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STATE LAND BOARD MEETING

February 10, 2009

State Lands Building

775 Summer Street NE, Salem, Oregon

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1 **GOV. KULONGOSKI:** Is there a motion?

2 **TREAS. WESTLUND:** Mr. Chair, I move the Consent
3 Agenda as described by Director Solliday.

4 **SEC. BROWN:** Second it.

5 **GOV. KULONGOSKI:** Is there any further discussion per
6 the motion? Hearing none, it's approved.

7 **MS. SOLLIDAY:** Next item is our one Action Item for
8 the day. We have the request for approval of the sale of a
9 .56-acre submerged land in Clatsop County to PacifiCorp. In
10 2005 this particular parcel of submerged land was and remains
11 contaminated. And the Department of Environmental Quality and
12 PacifiCorp entered into an agreement for that land to be capped
13 with a sediment cap in order to contain the contamination that
14 is on the site.

15 The land is DSL owned and through negotiations with
16 PacifiCorp, PacifiCorp has agreed to purchase that parcel for
17 \$30,000. They will be responsible for managing, maintaining
18 that sediment cap and responsible for the liability that's
19 associated with that. And again, staff recommends the Land
20 Board approve the sale of this .56-acre parcel of submerged
21 lands in Clatsop County to PacifiCorp for \$30,000.

22 **SEC. BROWN:** Mr. Chair?

23 **GOV. KULONGOSKI:** Yes.

24 **SEC. BROWN:** I would move that we accept the staff
25 recommendation on the approval of the sale of the .56 acres.

1 **TREAS. WESTLUND:** I second that, Mr. Chair.

2 **GOV. KULONGOSKI:** You've heard the motion. Any
3 further discussion? Hearing none, it's approved.

4 **MS. SOLLIDAY:** Thank you. Now, the remainder of the
5 items today are informational items. And we're going to run
6 through a series of annual reports for the major programs at
7 the Department. We're going to start with the Land Management
8 Division. And Steve Purchase, who is the Assistant Director
9 for the Land Management Division is joining us at the table to
10 run through that portion of the presentation. I'll turn it
11 over to Steve.

12 **MR. PURCHASE:** Well, thank you, Louise. Governor,
13 members of the Board; Steve Purchase, Assistant Director for
14 the Land Management Division. I'm going to run through a
15 series of slides here that depict what is in your packet this
16 morning. Okay. Background of our annual report as required to
17 do this is our Department's Strategic Plan. Represents a
18 compilation of land management activities during the fiscal
19 year of July 1, 2007, to June 30, 2008.

20 This is a little chart that shows kind of what our
21 land asset classes are by acres. This is something we did when
22 we did the report back in 2006 the Land Board approved; and
23 just a quick overview of those acres. Little map showing our
24 ownership. The pink is what is our uplands. And the blue is
25 our waterways.

1 Fiscal year '08 revenues broken out by land class for
2 each land class, and this chart shows what those are. Net
3 operating income is something we take a pretty good look at
4 what our net operating income is, again by land class. As you
5 can see, the net operating income is pretty well split. But
6 forest is still our leading land class for revenue.

7 Land and mineral rights sales; during last year we
8 had an application worth \$1000. We actually sold land for
9 \$849,000. That was the Eight Dollar Mountain. And we sold
10 \$1500 worth of mineral rights. And that \$849,000 actually goes
11 into our land revolving account for us to purchase other lands
12 or other land worth value (phonetic).

13 Net operating income is kind of a chart that shows
14 our net operating income by land class, as you can see. It's
15 again pretty well driven by Forestry and what happens on our
16 forest timber receipts. Net operating income without
17 forestlands; it's kind of interesting. If you take out
18 Forestry actually our revenue is up 15 percent.

19 But the fact that the revenue and timber sales are
20 down, the value of timber is down, it pretty much drives all of
21 our revenue and our revenue projections as well. Here's really
22 the key of what we want to report is where we are with our
23 performance measures and the targets that we have in place.
24 Return on asset value we've anticipated make three to five
25 percent.

1 Fiscal year '08 is actually 8/10ths of one percent.
2 In fiscal year '07 it's 1.3 to 1.6. Annual increase in net
3 operating income, two to five percent; we're down 35 percent
4 for fiscal year '08. Basically that's driven by the fact that
5 timber revenues are down substantially, and you would expect
6 that, to see what happens.

7 Annual increase in gross revenue; five to seven
8 percent. Actually we're down 16 percent. Again, that's based
9 on the fact that our timber values are basically depressed
10 right now and that we don't see much recovery from that.
11 Annual land value appreciation; this is how much our land
12 portfolio is worth. This is up 16 percent from fiscal year '08
13 based not on appraisal but based on what we think the market
14 value of our properties are.

15 So we did at least meet one of our performance
16 measuring targets during the given year. Again, everything
17 that we do in the Land Management Division is pretty much
18 driven by the forest receipts, which is why you're seeing the
19 big declines. Just a quick slide on State comparisons where we
20 are compared to other states; grazing cost per acre and forest
21 cost per acre.

22 You can see that for grazing we're about in the
23 middle. But for forest we're a little bit on the high side.
24 As far as income per land class on the grazing side, again
25 we're about in the middle. But we do show a great improvement

1 on how much income we do make off our forestlands even though
2 the cost is a little bit higher.

3 **TREAS. WESTLUND:** Mr. Chair?

4 **GOV. KULONGOSKI:** Yes.

5 **TREAS. WESTLUND:** Steve, question on our forest
6 costs, we're dramatically higher. What's the ten-word
7 explanation of that? I mean our revenues, round numbers; the
8 same with Idaho obviously and much higher than Montana or Utah
9 but --

10 **MR. PURCHASE:** A ten-word explanation is, is that the
11 reason our forest income per acre is up is because we are
12 fortunate enough to have old-growth timber on the Elliott,
13 which does in fact sell for a little higher value.

14 **MS. SOLLIDAY:** He asked about the cost.

15 **TREAS. WESTLUND:** No, cost.

16 **MR. PURCHASE:** Oh, the cost; I'm sorry.

17 **MS. SOLLIDAY:** Back a slide.

