
STATE LAND BOARD MEETING

Tuesday, December 13, 1994

State Lands Building

775 Summer Street NE, Salem, Oregon

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GOVERNOR BARBARA ROBERTS: Come to order. We have, I hope, a very smooth agenda, and I understand those sign-ups for any items are correct. So why don't we just begin, Gus, with Item 1, the approval of the administrative rules on -- oh, we do have a couple of sign-ups, I apologize for that. Okay. On the sign-up for the rule on the governing the mitigation on fresh water wetlands.

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AGENDA ITEM NO. 1

DIRECTOR GARY GUSTAFSON: Good morning, Governor, members of the Board. If my table will settle down here. I'd like to call up to the table with me, Ken Bierly, who is our wetlands program manager.

GOVERNOR BARBARA ROBERTS: I think he came before you called.

DIRECTOR GARY GUSTAFSON: He cues real well. Also, I want to recognize a couple of staff members, because they have actually done the majority of the work on the next two agenda items, there is this one and the second one. They often don't get the kind of recognition they should. So I would like to ask Frank Flynn and Janet Morlan of my staff to stand up, if they wouldn't mind.

GOVERNOR BARBARA ROBERTS: Thank you.

DIRECTOR GARY GUSTAFSON: And hopefully you'll see a little bit more of them later when we do a visual display.

This first Item deals, of course, with adoption of Administrative Rules for Compensatory Mitigation for Freshwater Wetlands. I believe everyone here remembers Senate Bill 3 from the 1989 session, which required the Division to condition State removal/fill permits with measures to provide mitigation for the reasonably expected adverse impacts from project development.

Well, the sequencing mechanism that is used at State and federal levels normally goes: avoidance, minimalization, rectification, reducing, and compensation. However, until the development of this rule, no specific criteria or procedures were available to us to define compensatory mitigation requirements for freshwater wetlands. Therefore, we recognize the need to put this rule together.

My staff has spent very intense effort over the past year putting this together. We began it with an internal staff committee, put together draft, and then ran it through a process, held meetings and so on. By far the major response that we got in response to the draft rules dealt with the provisions of the rules dealing with protection and payment in lieu of compensatory mitigation. That's payment in lieu where you might use dollars to either purchase a new site or dollars to enhance another site, for instance.

We struggled a long time dealing with that issue, and finally came to the conclusion simply that the payment in lieu provision of the rules needed additional work. So what we have done is recognize that in the rules, withdrawn the substance of that provision from these rules for additional work. It is my intention to appoint an advisory committee that will study this issue with staff over the next 120 days, and then come back with a recommendation. This would be similar to other exercises

that we've used with advisory committees, and by and large, they've been very successful. Frankly, this needs additional work. There is discomfort out there that we need to address. We need to make sure that we handle this correctly.

And also, there's a thing called "compensatory mitigation bank," where we actually have money already held. We need to also look at the issue of under what criteria do we release funds from that bank, because it's related to this whole effort.

Until such time as we do come back and amend the rules to address the in lieu payment provision, the Division will refer requests for protection or payment in lieu to an internal review committee, of staff, and then there will be presumption that we will not approve in lieu during this interim period of 120 days. I will also insure that we refer a copy of whatever application we may get, should we get any in the next 120 days, to the advisory committee for their review and comment as well before we take any action. Should that come up, frankly, I doubt that it will, but if it does, that's how we'll handle it.

I also want to point out that in the rules themselves, the specific reference that we have made to payment in lieu is on Page 4 of the rules, and that is in 141-85 DDD (7). I want to point out that in there,

there is a subsection (7A), states the outcome and demonstrates that on-site and off-site enhancement, restoration, or creation is impractical or we're not -- will not accurately replace impacted functions or values. That impracticability standards reference in this rule does not just mean for the point of the applicant, it's due to all considerations that need to be taken into account. It's not just economic, it's all considerations.

So with that, I'll ask Ken if he's got anything else he wants to add, and then we'll be available for questions here. Our recommendation is to proceed and approve the rules as drafted, with the proviso that we will separate the in lieu payment provision, appoint the advisory committee, and come back at later date for a rule amendment.

GOVERNOR BARBARA ROBERTS: We've heard the description of the item and its rationale. Are there questions or comments from members of the Board.

There is one person signed up who -- maybe there are two on there. I can't tell. Are you both signed up? Liz Frankel is signed up on this. Would you like to make some comments to the Board?

LIZ FRANKEL: I'm sorry, I would have liked to have had copies for all of you. This is Liz Frankel, for the record, from the state -- Oregon Chapter Sierra Club. I'm -- was -- got back late last night from Santa Fe,

which sounds like a glorious vacation, except I was there on one of those things where you look out at Santa Fe through a window in a conference room, so it was not exactly a vacation.

GOVERNOR BARBARA ROBERTS: It's not the way to see Santa Fe.

LIZ FRANKEL: I'm going to read this, and then I'm going to make some comments. I think that's the easiest way to do this.

"The Oregon Chapter Sierra Club, though I'm not agreeing with all the particulars of the proposed administrative rules for freshwater wetland compensatory mitigation, believes wholeheartedly that the rules are timely and necessary.

We strongly support the concept of using historic losses as a guide for mitigation in certain areas. This concept is a hedge against the formidable lack of scientific data, demonstrating that either restoration or creation can replicate lost functions and values. However, who does the analysis as to historic loss? How can members of the public evaluate the cred -- credibility of this analysis without a complicate -- without a completed and reviewed analysis? This most important hedge has no substantive value."

As an aside and an ad lib, I would say that this is something that I have wanted for years. I feel very

strongly about, because historic loss often is vastly more important than providing a few more surfaces for the ducks to land on. Not that they shouldn't have services -- surfaces to land on, but this historic loss, particularly on the coast, can be critical.

Other comments and questions. Under general compensatory mitigation requirements. Is the mitigation bank site, which I'm quoting from the rule, one which meets the requirements of a mitigation bank under ORS -- and I think I got the number wrong, 196, and I think it's 800, isn't it -- dash 865. I was tired.

Two, we are concerned that the definition of mitigation has been deleted from the definition section. Mitigation had been defined in the draft, it's not in this one. It's important that the applicants and the public be advised and reminded that sequencing is the basis for the federal regulatory process, and has been accepted by the State in Senate Bill 3. Sequencing requires first, avoidance, then mineralization, finally, compensation. Compensation follows the further sequencing. First, restoration, second, enhancement, and finally, creation. All based on the probability of success. We believe that sequencing should be referenced in the definition section of this rule.

Now, payment or protection in lieu of compensatory mitigation, about which Gus just spoke to you. We do not

understand how payment in lieu of mitigation can possibly meet the test of sequencing, which is not specifically rec -- referenced in the rule. A transfer of money does not meet either the test of sequencing nor the test of no-net loss.

Four, definitions. Compensatory mitigation means, and I'm quoting, "Wetland resource replacement, or in limited circumstances, payment or protection in lieu of replacement for wetlands damaged or destroyed by a primitive (phonetic) activity," emphasis added. And, general compensatory mitigation requirements, Section 7.

