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STATE LAND BOARD MEETING

June 16, 2009

State Lands Building

775 Summer Street NE, Salem, Oregon

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1 recall, we've done some small release of mineral rights on some
2 smaller parcels within this Mill Creek Corporate Center. The
3 Department of Administrative Services came to us with a request
4 to release the remaining mineral rights.

5 The Department of Geology and Mineral Industries took
6 a look at the mineral resources on the parcel, have identified
7 fairly significant aggregate resources on the parcel, which
8 have fairly significant value. And after working with the
9 Department of Administrative Services to figure out how to deal
10 with this issue, what we're recommending is that we retain --
11 the State retain those mineral rights, but that we allow
12 conditions to be placed on the deed that would allow the owners
13 of those parcels to refuse the extraction of aggregate on those
14 lands.

15 And we did a financial analysis with the Department
16 of Administrative Services on the amount of revenue that we
17 would get from extracting gravel from a gravel pit out at that
18 site over a 30-year period of time versus the amount of
19 property taxes that would be gained from the development of
20 that corporate center into a business development center as is
21 envisioned. And the amount of property taxes to be gained far
22 exceeds the amount of revenue that might be gained to the
23 Common School Fund from the extraction of the resources.

24 And therefore, we're comfortable recommending that we
25 retain those mineral rights and allow that condition to be

1 placed on those deeds so that private owners of those parcels
2 know that no one's coming in and scooping aggregate out from
3 under their buildings while they're occupying those buildings.

4 And then the fourth item on the Consent Agenda is a
5 request to authorize the initiation of rulemaking to designate
6 the two pilot marine reserves that have been recommended by the
7 Ocean Policy Advisory Council. House Bill 3013, which is
8 scheduled on the floor of the Senate today envisions, in fact
9 directs the Land Board to do rulemaking to establish those two
10 pilot marine reserves and also to evaluate and monitor them;
11 make sure that enforcement takes place on those.

12 And so we wanted to get that in front of the Land
13 Board today to initiate that rulemaking so that we can do that
14 in a timely manner once the bill is signed by the Governor.
15 And with that, staff recommends approval of the Consent Agenda.

16 **SECRETARY BROWN:** Mr. Chair?

17 **GOVERNOR KULONGOSKI:** Yes.

18 **SECRETARY BROWN:** I would move approval of the
19 Consent Agenda.

20 **TREASURER WESTLUND:** Second.

21 **GOVERNOR KULONGOSKI:** It's approved.

22 **MS. SOLLIDAY:** The Action Agenda today; the first two
23 are rulemakings. The public comment period has closed on these
24 rules and so there will be no public comment taken. The first
25 is a request for adoption of amendments to the Administrative

1 Rules governing the sale, exchange and purchase of lands. We
2 went through a public comment process on these rules. We held
3 a hearing out in Salem; both here in Salem and out in Redmond.

4 We had two people attend the hearing in Redmond. We
5 had no one attend the hearing in Salem. The comments received
6 during the public comment period reflected comments that we
7 also heard in the Redmond hearing dealing with a provision that
8 we've added to the rules to allow us to use brokers in the sale
9 of parcels that we are interested in putting on a market.

10 And we had support from some real estate brokers,
11 with that provision in particular. There are a couple of major
12 changes to these rules that I just want to point out for the
13 Board. First is a clear process for the sale of filled lands,
14 both historical and new lands, as well as the submerged and
15 submersible lands. And we've laid out clearly what the process
16 is.

17 With regard to the historical fill lands we've laid
18 out a set of criteria that we will use in evaluating the value
19 of those parcels as we are looking to clear up the files on
20 title that exist on those parcels. We've also streamlined the
21 Land Board's approval process for the sale of lands,
22 particularly with regard to those lands involving remedial
23 cleanups under super fund sites or other sites that have
24 hazardous materials on them.

25 We've also made minor changes to a variety of

1 definitions. We've reorganized the rules to be consistent with
2 this new format that we're trying to get our rules in. We've
3 made several other housekeeping items. I do want to point out
4 one addition to -- one change we need to make in the
5 definition.

