
STATE LAND BOARD MEETING

Tuesday, August 18, 1998

State Lands Building

775 Summer Street NE, Salem, Oregon

10:00 a.m.

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GOVERNOR KITZHABER: The meeting will come to order.

Mr. Cleary?

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AGENDA ITEM NO. 1

DIRECTOR PAUL CLEARY: Good morning, Governor, members of the Board. I'm Paul Cleary, Director of the Division of State Lands.

We've got three items on our action agenda; several items on our Consent Agenda; and then some information items. And I thought we'd just go ahead and start with Item 1 on the action agenda, which is the request for approval from the Oregon Department of Forestry to submit their proposed Common School Fund budget authorization to the Department of Administrative Services. And in conjunction with that, a presentation on their Common School Forest Land Management report for July 1, 1996 through June 30, 1998. We've got Mike Bordelon and Ray Craig from the Department of Forestry to brief the Board on these items.

I would point out that there was a slight change in some of the budget numbers, and there's a -- there's a handout at your desks on those. Primarily some changes in personal services expenditures, and as I noted to Mike, I guess this is why we were always told to use pencils when turning in our math homework; numbers have a way of changing. And so, with that, I'll turn it over to these guys.

RAY CRAIG: Good morning, Governor, members of the Board, I'm Ray Craig, Assistant State Forester with the Oregon Department of Forestry. And with me, on your left, is Mike Bordelon, the State Forest Program Director.

As Paul indicated, we have two items before you this morning. The first is the action item -- is an action item for you,

with a Department recommendation. It deals with a submission of our budget, including the State Lands portion of that budget. So with that, Mike, would you like to brief the Board on--

MIKE BORDELON: Sure. Good morning, Governor, members of the Land Board. For the record, my name is Mike Bordelon. As Ray said, I'm the State Forest Program Director.

I'd like to talk our way through the proposed budget. As Paul mentioned, there's a revised handout that -- that illustrates that budget. The table on the top of the handout is a good reference document for the proposed budget.

The budget request is for \$10,960,233 in total. That represents about an eight and a half percent increase over the '97-'99 legislatively-approved budget. Of that about three percent of those -- of the increase is in salary adjustments, and also inflation. And then the remainder, about five and a half percent of the increase is -- is included in program option packages. And I'd like to talk through those program option packages if I could.

At the top of that table, in Appendix A, is a POP (phonetic) request for the State Forest program, and the total there is \$85,286. This is the Common School Forest Land share of that program option package. That particular option package includes accelerating active management opportunities in northwest Oregon and southwest Oregon, enhancing our forest inventory and water shed assessment activities. The water shed assessment that we're looking to conduct water shed assessments on about 200,000 acres of northwest forest lands during

the biennium.

The third portion of that program option package is to enhance public involvement and participation opportunities. The programs -- State Forest program and the Common School Forest Land portion of that would fund a position in our public affairs office. This position would be dedicated to public involvement and participation activities as it relates to State Forest -- State Forest lands.

Updating our TRAS, timber revenue accounting system, is the next component of that program option package. This was identified as part of the programming review by Duck Creek and Associates, John Beuter, as one component of an improvement area that we need to make. We need to -- or we're proposing to fund updating that timber revenue accounting system.

And then the last component of that State Forest option package is to acquire some topographic data layers, GIS data layers to enable us to implement the Habitat Conservation Plan and -- and develop and implement the Northwest Forest Management Plan.

That's an explanation of the program option package. At the top of that table, as you look on down a table, capital improvement is listed. The Common School Forest Land portion is \$223,770. Those are capital improvement projects at three of our district facilities: Klamath Lake District, Coos District, and also in our west Oregon -- Oregon District office.

The next line item under capital construction is \$118,000,

which includes phase one of the Salem compound -- the Oregon Department of Forestry Salem compound construction. And that's the -- that's the Common School Land portion of that.

The Department administration also has some smaller program option packages. There are seven of those, and they're detailed on the sec -- excuse me -- on the second page of your handout under Department Administration Program Option Packages. The total for the Common School Forest Lands' portion of this is \$133,732. It includes a variety of program option packages, focused on enhancing GIS capabilities, and also GIS hardware and software for the Agency, employing a training specialist for the Department, also a facilities manager to coordinate the new construction of the Salem compound, and to do some strategic facilities planning for the Department. And then also some partial funding of -- for forest resource planning -- our forest resource planning program.

That's an explanation of the -- of the budget table that you have there. I'd like to go on quickly and talk about some expected accomplishments during this budget period.

We're projecting a -- we're projecting \$38.7 million in revenue to the Common School Fund during this biennium. There are some assumptions with that. First, that the -- the timber market is stable to slightly improving over that period of time. Also, assumptions that we -- we not have significant factors that -- that impede our ability to harvest timber and generate revenue during that period of time, listing decisions, et cetera.

During the '99-'01 time period, we're looking at accomplishing about 5,000 acres of intensive management activities. Also, completing the Northwest Forest Management Plan, the Southwest Forest Management Plan, and the Western Oregon ACP. So we've had these planning processes underway for several years, and during this next biennium, we're certainly hoping to close out on those -- on those planning activities and that Habitat Conservation Plan. So that'll be a hallmark for us to be able to -- to finish those up.

We're continuing to implement the Forest Management Plan, which are already approved on the Elliott State Forest in Eastern Oregon. During the '99-'01 time period for the Elliott State Forest, the Habitat Conservation Plan for murrelets begins with incidental take permit portion of that expires, so we're looking to revise the murrelets strategies during this time period, and refine that Habitat Conservation Plan.

Concurrently with that, we'd like to be looking at some options for including riparian aquatic strategies in the Elliott HCP during the same time frame. So we -- we'll have a significant amount of planning and planning activities underway, both on the Elliott and other forests during this '99-'01 time period.

During the same time period, in coordination with DSL, we're going to reaccess the scattered tracts in Western Oregon, and develop an action plan and some strategies. Several years ago we took a look at some of the scattered Common School Forest Land tracts in Western Oregon, and we need to take another look at those and see what the

appropriate disposition of those lands might be.

And then last, implementation of some of the recommendations that came out of the program review by Duck Creek and Associates that John Beuter came and talked to you about, we'll be looking at implementing a business plan for State Forest lands again during this time period.

As a recommendation, the Department of Forestry recommends to the Land Board that they approve the submission of the Department's proposed '99-'01 Common School Forest Lands budget to the Department of Administrative Services as part of the Department's total budget. And I'll be happy to answer any questions you might have on the details of this proposed budget.