What is the statutory authority in payment in lieu of compensatory mitigation? Where is payment in lieu of compensatory mitigation considered in the sequencing process? Is it as yet an undefined option of last resort? Is it emergency, if so, how are you going to deal with that? We recommend that all references to this -- to this concept, even allowing for the fact that the Department has already used it on occasion, should be deleted for a lower comprehensive analysis of its role in State wetlands policy. And if appropriate, then it should be developed. In other words, what we're concerned about is not just wondering about how to do it, but there's the fundamental question of should you. As long as the concept is adopted in these present rules, you've made that decision. You're just considering how to.

Finally, and I must admit, this request grew out of some of these other concerns, and is quite important to us. The Sierra Club strongly requests that the permittees evaluation of success should be noticed to the public, and that prior to the release of the bond or other security interests -- instrument, the public have a right of review, and potential to challenge the decision. The proof of the pudding rests, after all, with the success of mitigation, the no-net loss concept is meaningless otherwise.

Thank you for this opportunity to express our views. We are very supportive of the development of clear and objective rules which support the State wetlands policy. Wetland values are principally a public value, and accountability remains a high threshold.

And I've been authorized to say that Doug Priest -- Doug Priest from the Oregon Environmental Council seconds our recommendations. I -- I feel very strongly that lots and lots of good things are happening. And there have been major improvements, but we do fall back on these two concerns. One is essentially validating the concept of payment in lieu. And two, we would like to have some kind of public process at the -- at the end of the chain here. Where someone that's making a decision as to whether the -- the permittee has -- actually, there is an evaluation of success. We would like to be in on that process. I did not write language for that, I'm sorry

about that.

I guess I -- part of this is my fault, Gus, and I apologize. I -- Gus called me early in the week to tell me something of what they were going to do. I misunderstood, and didn't realize that the concept was going to be validated in rule. And I can't blame Gus for my misunderstanding. I'd be glad to answer any questions.

GOVERNOR BARBARA ROBERTS: Questions or comments?

LIZ FRANKEL: Maybe, if I can.

GOVERNOR BARBARA ROBERTS: Or any way that--

SECRETARY OF STATE PHIL KEISLING: Well, maybe a chance to have--

KEN BIERLY: If I could, I would like to respond to some of these comments, and I'd like to just go through them one at a time.

The first one is that general compensatory mitigation requirements, the question is whether or not mitigation bank site meets the requirements of the mitigation bank statute. The answer to that is yes, that is what it was anticipated.

Number two, the reason that the definition for mitigation was deleted from the definition section is because it is explicitly in the statute, and we felt that it would be redundant to have it both in rule and in statute. There was no intention to eliminate the statutory definition, but it's simply the intention -- an attempt to

avoid duplication.

And we also specifically referred to the concept of sequencing. In Section DDD where we talked about unavoidable wetland losses, it may not be as clear as desired, but it was anticipated from the beginning that the sequencing concept was embodied in these rules. It's a surprise to me that this is -- of that level of concern. I think that there is a legitimate policy question relating to payment in lieu, and in fact, that's the policy question that we're attempting to pose.

The question about additional requirements for public notice on security bonding instruments is a policy question as well. All our proposal was, if you look at the administrative rules, the last section, which is section QQQ, program monitoring. The approach that the Division took was to require that the Agency monitor the program and develop information about the success or failure of the program. There is a legitimate policy question here, but I think there's also a resource staffing question as well. If there is public notice process, it becomes a significant additional burden to staff who are already staggering under the load of -- of requirements.

Our effort in QQQ was to have an oversight of the program to achieve the same ends. I think it is better to look at the program effects than it is to look at the project-by-project effects, though they are not

separable, I think that fixes -- are important in a different effect than fixes to an individual project.

GOVERNOR BARBARA ROBERTS: Okay. Phil or Jim, do you have questions or solutions to the questions that were raised, or--

SECRETARY OF STATE PHIL KEISLING: Solutions. Madame Chair, just to follow up on the QQQ point. Is it within the discretion of the Director under QQQ to send out notice if he or she believes that that would be an important part of his or her review process? And I also -- and secondly, I assume all that information that is part of that is all public record anyway. That's a given, but is it--

KEN BIERLY: Correct, it is all public.

SECRETARY OF STATE PHIL KEISLING: And is it--

KEN BIERLY: The question is whether public notice is a requirement of the security bonding instruments, which is 000 -- or 000, I guess, on Pages 11 and 12. And that was not anticipated--

SECRETARY OF STATE PHIL KEISLING: Right, that would be -- that you would have to change.

KEN BIERLY: I think that would require change.

SECRETARY OF STATE PHIL KEISLING: I have a second question, Madame Chair, on the definition of mitigation. I don't -- let's see that in our back up of the definition of mitigation?

KEN BIERLY: That's the statute that was adopted.

SECRETARY OF STATE PHIL KEISLING: Basically, the only reason not there is redundant, I mean, there would be no harm in it--

KEN BIERLY: Correct.

SECRETARY OF STATE PHIL KEISLING: In putting it in.

KEN BIERLY: It was in the previous draft and it was taken out to eliminate redundancy in the rule.

SECRETARY OF STATE PHIL KEISLING: And is sequencing -- and the sequencing--

GOVERNOR BARBARA ROBERTS: That's the difference--

KEN BIERLY: In essence the definition of--

SECRETARY OF STATE PHIL KEISLING: Of mitigation?

KEN BIERLY: Correct.

SECRETARY OF STATE PHIL KEISLING: Okay. So if you were to put in the rules -- it would simply repeat the statutory definition of mitigation, you'd pick up the sequencing--

KEN BIERLY: Correct.

SECRETARY OF STATE PHIL KEISLING: Explicitly in the rules. Is that the thoughts on making that -- on that, or is that a distinction -- distinct without a difference in your mind, in fact, that governs anyway?

KEN BIERLY: To my mind, that is a distinction without a difference.

GOVERNOR BARBARA ROBERTS: But the difference is that it adds some clarity for people who have the rule in their hand and don't have a law book in their hand, and that clarity is not necessarily a bad thing for us to do. I think -- I mean, the definition--

KEN BIERLY: That's not a problem.

GOVERNOR BARBARA ROBERTS: It's not that long if we chose to add it back into the rule for clarity purposes for people who have that rule in their hand without the, as I said, without the law book.

Phil, did you have--

SECRETARY OF STATE PHIL KEISLING: No, that was -- I just wanted -- that helps.

GOVERNOR BARBARA ROBERTS: The payment in lieu, I think, Ken said it, you know, something about not sure why it's such an issue, but I think it is an issue. I mean, it's an issue for lots of people, and obviously we have this policy committee that's going to be looking at issues that are part of this rule as an advisory role. I think that Liz pointed out, there are some questions about how this process works. I guess there isn't any reason we couldn't ask the policy committee to look at whether or not that should be there rather than how it should be there, I don't know. We have a policy group working as an advisory, I don't know why they couldn't look at one more question as part of their work. Is

there some reason that couldn't occur?