6 And so if you go back to the actual rules, which
7 you'll find in appendix A of item 2, and go to page 11. And
8 definition 47, which is the definition of trust lands, it now
9 reads as all land granted to the State upon its admission to
10 the Union. And it goes on --

11 **GOVERNOR KULONGOSKI:** Just a second, Louise. We're
12 all looking for it. Okay.

13 **MS. SOLLIDAY:** Okay. So we're in appendix A, item 2.
14 Appendix A.

15 **TREASURER WESTLUND:** I can't find 2.

16 **MS. SOLLIDAY:** Sir, find it behind an appendix B.

17 **SECRETARY BROWN:** It's page 11. Yours looks
18 different than mine.

19 **GOVERNOR KULONGOSKI:** Maybe I have the wrong one.

20 **SECRETARY BROWN:** You're in item 2?

21 **GOVERNOR KULONGOSKI:** Okay. I've got it. Okay. I'm
22 with you.

23 **MS. SOLLIDAY:** So page 11 in the definitions.

24 **GOVERNOR KULONGOSKI:** Forty-seven?

25 **MS. SOLLIDAY:** Item number 47.

1 **GOVERNOR KULONGOSKI:** Trust lands?

2 **MS. SOLLIDAY:** In the second line after "State" we
3 need to add "for the use of schools." So it will read, "As all
4 land granted to the State for the use of schools under its
5 admission to the Union." And that's an important clarification
6 because we were also granted at statehood navigable and tidally
7 influence waterways which are --

8 **GOVERNOR KULONGOSKI:** Why don't we do it this way? I
9 want to make sure that this gets in the record right. So I'm
10 going to ask you to propose the amendment and then I'm going to
11 ask for a motion and we'll amend it.

12 **MS. SOLLIDAY:** Okay.

13 **GOVERNOR KULONGOSKI:** Okay.

14 **MS. SOLLIDAY:** So definition number 47, "Trust lands
15 or constitutional lands is all land granted to the State," and
16 then following "State" we're going to add, "for the use of
17 schools."

18 **GOVERNOR KULONGOSKI:** We've heard the amendment.

19 **SECRETARY BROWN:** I would move the amendment, which
20 Mr. Chair, is that following "all land granted to the State,"
21 we should add "for the use of schools upon its admission to the
22 Union." Page 11, subsection 47.

23 **TREASURER WESTLUND:** I second the motion.

24 **GOVERNOR KULONGOSKI:** You've heard the motion. Any
25 further discussion? Hearing none, the amendment is adopted.

1 Okay. Go ahead now.

2 **MS. SOLLIDAY:** Okay. Now staff recommends that you
3 adopt the proposed rules as amended.

4 **TREASURER WESTLUND:** Mr. Chair, I move we adopt the
5 proposed rules as amended.

6 **SECRETARY BROWN:** I would second the motion.

7 **GOVERNOR KULONGOSKI:** We've heard the motion. Any
8 further discussion? Hearing none, it's adopted.

9 **MS. SOLLIDAY:** Thank you. The next item is a request
10 for adoption of amendment to the Administrative Rules governing
11 the public recreational use of State-owned property. These are
12 what we refer to as our closure rules. It gives us the ability
13 to close our lands when necessary. All of our lands are open
14 to the public unless we have a particular reason why we need to
15 close them.

16 We again had a Rules Advisory Committee, held public
17 hearings, had some public input. There was some concern raised
18 by the Oregon Hunters Association. We've subsequently met with
19 them to explain what we are doing in the rules. Major changes
20 to these rules involve allowing the Director of the agency as
21 opposed to the Land Board to close lands in an emergency
22 situation.

23 And the rules define emergency as having a likelihood
24 to adversely impact life, property, those sorts of things, and
25 also gives the Director the ability to close lands, to

1 facilitate or protect remedial actions that are taken under
2 super fund cleanups and other hazardous area cleanups. The
3 rules do lay out a process so this is not just a Director go
4 out and close willy-nilly whenever you want to. So there is a
5 notification process. There is on the remedial actions, anyone
6 can request there to be a public meeting to discuss the
7 closures, the intent.