GOVERNOR KITZHABER: Questions? Jim? Okay. Thank you. A motion?

SECRETARY OF STATE KEISLING: Yes.

GOVERNOR KITZHABER: Wait. Go ahead, Phil.

SECRETARY OF STATE KEISLING: I'll recommend that the State Land Board approve submission of the Department of Forestry's proposed '99-'01 Common School Fund budget to the Department of Administrative Services as part of Forestry's total budget request.

STATE TREASURER HILL: Second.

GOVERNOR KITZHABER: It's been moved and seconded that the Land Board approve the submission of the Department of Forestry's '99-'01 Common School Fund budget to the Department of Administrative

Services.

Is there discussion? Objection? So ordered. Thank you.

RAY CRAIG: Members of the Land Board, we have a second item before you, which is simply a oral briefing of a report that we submit to the State Land Board every year on the management of Common School Forest land. You have the report before you. And again, Mike Bordelon will just quickly summarize this report for you.

GOVERNOR KITZHABER: Okay.

MIKE BORDELON: Well, thank you, Ray. Appendix B in your packet has the -- the details of this report to the Land Board. I'd like to hit on -- just briefly on some of the highlights of fiscal year '97 and '98, the last couple of years.

First, I'd like to say that this time period was framed by several things. First, we've had major policy and planning initiatives underway on State forests and Common School Forest lands during this time period. Several forest management plans are being developed from a policy perspective on Board of Forestry lands. We went through the definition -- Administrative Rule process to define the purpose of the lands. And this was, I think, a very useful process for us.

We've had significantly increased public interest in State forests during this time period, especially on the Tillamook. And that has translated into some extensive public involvement and participation activities by the Department of Forestry. Just on the Northwest Forest Management Plan alone, we've had over 30 public

meetings, numerous field trips. It's been a -- it's been an interesting -- interesting time in terms of public involvement and public participation on State Forest lands.

The third factor that provide the context here is a -- during this time period is a declining timber market. Just in one -- just in one year, from '97 to '98, the stumpage values dropped by about \$100 per 1000 on Common School Forest lands. Since 1994, that drop has been about \$300 per 1000 board feet, so that -- that's been an interesting component of the -- the management of these lands during that time period.

To briefly highlight some of the activities during that fiscal year '97 and '98, I've talked about the -- our continuation of our planning activities. For the Habitat Conservation Plan, which we are developing in Western Oregon, we recently has -- had completed an independent scientific review that was done by Oregon State University. And also, from a public-interest standpoint, formed a public interest committee for this Western Oregon HCP. And that public interest committee is providing us input on the Habitat Conservation Plan, as well as -- as using that scientific information from the scientific review to -- to build that and approve that Habitat Conservation Plan.

During fiscal year '98 we had -- in conjunction with DSL, we have 47 parcels in Northeast and Central Oregon, which total about 8,412 acres, which were decertified as forest lands. These lands were marginal land with low productivity and high management costs. And

during that time period those lands were decertified.

We talked to the Land Board here in July, I believe, about the program review by Duck Creek and Associates. We contracted with Duck Creek and Associates to look at efficiency and effectiveness of the State Forest Program, and we are using the information from that report to key to several areas of improvement in the program area.

During fiscal year '97 and '98, we produced \$32 million in gross revenues. During the same period, the volume harvested from Common School Forest lands was 106 million board feet. And we conducted reforestation and intensive management activities on about 9500 acres of -- of forest land -- on the Common School Forest land.

As we look ahead to fiscal year '99, there are 31 planned timber sales, which include some com -- some or all Common School Forest lands. And the value of those planned timber sales are about \$46 million, with -- and they contain about 97 million board feet.

So to summarize these -- these last two fiscal years, they're framed by some vigorous activities of forest planning and policy. We've got significant interest in the management of State forest lands. We've got a declining timber market, which is the context. The timber market currently has seems to have flattened out and actually bumped up slightly a little bit. And as -- during this time -- time frame, we continue to meet our land management objectives and produce significant volume and revenue, along with concurrently meeting some of our other objectives of -- of the management of these lands.

GOVERNOR KITZHABER: Questions? Comments? Okay. Thank you
very much.

MIKE BORDELON: Thank you.

GOVERNOR KITZHABER: Appreciate it.

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AGENDA ITEM NO. 2

DIRECTOR PAUL CLEARY: The next on our agenda is a request for approval to renegotiate certain lease terms with Cresmont Technical Services, involving the long term lease of land at North Tongue Point in Astoria, to reestablish what we call a premises improvement fund for a one-year period.

This fund has been used twice since we executed this lease in 1994. The first year it was capitalized with \$205,000 from Cresmont. In 1996, the Board authorized the Division to divert one-half of the monthly rental. The monthly rental is \$20,000 a month, so we were putting \$10,000 a month into the fund for a one-year period, capitalizing it back up to \$120,000, with expenditures out of the fund approved, subject to new subleases being executed.

The types of improvements that have been funded with this have been hanger and Quonset-building upgrades, pier electrification, storm drainage, water service improvements. All of these are available for Cresmont and their sublessees, but are owned by the Division.

Our recommendation on this is to approve a lease renegotiation, to reestablish the premises improvement account on the same basis that we did it in 1996, which is divert for a one-year period \$10,000 per month from the rental stream into the account, and require evidence of new subleases to release funds for expenditure. Bill Kelley and Bill Wolfe, who are the principles in Cresmont are here today. And I also had a call from a Jeff Adams, who's with the

Longshoremen, and he wanted me to pass on that they do have a continuing interest in North Tongue Point, and appreciate the efforts that are underway. They are looking forward to meeting with Cresmont in the upcoming months.

So with that, Governor, I believe Bill and Bill would like to say some things.

GOVERNOR KITZHABER: Welcome.

WILLIAM KELLEY: Governor, good morning, members of the Board. Thank you. We appreciate the -- the opportunity to join you and address you briefly this morning.

My name is William Kelley. I reside in Redmond, Washington. I am vice president and -- and operations manager of Cresmont, Incorporated and Cresmont North Tongue Point. With me today is William Wolfe, the president of Cresmont.

We'd like to just share with you briefly some of our thoughts regarding where we are and -- and where we're going. Rather than just focus on some of the hardware and -- and start-up issues. **Because** I think that forms the basis and -- and helps a decision of this nature.