DIRECTOR GARY GUSTAFSON: No, we can do that.

KEN BIERLY: I think another matter of clarification. If you'll look at the draft rules at 14185 AAA, it is extremely explicit that the Director shall consider applications in complete, and not begin the review unless the applicant has demonstrated, A) why wetlands cannot practically be avoided by the proposed project, and B) how the proposed project minimizes impacts to wetlands. This is the body and soul of sequencing. And it is explicit in the first line -- or first section of the rules.

GOVERNOR BARBARA ROBERTS: Well, are there wishes on the part of the Board about how we might handle this? Of which changes, or any, that you would like to make?

SECRETARY OF STATE PHIL KEISLING: Madame Chair, I think it's indicated that just simply for clarity sake putting the statutory definition of mitigation in the rules, I think, would be useful. Let's see. That would have to come in the form of an official motion?

GOVERNOR BARBARA ROBERTS: Yes.

SECRETARY OF STATE PHIL KEISLING: So why don't I move that the proposed recommendation of staff requesting our approval of this rule governing the compensatory mitigation be amended to insert in the definition Section CCC, this definition of mitigation taken directly from the

statute.

STATE TREASURER JIM HILL: Second.

GOVERNOR BARBARA ROBERTS: It's been moved and seconded that the definition of mitigation as it now appears in the statute would be duplicated or replicated in the rule on this item. Is there discussion? Anyone from the audience who has? If not, those in favor will signify by saying aye; those opposed, nay. The motion has passed. We have an amendment now to -- or the amendment has passed.

SECRETARY OF STATE PHIL KEISLING: Madame Chair?

GOVERNOR BARBARA ROBERTS: Yes.

SECRETARY OF STATE PHIL KEISLING: I'll be the person to get this going. I'll move adoption of the recommendation, and I think that the suggestion that the committee, in a sense, have a charge expanded to include looking directly at the payment in lieu of compensation issue. That be communicated as part of the formal -- if I'm understanding, we're coming back, and we're going to get a chance to amend the rules--

GOVERNOR BARBARA ROBERTS: Yes.

SECRETARY OF STATE PHIL KEISLING: And we can do everything from not amending them at all to making a pretty major decision if the -- even about payment in lieu of compensation. It seems that you've set up that process to have some new integrity, people are going to be

involved in that, and we'll have a chance to, you know, take a look, take even more of a look at that.

GOVERNOR BARBARA ROBERTS: Let me see if I can get a clarification before I take the motion. If we wish the committee, the advisory committee, to look at the question of whether or not the payment in lieu should be part of this, not just how but if, if we don't make that instruction clear, is there going to be -- are we going to be less in clear about what our expectations are of the committee. I mean, obviously they can look at a number of things, but the committee, as it is discussed here, has a charge and we don't clarify the charge that we want, whether or not to be looked at, have we been clear in terms of this motion?

SECRETARY OF STATE PHIL KEISLING: Well, why don't -- Madame Chair, what if for clarity sake, why don't I just make the motion, and let's put the motion on, and then we can discuss the -- and I'm not sure we need on this issue to have it be part of the motion. Maybe that's a simpler way to approach it.

GOVERNOR BARBARA ROBERTS: Yeah. We could obviously do that, but my sense is if your motion is successful, and the rules -- we adopt these rules today, that I would personally feel more comfortable to clarify with another motion, if necessary, the intent of the policy work of that committee, so that the whether or not is

involved in that, and we'll have a chance to, you know, take a look, take even more of a look at that.

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clearly understood as part of the policy. I don't know.

SECRETARY OF STATE PHIL KEISLING: You probably have a little more clarity in your own mind about that than I do, so maybe just further amendment to my motion would be--

GOVERNOR BARBARA ROBERTS: My comfort level would be to do them with both components there so that we're clear when the motion passes that it includes that policy direction to the committee. If you would -- I mean, if you don't choose to do it that way, I'll just give you an extra motion, but--

SECRETARY OF STATE PHIL KEISLING: I would be happy to do it.

GOVERNOR BARBARA ROBERTS: She's getting aggressive; she's leaving.

SECRETARY OF STATE PHIL KEISLING: Just to -- open to your suggestions on exactly how you would want that phrased, so -- for you. No motion has been accepted yet, so--

GOVERNOR BARBARA ROBERTS: It's my sense, Phil, that if we now amended the policy with the amendments that you brought on the definition, if we then said that we were adopting the policy as amended with instructions to the Director that the policy committee should look at the question of whether or not rather than just how the payment in lieu portion should work.

SECRETARY OF STATE PHIL KEISLING: Okay.

GOVERNOR BARBARA ROBERTS: I think that included in the motion, we would be very clear about what our expectations on this Board are about that policy question. Would you--

SECRETARY OF STATE PHIL KEISLING: So I'll so move.

STATE TREASURER JIM HILL: Second.

GOVERNOR BARBARA ROBERTS: You've heard the motion and the second, under duress. No. Is there discussion?

SECRETARY OF STATE PHIL KEISLING: I'd like to just clarify one thing. In the meantime, in this period of time until this comes back, we are going to continue current practice, is that my understanding on this issue?

DIRECTOR GARY GUSTAFSON: We will do two things. We will start with the presumption that we will not approve in lieu payments. Secondly, given that presumption, if it still looks, for whatever reason, that an in lieu payment provision should be seriously considered, then we will study it with an in-house technical committee, and also refer it to the advisory committee for their reference and recommendation.

SECRETARY OF STATE PHIL KEISLING: And this will come back to us, you project when?

DIRECTOR GARY GUSTAFSON: 120 days will be the time frame, we're thinking, to give this advisory committee,

I think, that's probably reasonable. So given notice and everything else I would venture that the rules would return to this body probably six months thereabouts from now.

SECRETARY OF STATE PHIL KEISLING: I guess -- Madame Chair. It's your clear sense that the payment in lieu tool is authorized by Senate Bill 3. It's, you know, two levels of should, is it a good idea?

DIRECTOR GARY GUSTAFSON: Right.

SECRETARY OF STATE PHIL KEISLING: Or not. And then secondly, is it allowable under the law. I think there's been some question about both. I guess I come away, and I want to just make clear, is my understanding that it's your sense that we can do it, that it falls within the authority with Senate Bill 3?

KEN BIERLY: It's my understanding that there was anticipated use of alternative mitigation approaches, mitigation banking explicitly has been authorized by statute, which involves a payment of process. But also it involves a creation of wetlands up front. We have relied on the general provisions of the removal/fill statute for legal authority to condition permits. I believe that is the authority that Bill has counseled us on in the past for receipt of payment in lieu. I think it's an appropriate question to get finality or clarity to, because if in fact it is a legal nullity, then we're out of business.

SECRETARY OF STATE PHIL KEISLING: Right.

GOVERNOR BARBARA ROBERTS: Gus, I want to clarify again something you said a moment ago. You said that you would look at the issue of the payment in lieu, that you would have your technical committee look at the questions related to it, and if it was appropriate, it would go to the policy advisory committee. Now, is that what I heard you say? Because that's different than the motion we have on the table (phonetic).

