in the scientific literature, not  
23 only are the streams in the Elliott State Forest have a  
24 paucity of large woody debris, but this is a condition  
25 faced by many streams in the Pacific Northwest due to past

1 management activities, and natural causes. So in order to  
2 recover the streams in the most rapid way, it would be  
3 best to protect the streams to the maximum degree possible.  
4 If you were to do that, Scenario 1 would be an even more  
5 conservative approach. But at least you should hold the  
6 line on Scenario 2.

7           And I'd like to point out, just in closing, that  
8 the criticism under Scenario 2 that it doesn't provide for  
9 enhancement opportunities is not correct, and I would point  
10 you to the table in the draft Elliott plan where riparian  
11 Strategy 2 is described. Harvest, no harvest except for  
12 specific habitat enhancement for fish-bearing perennial  
13 streams, non-fish-bearing perennial streams; no harvest  
14 except for specific habitat enhancement, and that is  
15 described in the footnote of the chart. Riparian habitat  
16 enhancement projects such as alder conversion or similar  
17 activity would require a written plan, and consultation with  
18 ODFW. So there is flexibility in riparian Scenario 2 for  
19 active management, and I believe that it gives the State  
20 Land Board and the Department of Forestry adequate  
21 flexibility to return these areas to a more productive  
22 status, and is consistent with a more conservative approach  
23 to riparian management in the long run. Thank you.

24           **GOVERNOR BARBARA ROBERTS:** Thank you. Questions  
25 or comments? Thank you, gentlemen. Appreciate your--

1           **PAUL KETCHAM:**       Thank you very much for the  
2 opportunity to be here.

3           **DAVID MOSKOWITZ:**   Just one additional comment in  
4 case there's any question.   Oregon Trout doesn't tend to  
5 support the Forest Practices rules before the Department of  
6 Forestry for adoption.   Despite our criticism today, we are  
7 going to urge that the Board adopt, and we're going to  
8 stand side by side with our other committee members and  
9 urge the Board to take those forward.   But this, we  
10 believe, is a different case.   I'm sorry to interrupt.

11          **PAUL KETCHAM:**       Ditto that remark.

12          **GOVERNOR BARBARA ROBERTS:**   Thank you very much.  
13 Okay.   We have before us a series of six recommendations  
14 that are potentially available for our action today.   I  
15 would ask for comments or conversation or discussion on the  
16 part of members of the Board, or motions, whichever seem  
17 in order.

18          **SECRETARY OF STATE PHIL KEISLING:**   Madame Chair,  
19 my sense of it is, I'm willing to be persuaded otherwise,  
20 my sense of it is that we maybe ought to take a single  
21 motion having to do with a set of recommendations rather  
22 than recommendation by recommendation.   And maybe just to  
23 get things started I'll put one on if that would be  
24 appropriate.

25           I'd like to move all six recommendations with the

1 following two changes put on the table. For Number (2),  
2 it would delete after the word substituting "the proposed  
3 FPA rules for the R2 strategy in alternative 6 and" so  
4 that it would read "Amendment of the draft plan by  
5 substituting the word "enhancing" and "enhance" and would  
6 then complete the sentence. I think the intent of that  
7 is clear and I'll speak to it.

8 And then the second change I would make is in  
9 (5) on the fourth line after the phrase "scientific  
10 research" I would insert the following: "and other  
11 information as it relates to the owl biology assumptions,  
12 riparian management strategy, and other key habitat  
13 considerations in the plan." So that the entire section  
14 would read, "Endorsement of the biological assumptions  
15 (including ODF's approach to owl biology) used in the draft  
16 plan and a direction to continue reviewing and analyzing  
17 scientific research and other information as it relates to  
18 the owl biology assumptions, riparian management strategy,  
19 and other key habitat considerations in the plan as it  
20 becomes available. When appropriate, ODFW should recommend  
21 changes to the draft plan (and final plan, including the  
22 HCP, once adopted) based on new scientific information."