I have -- just to revert back to that. We -- we do on a monthly basis produce and -- for our own internal use, but also copy Mr. Cleary and Mr. Purchase with what we refer to as our marketing and planning device. The reason we do that is -- it's been made quite clear to us for the four years that we've managed this property on behalf of the State, that accountability and documentation are an

important issue. Both Mr. Purchase and Mr. Cleary have made that imminently clear and we try and stick to that as best we can, and keep them, and therefore, you, well informed.

I do have copies of that document here, and I'll -- I'll briefly refer to it, but prepared to give you each a copy for your future use, if you'd like that right now.

GOVERNOR KITZHABER: Thank you.

WILLIAM KELLEY: There you go.

GOVERNOR KITZHABER: Thanks

WILLIAM KELLEY: The entire thrust of our plan and view for North Tongue Point -- for a time long before we -- we were successful in achieving the -- the management lease and development process that we now have with the State, targeted longer term, a higher value use of it, and it had a history of kind of spot use by -- by intermittent operators.

You'll see, when you have time to review this document, that we're -- we're focusing on basically three market sectors.

One, is what we refer to heavy industrial, which the site is tailor made for, in effect. And that would be the near term use of that, and we've been pursuing for three years, is ex-naval combatant vessel demolition and recycling. That's a process that's come and gone over the years, pretty much out of our control, because of -- at the federal level, that had to be resolved. The process had to be identified. The terms and conditions had to be resolved. The -- the

Navy itself had to decide how and when and where it was going to dispose of these vessels. That has been resolved, all the way up through Congressional action in the last year. We're -- it's clearly stipulated that ex-Naval combatants must be disassembled and -- and recycled within the United States. They can no longer go foreign. And that involves around some hazardous materials and -- and handling of hazardous materials when, in effect, exporting those to third-world nations that have lesser standards than the United States. I think that Congress has done the right thing there.

They've also elevated the bar quite a bit as to who can handle these, how they can handle these, and -- and what the oversight will be. And all those terms and conditions would be in the sublease that we enter into with the -- the entity that's -- that's pursued and -- and been on these vessels.

The award of those should be made within the next 30 days. It's that close. We've been working on them for three years, and the firm we're dealing with has the bid in. They've passed all of the due -- due-diligence hurdles of the Department of the Navy inspecting their technical plan, sending their inspectors to the site, qualifying and approving the site, the govern -- the general accounting office checking them out financially. So it's -- it's been a high level of oversight and due diligence. And they're simply awaiting for a final approval letter right now. So we're -- we're enthused and -- and encouraged with that development.

Another market sector, and it's always been in our thought,

and it's clearly identified in our five-year master development plan, is in general, the fishing industry. But what's really surfaced in the last two years is -- it's a change, of lot of industries are -- are working their way through change in the dynamics of change. But what's happened is the pressure from an environmental standpoint to handle the by-catch, and the by-products. Tens of hundreds of thousands of tons of -- of bio-mass, that, in effect, has been shoveled out the side port, or -- or just disposed of. You can't do that anymore. So new technology and new processes have been developed to -- to address that issue. And as -- as the -- happens in many cases, good comes of bad.

There's -- there's been a joining of -- of the fishing industry and the -- the agricultural industries that have excess lower level grains, and -- and looking to dispose or -- or use them in a higher-value market. There's been processes developed where they blend the two and come out with valuated products: fish meal, food additives, vitamin supplements. We're dealing with no less than three outfits that have patented processes that are moving forward in this -- in this theater. We expect probably two of those outfits to be on board at Tongue Point within the next 12 months, on long-term, 10 to 20-year leases, with capital improvement plans in the neighborhood of \$5 million to \$10 million.

They'll bring not only themselves and that technology and those long-standing jobs with them, but bring fishing vessels. They'll bring tugs. They'll bring barges. There's -- there's huge tonnage

that has to come and go with this. And it -- again, I find it encouraging and exciting. It's -- it's a use that's tailor made for Tongue Point. One that we saw four or five years ago, but finally is coming to -- to fruition based on the technology involving rules that apply to that process.

The third, again, would be that those are more uplands generated uses. We have to incorporate the -- the primary purpose, focus those piers, the waterfront. We're dealing with, again, substantial long-standing firms that are involved in and -- and want to expand their operations in tugs, barges, marine transportation. The beauty of that is both of those first two processes and industries will need marine transportation and I -- I should add, quite importantly, rail transportation.

The -- the opening of that rail to North Tongue Point is critical to everything and every one of these lessees that I'm talking about today. Will I say that the site can't survive or -- or go forward without it, I couldn't say that. But would it be minimized? Would it -- would it ever reach its -- its best and brightest goals? Not without rail. It couldn't happen.

The third industry, again, marine transportation in general. The first two will generate the need to bring heavy-duty materials and processes in by -- by water and out by rail. The value-added products from the -- the fish and -- and bio-mass processing will send out hundreds of thousands of tons of product in bags and on pallets on rail each year.

The third group, that's marine transportation, has always looked at it again with rail in mind to connect it to the sea by rail. We're -- we're very interested. And it's in the five-year master development plan to install and -- and bring to active use a rail head. In effect, a barge span that puts rail cars on barges at North Tongue Point. That conceptually connects North Tongue Point, you know, the southern states and to Alaska, which is very important.

There's a lot of operators now that come through Alaska with -- come through Seattle with their rail cars from Alaska. A lot of congestion. A lot of trouble. They can't get through. They're looking for an out. They're looking for a quicker connection to the national rail system.

The group, and it's on the list, they don't mind sharing it. We have a formal relationship with them, is the Washington Group. Very -- very large company -- international. Very heavily in -- involved in rails. They own and operate Sea Span in Canada. The largest tug and barge company in Canada. They're looking at Tongue Point to establish a new rail head, and perhaps to expand their US presence with their tug and barge operation.

So those are the three major sectors. And would -- the current levels of funding for -- for capital improvements, you know, solve all their problems? No, not at all. It really sets the stage. We were successful the first two times with bringing in very viable sub-tenants in -- in moving and storage firm that deals in -- in military goods, in manson (phonetic) construction. Some -- some

setting of the stage, some cleaning up, some -- some establishment of lighting and -- and some improved water distribution system.

The power to the facility is -- is excellent, but its distribution system, as I think you're aware, when it was idle was somewhat cannibalized. And -- and we need to pull a lot of cables. We've prepared for all the wire ways. We've pulled out all the old PCBs, that's done. Now we simply have to stretch some new cable to get some safety circuits, to get some lighting circuits. That allows the people then to say, "Okay. It's minimally useable," and then I, the new sub-lessee -- the new sub-tenant, will take it from there and make my own improvements. That's the concept that where we're trying to go. Thank you.