8 And the rules lay out that the closures will be for a
9 short period of time as possible. And there may be cases where
10 there need to be permanent closures. It also leaves in place
11 and amends the Land Board's authority to close lands, which
12 would be more of a permanent nature, and describes the process
13 by which they would do that.

14 This will allow these closures to happen in a more
15 timely manner. We also, as we've done with all of our other
16 rules, made amendments to the definitions, reorganized the
17 rules to be consistent with our other rulemakings that we're
18 going through, provide some clarification and some housekeeping
19 items were made as well.

20 And again, we have the same trust land definition so
21 if you would go to appendix A behind item 3, and go to page 3,
22 and definition 14. On the first line is "land granted to the
23 State." And again, we would recommend an amendment "for the use
24 of schools" immediately following the word "State" in the first
25 line. And I'll just tell you I was reading, going through this

1 notebook one more time last night before nodding off, and
2 realized as I was reading these definitions of trust lands that
3 it did not narrow it to the lands that are for the use of
4 schools, and seem to capture the navigable and tidally
5 influenced waterways, which it's not intended to do.

6 **SECRETARY BROWN:** Mr. Chair, I would move that on
7 page 3, subsection 14, we would add "for the use of schools"
8 after the language "is land granted to the State for the use of
9 schools," on its admission.

10 **TREASURER WESTLUND:** Or item 3.

11 **SECRETARY BROWN:** Yes.

12 **TREASURER WESTLUND:** I second it.

13 **GOVERNOR KULONGOSKI:** We've heard the motion. Is
14 there any further discussion? Hearing none, it's adopted.

15 **MS. SOLLIDAY:** And then staff recommends approval of
16 the proposed rules as amended governing the public recreational
17 use of State-owned property.

18 **SECRETARY BROWN:** Mr. Chair, so moved.

19 **GOVERNOR KULONGOSKI:** You heard the motion, so
20 second.

21 **TREASURER WESTLUND:** I second.

22 **GOVERNOR KULONGOSKI:** Can I just -- a couple
23 questions I have. Can I talk to the lawyers?

24 **MS. SOLLIDAY:** Yes.

25 **GOVERNOR KULONGOSKI:** In looking at this, have you

1 reviewed all of this and the grant of this authority from the
2 Board to the Director? I take it that that's all within the
3 constitutional and statutory framework of the State?

4 **MR. SCHUMOCK:** Yeah, Mr. Governor, I actually review
5 every single rule amendment that the Department proposes. I
6 work for them in developing the final version of the proposed
7 rules before you. But I have looked at that. And in the past
8 actually the Director under the prior version of the rule is
9 noted in the item.

10 The Director had the authority to make these
11 closures. We moved away from that I think in early 2000. But
12 it wasn't because of lack of authority. It was based on an
13 issue about whether the Director was adopting these closures
14 sort of as an executive/administrative type order outside of
15 the Administrative Procedures Act.

16 There was a question about whether law enforcement
17 could actually cite to those closures as a means of compelling
18 compliance. So the most recent amendment to those rules sort
19 of did away with Director's ability to make those closures.
20 Again, it wasn't based on any concern that you as a Board
21 didn't have the authority to delegate that authority to the
22 Director.

23 **GOVERNOR KULONGOSKI:** Okay.

24 **MR. SCHUMOCK:** And I know that Louise asked me
25 earlier in the week the question that you had about the

1 relationship between your emergency powers and the emergency
2 powers granted to the Director under these rules. And it might
3 surprise you but you are more powerful than the Director.

4 **GOVERNOR KULONGOSKI:** No, I do not believe that. She
5 has never relayed that message to me. You go right ahead.

6 **MR. SCHUMOCK:** So your statutory authority with
7 respect to emergencies; you have the ability to suspend any
8 laws or administrative or protective orders that Director
9 Solliday might invoke.

10 **GOVERNOR KULONGOSKI:** Okay.

11 **TREASURER WESTLUND:** We can take a vote on that,
12 Governor.