18 **MR. PURCHASE:** Let me go back a slide. Okay. The
19 cost; we have in the Elliott State Forest, which is a prime
20 driver of our forest cost; we have a lot of fixed costs that go
21 with that. The Habitat Conservation Plan is driving our cost
22 up. The stewardship; special stewardship plans and things that
23 we doing to accommodate the 1995 Spotted Owl Habitat,
24 Conservation Plan, those tend to drive our cost up as well.

25 **TREAS. WESTLUND:** Yeah. Thank you, sir.

1 **MR. PURCHASE:** Okay. Forest income we talked about a
2 little bit. You can see we're actually doing pretty well
3 there.

4 **SEC. BROWN:** Mr. Chair?

5 **GOV. KULONGOSKI:** Yes.

6 **SEC. BROWN:** Can I go back one slide, Steve, why is
7 Montana doing much better on their grazing income than we are;
8 well, than all of the other western states?

9 **MR. PURCHASE:** Madam Secretary, couple issues there.
10 One is that they have a lot more grazing lands than we have so
11 they're able to put a lot more animal unit per month, stock out
12 on their grazing lands. And if you look at the state of
13 Montana, they have what they call the Great Basin up there,
14 which is really good quality grazing lands with lots of range
15 grasses; where unfortunately here in Oregon we're not blessed
16 with that. I always envy Montana for their grazing program as
17 much as I envy Oklahoma, Wyoming for their oil and gas. So
18 those states are in better positions than we are.

19 **SEC. BROWN:** Okay.

20 **MR. PURCHASE:** And a lot more acres.

21 **SEC. BROWN:** Okay. Thank you.

22 **MR. PURCHASE:** Some of the highlights of land
23 management activities; we have 250 new authorizations. That's
24 mostly on our waterway programs. We completed 35,120 acres of
25 rangeland inventory. This is where we actually go out on the

1 ground and inventory the land for its grass components, its
2 vegetation components, all those things that we like to do for
3 the range program.

4 We control 467 acres of noxious weed treatments.
5 That was mostly by aerial spraying and some hand spraying. We
6 thinned 225 acres. We actually went in and cut juniper down
7 either as a lop and scatter or just as a cut and drop. We
8 initiated New Carissa removal. Please remember this is for the
9 report of last year so we actually have that done now.

10 We completed a portion of the Snake River structure
11 inventory. This is where we go out and inventory all
12 structures on the state waterways to determine what structures
13 need authorizations. And we identified 157 new uses on the
14 Snake River. We also sold, as I mentioned earlier, the Eight
15 Dollar Mountain property to State Parks for \$849,000.

16 We completed the Stevens Road master plan
17 implementation. That's a parcel of in-lieu land selection we
18 got in 1997. We actually had that done now. We prepared to
19 auction 1688 acres in 24 parcels in northeast Oregon. That
20 will occur in March of this year. We declared the Rogue River
21 to be title navigable. That's something the Board did for us.

22 As a cost savings measure the Department took over
23 management of the Salem headquarters building. We used to have
24 DAS manage this building for us. We took it back ourselves and
25 were able to save about 30 percent, which is equivalent to

1 about \$275,000 a biennium. And we do our own maintenance and
2 we take care of our own building.

3 For fiscal year '07 we're going to complete another
4 30,000 acres of range surveys. We're going to initiate the
5 stockade block area plan, which we have already done that.
6 We're going to control noxious weeds on 1000 acres this year.
7 We're going to complete the South Redmond Tract Land Use Plan.
8 That's another parcel of in-lieu land selections that we have.

9 We're going to initiate planning for the development
10 of our road parcel, which is right outside of Bend. We're
11 going to complete the removal of the New Carissa, and we
12 actually did complete that. We're going to auction the
13 northeast Oregon parcels. We're going to work with OPAC on
14 marine reserves. We're going to continue to try to resolve
15 fill lands ownership issues. We're going to revise various
16 rules for range, land sales, closures and other rules as we
17 need to. With that, I'll be happy to answer any questions.

18 **GOV. KULONGOSKI:** Any questions? Hearing none,
19 Louise, go right ahead.

20 **MS. SOLLIDAY:** Next up is Pamela Konstantopoulos, who
21 is the estates program administrator and she's going to give
22 you the update for calendar year 2008 for the Estates Program.

23 **MS. KONSTANTOPOULOS:** Governor, members of the Board,
24 I'm Pamela Konstantopoulos. And as Louise said, I'm speaking to
25 you today in my role as an estate administrator. As we have a

1 couple of new members, I'm going to give a brief overview of
2 the program as well as my update for this year. First off, the
3 Estates Program is a constitutional program that oversees the
4 administration of estates who die without a will and without
5 known heirs.

6 We have the mission to try and reunite the estates
7 with heirs whenever possible. If we are not able to locate the
8 heirs we will hold the funds for a period of several years. If
9 we are still not successful in reuniting those funds, then it
10 permanently escheats to the Common School Fund. It escheats
11 following the latter of either ten years after the date of
12 death or eight years after the order of escheat.

13 The typical estate, as I usually say, is there is no
14 typical estate. We see it all and just when we think we have
15 seen it all, we find something new. So we see from the
16 destitute folks to multimillion-dollar estates. We see people
17 from all walks of life. We have seen mayors of cities within
18 our state. We've seen inventors. We saw the estate of
19 somebody who invented the Ramon noodles.

20 And we also have dealt with convicted hijackers and
21 other criminal cases. So we see just about everybody. We see
22 estates which are absolutely spotless where you could eat off
23 the floor. And we also see estates where you have to literally
24 walk through waist-deep beer cans to see anything. The picture
25 on the slide is actually a picture of one of the estates in

1 Bend.

2 **TREAS. WESTLUND:** When were you in my apartment?

3 Thanks. I didn't know that.

4 **MS. KONSTANTOPOULOS:** There are times when we've
5 joked that the biggest monetary asset of an estate is in the
6 beer can deposit. We see natural death, suicides, criminal
7 acts; literally everything you can possibly imagine. When we
8 go into an estate we look for information on the heirs as well
9 as any assets, information on assets that might be out there,
10 and sentimental value items that we might collect for finding
11 an heir if that happens.