GOVERNOR KITZHABER: Thank you.

WILLIAM WOLFE: I would like to just state from my point of view -- of course, Bill's very enthusiastic. It's his primary, number one objective in life at this point -- is to get North Tongue Point filled. So we -- we review this on a daily basis. I receive internal reports, and I'm a part of their team, so we have focus groups that are out there actually trying to develop. And we're very optimistic on where we're going to go. And we realize our responsibilities to the State, our partner, and where we need to go and where we need to end up. We hopefully this year will be a turning point in the entire process.

So we want to thank you for your patience, your understanding, and so forth. Thank you.

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GOVERNOR KITZHABER: Thank you. We're fortunate to have you here.

Questions? Okay. Thank you.

STATE TREASURER HILL: Yes. I would move that the Land Board authorize the Division to review, and if appropriate, renegotiate the rental Article 4 lease terms of the Master Lease with Cresmont as described above, including the Division continues to negotiate with Cresmont to reestablish the premise improvement fund through redirection of -- of monthly base rentals as described. Specifically the fund improvement for the fund for a one-year period of \$10,000 a month, total of -- of \$120,000, and require evidence of new subleases to release funds for expenditure.

And number two, the Division continue to actively pursue State -- federal, state, and other sources of funding to develop the site.

SECRETARY OF STATE KEISLING: I'll second.

GOVERNOR KITZHABER: You don't expect me to repeat that, do you?

STATE TREASURER HILL: No, Governor.

GOVERNOR KITZHABER: It's been moved and seconded that the -- the Land Board request the approval of the renegotiate certain lease terms with Cresmont Technical Services at the Tongue Point site in Astoria. With the conditions and parameters that the Treasurer stated in his original motion.

Is there discussion? Is there objection? None; so ordered.

DIRECTOR PAUL CLEARY: Thank you.

WILLIAM WOLFE: Thank you.

WILLIAM KELLEY: Thank you.

GOVERNOR KITZHABER: Thank you very much.

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AGENDA ITEM NO. 3

DIRECTOR PAUL CLEARY: Item Number 3 is a request for the State Land Board to ask the US Army Corps of Engineers Portland District to issue a Programmatic General Permit for specified removal-fill activities in Douglas and Linn Counties.

This -- what -- what I will call a PGP, programmatic general permit, would allow the Division on the Corps' behalf to authorize specified activities with minimal adverse impacts in a two-county area for a one-year pilot test. This is our approach to, if you will, dip our -- our toe in the water on whether we want to assume more and more responsibilities to the Corps of Engineers in order to reduce the regulatory duplication that exists between the Corps 404 Program and the State's removal-fill program.

Obviously our objective is to try where we can to reduce unnecessary duplication, but always maintain the resource protection standards for -- for the projects that we permit. In this case, we're talking about projects such as erosion control, road construction, wetland restoration, fish habitat enhancement, new building sites. Under certain thresholds, it's got to involve wet -- wetland fills of one acre or less, or -- or removal-fill activities of 1000 cubic yards or less.

The Corps and the Division will pool the resources, reallocate our workloads in order to increase our field monitoring in these two counties. We'll gain experience with informal consultation under the Endangered Species Act, and we also will be evaluating this

pilot test outcomes against our streamlining resource protection objectives.

We've had some stakeholder concerns about the State removal-fill program not being as stringent as the Federal 404 Program, concerns about increased workload on various state agencies. We will be fully evaluating those concerns during this one-year pilot test. And we'll want to involve permit applicants, stakeholders, and our -- our local and state and federal agency partners in that evaluation.

There are certain activities that are excluded from this. Some of them are dams and diversions, Section 10 waterway structures, navigation dredging, and contaminated site clean-ups, those would still handled under the dual permitting authorities.

I would like to extend our appreciation to the -- to the Corps and DEQ for their cooperation and assistance in developing this PGP and -- and DEQ in issuing the -- what we call the 401 Water Quality Certification. Here today is -- is Russell Harding with DEQ. Doris McKillip with the Corps. Dave Kurkoski with the Corps. And I'm not sure whether Ken Franklin, on our staff, is in the audience as well. Ken is the resource coordinator that's going to work in this -- in this two-county area and -- and be our guinea pig, if you will.

Our -- our requests and our recommendation, then, is that the Board requests the Corps issue a Programmatic General Permit for Douglas and Linn Counties for a one-year pilot test, and direct the

staff to do an ongoing evaluation and -- and report to the Board and the stakeholders on the outcome of this pilot test.

GOVERNOR KITZHABER: Thank you. Questions? Okay. Motion?

SECRETARY OF STATE KEISLING: Governor, I -- I would move that the Land Board request the US Army Corps Portland District to issue a Programmatic General Permit for the Douglas and Linn Counties pilot test period.

STATE TREASURER HILL: Second.

GOVERNOR KITZHABER: It's been moved and seconded to request US Corps of Engineers Portland District to issue a Programmatic General Permit for a specified removal-fill activities in Douglas and Linn Counties.

Discussion? Is there objection? (Hitting of gavel.)

We have on the Consent -- the Consent Agenda one item, 4a, that Liz Frenkel would like to make a comment on. So without objection, I'll pull 4A off the Consent Agenda.

DIRECTOR PAUL CLEARY: Okay.

GOVERNOR KITZHABER: Without objection; so ordered. And let's go ahead and do Items B and C in the Consent Agenda, and then we'll come back and give Liz an opportunity to speak.

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CONSENT AGENDA

DIRECTOR PAUL CLEARY: Okay. Be happy to, Governor. And we've got another item, I think it's 4d that -- that is at your desk, and I'll cover as well.

Item 4b is a request from Alaska Northstar Communications for a statutory easement for an oceanic fiber optic -- optic communication cable corridor over state-owned submerged/submersible lands in the territorial sea. This is for a cable that is going to come from Alaska to Portland, Oregon, landing at Manhattan Beach area near Tillamook.

This is I believe the second one of these that we've seen come in. This one actually met a threshold where it had to come in front of the Land Board because of the proposed width of the easement, as well as the term of the easement.

Again, the cable coming down from Alaska to Portland. It's placed on the sea floor until it gets nearer to the shore, where then it's trenched in for protection, routed through a conduit under the beach, and then this particular easement is going to go through the coastal range along the Salmon Berry Railroad that is -- is run by the Port of Tillamook Bay.