13 **GOVERNOR KULONGOSKI:** There's another question that I
14 have and it isn't related to this. And it has to do because it
15 came up in a discussion. We put this amendment in "for the use
16 of schools." And I'm interested to know from your position in
17 looking at this; what is your definition of "schools"?

18 **MS. SOLLIDAY:** Governor, and members of the Land
19 Board, the Common School Fund Trust Fund is to finance K to 12
20 public education. And that's defined in the Oregon
21 Constitution.

22 **GOVERNOR KULONGOSKI:** Is it K through 12?

23 **MS. SOLLIDAY:** Yes, Governor, it is.

24 **GOVERNOR KULONGOSKI:** And the only reason I ask that
25 because of the recent litigation with the Supreme Court over

1 the constitutional provision about the State providing for
2 common schools. The court left open the question of how broad
3 a definition is of schools; public schools. And basically what
4 is left in there is actually an idea that it may be broader
5 than K through 12.

6 **MS. SOLLIDAY:** Governor, there were other lands
7 granted to the State in the Oregon Admissions Act; one for some
8 lands for higher education.

9 **GOVERNOR KULONGOSKI:** Land grant.

10 **MS. SOLLIDAY:** Yes. So there are other lands. But
11 in terms of the 16th and 36th section, which were the lands
12 granted to the State for the use of schools, those are defined
13 by the Oregon Constitution as for K to 12 public education.

14 **GOVERNOR KULONGOSKI:** Is there any further
15 discussion? Hearing none, it's adopted.

16 **MS. SOLLIDAY:** Governor and members of the Land
17 Board, we are going to hold item number 4 over until the next
18 Land Board meeting so that we can continue with discussions
19 about those particular rules. Item number 5 is a request for
20 adoption of a stockade block area management plan. As I think
21 the Land Board knows, we are working through a process to get
22 management plans in place for all of our lands.

23 And the stockade block is our largest block of
24 rangelands in eastern Oregon. And it straddles Malheur and
25 Harney Counties. It's about 230,000 acres of rangelands.

1 There are some private in-holdings within the stockade block.
2 We drafted a plan. We then held an open house hearing over in
3 Burns. We had about 30 people who attended that hearing/open
4 house. There were some concerns that were raised about
5 potential limits on public use of these lands.

6 We also received a number of comments I think from
7 members of the Hunters Association, expressing those same
8 concerns. We did make some changes to the plan to clarify the
9 intent. It is not our intent to close the stockade block or
10 any other lands for that matter unless we have a good reason to
11 do so to public access.

12 I will mention that other states' action do have
13 their lands closed to the public because they believe that it
14 interferes with the revenue-producing capabilities on those
15 trust lands. In our case we have had those lands open for a
16 long time and intend to remain -- keep those open for public
17 use for the foreseeable future.

18 The stockade block plan lays out a vision that we
19 want to achieve over the next 20 years so this is intended to
20 be a 20-year plan. And it lays out a number of actions that
21 the Department will take over the next 20 years in order to
22 achieve that vision. I would say some of the more significant
23 actions that are called for is to continue to look at options,
24 other alternatives to generating revenue on the stockade block.

25 Currently our major revenue generation is from

1 grazing leases. And we believe that there are other uses of
2 those lands that will allow us to get additional revenue.
3 Probably foremost among those is development of renewable
4 energy such as wind and solar resources. There are also some
5 geothermal resources located on a portion of this block.

6 We also have identified some areas where we think
7 there may be a potential to convert lands from grazing to
8 irrigated agriculture. And those irrigated agricultural areas
9 also have the potential to get us additional revenues; enhanced
10 revenues from those particular lands that have been identified.

11 And the other major action I might point out and one
12 that we've been working on on all of our eastern Oregon
13 rangelands is continuing to address the invasive species
14 issues. We've got a fairly active program, trying to keep
15 those in check and prevent new ones from arriving on our lands.
16 And so we will continue that over the life of this plan. And
17 with that, I'd just say that staff recommends the adoption of
18 the stockade block area management plan and be happy to answer
19 any questions about it.