12 We will collect and safeguard the identity
13 information, anything with a Social Security number on it,
14 anything with medical information on it. We collect all of the
15 bank and investment account information, real estate titles.
16 We do searches for any property that might be out there. We
17 look for insurance, vehicles, personal property. If there's
18 war medals, anything that might be meaningful to the family
19 down the road; we collect that. And we even round up cattle
20 when we need to.

21 We will look to probate an estate. And in the course
22 of doing the probate we will administer all of the assets, pay
23 the creditors off of the estate of the decedent. And to
24 liquidate the assets we'll do a couple of different means. We
25 hold public oral auctions. We have a contracted auctioneer who

1 has been very successful in selling the real estate for us.
2 And we'll also have large personal property auctions where we
3 literally put everything out on tables and we walk through it
4 in an auction.

5 We also have found very successful the EBay auctions
6 for certain items such as vehicles. We have had people drive
7 from the Midwest to pick up something that we would have
8 thought would sell for a couple hundred bucks. And we sell
9 electronics on EBay quite well, and collectibles on EBay as
10 well.

11 For the staff support the Legislature granted us two
12 additional staff a couple of biennia ago. They became
13 permanent this last biennium. So I now have three positions
14 which are working on this program. Wayne Smith and Greg Goller
15 and Sally Wells; Sally Wells is our paralegal. The other two
16 are the gentlemen that usually go out to an estate.
17 And I also may bring in other staff as needed when we have a
18 particularly large estate that needs multiple teams.

19 The legislative approval has improved our ability to
20 respond to the growing workload. We have some tight statutory
21 deadlines in the program. Anyone who knows of somebody who
22 passes on without a will or heir is supposed to notify us
23 within 48 hours of that knowledge. And then we, on staff, are
24 supposed to respond within five days.

25 We have been able to successfully meet that deadline

1 since the Legislature has granted us those positions. We're
2 also doing some increased outreach. We continue to have
3 certain areas of the state which are noncompliant. And we're
4 working to make them aware of our program and to bring them
5 into compliance so that we're hearing from them more often.

6 Staff is literally on the road every day; nearly
7 every day of every week. And they always have to work in dual
8 custody to make sure that the assets are safeguarded. Between
9 the 2006 and 2007 calendar years we saw 27.4 percent increase
10 in the number of full estate cases that we handle. In 2008 we
11 continued to maintain that high level. There's still room for
12 improvement, as we're still working on the compliance issues.
13 We saw a 12 percent increase in 2008 in the funds that were
14 escheated.

15 **GOV. KULONGOSKI:** Just a second. Kate?

16 **SEC. BROWN:** Can I go back one slide? You talked
17 about, let's see, 158 new cases open in 2007. And in 2008 your
18 team located heirs in about 31 cases.

19 **MS. KONSTANTOPOULOS:** That's correct.

20 **SEC. BROWN:** And I'm curious, a couple things; one,
21 if that's what percentage of new cases that are open that you
22 locate heirs to, number one. And number two, how do you go
23 about connecting with heirs?

24 **MS. KONSTANTOPOULOS:** There are a whole bunch of fun
25 stories that I'd love to tell but I don't have time. It is 31

1 out of the new estates. And of course, we still have the
2 backlog of estates from prior years that we're working on. But
3 out of the new ones, 31 we found heirs for this year alone.

4 **SEC. BROWN:** Mr. Chair?

5 **GOV. KULONGOSKI:** Yes.

6 **SEC. BROWN:** Is that a typical percentage on an
7 annual basis? I know that you've been increasing over the
8 years so --

9 **MS. KONSTANTOPOULOS:** Secretary Brown, that seems to
10 be pretty typical but somewhat growing. With the new staff and
11 now that they're trained up, they're becoming very skilled in
12 the investigations and the forensics of finding people. And so
13 I think it's probably going to level out at about that.
14 There's always going to be people where we just are not going
15 to find heirs. They're just not out there. And those are the
16 ones that will escheat.

17 We have a variety of different means of finding
18 people. And when we go into a residence, we'll go through the
19 residence literally top to bottom, looking behind pictures,
20 looking at every scrap of evidence that we can find to see if
21 there's anything that might lead us to an heir. There's an
22 estate here in Salem that I generally use as my example because
23 we went through the estate and everybody was saying there's no
24 heirs, there's no heirs.

25 The lady had no children, and by the way, she was

1 such good friends with me that I would think that she would
2 want me to have the entire estate. That's what we were hearing
3 from people. As it turns out in one of the back garage -- she
4 had a workshop area behind the garage and in one of the back-
5 most rooms in an old rusty file cabinet were a bunch of letters
6 from World War II.

7 And it turned out that the return address on one of
8 those love letters ended up being a gentleman that we tracked
9 down in the Midwest. And it turns out the lady had two
10 children. And the two children had been looking for her for
11 quite some time. And so we were able to reunite them with
12 their mom. It was good closure for the family.

13 But there's no telling what is going to lead us to an
14 heir truly. We have lots of search engines and stuff that we
15 use that will help us locate and follow the little rabbit
16 trails, as I call them. And then eventually we reach a dead-
17 end and we can't find anything so --

18 **SEC. BROWN:** Thank you.

19 **MS. KONSTANTOPOULOS:** So as I said, we saw a 12
20 percent increase in the funds escheated to the Common School
21 Fund in 2008. 2008 saw a little less than a million dollars
22 escheated just within that year alone. And then one of our
23 goals in the last couple of biennia has been to work on the
24 recuperation of administrative costs.

25 The statute provides us the ability to collect as

1 personal representative the costs of administering the estate.
2 And we've tried to change our philosophy and start operating a
3 little more like a lawyer's office and assessing all of the
4 fees. And so we significantly increased our collections. And
5 we're now recovering about one-half of the total operating
6 costs of the program through the administrative fees of
7 managing the estates.

8 At any given time we manage around \$5 million worth
9 of assets in estates. And some of those are liquid. Some of
10 them are in real estate, vehicles and stuff. And it's
11 constantly turning over. We also manage a program which is
12 called Missing Heirs. And this is -- we monitor the estates
13 filed by private personal representatives.