We've got a statute that grants these types of easements free of charge, but allows for conditions to protect resource. One of the concerns with these undersea cables is the potential for them to snag and foul fishing gear. The applicants reached agreement with various coastal fishing interests to create an oversight committee,

and establish a fund to replace lost and snagged fishing gear. And there's a copy of that agreement, which we have made a condition of the easement.

They've asked for a common corridor of about 1000 meters wide, that would be used for both this single cable, as well as the potential for five more cables. We -- we believe that a common corridor makes sense. It makes sense to try to confine these to certain areas of the sea floor, so we -- we reduce the potential for interference with -- with fishing.

But we're recommending that we only approve the initial cable easement today, and deal with the easement for the remainder of the corridor as it comes forward. Primarily because we're concerned about the statute that grants these types of easements free of charge. We've been reviewing what other state's port authorities, railroads and private landowners are charging, and what we found is that it's -- it's an explosive growth area. It's an area that a number of states are trying to get a handle on so they're all across the board in what they charge, but in some cases an easement like this would be faced with a charge between \$250,000 to \$1 million or more for this three-mile segment of it.

We, of course, believe that when you dedicate public land to commercial purposes, that it -- it does deserve compensation to the -- to the fund. And we're going to ask the Legislature to take a look at that -- that statutory easement feature where they do grant them free of charge.

So what we're asking for here is a recommendation to approve the easement for a single cable. Ask the staff to further negotiate the lease term. They had originally asked for a perpetual easement. I think in the last case we issued a 75-year easement. I think I would like to see us drop that down even further. We'll talk with them about what they expect the actual physical life of the cable to be, and try to match the easement to that physical life, and then when they replace it, it would be under a new easement in -- instrument. And then we're going to also try to negotiate incorporation of a easement consideration recovery provision, so if the statute's revised in the future, we're allowed to go back in and revisit consideration for this particular easement.

That's our recommendation on -- on Consent Agenda Item B.

GOVERNOR KITZHABER: Okay.

DIRECTOR PAUL CLEARY: Item C is just a request for approval of the minutes from the July 9 meeting. And Item D, which was a walk-in, is a request for approval to appear before the Legislative Emergency Board for a \$20,000 increase in the Federal Fund expenditure limitation for the Oregon Natural Heritage Program. This will allow the Heritage Program to complete some federal grants that they received through the end of -- of federal 1998 fiscal year. We need to increase their limitation for the remainder of the biennium to allow them to expend some funds that they've been successful in -- in obtaining. And our recommendation there is to approve the -- the appearance before the E-Board, and that would appear -- occur at the

September E-Board to request that \$20,000 increase of the expenditure limitation.

And with that, Governor, that's the three items that we've got still on the Consent Agenda, and our recommendations.

GOVERNOR KITZHABER: Okay. Before we move the Consent Agenda, Mr. Pittmon, I -- I know you and Bill Montgomery had something you wanted to put in the record, the leasing issue. You also indicated you had some comments on the minutes, is that correct? If so, I'll pull this off the Consent Agenda if you want--

MEL PITTMON: It was just a question for clarification.

GOVERNOR KITZHABER: Okay. Why don't you go ahead and take the -- and ask us and we'll see if we can--

MEL PITTMON: Governor, Secretary, Treasurer, Paul. At the last Land Board meeting, I believe there was approval given to the budget request. And in reviewing the tabulation on it, I was looking at the -- the employee classification has escalated from 66.5 to 83, that was the approval granted by the Board. And the funding for those positions, listed under the "Other Fund" category -- I was looking for clarification, what would constitute other funds?

GOVERNOR KITZHABER: Okay. Paul?

DIRECTOR PAUL CLEARY: Mr. Chairman, members of the Board, Mel, "Other Funds" are the Common School Fund notation. We -- we don't receive any general fund funding for any of our programs other than the Natural Heritage Programs. So that's -- that's our

other -- "Other Fund" notation. And I believe Gary Van Horn's here and would be happy to sit down with you, Mel, after the meeting and kind of go through that.

MEL PITTMON: Do that afterwards, if you would.

GOVERNOR KITZHABER: Okay.

MEL PITTMON: Thank you for your time.

GOVERNOR KITZHABER: You bet. Thank you. All right. Then do we have a motion on those three items on the Consent Agenda?

STATE TREASURER HILL: So move, Governor.

SECRETARY OF STATE KEISLING: Second.

GOVERNOR KITZHABER: Okay. It's been moved and seconded that the Emergency Board approve Consent Agenda Items B, C and D. Without objection; so ordered.

Okay. Now, Item A. If you'll just explain it, and we'll--

DIRECTOR PAUL CLEARY: Okay.

GOVERNOR KITZHABER: Have -- Ms. Frenkel come up and make her comment.

DIRECTOR PAUL CLEARY: This is a request for authorization to initiate rulemaking to revise administrative rules for General Authorizations for removal-fill associated with fish habitat enhancement, erosion control, certain road construction projects and wetland restoration and enhancement.

These revisions as we have currently developed them and

would be proposed for public review and comment would establish a notice-based authorization for specified activities of less than 50 cubic yards in essential salmonid habitat. We'd have standardized authorization conditions, coupled with a 15-day turnaround time that we believe would lower the compliance hurdle without lowering the habitat protection bar. We'll review these with our essential habitat technical advisory committee. We'll circulate them for public review and hearings, respond to comments, and present them for final adoption, currently scheduled in December.

Without stealing any of Liz's thunder, I -- I talked with her some. She -- she was concerned that we were getting out of sync with this rulemaking, and our broader rulemaking on the revisions to our essential habitat rules and designations. And we -- we do -- well, we've got these proceeding under different activities, because they're covered under different chapters of our rules, and we will link them together for purposes of the comment period; for purposes of public hearing. They're both going to be open for the public comment and dealt with at a September hearing. They'd both be brought before the Board in -- and tentatively scheduled for December for adoption. And they'd both -- if -- if adopted would be implemented at the same time.

One of the things that we're looking at here in -- in our essential habitat designation is because of the Steelhead listings, we're looking at going from some 6000 miles to about 18,000 miles that would be in order to capture the spawning, rearing areas for Steelhead

and Coho. Obviously that tripling in -- and increase in the mileage, what happens then is essential habitat is we capture activities of less than 50 cubic yards outside of essential habitat, they're exempt from regulation on removal-fill. Inside, the idea is, is that even small activities if done at the wrong time and the wrong place and the wrong manner can have either individual impacts or cumulative impacts.