23 I'm certainly open for further amendment to this  
24 motion, but I thought I would put this out to start the  
25 discussion and--

1           **GOVERNOR BARBARA ROBERTS:** Phil, will you give me  
2 again the amendment on (2)?

3           **SECRETARY OF STATE PHIL KEISLING:** All (2) would  
4 be just simply delete the reference to the proposed FPA  
5 rules.

6           **GOVERNOR BARBARA ROBERTS:** Okay. Okay.

7           **SECRETARY OF STATE PHIL KEISLING:** So after the  
8 first word substituting "the proposed FPA rules for the R2  
9 strategy in alternative 6 and"--

10          **GOVERNOR BARBARA ROBERTS:** Okay.

11          **SECRETARY OF STATE PHIL KEISLING:** That phrase  
12 would be deleted.

13          **GOVERNOR BARBARA ROBERTS:** Okay.

14          **SECRETARY OF STATE PHIL KEISLING:** So it would  
15 only speak to enhancing and enhance.

16          **GOVERNOR BARBARA ROBERTS:** Okay. That's a motion  
17 as it now stands?

18          **SECRETARY OF STATE PHIL KEISLING:** That's a motion  
19 as it stands.

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

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

22          **GOVERNOR BARBARA ROBERTS:** Okay. We've heard the  
23 motion and second. Let's talk about it.

24          **SECRETARY OF STATE PHIL KEISLING:** Yeah, let me  
25 speak to this. The two changes in this obviously have two

1 effects. One is to go with the R2 strategy with the  
2 riparian area. The second is to clarify and make  
3 absolutely clear that this plan, and the fact that it is  
4 a dynamic and flexible plan, needs to pay attention to the  
5 full range of scientific research and information, not just  
6 owl biology, but about riparian management.

7 And let me maybe speak to particularly the first  
8 one. And first of all I want to say two things as a  
9 premise. The first thing I want to say is that as we  
10 sit here on a Friday afternoon I think at a place of  
11 sending this off into the process that we obviously have  
12 to sign off on the details next time, I just think it's  
13 a very appropriate time to recognize the extraordinary work  
14 that has brought this here.

15 **STATE TREASURER JIM HILL:** Hear, hear.

16 **SECRETARY OF STATE PHIL KEISLING:** This is going  
17 to be nationally recognized cutting edge work, and what the  
18 Department of Forestry taking the lead has done, and with  
19 the leadership, too, of ODFW, you folks have put Oregon on  
20 the map in another way in how we can be innovative,  
21 creative, and really sit down and work with the parties  
22 about hammering out, I just think, an extraordinary product.  
23 In fact, how extraordinary it is is, in part, reflected by  
24 what some of the debate has come down to today. The  
25 difference between R2 and the FDA and I think it's less

1 than about one percent of the land base, maybe two percent  
2 if you measured in timber cut, just the absence of  
3 comments about the owl and the murrelet even today, I  
4 think, is telling in where we have gotten to in this  
5 process, and I just want to take the time to say that.  
6 An extraordinary work, Jim, Mike, and Jill, and to all of  
7 your colleagues, and I want to thank you. It makes it  
8 easy for people like us. They do the heavy lifting, we  
9 just get to do the rest.

10 I'll speak real briefly to why R2 versus FPA.  
11 There is one thing in the staff report that I disagree  
12 with, but just not in the concept but how it's phrased.  
13 There's one point we talk about rejecting the "experimental  
14 forest notion." And I very much agree in the sense of  
15 rejecting the notion of some people's definition of the  
16 experimental forest in that it's a "we'll cut what we used  
17 to cut, and we'll go from there."