DIRECTOR GARY GUSTAFSON: Governor, clarification, it will go, not if appropriate. I'm sorry, it will go. If we get any applications, we don't get -- this does not come up very often, but should it come up in this interim period, it will be referred to the policy review committee.

GOVERNOR BARBARA ROBERTS: But if you do not receive a request in the meantime, the question of payment in lieu is still one, as I understand it, that will go to the policy committee for work?

DIRECTOR GARY GUSTAFSON: Yes.

GOVERNOR BARBARA ROBERTS: Okay. I just want to be sure the question -- an interim step there when we lost, what I felt, was the intent of the motion.

Further discussion or comment, questions? If not, those in favor of the policy, as amended, and before you, will signify by saying aye; those opposed, nay? The amended policy has passed.

AGENDA ITEM NO. 2

GOVERNOR BARBARA ROBERTS: Is the request of the State Land Boards approval of revised administrative rules governing the local wetland inventories and wetland conservation planning.

DIRECTOR GARY GUSTAFSON: This subject also had origin, Senate Bill 3, which directed the Division to compile and maintain a compilation of state-wide wetlands inventory. And also develop a uniform wetland identification, delineation, and comprehensive mapping system.

Now, we have done that. In November of '91 we adopted administrative rules to implement that law. Work that we are doing now is coming back to you with changes that have occurred as a result of us using the current system. There's certain flaws, glitches, procedural elements, frankly, that we've learned by experience, work better in different ways, so in essence, that's what this is all about. I know we've got some visuals here in case we need to explain to you how it all works.

Basically, the review process we used for this did not result in very many comments. This is kind of a technical issue anyway. All commentors were supportive of the proposed revision, and as a result, our recommendation is that you approve the proposed administrative rule revision regarding local wetland inventory and wetland conservation plan inventories.

GOVERNOR BARBARA ROBERTS: Is there a motion?

STATE TREASURER JIM HILL: Yes. Governor, I move that the Land Board approve of proposed administrative rule revision regarding local wetlands inventories and wetland conservation plan inventories.

SECRETARY OF STATE PHIL KEISLING: Second the motion.

GOVERNOR BARBARA ROBERTS: There's been a motion and a second. Is there discussion? No one has signed up on this item. Is there anyone in the audience who wishes to speak to this? If not, those in favor will signify by saying aye; those opposed, nay? The motion has passed.

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AGENDA ITEM NO. 3

GOVERNOR BARBARA ROBERTS: Item 3, the request for the State Land Board approval of an administrative rule relating to certain public use activities on the Wilsonville Tract.

DIRECTOR GARY GUSTAFSON: Members of the Board, you are very familiar with the Wilsonville Tract. We've had this item before us on numerous prior occasions over the last two years.

Last July, I believe it was, yeah, July, the Land Board authorized us to proceed with this proposed rulemaking. What we're trying to do here is just get out the front. Frankly, we haven't had any on-the-ground problems on our Wilsonville Tract, and we're just trying to avoid having some in the future that could complicate our management and operations of the site.

We have an appendix for you. Appendix B, actually, includes the list of activities which we would prohibit by virtue of this rule on just the Wilsonville Tract. That's our 250-acre tract. They include discharge of firearms, fireworks, and related explosive devices; the use of archery equipment, and related devices; the use of campfires or open fires or outdoor cooking devices; overnight camping would be prohibited; unauthorized use of the property between 10:00 p.m. and 5:00 a.m.; and unauthorized use of motor vehicles on the site. And

persons violating these could be subject to criminal trespass or whatever other applicable statutes may apply.

As you know, we are in the process right now of soliciting proposals for the use of this property through an RFP. When eventually a lessee enters into a lease with the Division, then this rule would not affect the actions of any lessee in conjunction with his or her approved lease terms.

GOVERNOR BARBARA ROBERTS: We've heard an explanation of Item 3. Is there a motion?

SECRETARY OF STATE PHIL KEISLING: Yes, I'll move adoption of Item Number 3.

GOVERNOR BARBARA ROBERTS: Is there a second?

STATE TREASURER JIM HILL: Second.

GOVERNOR BARBARA ROBERTS: It's been moved and seconded that we adopt Item Number 3 dealing with the Wilsonville Tract. Is there discussion, questions? Anyone in the audience who has any comment that they think the Board needs to hear?

Hearing none, those in favor will signify by saying aye; those opposed, nay? The motion is passed.

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AGENDA ITEM NO. 4

GOVERNOR BARBARA ROBERTS: Okay. Item Number 4.
This is the request for approval of the minutes from the
October 11, 1994 meeting.

STATE TREASURER JIM HILL: So move.

SECRETARY OF STATE PHIL KEISLING: Second.

GOVERNOR BARBARA ROBERTS: It's been moved and
seconded to approve the minutes. Any additions or
corrections? Hearing none, those in favor will signify by
saying aye; those opposed, nay? The motion has passed.

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GOVERNOR BARBARA ROBERTS: Informational briefings, beginning with the Common School Fund briefing.

It's awful that we didn't look at all that wetlands pictures up on the board after all that work. It's really sad about that. We should have looked at them just because they were there.

DIRECTOR GARY GUSTAFSON: Okay. We're going to shift focus and go onto the Common School Fund. I've asked to join me at the table, Dennis ~~Su~~gino, from Wilshire & Associates. Dennis has done some work for the State Treasurer in the past, and he's here to assist with a small presentation, and also some questions.

I'd like to set the stage before Dennis begins, though, by taking you back to the March '94 meeting, and as you recall, we had a discussion at that time about a couple of long-term policy issues that needed to be further examined and then reported back to the Board. The Board at that time asked that about in six months these issues come back for further discussion.

The two issues that were discussed last March were the additional options to diversify the Common School Fund investment portfolio. At that time you had specifically mentioned interest in real estate and capital projects. And also, consideration of further acceleration of the growth of the Common School Fund principal by temporarily slowing or halting distributions to the schools. And

largely, it ended up being a legal question, which we'll speak to in just a moment.

With respect to the first, we've done some research in diversification options, and of course, if you read the paper recently, there are all kinds of pitfalls we get into in investment options. So you got to be real careful about diversification options, as well, but some diversification, depending on your size of funds, can certainly be helpful and healthy for the fund.

We think that this entire issue of diversification really fits into our annual review, policy review of the Common School Fund policies that were adopted last year. And so our suggestion at this point is that Dennis make his presentation about diversification, and that we proceed to integrate that as well as everything else that we've been able to put together, and come back with recommendations to you at the April meeting, which would be the annual policy review of the Common School Fund.

With respect to the second policy issue, and that one is whether it is possible to temporarily halt or reduce the portion of the earnings which are distributed to the schools. Bill Cook has done some research for us, and Bill tell me if I'm not tracking here, but he has responded that once the Common School Fund earnings accrue to the Common School Fund distributable income account, they must be distributed to the schools. There is no

discretion, period. And that either a constitutional amendment and/or a statutory change would be required in order to halt or reduce school distributions, even if temporarily, as a means to accelerate the growth of the Common School Fund principal.