So our attempt here is to show that we can ride with tighter reins on more stream miles, and do it in a manner that we don't have the horse spitting out the bit or getting bucked off. So that's our idea here.

And, Liz, we'd be happy to have you come up.

LIZ FRENKEL: Thank you very much for this opportunity. I do agree, and Paul and I discussed the fact that if these are in tandem, if they're hearing -- the adoption is in tandem, and the implementation date is in tandem, this takes care of some of my concerns. But let me -- it's a bit like dealing with a teenager and saying, "Oops, I see your zits." But here's the -- some of our concerns. One--

GOVERNOR KITZHABER: Can I use that in a speech?

LIZ FRENKEL: Of course, I'm not speaking to teenagers. One of the problems has been this question of 50 cubic yards as a threshold. Obviously, you're using a lower threshold for the PG -- Programmatic General Permits. We have an existing lower threshold for essential fish habitat. These are up for discussion -- by the way, I am on the TAC that's dealing with this. So one is the question of

what's the threshold; two, is a question of is notice adequate, or does it -- should it go to a permit? Obviously this proposal takes you right into fill and removal out of special regs for the essential fish habitat.

There's the question of the 50 day -- 15-days' notice, which involves one heck of a lot of review and monitoring. And I did pick up something rather interesting in the 1998 annual report on the Oregon Plan, where it says, "Of the 253 removal-fill permits surveyed by DSL, 105 projects," that's 42 percent, "were not in compliance with existing law." I'm just raising these as -- these are some of the concerns that we've been looking at.

I do believe that this -- joining these two makes sure that you don't issue a GA that in some way biases your other rulemaking program. And I am satisfied. Thank you very much for this small little opportunity to preach, but--

GOVERNOR KITZHABER: Well, I appreciate--

LIZ FRENKEL: I take them when I get them.

GOVERNOR KITZHABER: I appreciate you putting that on the record, Liz. Thank you--

LIZ FRENKEL: Thank you very much.

GOVERNOR KITZHABER: Very much. Okay.

DIRECTOR PAUL CLEARY: Our recommendation, Governor, is -- is again just to authorize initiation of the -- of the rulemaking process to revise these, and -- and we'll look forward to Liz's

involvement on both TAC, as well as any comments.

GOVERNOR KITZHABER: Okay.

SECRETARY OF STATE KEISLING: Yeah, Mr. Chair, I'll move that we authorize initiation of the rulemaking process to revise the General Authorization.

STATE TREASURER HILL: Second.

GOVERNOR KITZHABER: It's been moved and seconded to authorize initial rulemaking and to revise Administrative Rules for General Authorizations for removal-fill associated with fish habitat enhancement and erosion control, et cetera.

Is there discussion? Objection? (Pounding of gavel.)

Okay. That brings us to our Informational Agenda. One, two, three, four -- we have four items. What I'm going to ask is if Paul will go through 6, 7, and 8, and then we'll allow Mr. Montgomery and Mr. Pittmon to put some brief comments on the record. I just want to point out that -- that we generally don't take test -- public testimony on Informational Items. We can do it today, because we're running ahead and -- and you always have something to say worth hearing. So thank you both. Well, Paul doesn't necessarily always agree with that.

DIRECTOR PAUL CLEARY: That's right.

GOVERNOR KITZHABER: But we all agree. I've reviewed the testimony, Bill. All right. Paul?

INFORMATIONAL ITEMS

DIRECTOR PAUL CLEARY: Thank you, Mr. Chairman. Item 6 is just a status report on our -- on our grazing lease program. And I guess maybe just in terms of some general comments, we -- we prepared these Informational Items to -- to keep you informed of -- of progress on ongoing projects, both to update the Board and other interested parties. And as we find out what these projects, you know -- nothing is as easy as it looks, and it's always easier to get involved in something than to get out of it, so. We try to keep you informed of where we are with it.

The Grazing Lease Program status report. We've got the State Supreme Court oral argument in Mendieta scheduled for September 9. We -- we have been working with the parties to try to address some concerns, but we haven't had any indication yet from the lessee steering committee that they're considering withdrawing the lawsuit, which is -- was the condition that the Land Board put on our request for authorization to appear before the Emergency Board and -- pursuant to Senate Bill 5523 of last year.

We've been asked whether the Board would consent to formal mediation prior to that September 9 oral argument. We've asked the attorney for the lessees to specify in writing what would be mediated. We also firmly believe that if we do have any discussions, it should involve all the parties, so we're mediating the entire war rather than just one battle.

Given that we're so close to the court date, I doubt that there's going to be anything that will occur before the oral argument, but it's always possible after the oral argument to continue to sit down. No matter how the court comes out on this, we're going to have to develop some new grazing rules, so we'll probably be entering into some negotiated rulemaking approaches regardless of what happens. And we'll certainly keep the Board informed, at our next get-together, as to how the oral arguments went. I don't anticipate that we'll get a ruling from the Supreme Court for six to eight months, Bill, maybe more or less.

ASSISTANT ATTORNEY GENERAL BILL COOK: Could be more than a year.

DIRECTOR PAUL CLEARY: Could be more than a year. So this, again, will be one that I'm sure we'll have regular status reports on.

Item 7, navigability status report, gives you some information on our last report to the Joint Interim Committee. We've been working with a small group of user and landowner representatives at that committee's request to see whether we couldn't develop some consensus-based legislative concepts. We had a meeting just yesterday with them. We put on the table what we thought was a summary of the discussions from the last meeting. Both sides found problems with it, and -- which -- which could mean that it's a good proposal, or it could mean that it'll never get any legs with the Legislature.

What we asked them to do then, was since we do have to report back to the committee, is for the user group and the landowners

to answer three questions: What are the problems as you see them? What are the range of solutions? And what's your preferred solution?

We kind of laid it out from our perspective, but I think it's important for the committee to understand that one of the fundamental problems we have in navigability is there is a lack of agreement on what the status quo is. And if you can't get people to agree on what the status quo is, it makes it real difficult for them to assess the pros and cons of -- of different proposals. So if we can maybe narrow that down a little bit, I think it'll help us out in the long run.

And then the final Informational Item is an update on our preliminary legislative concepts. We've been meeting with stakeholders on the Treasure Trove Law, pursuant to the Board's request. We drafted a legislative concept that would apply to upland sites, where we would enter into contracts with finders and explorers and -- and provide for -- for payments pursuant to those contracts rather than the current law, which -- which provides for a splitting of the -- of the found treasure.