20 **GOVERNOR KULONGOSKI:** Just one; you raised the issue
21 about public access. Are there any of the other areas of
22 Common School Fund lands in which the State does not allow
23 public access to?

24 **MS. SOLLIDAY:** Governor, there are under our closure
25 rules we do have restrictions on some of our lands; so no

1 overnight camping, no campfires. So we do have some
2 restrictions in some places. But in terms of completely
3 denying public access, I can't think of any places where we do
4 that at the moment.

5 **GOVERNOR KULONGOSKI:** And I'm just going back to how
6 you described the stockade block. The limitations that -- or I
7 should say the access that the Department allows on this CSF
8 land is a policy choice. There is no statutory or other
9 limitation under law.

10 **MS. SOLLIDAY:** Governor, that's correct. And one of
11 the distinctions we've tried to -- and we've actually added
12 language to the draft plan after getting the public comment and
13 I was talking about this with our newest Land Board members as
14 I was briefing them about this meeting. One of the
15 distinctions we've tried to lay out in this plan is that these
16 trust lands are not public lands in the sense that other lands
17 are public lands.

18 They are in fact trust lands. We're directed to
19 manage them to produce revenue. And that's why I indicated
20 other states have made the choice not to allow the public on
21 those lands without some sort of authorization, and only allow
22 their revenue producers on those lands. This state, as a
23 matter of policy choice, has in fact decided to keep those
24 lands open to the public.

25 **GOVERNOR KULONGOSKI:** I understand.

1 **SECRETARY BROWN:** Oh, sure. I would approve adoption
2 of the stockade block area management plan.

3 **TREASURER WESTLUND:** I second the motion.

4 **GOVERNOR KULONGOSKI:** We've heard the motion. Any
5 further discussion? Hearing none, Agenda Item 5 is adopted.

6 **MS. SOLLIDAY:** Okay. Item number 6, Martha Pagel I
7 think wants to do some public comment on this. I'll present
8 the item and then we should hear from Martha. The next item is
9 a request for approval of the sale of 5.247 acres of historical
10 fill lands in Coos County. These lands are the remaining
11 historical filled lands that have a cloud on title within the
12 city of Coos Bay on Coos Bay.

13 As you know, we have previously sold three individual
14 parcels of historical filled lands along Coos Bay in the city.
15 They include the transaction that was done with a Coquille
16 tribe, I believe back in 2005, and the transactions that we've
17 done within the last year; one to the urban renewal district,
18 urban renewal agency in the city of Coos Bay; and one to the
19 Brunel (Phonetic) family, which was done at the last Land Board
20 meeting.

21 This 5.247 acres encompasses a number of landowners
22 and you have a set of maps in your notebook that show you all
23 of the parcels that will be covered by this final transaction
24 to resolve these parcels that have cloud on title. We have
25 agreed to accumulative value for that 5.247 acres of \$100,109.

1 That is based on a fairly large discount from a market value of
2 \$4.38 a square foot for those parcels. And with that, I'd
3 suggest we take the public comment.

4 **GOVERNOR KULONGOSKI:** Ms. Pagel.

5 **MS. PAGEL:** Thank you, Governor, members of the Land
6 Board. For the record my name is Martha Pagel. I'm an
7 attorney with Schwabe, Williamson and Wyatt. And I'm here
8 today representing the City of Coos Bay for their renewal
9 agency, and primarily to express our appreciation to the
10 Director and Steve Purchase and Department staff in putting
11 together this proposal for you today.

12 We request that you do approve it. As Louise
13 mentioned, this is the culmination of efforts on a lot of
14 different fronts in the City of Coos Bay to finally once and
15 for all clear up these issues that have been problematic for a
16 long, long time. We met with some of you members individually
17 and with your staff over the last few months.

18 We've also worked with Representative Roblan.
19 Initially there was legislation that would have addressed this
20 issue. But the rulemaking that you approved earlier on your
21 agenda provided the kind of authority that we were looking for
22 that the Department may clearly enter into negotiations to
23 resolve ownership disputes when there's a cloud on title. So
24 we were pleased with that.