I also want to make one minor clarification in the staff report, it occurs on Page 3, about two-thirds of the way down. You'll note that we have a number of bullets there, just before the bullets begin, we state, "However, it may be advantageous to first examine all other alternatives which may also contribute to Common School Fund principal growth." Technically, that should read, "which may also increase school distributions," I think that tracks with what we're talking about a little better. And again, the references to February is the date for the Board annual review, should be replaced by April.

I have also passed out or had passed out at each of your tables a series of graphs and charts. This is just to be in the mode of background information. It has been expressed on many occasions on how the Common School Fund is performing. How we're doing generally. These charts should be considered preliminary because all of the facts and figures aren't in for 1994, nor will they be actually until February. But I at least think that they give you some idea of performance diversification, and will help you and us as we get into the analysis portion of

the Common School Fund preparatory to the April meeting.

With that, let me again introduce Dennis Sagino of Wilshire & Associates, and turn it over to him for a briefing.

DENNIS SUGINO: Good morning.

GOVERNOR BARBARA ROBERTS: Good morning.

DENNIS SUGINO: It's a pleasure to be here this morning. I thought what I'd do is I'd talk a little bit about Wilshire & Associates. It's been a few years since we've been up here, and maybe talk a little bit about my background. The issues I think we're going to address today are the distribution policy, I'll make just some brief comments on that.

The staff has presented some investment options for your consideration, I've reviewed those, and I thought I'd make some comments on that. We have a different set of recommendations that we might propose to you to look at at your next meeting. And if you'd like, a lot of our clients have been asking us what has happened in Orange County over the past few weeks. And if time permits, and you'd like to go through that, I'd be happy to share what information we have. We were not the consultants to Orange County.

GOVERNOR BARBARA ROBERTS: That's reassuring.

DENNIS SUGINO: So we have no final information on that, but we, of course, have been following this issue

pretty closely.

So I'm going to begin. Wilshire was founded in 1972, actually the state of Oregon is one of our longest clients; that we've had this relationship for over 20 years. Some of our clients include (unintelligible), which is the mid-\$80 million range. The state of Washington is a \$20 billion client. The state of Massachusetts is \$12 million. Nebraska's a client, and Rhode Island, so we have a number of large public funds. We also have a lot of corporate accounts as well.

Our attorney has asked me to share that while we have enjoyed a formal and long-term relationship with the State's pension fund, that our role here (phonetic) today is really more informal. We have no ongoing relationship. We are here at the request of the treasury staff, and of the Treasurer.

Myself, I'm a vice-president at Wilshire. I'm one of the senior consultants. I work with public funds. I exclusively -- I was a former chief investment officer myself with a \$5 billion California fund. So with that, I'll start with the distribution policy.

What I am here to -- I am (unintelligible) to suggest to you what your distribution policy should be. We know that in our report in 1992, that trying to achieve the five percent level was going to be a real challenge in the short term. Even in the long term, you're looking

as far out as three centuries in order to achieve what you might at the five percent level--

GOVERNOR BARBARA ROBERTS: That's a long-term investment.

DENNIS SUGINO: You may have some optimistic assumptions that we made, a very aggressive investment policy, and a very low inflation policy, you're looking at about a 40-year time span. So our role was not to make a recommendation there, but to suggest to you how much of a challenge that will actually be for you in the future.

In response to that, the staff brought in suggestions one way or one facet of trying to cut down that time frame, was to try to increase the investment return of the portfolio. So real estate was one option that you and the staff had to consider, and I'll fold in (phonetic) capital projects into that, because I think that they really kind of fall into one of the same.

The concern that we have there is that most of your revenue is really tied to real estate, if you will, your fullest (phonetic) revenue. So what you can have happen there is if revenue -- I'm sorry. Is if revenue from your forest land then were to drop, then correspondingly, you can presume that the revenue from your investment in real estate would drop too. So you could take a double whammy, if you will. So we think you might be looking -- you might want to look for investments that

offer diversity from your main revenue source.

The other concern too we have, and maybe this will be a question for the attorney, is that you have a 50 percent limit on equity. I mean, we view real estate as an equity item; and so whatever--

(T.N. Problem with tape at this point.)

--is the diversity element, and two, is the fact that you would be decreasing your expected return if this is going to be considered within your overall equity statutory requirements. Third, there is normally a critical mass that you'd like to have before venturing into some of the more liquid assets, such as real estate. \$300 million, is a little small, we think, you know, want to be somewhere around the billion dollar mark before you start looking at this area. There are firms that do it with less, but, you know, as a rule of thumb, you want to be in that area.

You also have this -- the concern of the implementation. A few years ago you invested in Wells Fargo invest -- stock fund, and that's really something that can be implemented within a week. You could be fully invested if you chose to. In real estate, it's a very time consuming process. One, if you're doing it with external managers, you're going to do an RFP, then define that manager, and then the manager -- then you have to set up guidelines with the manager, and then you have to

then implement that policy. So it's a long start-up period for this asset class as well. And it's liquid, as a lot of funds have discovered who invested in the late 80's. Even when you want to get out, you sometimes can't get out because -- unless you're willing to go at that fire sale prices. So we're not sure then that this is probably of the most optimum asset classes that you can consider here.

On the capital projects, I mean, that's a little more difficult for us to try to assess. Again, it's the same concern goes to the real estate items. Which if you're talking about underwriting loans, I mean, becoming in essence an S and L, then that's going to require some beefing up of staffing, I would suspect, on your part. Here, it's kind of a local market phenomenon, so we're not sure what sort of returns you might achieve. And if these organizations that you might lend to for these projects can get financing -- I'm not sure -- unless you're going to offer financing that's below market, and we're not sure that you'll want to necessarily want to do that, because then that'll then offer lower returns. I'm not sure how you can best compete against institutions that are out there. So those are a few comments that we have on those two items.

I think venture capital was raised as an option here. Again, you have light real estate, the concern

about being able to implement this having the critical mass and the illiquidity of the asset as well. Venture capital was -- I guess, was -- precious metals and art were also raised as potential options. (unintelligible) work comes to mind. Speculative for a lot of people on this item. Again, I think a larger critical mass would be important here. And it's all been looked at as more of an inflation hedge. Then, of course, you got a storage problem, where are you going to put all these -- all these things.

GOVERNOR BARBARA ROBERTS: We have a lot of State buildings that are empty. Where employees used to be, we'll store.

DENNIS SUGINO: I guess another option was commingling your assets with the pension plan. I understand there was some legal issues there. But I guess -- the other problem too, is that the pension plan has over 50 percent of its assets in equities. So that would create a leg -- another legal hurdle. There are some accounting things that can be done to keep these assets separate, but you'll still run into a hurdle, so I'm not sure that that's an option that you'll want to consider over the longer term.