This is -- we -- we saw where some other states have used this, because they had the same problem that we did, the treasure was pretty much considered archeological artifacts, and -- and they didn't feel like that was appropriate to lose public ownership of those artifacts, or public custody of them, but they also felt like these -- these finders and explorers brought certain expertise and information to the table that they deserved to be compensated for.

One of the problems that we're running into is that it appears the primary interests are shipwrecks, and if they're abandoned shipwrecks within the three-mile territorial sea, they are clearly State property, and our -- and for the most part, archeological property wouldn't be subject to the Treasure Trove Law. If they're outside the territorial sea, they're clearly federal property, and therefore, also not something that we could authorize.

But we will continue to meet with that group, and we'll have a full report for the Board in -- in October.

GOVERNOR KITZHABER: Okay.

DIRECTOR PAUL CLEARY: And with that, Governor, if there's any questions on any of the Informational Items -- on Items 6 through 8, information items, I'd be happy to take those now.

SECRETARY OF STATE KEISLING: A real quick one. The Chetco River ruling, is that the old one, or has there been something to replace (phonetic) the old one?

DIRECTOR PAUL CLEARY: Yeah, Mr. Chairman, Secretary Keisling, that's that -- I believe it was a '94 decision.

SECRETARY OF STATE KEISLING: Yeah.

DIRECTOR PAUL CLEARY: It took two or three years, though, to actually get it finalized. There's some additional orders. We thought that was real illustrative for this group to understand what we've been trying to tell them all along, that navigability determinations are federally -- have got to meet federal criteria,

federally determined. And it was illustrative of the 2830 findings that a court would go through in order to make that determination. They didn't believe it, but--

SECRETARY OF STATE KEISLING: Maybe they didn't -- (unintelligible)-- mediation--

DIRECTOR PAUL CLEARY: It wasn't accepted. We're working towards informed consent, I think.

GOVERNOR KITZHABER: Okay. Any more questions on those three? Okay. Paul, you want to just go over 5, and then we'll have Mr. Montgomery and Mr. Pittmon come up.

DIRECTOR PAUL CLEARY: Appreciate it, Governor. This is just kind of a status report on our waterway leasing inventory administrative rulemaking. It provides a summary of public comments that we received to date, and I would note that the public comment record is still open. It will be open all the way up through the time when the Board takes final action. It -- it also discusses the status of our waterway inventory, identifies some of the objectives that we've got for a technical advisory public interest review committee that we want to convene a workshop with in mid-September, and to -- identifies a revised time table for the rulemaking.

Given the -- the work that we still need to do on our inventory; given the work that we need to do with this technical advisory public interest review committee. The earliest any final Board action could occur on these rules is December. We hope to

complete the inventory of the developed areas in late September, hold one or more committee workshops.

We always, of course, continue to discuss with our sister states where they are in their waterway leasing program, because it's a dynamic program in -- in other states as well, try to learn from their experiences. We'll further evaluate the comments and the alternative lease rate formulas, such as a flat-rate proposal that had been proposed in the past. I believe now has -- has been withdrawn or taken off the table, but still one that -- that we think deserves full examination.

If we aren't completed with our work by December, we'll be back with the Board for action on either extending the -- the rate freeze, or if we don't extend the rate freeze, then the rental redeterminations occur, the way they would normally have had occurred over the past two years if we hadn't froze the rates.

I, too, had a chance just to glance real quick at the -- at the testimony here. And -- and after the Board meeting, what I'd -- what I'd like to do is -- is meet in the Mill Creek Room and -- and discuss what I see as some confusion between two different rulemaking efforts that we've got underway. One of them is our rulemaking on public uses, public recreational uses, and the ability to close certain areas to certain activities, such as what we had to do over in Bend on an upland site where we closed a section of land to -- to off-road vehicle use. And we've had some requests on some waterway areas to close areas to overnight camping, and also -- such as up at Dibblee

Point, to close their off-road vehicle use.

That -- that's a different rule than this provision that we had in our draft waterway leasing rules, where the Land Board could close certain sections of waterways or restrict those sections to structures. That was the idea where maybe if we've got a floating home community, we want to then close that segment of the river to, say, log rafts or -- or layberthing of large marine vessels which would conflict with the floating home community. We've also heard from the Marine Board that there are certain segments of rivers that they'd like to see us not make available for floating homes, because of conflicts between floating homes and -- and boat traffic.

So there -- there's two different rulemakings, and -- and I can see where there can be some confusion, and we'd be happy to sit down and go through those in detail. And Governor, with that, we'll--

GOVERNOR KITZHABER: Great. Thank you, Paul.

Mr. Montgomery, Mr. Pittmon, do you want to come on up and--

MEL PITTMON: Sure.

WILLIAM MONTGOMERY: Dr. Kitzhaber, Secretary of State Keisling, Treasurer Hill, and a newly more, Paula Burgess. You look good, but you're different.

We river folks are like two British ladies in a verandah in Venice. One said to the other, "Penelope"--

GOVERNOR KITZHABER: Mel's heard this story, I think.

WILLIAM MONTGOMERY: I apologize -- I apologize for my redundancy, but just say ditto, it still applies.

GOVERNOR KITZHABER: Okay.

WILLIAM MONTGOMERY: In my experience in the last 20 years -- 25 years, and specifically the last 18 months, that DSL speaks empowerment, they don't speak or listen in English, at least with us. Often the DSL bosses have little or no hands-on knowledge of the rivers. Some even haven't been on the rivers, and an example of that is there -- the surprises produced in the inventory, which was considerably more unleashed area than they suspected. Invariably, they kind of assume any waterway lease is really down deep a Marina Del Rey gold mine. So here we are today.

Paul Cleary's memo of August 10, while self-serving and heavily slanted, did introduce the concepts of a flat rate. There are many permutations of that flat -- flat rate he did not go into, such as a matrix program, recognizing different classes and use -- uses. He also mentioned a difference in philosophy. I think he made something -- a philosophy of method of charging. We completely agree a difference in philosophy should be approached, and that difference in philosophy is to make the whole process more transparent, open and equitable.

We certainly look forward to debate on these two items in these workshop cum -- technical committees, cum whatever, that are coming up. We do wish that those committees would be vented, authorized, have their product, their responsibility. It is our

impression and feeling that the last work -- task force committee, which was heavily loaded with public servants, even though came to some reasonable conclusions, and I personally felt that it was terminated when those conclusions pulled into sight. I hope the technical committee is not aborted in that manner.