18 I very much see, and I think it's central to see  
19 this as a plan that really has as the Elliott being an  
20 experimental forest in a lot of ways. It builds on the  
21 notion that we aren't sure what the best or even the  
22 better science is in some sense. We've got to make our  
23 best judgments. We've got to go on. But we've got to  
24 be very attuned to what we may find out as we go along,  
25 and adjust accordingly. And in that sense I think the R2

1 strategy for me, and it's close, I think it's a very good  
2 argument from a consistency point of view about the FPA,  
3 but I come down with R2 because I think it will serve a  
4 valuable role in the entire scheme of things, the whole  
5 letter, as it were, that on this particular forest, which  
6 has some unique circumstances, we're going for an HCP, for  
7 example, but to in a sense have this way of doing it that  
8 we can compare that with other ways of doing it, not  
9 necessarily saying that one is better, or best, or will  
10 prove to be, but that difference is, I think, useful in  
11 this regard. We have familiarity with it. We're doing  
12 it now. We do have that flexibility, that was pointed  
13 out, to do some management.

14 And I guess the other consideration to me, and  
15 we all sit here knowing that within days, weeks, months,  
16 within a year or two, whatever we would decide, we would  
17 have to go at it again if there's a listing  
18 (unintelligible). We recognize that we want to be in the  
19 strongest position that we can be should that happen to,  
20 in a sense, try to do our best to come up with the best  
21 way to handle the Elliott in particular, but other lands  
22 as well. I just personally believe R2 gives us a somewhat  
23 better starting point if that discussion happens, and  
24 there's a fair amount of probability that it will.  
25 Important that we be willing to adjust and change as we

1 go along in this, but given the situation, though it is  
2 a close call, and there's good arguments, I feel more  
3 comfortable with the R2 approach as the way to go out of  
4 the gate on this one, and so that's the reason for that,  
5 I think, in combination with the language that underscores  
6 the work we want to do as we go ahead. Commitment of  
7 this Land Board member, and I know it's shared, that we'll  
8 have the flexibility to follow what we do, and just as  
9 appropriate in the future.

10 **GOVERNOR BARBARA ROBERTS:** Jim, any comments?

11 **STATE TREASURER JIM HILL:** Governor, Phil has  
12 really stated it all very well. I guess I would just  
13 like to, as someone who is newer to these issues, the work  
14 that has been done by the Department of Forestry and the  
15 Department of Fish and Wildlife, and the fact that it is  
16 all so quiet just belies the magnitude of what they've  
17 accomplished. I mean every time that I look at this plan  
18 it's just more profound as to how good a work it is.  
19 And there are a lot of people who are very critical of  
20 government now, I just wish that they could really get  
21 below the surface and see the details of how we are served  
22 by our employees, and I think that it would change their  
23 minds, and this is a perfect example of that.

24 **GOVERNOR BARBARA ROBERTS:** Thank you, Jim. Well,  
25 I think, Phil, in looking at your amendment, it says

1 several things that are important as we look at the  
2 proposed draft rule before the Board of Forestry, which  
3 I've been following closely, and this rule, though they are  
4 different in their application, we have, by your amendments  
5 in (5), given ourselves the opportunity to reevaluate this  
6 with increased scientific knowledge and more experience in  
7 this process. We may also find that as the Board of  
8 Forestry looks at their rules, and we make a change of  
9 this kind here, or really not a change, just stay where  
10 we are really more than make a change, that we have given  
11 the whole process an opportunity to look at the variable  
12 that can exist and still do quality work, and also look  
13 at the fact that maybe five years down the line, or a  
14 year down the line, or three years down the line Forestry  
15 will look at what we're doing and say, you know, "You did  
16 some things we wished we'd have done," or we may look and  
17 say, "There's some variables that need to occur now in our  
18 R2 decision," and we have in (5) the opportunity to  
19 reevaluate.

20 It is the more conservative choice in the sense  
21 that we have protected in a larger way the fish  
22 populations and other habitat issues that are part of this,  
23 but it is not a piece of concrete for which we cannot  
24 step back in and reevaluate our work and our learning as  
25 we go through this process. I think the change in (2)

1 is enhanced in its positive role by what you have done in  
2 the amendment in (5) is my view of that. I think it's  
3 the combination, I think--

4 **STATE TREASURER JIM HILL:** I agree.