25 And overall we think that you've had a series of

1 actions over the last several months that really have dealt
2 positively and effectively with this issue of filled lands, and
3 that provide a path for future resolution as well.

4 **GOVERNOR KULONGOSKI:** Thanks, Martha. Any questions?
5 Hearing none, thank you.

6 **TREASURER WESTLUND:** Mr. Chair.

7 **GOVERNOR KULONGOSKI:** Yes.

8 **TREASURER WESTLUND:** I request or I move the sale of
9 5.247 acres of historical filled inlands in Coos County.

10 **GOVERNOR KULONGOSKI:** Heard the motion; is there a
11 second?

12 **SECRETARY BROWN:** I'll second it.

13 **GOVERNOR KULONGOSKI:** Is there any further
14 discussion. Hearing none, the motion is adopted.

15 **MS. SOLLIDAY:** Okay. Item number 7, and if you'll go
16 in your notebooks you'll see that there is a resolution for the
17 Board to consider. This is a resolution that would direct that
18 the Department distribute five percent of the three-year
19 average ending balance from the distributable income account
20 for the 2009/2011 biennium.

21 And just as a reminder, the Land Board adopted a new
22 distribution policy at its April meeting, moving from the
23 sliding scale of two to five percent to a flat four percent
24 distribution of the three-year average of the ending balance of
25 the Common School Fund. Because of the budget crisis the

1 legislative leadership would like to see a distribution along
2 the lines of a distribution that we made this current biennium.
3 And so they have asked that the Land Board consider this one-
4 time distribution at the five percent level.

5 **SECRETARY BROWN:** I'm getting back there.

6 **TREASURER WESTLUND:** Question.

7 **GOVERNOR KULONGOSKI:** Go right ahead.

8 **TREASURER WESTLUND:** But Ms. Solliday, the point two
9 in the resolved; can you just assure me that that says exactly
10 what it says? I mean there's a history here. I really want to
11 commend all parties that came together to find this common
12 ground. But from our position as fiduciaries, which is really
13 our most important position long term, can you just assure me
14 that this says what I in my reading capacity believe it says?

15 **MS. SOLLIDAY:** Treasurer Westlund, the point of
16 number two in the resolution, which said for folks who don't
17 have it in front of them, "If the distributable income account
18 will not support a five percent distribution, the distribution
19 will be the entire amount of the distributable income account."

20 So there are certain monies that go into this
21 distributable income account on an ongoing basis, the main
22 portion of which are the earnings on the Common School Fund
23 from capital gains, interest and dividends. And it is not
24 clear that we will have enough resources in order to make a
25 five percent distribution next biennium.

1 We would need \$95.5 million in the distributable
2 income account. It is not clear, given the recent performance
3 of the Common School Fund, whether we will have enough money to
4 make a full five percent distribution. So this provision says
5 that if we cannot make the five percent distribution, we will
6 distribute the amount that is in the distributable income
7 account. And that prevents us from doing something which would
8 be unconstitutional and that would be to dive into the corpus
9 of the fund or into the unclaimed property, which the portion
10 which is a deposit liability.

11 **TREASURER WESTLUND:** Yeah, don't get me wrong. I
12 hope the five percent's there.

13 **MS. SOLLIDAY:** Yeah.

14 **TREASURER WESTLUND:** I hope we can all make that as
15 forthrightly and genuinely as I know we all want to. But I
16 just wanted to make sure and put it on the record that the
17 financial responsibility is for the long-term management of the
18 trust and a one-time shot, so thank you.

19 **SECRETARY BROWN:** Governor.

20 **GOVERNOR KULONGOSKI:** Yes.

21 **SECRETARY BROWN:** I would move adoption of the
22 resolution regarding the Common School Fund distribution for
23 the '09/'11 biennium.

24 **GOVERNOR KULONGOSKI:** Heard the motion; is there a
25 second?

1 **TREASURER WESTLUND:** I second.

2 **GOVERNOR KULONGOSKI:** We've heard the motion. Is
3 there any further discussion? Hearing none, it's adopted.