What do we recommend? I think what we suggest is that you have a -- I think, a sound, a very cost-effective program right now. If I could just -- I can

give you a flavor of how much you should appreciate this. With Wells Fargo -- Wells Fargo is your index manager, an excellent manager. We have retained -- help retain them for a number of our clients. And what you have done here is that you've got -- the larger the assets you have under management, the cheaper the fee is because of the economies. And what Wells Fargo has done for you here is to combine your assets with that of the State pension plan, and given you a discount that is substantial. So the assets that you have in there are really being managed at a very cheap price.

You are having your bonds in house, so essentially whatever then a State salary, I'll presume that you're not being charged against directly here, is what the cost is to you. Well, if you had those money -- those same monies managed externally by a manager, you would probably be looking at about a half-million dollar fee that you'd be paying off that. And I'll presume that that would be money then that -- that half of million dollar would come right off of your bottom line. And the performance on those -- that bond portfolio has really been excellent. I mean, Bill has been giving you performance that has really been in the top ten percent of investment managers out there. So we think that's something that you should be very proud of.

So our recommendations are that we keep things simple. That there are three guiding principals that a lot of public funds use, with the exception of one in California recently. And those principals are, I think, in this order: Safety, you'd want to protect the principal of the fund. Liquidity, ultimately he -- you're here, or the fund is here to pay the bills, whether it's the pension plan or the State Land Board trust -- you're trying to pay the bills. And return, I mean, return is really then the third element that want -- you want to look at.

In Orange County what happened is that they turned these around. They had return as really the driving force of the portfolio, and these other two elements then came far, far below that.

What are our specific recommendations? One of the -- one of the vehicles that you can use, again, Wells Fargo or any other index manager offers a passive international portfolio. So you could easily then complement your domestic stock portfolio with an international. Our expected return on stocks, I mentioned about ten percent. Our expected return on international stocks is about ten percent or a little bit higher. So you can get the same return or a little bit more return, and gain diversification as well. So you could have the same return and reduce the risk of the portfolio. And

this can be implemented very simply. Another option is in your bond portfolio, currently Bill manages just domestic bonds, but in the pension plan there is a small element of that that is invested in global bonds. So again, that can give you then the same return or a little bit higher than the domestic bond portfolio and offer diversification.

I think the last item we might recommend is that you -- you have the S & P 500 fund, that is basically a large company stock portfolio. And one suggestion would be that you change the index to a broader based index, something like the Russell 3000 or the Wilshire 5000. We'll then offer you an opportunity to have small cap companies or small companies in that portfolio, which can help to enhance your return. So these options then, we think, are easy to implement. They're cost-effective. They give you an opportunity to enhance your return, and to -- I think, we do it in a prudent manner.

One last comment. We had recommended the 50, 45, and 5, 50 percent stock, 45 in bonds, and 5 percent into cash. We had discussions with both your staff here and the Treasury, we think that's going along very well in terms of implementing that program. So that's really the comments I that I have, and certainly be willing to field any questions if you have them.

SECRETARY OF STATE PHIL KEISLING: Okay.

Questions?

STATE TREASURER JIM HILL: Yes. Just to refresh my memory about the 5 percent position in cash.

DENNIS ^{Sugino} ~~SUGINO~~: That was done -- and we understood that the staff wanted to have some liquidity in the portfolio, and so that's why we had included the 5 percent target for cash.

STATE TREASURER JIM HILL: I mean, why is it 5 percent? Does anyone--

GARY VAN HORN: Madame Chair, Treasurer Hill, for the record, Gary Van Horn. The 5 percent level with the expected range of the Common School Fund principal gives us enough liquidity to pay the semi-annual distributions. It will build up and then we'll pay them, and then it will come down. And it takes about 2 million to cover normal operating expenses, at least for this last several -- biennium.

STATE TREASURER JIM HILL: Thank you.

SECRETARY OF STATE PHIL KEISLING: I got a question. We, of course, passed the Constitutional Amendment, I'm trying to decide -- I'm trying to remember when it was. I think it was in 1986 election that let us get into equity investment. Maybe it was '88. But I guess I was just curious as to whether you think there ought to be some serious look, and of course the

Legislature would have to do this. But do you think there should be some serious look at raising that ceiling, is that more conservative than it needs to be? Given our desire to try to do all the things, the stability, the liquidity, the return, to meet that 5 percent shorter than 297 years. (unintelligible) current rates (unintelligible) I don't intend to be on the Land Board.

DENNIS SUGINO: The 50 percent is not an unusually low level. I would say most funds are somewhere between the 40 to 60 percent level. For the -- the pension plan is currently about 60 percent in equities. But if you want to achieve -- if the five percent goal is something you'll want to maintain as your objective, and if you want to achieve it in a political lifetime, if you will, then--

GOVERNOR BARBARA ROBERTS: It'll take longer than that.

DENNIS SUGINO: What you want -- what you would have to do is to have that ceiling raised.

SECRETARY OF STATE PHIL KEISLING: Well, I'd follow up on that. I guess I was struck by how if we had been able to co-mingle, we would have had -- if you look historically there was a five percent greater increase in that than what we did, and it sounds like that may not be the only barrier, but was a substantial barrier to co-mingling. In fact, PERS is at around 60 percent, and

we've got this 50 percent ceiling, it's just got me thinking as to whether -- since, I think, we have been very successful. The 50-percent decision was an excellent one to make. That's not the reason our distribution to the schools is at a lower level than any time since the 1960's, which it is. I mean, we're going exactly the opposite direction from, you know, we've gone from .7 to .2. And not having to do with the terrific returns that we're getting through our diversified portfolio, it would be even worse if we hadn't made that change. But I guess -- I'm wondering is that something that we might be able to, though it's a big hurdle, be a constitutional amendment, whether we should start doing some thinking about that, because it gives more -- might give us more flexibility with PERS, and might be able to continue to build on that record that we've got.

DENNIS SUGINO: That's correct. In fact, you know, the new policy for this year has actually saved you quite a bit of money, because I think you had about 60 -- somewhere near 70 percent of your portfolio in bonds. And this year bonds have had a negative return. So having more of your assets in stock -- I mean, stocks haven't been terrific this year, but they've had a positive return. So that's really helped you. And over the long run, I think, changing from your prior allocation to this 50, 45 bond is actually going to give you about \$5 to \$6 million

more over the long term, a year. So we think, you know, you're certainly better off now than you were before. Increasing the ceiling would certainly over the long term further enhance your chances of meeting that objective.

SECRETARY OF STATE PHIL KEISLING: And be consistent with those three principals.

DENNIS SUGINO: Correct. Correct.

GOVERNOR BARBARA ROBERTS: Questions, Mr. Treasurer? Your area of expertise here.

STATE TREASURER JIM HILL: I just want hold Dennis to the ten percent.

GOVERNOR BARBARA ROBERTS: I thought you were going to hold him to the political lifetime. For me that's very short. Well, Dennis, we appreciate very much your work and your expert support in helping us understand this today. Obviously an important issue, not just for this Land Board in the state, but obviously the long term for the school children of the state. We appreciate your helping us have some ways to think about it as well as understand it better.

DENNIS SUGINO: Pleasure to be here.