5 **GOVERNOR BARBARA ROBERTS:** That makes that such  
6 an important amendment, and again, you know, I reinforce  
7 what the other two members of this Land Board have said  
8 with approaching ten years of work on this Board, the  
9 longest of anyone served for awhile, I don't know when I  
10 have seen a finer piece of work than this work we have  
11 before us right now; and I think the industry's comments  
12 today, considering where we were a year ago, and their  
13 comments about the staff, again show that we are working  
14 with real professionals who have done the kind of work  
15 that ought to happen when we do good government. And I  
16 think it's a combination of those things, and knowing also  
17 that we will continue to be in an evaluative process as  
18 we come back again for the May meeting, that this gives  
19 us, I think, a very solid foundation to move forward with  
20 our work. So I want to indicate my support for your  
21 amendment as we go through this process.

22 Are there other amendments? We had the discussion  
23 about habitat versus population. Other amendments that  
24 anyone feels are necessary at this time, or do you think  
25 they've been spoken to in the amendments that are here?

1           **STATE TREASURER JIM HILL:**    I think they've been  
2 spoken to.

3           **GOVERNOR BARBARA ROBERTS:**    Is there further  
4 discussion, comments on the part of the Board?    Okay.  
5 Well, if not, let me restate the motion as I understand  
6 it to make certain I have it correct.    Under the six  
7 proposals that we have before us as recommendations, in  
8 Recommendation Number (2), after the word substituting we  
9 would bracket out the words "the proposed FDA rules for  
10 the R2 strategy in alternative 6 and", and that would be  
11 the end of that bracket.    And in Option 5, or in  
12 Recommendation (5), we would add the words after scientific  
13 research, "and other information as it relates to the owl  
14 biology assumptions, riparian management strategy, and other  
15 key habitat considerations in the plan."    Is that correct?

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

17           **GOVERNOR BARBARA ROBERTS:**    Okay.    That is the  
18 motion.    With those amendments before us, those in favor  
19 will signify by saying aye.    Those opposed, nay.    The  
20 motion has passed unanimously.    Thank you again.    Oh, you  
21 have--

22           **JIM BROWN:**    Governor--

23           **GOVERNOR BARBARA ROBERTS:**    I don't think this  
24 intends to mean that you want to be excused to go to  
25 the--

1           **JIM BROWN:**     No.     Governor, we would also ask  
2 that you adopt the recommendation in the paragraph below  
3 the (6), because that provides us a direction of how we  
4 take your six points forward.

5           **GOVERNOR BARBARA ROBERTS:**    Yes.    Absolutely.

6           **SECRETARY OF STATE PHIL KEISLING:**    I'll so move--

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

8           **SECRETARY OF STATE PHIL KEISLING:**    The adoption  
9 of the rules.

10          **JIM BROWN:**     Yeah, they have both paragraphs  
11 actually.

12          **SECRETARY OF STATE PHIL KEISLING:**     Both  
13 paragraphs--

14          **GOVERNOR BARBARA ROBERTS:**     Both paragraphs  
15 following--

16          **SECRETARY OF STATE PHIL KEISLING:**     Following  
17 Recommendation (6).

18          **GOVERNOR BARBARA ROBERTS:**    Okay. You've heard the  
19 motion. Is there discussion? Hearing none, those who are  
20 in favor will signify by saying aye. Those opposed, nay.  
21 The motion is passed unanimously.

22          **DIRECTOR GARY GUSTAFSON:**     Governor, two fingers  
23 this time.

24          **GOVERNOR BARBARA ROBERTS:**     Gary, it's Friday  
25 afternoon, be very careful.

1           **DIRECTOR GARY GUSTAFSON:** I have one clarification  
2 I sort of hesitate to raise, but I think I have to at  
3 this point, just to make sure that we get it on the  
4 record. By what you've done today are we to presume that  
5 it is the intent of the Land Board to include the R2  
6 riparian approach on the county forest lands as well as  
7 the common school trust lands in the Elliott?