4 **MS. SOLLIDAY:** And there is a resolution that Jane is
5 going to pass around that each of you need to sign so we have
6 the official record. Great. Two informational items. Item
7 number 8 is just an update on land sales and exchanges. You'll
8 remember that we had a number of land sales that were approved
9 by the Land Board in northeast Oregon.

10 All of those transactions to buy properties that we
11 sold at auction; the sales have been completed and deeds have
12 been transferred to folks who bought those parcels. We also
13 are in sort of the middle of the process of putting up for
14 auction several parcels; 15 parcels that we've identified in
15 southwest Oregon. We have had some interest expressed by a
16 couple of timber companies in some of those parcels.

17 Several of them are forest parcels. And so we are
18 working with those timber entities on potential exchanges with
19 those two entities, and are continuing to process the remaining
20 doing our due diligence on the remaining parcels with the
21 intention that we would probably put them up for auction
22 sometime this fall.

23 And then the last item just to update you on; the
24 Board approved an exchange agreement with Deschutes County for
25 a portion of the South Redmond parcel, which the County is

1 interested in potentially for fairgrounds extension or for
2 other potential uses, potentially industrial uses. The Board
3 approved moving forward with that exchange agreement. DSL is
4 conducting an appraisal of parcels that we are interested in
5 acquiring as well as the South Redmond parcel.

6 We are trying to make sure that we have access to one
7 of the parcels that the County has identified in their
8 ownership that's a potential for us to pick up and develop at
9 some point in the future. And so we are continuing to do our
10 due diligence in processing that potential exchange. And at
11 some point in the future we will bring hopefully a final
12 exchange back to the Board for final approval. And I'd be
13 happy to answer any questions about any of those. We just
14 wanted to give you an update on where we are on those.

15 And then the last item I'd just do is update you a
16 bit on legislative issues. We have three of our agency bills
17 plus our budget bill that are still in the process; House Bill
18 2153, which is the bill that gives us civil penalty authority
19 on our uplands; House Bill 2155, which deals with some changes,
20 some streamlining in our removal/fill permit process; and 2156,
21 which deals with our mitigation banking program are all sitting
22 on a Speaker's desk.

23 And I expect when I fax the resolution to him today
24 that they will begin moving through the process again. Our
25 budget bill, Senate Bill 5542 is headed to the Senate floor

1 sometime this week. I just got the notification that it had
2 been amended. And I just might mention we're pleased with our
3 budget bill. It's not everything that we asked for, but we
4 didn't expect to get everything we asked for. We'll have
5 exactly the same number of positions; 111 next biennium that we
6 have in this biennium.

7 However, we had some limited duration positions,
8 grant-funded positions that are going away. And we will get in
9 four new permanent positions to replace those. We also have a
10 number of limited duration positions at South Slough and here
11 in Salem that have been limited duration positions for several
12 biennia. And those positions will all be turned into permanent
13 positions because they are funded through federal grants that
14 we get every year or through ODOT for their dedicated staff who
15 process permits for road and transportation projects around the
16 state. So those positions will all be made permanent.

17 We also got \$1.289 million of the remaining New
18 Carissa funds to begin seafloor mapping. So that was a major
19 initiative that the Governor put forward. And so we got funding
20 for that. And also \$1 million of the remaining New Carissa
21 funds will be transferred to the Department of Fish and
22 Wildlife to do continued work on marine reserves in addition to
23 the two pilot projects.

24 There were three other areas proposed for reserves
25 that need some additional study and evaluation. And a fourth

1 area that has a whole new process beginning with the
2 stakeholders to see if they can come to a consensus agreement
3 about a marine reserve off the area outside of Charleston. So
4 we feel very fortunate with how we did it with our budget.

5 I might mention we will lose all of the general fund
6 that's in our budget, all \$244,000. And those general funds
7 funded the Natural Heritage Advisory Council, supports
8 assistance to them, and funded our Economic Revitalization Team
9 position. And in exchange for giving up that general fund we
10 got other funds limitation. So those two programs will
11 continue to be funded, but they'll be funded with Common School
12 Fund, other funds rather than the general fund. So going
13 forward into the next biennium we will have no general fund in
14 our budget. And then just a couple other things. As you know,
15 there was a --

16 **GOVERNOR KULONGOSKI:** You really don't think that's
17 going to protect you in February, do you? Nice try.