14 So in other words, a decedent may have some
15 relatives. They have a private personal representative that's
16 administering it. We receive that portion of an estate that's
17 due to an heir that can't be located. So let's say there's,
18 like, three brothers. They can find two of the brothers but
19 this third brother they don't know anything about what happened
20 to him.

21 We collect and we act basically in the stead of that
22 missing brother. And we'll collect the funds that are due to
23 him. And it's similar to the other estates at that point in
24 time. We hold it for a period of time in case that person comes
25 forward. After a period of ten years it does escheat. I think

1 I've already touched on this.

2 We do have some international success in being able
3 to locate heirs too. My team's become quite proficient. We
4 also handle the forfeitures. And most of the forfeitures are
5 handled through an interagency agreement whereby the Department
6 of State Lands gets all of the items which were used in Fish
7 and Wildlife crimes. It can be anything from an ATV to guns
8 and rifles to pickup trucks, spotlights. All of that is
9 auctioned off to the benefit of the Common School Fund.

10 We've seen some expansion in the forfeiture program
11 and some of the judges have become aware that we'll take the
12 forfeited items. And they will order specifically that items
13 be turned over to the Common School Fund. It is a small but
14 growing source of revenue. In the '03-'05 biennium we saw a
15 total of \$457. And in '07-'09 so far we've got \$33,000
16 collected. And we've still got two more auctions before the
17 end of the biennium.

18 We will likely see \$50(000) to \$60,000 as a result of
19 the forfeitures. Just briefly looking forward, we're still
20 looking at reorganization and streamlining of the program. I'm
21 looking to do some training for my staff in appraisal of
22 personal property so that we're certain that we don't walk over
23 some items that they may initially say is not of any value when
24 in reality may be worth quite a significant amount.

25 And then we're focused again to continue our effort

1 in recovering the administrative costs whenever possible. We
2 will never get to be 100 percent collection on the
3 administrative costs. Just by nature of our business we have
4 insolvent cases that we'll never be able to collect on. But
5 we've made good progress.

6 And the outreach to the noncompliant regions is a
7 major goal for us. We'd like to see all segments, all sectors
8 of the state reporting. Then we have legislative bills, Senate
9 Bill 179, which is geared towards protecting estate records and
10 providing our records the same protection from disclosure as
11 personal representatives enjoy. If you have any questions, I'd
12 be glad to answer them.

13 **GOV. KULONGOSKI:** Question? None? Thank you very,
14 very much.

15 **MS. KONSTANTOPOULOS:** Thank you.

16 **MS. SOLLIDAY:** All right. Next up is Pat Tate, who's
17 our manager for the Unclaimed Property Program, who's going to
18 give you an update for fiscal year '08 for that program. And
19 Pat's our newest manager in the agency; came to us from the
20 Washington Unclaimed Property Program. And so Pat, I'll turn
21 it over to you.

22 **MR. TATE:** Good morning, Governor and Board members.
23 I would like to start off by giving you a brief introduction in
24 case you're not that familiar with unclaimed property about
25 what unclaimed property is. It's really funds or property of

1 some kind that is held at a business usually; could be an
2 attorney, could be a retailer or any kind of business or
3 organization.

4 And for whatever reason they lose track of that
5 customer or client, and at some point it becomes abandoned
6 property and reported to our department. Primarily the
7 majority of it is indeed intangible. This would be represented
8 by maybe an uncashed paycheck. Could be a college student that
9 goes home after his last year of college and forgets the final
10 paycheck; vendor payments of any kind, rebates in some cases.

11 Maybe you bought something at Costco and never cashed
12 in the rebate check. State tax refunds obviously, we get
13 surprisingly a lot of stocks and bonds. Oftentimes these are
14 cases where a person's passed on or simply forgotten that they
15 actually purchased that item or believed it didn't have value.

16 Of course, one of the big areas is bank accounts.
17 This is one where it's more presumptive a person has not made
18 any sort of contact to the bank, hasn't been using the account.
19 And at some point generally it's a three-year abandonment. If
20 they cannot locate those folks they report those to us. There
21 is a requirement before the report. It is an annual reporting
22 between October 1st and November 1st.

23 Before they do that there is a requirement that they
24 try to locate the owner and if they're unable to do that then
25 it does get reported to us. Tangible property, real quickly;

1 this is really a pretty small area of what we do. But it's one
2 of the more interesting areas. It's usually safe deposit box
3 contents. We get everything. If the person doesn't pay their
4 rent for three years and they cannot locate the person, then
5 those get reported.

6 We do get a little bit of hospital and hotel property
7 where somebody leaves items behind in their safekeeping vault.
8 But we get all sorts of interesting everything from gold coins,
9 a lot of personal papers and legal papers, coin collections;
10 pretty much you name it. And we found it in a box. It is a
11 very interesting area for the staff that work with it.

12 Most of it, once we do get it, we try to locate those
13 owners and get the funds back to them. But in some cases we do
14 go to auction with that property after about a year if we're
15 unable to locate them. As far as how much funds we get, we've
16 currently over \$300 million in the Common School Fund is our
17 unclaimed property. And that represents well over a million
18 owners that we still have not located that we are seeking out.

19 Last year alone we received over \$51 million in 2008.
20 And out of that we paid \$11 million in claims. The next slide
21 kind of shows just the growth. You can see both the receipts
22 and the refunds side by side. Obviously the refunds are not
23 keeping up. We are working on ways of improving our owner
24 outreach. But we still feel it's a very respectable number
25 that were on our claims.

1 It is very difficult. As I say, they've already been
2 contacted by the organization before we get to them. And we
3 have some fairly sophisticated techniques but these folks are
4 hard to find in some cases. So how do we go through this
5 process? It's fairly amazing. We get reports in in October
6 and November. We have to get them all into our system
7 hopefully as quickly as possible.

8 Our goal is April 30th. Once we get them into the
9 system, then we can actually try start making claims and
10 refunds to the owners. We post those names out onto our owner
11 search website. One of our primary means is hopefully they
12 come to us and search. It's certainly a lot easier for them to
13 do that process than for us to actively seek them out.