8           **GOVERNOR BARBARA ROBERTS:** Yeah, I don't know.  
9 I didn't think we were making that assumption. That's not  
10 what I thought we were doing.

11           **DIRECTOR GARY GUSTAFSON:** Okay. Well, I only ask  
12 that, Jim and I have talked about it earlier, and this  
13 plan does cover all of the State land in the Elliott, and  
14 technically the Department of Forestry controls 10 percent  
15 of the land. Of course the Land Board controls  
16 90 percent. But we're trying to manage together here.  
17 So just to avoid, I'd like to at least ensure it's your  
18 intent, to the extent that it's possible, that we all go  
19 together on this.

20           **GOVERNOR BARBARA ROBERTS:** I'm just sort of at  
21 a loss as to the answer to that. I see you out there,  
22 Gordon. I haven't missed you.

23           **SECRETARY OF STATE PHIL KEISLING:** I'm looking at  
24 Bill Cook, who may not want to be looked at, but--

25           **GOVERNOR BARBARA ROBERTS:** Are we asking the

1 difference between that we would like to see this happen  
2 and that would be our recommendation versus it's something  
3 we can make happen? I mean we don't have the authority--

4 **DIRECTOR GARY GUSTAFSON:** Correct.

5 **GOVERNOR BARBARA ROBERTS:** To say to the county,  
6 "You must do this."

7 **DIRECTOR GARY GUSTAFSON:** That's my only point.

8 **GOVERNOR BARBARA ROBERTS:** Okay. We could  
9 recommend to the county that we think this would be a good  
10 cooperative collaborative strategy for us to work together  
11 in this kind of way on the same set of criteria. Is  
12 that the question?

13 **JIM BROWN:** Well, actually, Governor, you'd make  
14 the recommendation to the Board of Forestry--

15 **GOVERNOR BARBARA ROBERTS:** Right.

16 **JIM BROWN:** Since they hold the title.

17 **GOVERNOR BARBARA ROBERTS:** That's correct.

18 **JIM BROWN:** And can I clarify?

19 **GOVERNOR BARBARA ROBERTS:** Go ahead.

20 **JIM BROWN:** In theory the Board of Forestry could  
21 decide not to do that, in which case the HCP that we  
22 would forward would just simply restrict that to the common  
23 school fund lands on the Elliott, and it would be  
24 evaluated then accordingly. Is that right, Jim?

25 **STATE TREASURER JIM HILL:** Well, you know, the

1 HCP would reflect the difference.

2 JIM BROWN: Right. The HCP would--

3 STATE TREASURER JIM HILL: I think that's the way  
4 it would happen.

5 JIM BROWN: Right.

6 STATE TREASURER JIM HILL: The Board is committed  
7 to going forward with an HCP. I can't speak for them on  
8 how they'd come down on this issue.

9 JIM BROWN: Nor can we.

10 STATE TREASURER JIM HILL: Yeah.

11 GOVERNOR BARBARA ROBERTS: Yes, that's correct.

12 JIM BROWN: But the HCP would go forward, as I  
13 see it, for the entire block of lands, because like I say,  
14 they've been on board with every step that you've made to  
15 date. But we've not had an opportunity to discuss this  
16 with them on this particular issue.

17 SECRETARY OF STATE PHIL KEISLING: Just a thought,  
18 Jim. Obviously you might between now and not only the  
19 Board of Forestry meeting, but our last meeting when we  
20 finally dot the i's and cross the t's, discuss that issue,  
21 obviously, with ODFW, and U.S. Fish--

22 JIM BROWN: Right.

23 SECRETARY OF STATE PHIL KEISLING: And Wildlife.

24 JIM BROWN: Well, the Board is meeting the 21st  
25 and 22nd of April, which is in advance of your May

1 meeting, and hopefully we'd have an opportunity to discuss  
2 this item with them at that point, and then come back to  
3 you with where we're at on that.