18 **MS. SOLLIDAY:** Governor, it will make less paperwork;
19 that I can guarantee. Whether it protects us is another
20 matter. I might just mention that we do expect that the
21 remaining portion of the New Carissa funds, which is a little
22 over \$600,000 that's left on the table, will be swept in the
23 end of session bill and moved into the general fund for some
24 purpose; I don't know what. So I expect that that will happen.

25 The navigability bill, which was Senate Bill 844,

1 just ran out of time. There was an informational hearing that
2 was scheduled. That got cancelled because of scheduling of
3 caucuses at the last minute. So we expect that the navigability
4 discussion will carry into the interim. There are amendments
5 to the bill that was introduced, which is Senate Bill 844 that
6 a work group has been working on.

7 And so the goal is to get consensus on some bill in
8 the interim with a goal of having it come up in the 2010
9 special session, annual session, whatever we're calling that
10 emergency session. And then I might just mention there are two
11 other bills that were still -- I was testifying yesterday and
12 still tracking that are alive and have an impact on us.

13 One is Senate Bill 977, which is a bill introduced by
14 Senator Walker that would recover utilities, electric, gas,
15 hydroelectric, who are proposing new energy projects in the
16 state to cover the costs of processing the permits,
17 authorizations and certifications they need for each of the
18 agencies. For us we've calculated those costs at about \$86,000
19 for just the five proposed projects related to liquefied
20 natural gas.

21 So the idea is that we would get to recover our costs
22 above and beyond the normal application fees and volume fees
23 that we would charge in the removal/fill side as well as
24 recovering the costs of processing proprietary authorizations.
25 And I expect that that bill is going to come out of the Ways

1 and Means Subcommittee on Natural Resources this afternoon.

2 **GOVERNOR KULONGOSKI:** With the five new amendments?

3 **MS. SOLLIDAY:** Well, Governor, I'm not sure whether
4 there will be amendments or not, but we'll see. There were a
5 lot of questions yesterday. No one had seen the dash-six
6 amendments until about an hour before yesterday's meeting,
7 which was scheduled just as a work session. There had never
8 been a hearing on the bill. The co-chair did allow some
9 limited testimony during yesterday's work session. And there
10 were some questions raised. So I'm not sure whether there are
11 going to be amendments today or not. But it's scheduled today
12 for a work session again. And we'll see if it comes out.

13 And then the last one I just point out House Bill
14 3058, which is the bill that deals with our definition of
15 applicant in the statutes that has created a problem for linear
16 projects because an applicant has to be a landowner or somebody
17 who has the permission of a landowner. And for transportation
18 projects, utility projects, sewer, water, all of those; it has
19 created quite a problem.

20 And it is now delaying particularly some ODOT
21 projects, and has made it impossible for some applications to
22 get in to the door to us for review in a timely manner. So
23 House Bill 3058 would address that issue. It has passed the
24 House. It is in Senate rules. It has not yet been scheduled
25 for a work session. And rumor has it that it's being held as a

1 trading stock for other things that the House is hanging onto.
2 So we'll see whether that happens or not. I know, it's hard to
3 believe. And with that, I have nothing further today.

4 **GOVERNOR KULONGOSKI:** Anything to come? We're done.
5 Thank you.

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CERTIFICATE

I, Jayne Rosamond, hereby certify that I am an electronic transcriptionist for Business Support Services of Salem, Inc., that as such electronic transcriptionist I prepared from an electronic recording provided by Business Support Services, Inc., the foregoing typewritten transcript of the meeting had upon the matter at the time and place set forth in the caption hereof; and that the foregoing pages, which are numbered 1 through 27, both inclusive, are the true, accurate and complete transcript of the proceedings adduced had upon the said meeting.

WITNESS my hand as electronic transcriptionist this 24th day of June 2009.

Jayne Rosamond, Transcriptionist

jr/jr