14 We also do a lot of press releases to generate
15 inquiries. One of the things that I haven't mentioned in this
16 is we do have something called a finder service. And that's
17 where we actually take the larger accounts and we have a staff
18 person that uses a lot of very sophisticated search techniques;
19 databases and so forth, and can actually locate the owners at a
20 new address, figure out maybe they've passed on, who the heirs
21 are, do a lot of things in those search parameters to locate
22 the people.

23 As you can see, our receipts are continuing to grow.
24 They fluctuate a little bit. Some of this is just because we
25 have out of state and in-state auditors. They'll come across

1 something where somebody hasn't been reporting a sizeable
2 amount. And so that will cause one year to jump up a little
3 bit compared to the others. But as you can see, it's generally
4 a line going upward.

5 Again with claims, same sort of thing; it kind of
6 depends on who comes forward and how much they need. But
7 generally the trend is going to be upward on that. I guess the
8 main thing is going toward the future, and outreach is probably
9 the one thing we work on the most. We do a number of reporting
10 workshops. This year we're planning 24 between May and July.
11 We have auditors that go out. They are auditors but one of
12 their primary roles is to be an educator when they're working
13 with the companies.

14 Our claims on that part of it; we do a number of
15 outreach. Last year we did fairs. This year we're going to
16 try to look at smaller events, do a lot more events but smaller
17 venue timeframes. It's just very intensive to try to do an
18 entire fair to staff it. So if we can do something that's a
19 couple days or one day, we're going to try to look at those
20 avenues.

21 Also we do a lot of educational materials. We have a
22 new complying with Oregon's unclaimed property law pamphlet we
23 just revised. We're looking at coming up with some reporting
24 guides for the folks that need to report to us that will be
25 helpful. And that's pretty much most of my presentation. Are

1 there questions?

2 **GOV. KULONGOSKI:** Could you do me a favor and go back
3 to your slide in claims and receipts? It's an interesting -- I
4 don't know. Have you got the one on receipts? Is there a
5 correlation between the economy and because with a hard economy
6 and people are unemployed; they move, will you end up getting
7 more receipts in depending upon the condition of the economy?

8 **MR. TATE:** That's a very good question. And we do
9 believe that is one of the consequences of the economic
10 downturn we're suffering right now that probably in three to
11 five years we'll see some increase in unclaimed property as a
12 result. Unclaimed property usually comes forward from
13 traumatic circumstances. A person passes on, they lose their
14 job, they get divorced. Things like that are primary
15 contributors to some of the unclaimed property we see.

16 **TREAS. WESTLUND:** Pat, I don't see anything in your
17 receipts projections for the unclaimed gift cards. Where does
18 that kick in?

19 **MR. TATE:** That's a good question. I actually don't
20 have an answer for that one.

21 **MS. SOLLIDAY:** That would be as soon as the
22 Legislature passes that bill.

23 **TREAS. WESTLUND:** Oh yeah, I remember that. Could
24 you go back to your very first -- your cover slide? Right
25 there. Can you get a copy of those binoculars to the Governor?

1 We're all looking hard for dollars and we all need help. Yeah.
2 Wherever those are, he needs them.

3 **GOV. KULONGOSKI:** Thank you very much.

4 **MR. TATE:** Thank you.

5 **MS. SOLLIDAY:** Thanks, Pat. And then last up for
6 annual reports is Kevin Moynahan, who's the assistant director
7 of the Wetlands and Waterways Conservation Division, who's
8 going to talk about the biennial report for fiscal years 2007
9 and 2008.

10 **MR. MOYNAHAN:** Good morning, members of the Board;
11 Kevin Moynahan, Assistant Director, Wetland and Waterway
12 Conservation Division. My report will also provide a brief
13 oversight of the program as well as some specific information
14 related to the fiscal years '07 and '08. The Removal-Fill
15 Program is primarily based within the Salem office. We also
16 have a satellite office in Bend.

17 The Removal-Fill Law was enacted first in 1967. And
18 its intent was to protect the functions and values of the
19 state's waterways and wetlands; generally requires people who
20 plan to remove or fill material in state waters, again
21 including wetlands to get an authorization from the Department
22 of State Lands.

23 There were additional wetland provisions added to the
24 statute in 1989. General purpose of the program as set by the
25 statute is to protect and make the best use of the water

1 resources of the state, including fish, wildlife and aquatic
2 habitats; protect those. The agency is directed to take
3 program actions that do not unreasonably interfere with
4 navigation, fishing and public recreation.

5 General Removal-Fill Program activities we are
6 involved with include removal-fill permitting, wetland
7 conservation and planning, mitigation banking and our payment
8 in-lieu program. I'll speak more about those in a moment.
9 We're involved with the economic revitalization efforts of
10 State agencies. We are a big supporter of salmon recovery
11 efforts through the State.

12 We provide a leadership role on in-water gravel,
13 mining extraction, permitting issues. We have a compliance and
14 enforcement program. We're also involved on Oregon Solutions
15 projects, including those related to wave energy, the Tillamook
16 flooding solutions project. And we are co-sponsors with Oregon
17 Trout of an Oregon Solutions project related to stream
18 restoration, expediting of permitting for those projects.

19 We currently have three grants we're running within
20 the Division. One is related to regulatory streamlining.
21 Second is related to voluntary restoration projects on wetland
22 sites with private owners of those sites. And we also engaged
23 in permit process streamlining activities.

24 General statutory definition of waters of the state
25 are all natural waterways, tidal and nontidal bays,

1 intermittent streams, constantly flowing streams, lakes,
2 wetlands, and that portion of the Pacific Ocean that is within
3 the boundaries of the state territorial sea in essence, and all
4 other navigable and non-navigable bodies of water in the state
5 and the portions of the ocean shore.

6 Types of activities that generally require
7 authorizations from the State include those activities that
8 involve more than 50 cubic yards of removal-fill activity in a
9 water of the state. There are lower-volume thresholds for
10 essential salmon habitat, waters, streams as mapped. And also
11 in state scenic waterways the threshold is any amount of
12 removal-fill activity requires a permit.

13 **GOV. KULONGOSKI:** Just a second, please.