4           **GOVERNOR BARBARA ROBERTS:** Let me see if this  
5 will help. I don't know whether this will just complicate  
6 it further. As was pointed out earlier when we went out  
7 for hearings on the plan and the proposed action, the two,  
8 Alternative 1 and 2, R1 and 2, were presented as the two  
9 alternatives out there on the public hearing circuit. This  
10 is correct?

11           **JIM BROWN:** That's correct.

12           **GOVERNOR BARBARA ROBERTS:** And at that point in  
13 time did the County take a position on R1 or R2?

14           **JIM BROWN:** I can't recall, Governor. The reason  
15 that -- maybe for just clarification on the record -- the  
16 reason the Department came in with the Forest Practices  
17 recommendation, that was one of the comments that came in  
18 through the public hearing process. So what we were  
19 trying to do is respond to that particular comment. It  
20 did not appear out of the mist.

21           **GOVERNOR BARBARA ROBERTS:** I understand that, but  
22 I just didn't know whether the County had taken any  
23 positions on--

24           **JIM BROWN:** I don't--

25           **GOVERNOR BARBARA ROBERTS:** That option.

1           **JIM BROWN:** I don't recall, because at that time,  
2 you know, during the public hearing process, we were pretty  
3 early, we were just at the kind of formative stages of  
4 going out for public review and comment on the draft  
5 Forest Practices Rules. I don't recall.

6           **SECRETARY OF STATE PHIL KEISLING:** Madame Chair.  
7 I keenly appreciate, you know, the divergence situation, and  
8 the concern that I know some people have about that, you  
9 know, and that that's a call probably for the Board of  
10 Forestry to make about that, but, you know, I strongly  
11 believe that, you know, we can make those two things work  
12 together pretty well. That this is different. It can be  
13 different but not, in a sense, divergent because there are  
14 some very unique things on the Elliott. This is the only  
15 place we've got an HCP application going. And so I think  
16 at the next meeting we can hopefully have a little bit  
17 more information--

18           **JIM BROWN:** Yeah.

19           **SECRETARY OF STATE PHIL KEISLING:** To resolve  
20 that.

21           **GOVERNOR BARBARA ROBERTS:** I'm going to allow  
22 Gordon to make a very brief comment since he's in the  
23 audience and obviously this affects his county, and I would  
24 just like him to comment on it while he's here so you  
25 won't holler at me when I get down in Coos Bay.

1           **GORDON ROSS:** Thank you, Governor Roberts, members  
2 of the Land Board. I want to put on two hats right now.  
3 One is my county hat, one is as vice-chair of the County  
4 Board of Forest Trust Lands. The county commissioners by  
5 and large are looking to enhance both revenues and jobs,  
6 and jobs means both timber and fishery resources. I'm  
7 afraid I was a little suspect today because I've always  
8 been here looking for a higher cut, and yet my testimony  
9 today in regard to the other lands, which would be the  
10 same on this land, was for the purpose of being able to  
11 enhance more rapidly the fishery opportunities. I believe,  
12 and I saw many nods as it was being mentioned, that there  
13 is that opportunity in the R2, however it's limited pretty  
14 much to riparian planting where you wait 150 to 200 years  
15 to get structure in the stream rather than something that  
16 can be done at the time of harvest. And my position,  
17 both of these positions, and I can't speak for the rest  
18 of the county commissioners in the forest trust lands, but  
19 only as I know what our concerns are for our constituents  
20 is, again, that we would go with the opportunity to do  
21 faster enhancement, and enhancement at the time of harvest  
22 when the equipment is in there. And I would hate to see  
23 your motion also applied to the Board of Forest Trust  
24 Lands or the forest trust lands which are pretty much on  
25 Marlow Creek and isolated so they could be managed a

1 little separately. And I want to thank you very much for  
2 calling on me again, Governor.