Mel Pittmon will give you several observations, including a flat-rate presentation, now, folks, that's not flat earth, that's flat rate.

I want to point out just one of the most outrageous items in the new proposed rules, and I'm complete -- completely guilty, to Paul's correction of confusing these two restrictive proposed rules. What I have to say probably will fit either of them. And if I'm wrong, I'll apologize.

The proposed rule I'm against is the proposed empowerment of the DSL to not -- to deny use of waterway lease lands on their own. The current Division of State Lands proposed rules and regulations of public use on land, under jurisdiction of State Land Board and the directives of -- the direct -- the Division of State Lands reach, in part, subparagraph 2. "The director may, on his or her own initiative, or in response to the request of a lessee or other interested public or private party, order closed or otherwise restrict use of all or portions of specific land parcels under the jurisdiction of the Board or -- and Division."

Now, the meeting with John Lilly, I asked him under what conditions this denial of use of waterway lands might happen, he

responded, "Things like environmental might cause a closure." In the recent task force on waterway leasing, a lady representing Fish & Wildlife said in two separate statements: first, that she didn't know anything about money, but one cent a square foot sounded like a good deal to her. She said second, at a later time, her feelings, goal or desire, you choose, was to see rivers used only by Indians with canoes.

Given this government climate, a nest of, say, polka dot breasted cockatoos, for instance, are found nesting on the shores at the Portland Rowing Club, and the silly restrictive laws, that probably require due process, to kick us off the moorage, are in the way of making the species prosper.

The Fish & Wildlife lady has a problem, based on her divine empowerment, conviction and economic insight, she contacts John Lilly, who apparently saves any sensitive forthcoming two-way communications for his bureaucratic colleagues. He certainly hasn't given a lot to us. John said, "Sure, for the greater good of the public, the world, and the polka dot breasted cockatoo, let's get those owners off that moorage right now, today."

Now, before you dismiss this scenario as fantasy, please consider the past and current record of the DSL, the express interest of the Fish & Wildlife representative, your own DSL representative's statement, and the wording of your proposed rule. My point is, don't empower the DSL on this issue. If you consider as a Board denying us use of part of our waterway lease land, such a drastic action is

certainly worth a full hearing with the State Land Board and a decision given by publicly-elected officials.

Secretary of State Keisling said this hearing system would work. After 18 months, we're all ready for it to kick in any time.

GOVERNOR KITZHABER: Questions for Mr. Montgomery? Mel?

MEL PITTMON: Governor, Mr. Secretary, Treasurer, my name is Mel Pittmon. As Paul -- I'm here representing Rose City Yacht Club and Columbia River Yachting Association.

I'm must respond to the report submitted to you by Director Cleary. First, I'm disappointed that the report included a reference to the rate proposal that had previously been brought to the Division by a concerned group. This proposal was revoked in a letter of July 16 to Director Cleary, with notification to each of your administrative assistants. In response from a communication from Treasurer Hill's office dated May 22, we were encouraged to continue in open communication with the Division. Apparently that was not to be, as you have a comparison chart of rate formulas that were to be discussed by a technical advisory committee with all the details of the requested inventory in hand before it was brought to the Land Board for your perusal. However, conversely, this is the first recognition that there is a potential new philosophy that may bring some reasonable rate structure for consideration.

Considerable dialog was spent on the preliminary analysis for public comment, which reflects only the opinion of the Division, without benefit of explanation from others, which should originate

from the technical advisory group, which may take some time prior to presentation to this Board.

Additionally, regarding proposed Oregon Administrative Rule, number recited, this is absolutely an abomination in the representation that the Board will close or restrict by rule, certain waterway areas to new authorizations, lease registration, would lead one to believe that there would be a decision by elected officials, you the Land Board, responsible to the voters. Wherein, reality, the rule states "The Director may on his or her own initiative making this decision, giving absolute power to one individual." This is a travesty in the making, using this agency, shooting other's bullets.

I'll digress for a minute from the prepared testimony, and that, Paul, this is not specifically directed at you, and that there had been previous directors who had some dictatorial in -- inclinations in the past. And I think that I want to make that distinction, so it's the position that I'm addressing at this point.

Regarding the waterway improvement inventory, the preliminary results thus far have substantiated the information provided to the Division three years ago as to the number of unregistered, unleased parcels that have not been addressed to date. There is a note of concern that the Board has the impression there will be a complete inventory compiled of all waterway areas, whereas the Division states that only developed areas, which is different. At this point of the process, it's puzzling that the Division is only now requesting information from other jurisdictions when that data has

been available for years.

Please take these comments with the incentive that there is a dedicated group of stakeholders still actively involved who want to work constructively to finish this commitment. Thank you for your time. I appreciate you diverting to take public testimony on this issue.

GOVERNOR KITZHABER: I appreciate your putting this in the record. Are there questions at this time from either Mr. Pittmon or -- Paul, are you going to get together with these gentlemen and--

DIRECTOR PAUL CLEARY: Mr. Chairman, that's -- that's what we intend to do, and we'll move into the Mill Creek Room and--

GOVERNOR KITZHABER: Very good.

DIRECTOR PAUL CLEARY: Sit down with both sets of those rules and go through them.

GOVERNOR KITZHABER: All right.

WILLIAM MONTGOMERY: Thank you for the time.

GOVERNOR KITZHABER: Thank you, both.

WILLIAM MONTGOMERY: I think I forgot to identify -- identify myself. I'm Bill Montgomery, I live at Number 12, Portland Rowing Club, a houseboat moorage in Portland, Oregon. And would like to stay there.

GOVERNOR KITZHABER: Thank you. Okay. Paul, any further business to come before the Land Board?

DIRECTOR PAUL CLEARY: Nothing further, Governor, members,
thank you.

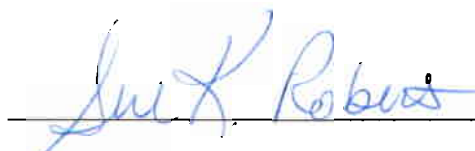
GOVERNOR KITZHABER: Thank you. Hearing none; we're
adjourned.

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CERTIFICATE

I, SUE K. ROBERTS, hereby certify that I am a transcribing machine operator for Business Support Services, Inc., of Salem, Oregon, 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 52, 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 27th day of August 1998.



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