GOVERNOR BARBARA ROBERTS: Gus, let's talk South Slough.

DIRECTOR GARY GUSTAFSON: Well, terrific news from South Slough.

SECRETARY OF STATE PHIL KEISLING: We have good news from--

DIRECTOR GARY GUSTAFSON: Yeah, I mean, this sometimes happens, a very fortunate circumstance for South Slough. An individual recently passed away. Someone who had some involvement with South Slough, but actually not a whole lot. He had come by a few times, really like the place, discussed several things with Mike Grayville (phonetic) over the years, but it took everybody by surprise when he passed away; that he basically passed on his assets to South Slough to use for purposes of purchasing additional land to -- in the watershed of South Slough to enhance the protection base there.

We don't know yet how much he has passed on to South Slough, but it looks to be well over \$1 million. It's still in probate, and that has to be worked out. But when probate is completed we'll know, but I've spoken to the attorney who is handling probate, and he estimates it's going to be well over \$1 million. Interestingly enough, this is just a coincidence, the gentleman's name was Chalmer Gustafson. I immediately said -- no, I didn't say anything.

GOVERNOR BARBARA ROBERTS: You're supposed to do that earlier.

DIRECTOR GARY GUSTAFSON: Anyway, besides the contribution itself, there is another advantage here. And

that is that for years as we go out and have tried to obtain federal grants, one of the biggest problems we faced continually has been State matches. Suddenly this gives us a whole new base for matching federal grants, which could be used for additional land acquisition or other activities in the reserve itself. So it really assists everybody. I know Mike Grayville is really doing a dance down there, and some real opportunities.

GOVERNOR BARBARA ROBERTS: I have this expectation that Gus is going to come back in the next meeting, and you guys watch for this, with something, he's going to name it Gustafson House or Gustafson Tract, or whatever, so just watch out for him on that one. That really is great.

SECRETARY OF STATE PHIL KEISLING: The Chalmer Tract.

GOVERNOR BARBARA ROBERTS: Yeah.

DIRECTOR GARY GUSTAFSON: Uncle Chalmer.

GOVERNOR BARBARA ROBERTS: Nice try, Gus. It really is amazing to have somebody who was minimally involved with the project who's made that kind of a contribution to it. It's great. It's a wonderful asset we already have, and this may give us some more ways to enhance it. This is really exciting.

STATE TREASURER JIM HILL: It is.

GOVERNOR BARBARA ROBERTS: I bet that Grayville was dancing. I bet he is. As much struggling as they've done over the years, that's really good news. Okay.

DIRECTOR GARY GUSTAFSON: Governor, we have a couple of other issues that I'd like to bring to the Board's attention. First of all, quick update on the Elliott Habitat Conservation Plan. We've made major progress in overcoming the last few obstacles in getting federal conceptual approval of the implementation agreement that accompanies the Habitat Conservation Plan and the EIS. I believe we are now to the point where we can truthfully say that we've got it, and so therefore, I had hoped that we would have the letters ready today for all of us to sign transmitting it, but it apparently won't be ready today, but it will be ready within the next few days. We will get that transmittal letter around for all of you to sign, so that at long last we can submit it.

I happened have been in Washington, D.C. a couple of weeks ago, and spoke with Secretary Babbit, and he's also excited about this as being the first state HCP to come in. So I think the stage has been set, and then, of course, that just begins a whole new process, of course, but hopefully will get us incidental take permits, and we'll proceed as we have all planned. Congratulations, particularly to Forestry, who again have done a tremendous job getting us this far.

GOVERNOR BARBARA ROBERTS: I think Dennis might describe it as one of those political lifetime issues. It has been a long time coming, and it is exciting to think we may have, literally, not only done the work we needed to do to be successful, and a lot of people participated in the effort to be the first in the nation to really put together this kind of a successful operation, and to do what we set out to do, which was to manage the land well, to manage the harvest well, and to be responsible about our stewardship of that land, as well as to be able to harvest off of it. I think it's a very, very important step for us. So that's exciting. I'll be anxious to get a chance to put my signature on this one before I -- it's what I would like to do. It's kind of like something I wish I could of done -- something really big at Tongue Point before I went, but this is very exciting. And I wish we could have done it today, but it will nice to have it behind us as an accomplishment for this Board, and the staff, and Forestry.

DIRECTOR GARY GUSTAFSON: Governor, funny you should mention Tongue Point. I think it would only be appropriate for me to give you a very brief update on Tongue Point during your last meeting.

GOVERNOR BARBARA ROBERTS: Straight man.

DIRECTOR GARY GUSTAFSON: What would it be without Tongue Point? There is a lot of people that have maybe

wondered, you know, how is it going at North Tongue Point with Cresmont, and so on? What kind of activity has been generated? I'm pleased to say that Cresmont and the Division have entered into two sub-leases, one with Crowley, and one with Geopacific Mining, which is a subsidiary of Cresmont, and combined right now with the existing operations that are already on there, Ogilvie. That puts us in -- well, it probably almost tripled the income base for everybody. We are getting our share, the rest is going as provided for in the short-term improvement fund.

They have just about completed the ADA improvements. Have already started on the electrical service and extension to the piers, which was the second tier of those improvements. Funds are going in as provided for. They have paid all their bills. They have secured all their insurance requirements. Frankly, we are pleased with the performance so far.

I am aware too that there are a couple of other things on the horizon, very significant, that Cresmont is involved in, potential sub-lessees. They haven't been submitted yet, but they're still out there too, so it should get even better. That's our hope.

GOVERNOR BARBARA ROBERTS: Well, it was a long time coming. One way to discuss Tongue Point is -- I can't wait to go out there a few years from now when it's

really, fully at the successful operation for the community and for the State. I don't know of any issue I thought was ever more difficult to resolve than this one. I mean, from the campaign I ran of Secretary of State where I pounded on the table at meetings, and as Secretary of State, I said, "Why can't that Land Board do something with that (unintelligible) piece of property?" Going on with no imagination, clearly taking on no direction for the Land Board, when I get on there, we're going to fix that. I wished later that I'd never started. I expected every time I ran, somebody was going to say, "Why haven't you done something about Tongue Point?" So it was a good political lesson about finding out the facts before you opened your mouth on issues you don't understand, and I think that may have been one of them for me. So it's nice to see it beginning to be operational and successful. Obviously a long ways to go, but encouraging.

DIRECTOR GARY GUSTAFSON: And finally, Governor, we could not let you escape your last meeting without some kind of recognition. Can we have something brought in here?

GOVERNOR BARBARA ROBERTS: This better not be a picture of Tongue Point.

SECRETARY OF STATE PHIL KEISLING: Well, let's see. Shall we do this right here? Let's do it right here in front.

GOVERNOR BARBARA ROBERTS: Okay.