14 **SEC. BROWN:** Thank you, Mr. Chair. My question is do
15 the State and the feds have concurrent jurisdiction or is the
16 federal jurisdiction separate from the State jurisdiction
17 depending upon the waterway?

18 **MR. MOYNAHAN:** Sure, Board, Madam Secretary,
19 generally the State and the federal government through the
20 Corps of Engineers have concurrent jurisdiction; however the
21 State jurisdiction, of course, is on state waters as the
22 authorities set forth in State statute. The federal
23 jurisdiction is under federal law. They are not exactly
24 similar. There are areas under federal law that we may cover
25 that are not currently covered under federal law.

1 As you may be aware, there have been some recent
2 Supreme Court decisions; the *Rapanos* and *Carabell* Decisions
3 from two years ago from the US Supreme Court that impacted
4 federal jurisdiction for federal waters. Generally speaking,
5 our state jurisdiction is broader than the federal
6 jurisdiction. But in many cases they are the same.

7 **SEC. BROWN:** Thank you. Thanks, Mr. Chair.

8 **GOV. KULONGOSKI:** I just would add, where this comes
9 up a great deal is in the economic development area. And the
10 classic case is that down in Lebanon when we built the big
11 warehouse down there. The Corps of Engineers actually had a
12 piece of this or Bureau of Reclamation, one of them on the
13 wetlands. And it was the hard case because the State was
14 willing to actually move forward but we were having difficulty
15 with the federal government. And he has to deal with this
16 issue trying to balance it all.

17 **SEC. BROWN:** Okay.

18 **MR. MOYNAHAN:** Sure. Governor, members of the Board,
19 I'll pick up on that. There is a joint state and federal
20 permit application process. However, under State law our
21 permit authorizations have to be issued within 120 days. There
22 is no corresponding federal timeline for the issuance of State
23 permits.

24 And when a federal permit is involved, under the
25 Federal Clean Water Act, it also generally involves

1 consultation with the federal services, meaning US Fish and
2 Wildlife Service and National Marine Fishery Service. Many
3 times that federal review process delays the issuance of the
4 federal permit. Whereas, the State permit has to be issued
5 within 120 days.

6 **GOV. KULONGOSKI:** And that's when the Oregon
7 Solutions Program, which you're a part of, actually comes into
8 play of trying to get them all together.

9 **MR. MOYNAHAN:** Sure.

10 **GOV. KULONGOSKI:** They do a great job.

11 **MR. MOYNAHAN:** Governor, I appreciate that. Members
12 of the Board, I'll jump ahead a little bit. On the Oregon
13 Solutions Project, that is one of the issues we were tackling
14 particularly related to restoration projects; stream
15 restoration projects which helped for opening up areas of
16 stream to salmon habitat that support recovery efforts. We are
17 working with the federal agencies to try to expedite the State
18 and the federal permitting of those projects.

19 **SEC. BROWN:** Thank you.

20 **GOV. KULONGOSKI:** Kate, go ahead.

21 **SEC. BROWN:** Okay. Okay.

22 **GOV. KULONGOSKI:** Thanks.

23 **MR. MOYNAHAN:** Sure. So the types of permits that we
24 issued under the fiscal year '07 and '08; we issued a total of
25 2452 authorizations over that period of time. That included 61

1 emergency permits, 1876 general authorizations. General
2 authorizations are for minimal impact activities. It's a
3 shorter approval process of 40 days, 515 individual permits.
4 Those are permits that you would think of as being for more
5 complicated types of development; projects, commercial,
6 residential development projects.

7 The individual permits again are subject to 120-day
8 statutory decision-making timeline. General permits are a
9 programmatic type of permit that could be issued for activities
10 that are of a recurring nature with known environmental or
11 resource impacts. The authority was granted to the Department
12 of State Lands in the 2007 session. We're still working on a
13 number of general permits that are in the pipeline right now.

14 What our attempt to do with the general permit along
15 the lines of what the Governor just mentioned is also to have a
16 general permit that lines up with a Corps of Engineers issued
17 regional general permit to again provide for more State and
18 federal streamlining of an application process for certain
19 types of activities. So we have a number of those in the
20 process right now. We've got a pretty good record of meeting
21 the statutory deadline of 120 days; 96.4 percent are issued
22 within that deadline.

23 **GOV. KULONGOSKI:** Let me ask you a question on the
24 volume of activity. It's what I was asking about the unclaimed
25 property. Is there a correlation with the economic activity

1 and the healthy economy in the state is what you're going to
2 see as far as the number of permits?

3 **MR. MOYNAHAN:** Governor, members of the Board, there
4 absolutely is. Although you don't see it necessarily reflected
5 in the numbers from fiscal year '07 and '08, since July of this
6 year, beginning of the '09 fiscal year we've seen a reduction
7 in applications of approximately 25 percent primarily related
8 to development types of projects.

9 So there is a correlation to the downturn in the
10 economy and the types, the numbers of applications we're
11 receiving. What we're doing about that actually; we're using
12 it to our benefit in the program because it's allowing us to
13 spend more time on compliance and enforcement activities.

14 **GOV. KULONGOSKI:** Thank you.

15 **MR. MOYNAHAN:** Compensatory mitigation; when we
16 authorize an impact toward the state and primarily wetlands but
17 it also could be another water of the state. We are required
18 by law to collect the adequate compensatory mitigation for that
19 impact. So there's several ways to handle that. Permittee
20 responsible mitigation means the project proponent with the
21 impact could do an on-site or an off-site sponsored mitigation
22 project.

23 They could buy credits from mitigation bank. I'll
24 speak more about that in a moment. They could buy into our
25 payment in-lieu program, the mitigation bank revolving fund for

1 crediting. Over the course of those two fiscal years we had a
2 net gain of 182.64 acres of fresh-water wetlands, and 5.97
3 acres of estuarine wetlands. Our programmatic measure for that
4 is no net loss of wetlands. So we're doing significantly in
5 excess of that performance measure.

6 We have a wetlands program in the agency that's
7 involved with approving local wetland inventories. Those are
8 inventories of wetlands that are developed in association with
9 the Department on wetlands within that jurisdiction that helps
10 with planning for development in the jurisdiction. We had a
11 total of 483 wetland determinations that we made over '07 and
12 '08.