3 **GOVERNOR BARBARA ROBERTS:** You're welcome, Gordon.  
4 Phil, did you have something? Okay. Well, I think at  
5 this point in time you could assume, I believe, by what  
6 I'm hearing here, is that we would encourage that this be  
7 done in a unified effort. Without the authority to  
8 require that, I think that that really speaks to the  
9 situation, and obviously the Board of Forestry may look at  
10 this through the eyes of either a unified effort or a  
11 divergent effort, however they wanted to do that. I think  
12 that really is not our call here today, as I understand  
13 it.

14 We have one more review item on. I am going to  
15 have to leave. Thank you very much. And thank you to  
16 the staff for being here today, and for all your work.  
17 Gus, I am going to have to leave, and I don't know  
18 whether we might like to come back and take the  
19 informational item at the next Board meeting, and have an  
20 opportunity to discuss anything on the draft legislative  
21 proposals. Is there any reason we can't forward that to  
22 one meeting, or is there something more pressing that won't  
23 allow us to do that?

24 **DIRECTOR GARY GUSTAFSON:** Well, it is, to some  
25 degree, tied to our budget. We had hoped to sequence it

1 in. It can wait, however.

2 **GOVERNOR BARBARA ROBERTS:** Okay.

3 **DIRECTOR GARY GUSTAFSON:** Am I correct in that?

4 Oh, excuse me, I am corrected. We have to turn in our  
5 legislative concepts, apparently, before the next Land Board  
6 meeting, and that doesn't mean we can't change them later,  
7 however, I would presume.

8 **GOVERNOR BARBARA ROBERTS:** So I can either leave  
9 and let the two of you do this, or we can handle it some  
10 other way. What's the pleasure of the Board?

11 **SECRETARY OF STATE PHIL KEISLING:** When is the  
12 deadline, Jane?

13 **JANE ARD:** May 2.

14 **SECRETARY OF STATE PHIL KEISLING:** May 2 with  
15 legislative counsel?

16 **JANE ARD:** Right. Well, May 2 to the Department  
17 of Administrative Services--

18 **SECRETARY OF STATE PHIL KEISLING:** Department of  
19 Administrative Services.

20 **JANE ARD:** Our draft proposal. I might make a  
21 suggestion. What we could do is go forward with the  
22 proposals that we have here, come back to you at the  
23 May 8 meeting and report back what we've done with a  
24 little more specificity, because we always have the option  
25 of pulling back the legislative concept, we can't add any

1 more to it. So that's one alternative.

2 **STATE TREASURER JIM HILL:** That's fine.

3 **GOVERNOR BARBARA ROBERTS:** Could we make it clear  
4 that if any member of the Board has issues they'd like to  
5 raise with regard to the draft while they're still in this  
6 very fluid state that they could, indeed, do that, and  
7 obviously the Land Board staff could do that as well as  
8 they have a chance to review these further? I think it's  
9 a discussion once we get started, and it will tend to be  
10 much more lengthy than at least my time allows today. I  
11 don't know how the schedules are of the other two members  
12 of the Board. Does that meet with everyone's approval?

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

14 **GOVERNOR BARBARA ROBERTS:** Okay. Is there  
15 anything else that needs to come before the Board?

16 **DIRECTOR GARY GUSTAFSON:** Not at this time.

17 **GOVERNOR BARBARA ROBERTS:** And is there a motion?

18 **SECRETARY OF STATE PHIL KEISLING:** I move we  
19 adjourn.

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

21 **GOVERNOR BARBARA ROBERTS:** It's been moved and  
22 seconded that we adjourn. All those in favor will signify  
23 by saying aye. We are adjourned.

24

25

CERTIFICATE

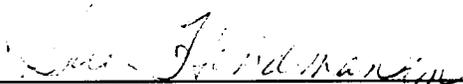
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2 I, Sue Hindman, hereby certify that I am a  
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6 proceedings had upon the hearing of the above-entitled  
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