SECRETARY OF STATE PHIL KEISLING: You know, I was looking before this meeting up at the Rogues Gallery up there about the prior Land Board members, and it's interesting to note that there are just -- there's just one other Land Board member that's been on the Land Board in this modern era as long as Governor Roberts, that was Clay Myers. In the first eight years of his tenure on the Land Board, he had been through two different Land Boards. Governor Roberts in her first eight years had been through five different Land Boards. She, of course, campaigned on a platform of change when she ran for governor, and boy, did she see a lot of change. But through those ten years Governor Roberts' service to the State and to the Land Board has been exemplary. Not only working hard on issues at Tongue Point, Habitat Conservation Plan. You probably have more than 100 meetings under your belt of this Land Board, and it--

GOVERNOR BARBARA ROBERTS: I've done that in Tongue Point.

SECRETARY OF STATE PHIL KEISLING: Maybe one day there'll be a Governor Roberts memorial at Tongue Point. It will be all those Democrats at Tongue Point, right?

But in appreciation from, not just this current Land Board, but previous Land Boards as well, and of course, all the staff of the Division of State Lands,

would like to present you with this map of all of your holdings that you managed over the years. This is a GIS map in pink, in red ink, I don't think that's just a coincidence for contrast, but showing all of the parcels of land that--

GOVERNOR BARBARA ROBERTS: Thank you.

SECRETARY OF STATE PHIL KEISLING: Bring pleasure to you.

GOVERNOR BARBARA ROBERTS: Well, I just have to tell you, Phil and Jim, members of the staff, and the Land Board assistants we've had, I have been through five Land Boards over this ten years of time. Working with Governor Atiyeh, and Goldschmidt, you're the only other Secretary of State I've worked with. With Tony Meeker and Jim, and it has been absolutely one of the most special parts of the job that I've had. We've kidded about Tongue Point, but it has been one of the challenges of this role. When we first started the timber crisis issue, we learned about things like owl circles (phonetic), and HCP's, and our language changed as we learned about that issue.

One of the very first issues I dealt with on the Land Board was a very controversial issue, in which I got into a lot of trouble with Vic Atiyeh. On the issue of a pier that was going to be built at Port of Portland. And the issue was whether you tried to save the fish runs that you would damage the economy, and it was one of

those -- I should have known that was the forerunner to the economy versus the environment. We actually found a solution that solved both of those problems.

We put together on one of these Land Boards the very first policy on the construction of dams in the state, which turned out to be significant. Or the most controversial issues we ever had on the Land Board was removing motorized vehicles from the beaches. So issues that we've not heard about for years were part of those early years, and some of them like Tongue Point just threaded themselves all the way through the ten years.

It has been very special to be part of being a steward and a decisionmaker on the lands of the State, working as we did today on issues of the Common School Fund for kids. And making environmental choices that were right -- long term for Oregon. We wouldn't have done any of the work we've done the last ten years successfully without a very, very strong group of directors, a very strong staff who supported it and made us look good, and gave us the really -- tools to do the work that we do on this Board. Without people like Anne Squier and others who have served as Land Board assistants. I just can't tell you how much talent we have been surrounded by on this Board in ten years, including the talent I stand by today. So I just want to thank all of you for making me look good on a lot of very complex issues that I couldn't

have done without you. And for the courage that these Land Board members over the years brought forward when we made decisions that were not always fully understood in the context of history, which is really the context in which all of us operate. So thank you very much for the gift, for the recognition, and for the work we've done for the state of Oregon people. And for me while I've been governor, particularly. Thanks.

DIRECTOR GARY GUSTAFSON: Governor, we do have one more item. And this is on behalf of the Division of State Lands. I'd like to read you a letter.

"On the behalf of the Division of State Lands, including the South Slough National Estrean (phonetic) Research Reserve, I'm pleased to announce the creation of the Barbara Roberts Educational Internship Program. This program is a legacy to recognize the many contributions you have made to environmental education in the state of Oregon, and will support two new educational intern positions at the South Slough Reserve in Charleston.

The interns will assist school groups at the Reserve to maintain the school program agenda, train instructors, maintain essential equipment and materials, and lead school interpreted programs. These interns will enhance public awareness, understanding an appreciation of estuaries and estrean ecosystem. Much as you have consistently promoted environmental awareness and ecosystem management during your term as Governor and as a member of the State Land Board.

The program will be largely funded by federal grants, though, public and private donations will be accepted to satisfy the State's match requirement. Donations will be accepted and handled by Friends of South Slough, a non-profit organization, which works closely with our staff. Congratulations."

GOVERNOR BARBARA ROBERTS: I couldn't be more pleased, I'm sorry I made fun of you about naming something after me, particularly about South Slough. (unintelligible) a lot better than what we decided today. Thank you. I am truly touched by this. I can't think of any way I would rather be recognized for the work I've done in this state than something that deals with children, and something that deals with education, and something that deals with the environment, and this does all three, so thank you very much. I'm extremely proud and very grateful. Thank you.

DIRECTOR GARY GUSTAFSON: Thank you. Governor, one more issue actually. Will Nina Johnson and Anne Squier come forward, please. They thought they were going to get out of here.

Nina Johnson and Anne Squier, you have both served with a great deal of expertise and vision. On behalf of their members, Phil Keisling and Governor Roberts. They have been really a joy to work with. Even in the trenches when we have struggled over North Tongue Point, I know, they know, but truly, they have been real credits to their bosses, and real credits to the Division of State Lands, and more importantly, to the State of Oregon. Your contributions are very much appreciated. Thank you.

SECRETARY OF STATE PHIL KEISLING: Show them.

NINA JOHNSON: Thank you very much. This is wonderful.

DIRECTOR GARY GUSTAFSON: And we have set aside in the Mill Creek Room -- we've got coffee and, I think, cookies, and a little reception over there. So everybody here is welcome to come join us in the back room -- or the front room.

STATE TREASURER JIM HILL: Governor, before we leave, there is one other thing that we need to address, I believe. This is our first meeting since the election, and as you leave your political career, we should acknowledge that one is beginning. Gus Gustafson was elected mayor of Turner, Oregon. And let me just say, God help him.

GOVERNOR BARBARA ROBERTS: Well, do we have any other business to come before the Board, if not, I will adjourn. Is there a motion?

SECRETARY OF STATE PHIL KEISLING: I'll move that we adjourn.

STATE TREASURER JIM HILL: Second.

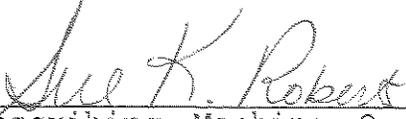
GOVERNOR BARBARA ROBERTS: It's been moved and seconded we adjourn. All those in favor will signify by saying aye. We are adjourned.

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CERTIFICATE

I, SUE K. ROBERTS, hereby certify that I am a transcribing machine operator for Business Support Services, Inc., and I prepared from a mechanical recording the foregoing typewritten transcript of the testimony and proceedings had upon the hearing of the above-entitled matter at the time and place set forth in the caption hereof; and that the foregoing pages, which are numbered 1 through 54, both inclusive, contain a full, true and correct record of all the testimony adduced in behalf of the respective parties in the said hearing, except where specifically directed to be off the record.

WITNESS my hand as transcribing machine operator this 15th day of December 1994.



Transcribing Machine Operator

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