13 We received 916 wetland delineation reports. Those
14 are delineations of the boundaries of a wetland water of the
15 state that were submitted. Then we had a statutory timeline
16 for reviewing and making decisions on wetland delineations.
17 We've met that with 98 percent of the delineation reviews
18 completed within 120 days, with a mean review time of 49 days.

19 We have compliance authority for unauthorized
20 activities, those without a permit, and for noncompliance with
21 permit conditions. We have up to a \$10,000 maximum civil
22 penalty. Over the period in time we received 380 complaints;
23 105 were confirmed through on-site investigation. The large
24 majority of the actions are settled through a consent agreement
25 or some type of other negotiated agreement. We received a

1 total of \$75,250 in civil penalties over the two fiscal-year
2 period.

3 In mitigation bankings of business where a wetland is
4 restored and wetland credits are sold to developers who must
5 offset their authorized impacts as part of a permit condition,
6 there's a state, Department of State Lands and a corresponding
7 federal US Army Corps of Engineer process to refer to
8 (phonetic) those mitigation banks. There were 16 banks that
9 had been approved through the end of the 2008 fiscal year.

10 Currently as I sit here today we have four additional
11 banks for a total of 20; mitigation banks that are operating in
12 the state. Through the fiscal years '07 and '08 there were a
13 total of 80.9 bank credits that were sold through those banks
14 for authorized impacts. The average cost of a mitigation credit
15 during this period of time, '07 and '08, was approximately
16 \$70,000.

17 Currently the statewide average cost of a credit is
18 \$84,500. And we do not set the value of those credits. They
19 are set by the individual banks who are selling credits.
20 Mitigation revolving fund; it's another option for mitigation.
21 Funds can be paid into the fund generally from smaller impact-
22 type projects. The cost of those credits are based on
23 statewide average of mitigation bank credits.

24 Funds are set out from the fund to fund restoration
25 projects for enhancement creation or restoration of wetland

1 projects. Total of \$742,886 came into the fund during the two
2 fiscal years. And the Department awarded almost a half-million-
3 dollars in grants to deserving projects. Finally, streamlining
4 efforts were engaged in a number of streamlining efforts in
5 addition to those that we discussed earlier.

6 We're looking at E-permitting options for a web-based
7 application process that we believe would help the applicants
8 on these projects. We're providing a lot more information on
9 our website for better planning related to avoidance of impacts
10 to wetlands and other waters of the state. And we're
11 continuing to try to align with the federal process, Corps of
12 Engineers, on additional state/federal/joint application or
13 expedited-type process. So with that said, I'd be glad to take
14 any questions from the Board.

15 **SEC. BROWN:** Thanks, Mr. Chair. On page 6 of the
16 report you talked about your statutory emphasis is on making
17 permit decisions and that you're monitoring at approximately 15
18 percent of authorized projects. Given the fact that the
19 permitting is down, do you need statutory changes to focus your
20 work on compliance and enforcement? And I guess in the
21 alternative, what statutory changes would you make to provide
22 more focus on that work?

23 **MR. MOYNAHAN:** Members of the Board, Madam Secretary,
24 with the downturn in the number of applications that we're
25 receiving, again, we're spending more time on compliance and

1 enforcement efforts right now as we speak. I don't think that
2 we need any specific statutory change that would assist us with
3 increasing our compliance and enforcement efforts.

4 We do have two bills up before the Legislature
5 currently, House Bill 2155 and House Bill 2156 that would
6 clarify certain provisions in the statute that we feel would
7 help the regulated community understand, for example, what some
8 of the exemptions are or where our jurisdiction may go on
9 intermittent streams.

10 We feel that would help avoid getting into compliance
11 and enforcement situations in the first place. But otherwise,
12 again, we're spending more time on enforcement than we have
13 been in the past with the downturn in permit applications.

14 **MS. SOLLIDAY:** And if I may just add, we do have a
15 budget package to get an additional resource coordinator into
16 the agency to focus specifically on compliance and enforcement.
17 And what happens is the ebb and flow of the work around here;
18 when we're in economic boom times there are lots of permits
19 coming in the door. That takes priority because that's what
20 the statute says. And I think it's the right priority is to
21 get those permits out the door. When things slow down, then
22 they catch up on the compliance and enforcement pieces.

23 **MR. MOYNAHAN:** Members of the Board, just as far as
24 the way we run the enforcement in the program, we hear from a
25 lot of individuals out there in the field whose neighbor may be

1 engaged in unauthorized activity that they actually applied for
2 a permit for. And that breeds a lot of cynicism as far as
3 State government goes. We take that seriously and we're
4 addressing that.

5 **SEC. BROWN:** Thank you. Thank you.

6 **GOV. KULONGOSKI:** Can you do me a favor and just very
7 briefly help me refresh the Supreme Court cases that actually
8 ended up reducing the federal government's regulatory authority
9 over wetlands.

10 **MR. MOYNAHAN:** Sure. Governor, members of the Board,
11 the two cases that were combined cases that were decided, I
12 believe, in the 2007 term; they were called the *Rapanos*, R-a-p-
13 a-n-o-s.

14 **GOV. KULONGOSKI:** I remember that.

15 **MR. MOYNAHAN:** And *Carabell* was the associated case
16 where the Supreme Court -- it was a very odd situation. It was
17 a 4/4/1 decision with Justice Kennedy being the one in the
18 middle who actually wrote the controlling decision for the
19 Supreme Court. And what it did in effect was it forced the
20 Federal Environmental Protection Agency and the Corps of
21 Engineers as the two federal agencies with primary jurisdiction
22 under the Federal Clean Water Act to reassess where their
23 jurisdiction actually was on waters under the Decision that
24 interpreted the act.

25 Certain types of waters, those that were far removed

1 from navigable waterways; those appear to be no longer
2 regulated by federal agencies under this decision. I know for
3 a fact that the Corps of Engineers and EPA have spent a lot of
4 time, as has others in the regulated community over the last
5 two years trying to interpret those decisions, figure out
6 exactly what it meant and where their jurisdiction actually
7 lies. And two years later they have not fully determined what
8 the decisions directing them to do or where their jurisdiction
9 is.

10 **GOV. KULONGOSKI:** Is there a congressional action
11 that the State's or anyone's asking that they expand the
12 definition in the Clean Water Act as far as the jurisdiction of
13 EPA and reclamation? Or do you know if there is?

14 **MR. MOYNAHAN:** Governor, members of the Board, I had
15 heard some rumors that there were movement to do that in the US
16 Congress, but it didn't get very far. And I'm not sure what
17 the current status is.

18 **MS. SOLLIDAY:** Governor, there was what was called
19 the Clean Water Restoration Act, which was introduced in the
20 2008 congressional session. It did not go very far. I haven't
21 seen it reintroduced but I expect it will be reintroduced again
22 this year. And it may have a better chance this year.

23 **GOV. KULONGOSKI:** Mike?

24 **MR. CARRIER:** Yeah, Overstar had sponsored that and
25 there is under use of it, there is a movement to return the

1 protections and the definitions to the pre-*Rapanos* Decision.
2 And the Western Governors Association recently just debated a
3 letter that supported it; ended up being not the full WGA. But
4 a number of governors, including you, Governor Kulongoski,
5 supporting the restoration of the pre-*Rapanos* protections.

6 **GOV. KULONGOSKI:** I remember that. Okay. Thank you.
7 Thank you very much.

8 **MR. MOYNAHAN:** Okay. Thank you very much.

9 **MS. SOLLIDAY:** Thanks, Kevin. Okay. I've got a
10 couple of updates that I want to do before we get out to our
11 planting. And fortunately we're going to be right in between
12 the snow and the rain, it appears. Just in terms of a
13 legislative update, the Department had six substantive bills in
14 addition to our budget bill.

15 We have had hearings on two of our substantive bills,
16 and those are the two that Kevin just referred to; House Bill
17 2155 and House Bill 2156, making changes to the Removal-Fill
18 Program. We and the treasurers this year decided not to pursue
19 the Unclaimed Property Bill, which was House Bill 2154. And
20 that would have transferred the program to the treasurer's
21 office. And I think we'll revisit that for the 2011 session.

22 But while that bill's been introduced, we do not
23 expect that there will be any action on it this session. We
24 also have a bill in that would allow us to assess civil
25 penalties on our uplands that has not yet been scheduled for a

1 hearing. And then we have a bill that Pamela referred to with
2 the Estates Program, allowing us to protect that information
3 while we're going through the probate process.

4 And then the final bill that we have is a cleanup of
5 our rulemaking statutes. And that's in the Senate Revenue and
6 Education -- General Government and Education Committee. And we
7 expect that that will be heard sometime in the next month or
8 so. So all of our bills with the exception of the Unclaimed
9 Property Bill are still in play.

10 Our budget is not scheduled until the third week of
11 April. That's a little unusual. Normally we're up sometime in
12 the next week or two. Our budget bill and the Department of
13 Forestry's budget bills are being held until last. And there
14 is much discussion going on in the Legislature about harvest
15 levels off of our lands and off of Board of Forestry lands.

16 We've had one informational hearing relative to the
17 Elliott State Forest where the Department of Forestry and us
18 went in and talked about what we're doing on the Elliott State
19 Forest. We updated the Legislature on where we are in the
20 habitat conservation planning effort. And just to remind the
21 Board, we have been involved in updating the current HCP
22 Habitat Conservation Plan since 2001.

23 The Draft Environmental Impact Statement has been out
24 for public comment. And we are now working with the services.
25 The Department of Forestry is working with the services and our

1 contractor to make changes to the Draft Environmental Impact
2 Statement. We are cautiously optimistic that the final
3 Environmental Impact Statement will be out for comment in May
4 or June of this year, with the goal still being to have a
5 signed Habitat Conservation Plan and an incidental take permit
6 in hand by the end of this year.

7 And just as a reminder, we plan timber harvests two
8 years in advance in forests so we don't expect full
9 implementation of the new Habitat Conservation Plan for a two-
10 year period of time. And in the interim for fiscal year 2010
11 and fiscal year 2011 we are planning to increase commercial
12 thinnings in the forest which is allowed under the current HCP
13 in order to get our board footage up from the current 25
14 million board feet a year to closer to the 40 million target in
15 the new Habitat Conservation Plan.

16 Other bills of interest, just so the Board is aware,
17 we've been working with Senator Bates' office on a bill related
18 to navigability. This is a bill that would codify the public
19 rights as they are laid out in the Attorney General's Opinion
20 from 2005. And I think we're close to having a bill that will
21 come out here in the next couple of weeks.

22 We have a bill that Senator Telfer from the Bend area
23 has been working on to try and get our in-lieu land selections
24 in the priority process in statute to come in the urban growth
25 boundary expansions when those occur in areas where we have

1 those lands. The Treasurer has been talking to the Legislature
2 about adding the proceeds from storage units that had been
3 abandoned as unclaimed property after the contents are sold,
4 that the remaining proceeds after the expenses are paid would
5 come to the Common School Fund as part of the Unclaimed
6 Property Program.

7 The Oregon Concrete and Aggregate Producers
8 Association has a bill drafted that would allow us to assess
9 fees to the gravel industry in order to support a position here
10 that would be wholly dedicated to working with the gravel
11 industry, and working on their permits. And we've been in
12 discussions with them about those.

13 We also have several other bills that have been
14 introduced by other agencies that we are working with those
15 other agencies on. Point out House Bill 2147, which is a bill
16 that would allow us to coordinate with the Department of
17 Revenue on folks who have unclaimed property sitting here but
18 also have debts that are owed to the State so that we would
19 screen the unclaimed property database when somebody comes in
20 to claim that money; screen the Department of Revenue database
21 to make sure that those debts are paid before monies are
22 released through the Unclaimed Property Program.

23 Representative Roblan has introduced a bill; House
24 Bill 2573, related to the filled lands issue, which would put
25 in statute how those lands would be valued. What he's trying

1 to do is make it clear to folks that free is not an option in
2 terms of the price of those. So I think the bill would actually
3 be helpful to us and pretty much follows what we have been
4 doing in terms of processing the sales of those filled-lands.

5 I might also mention Senate Bill 338, which the
6 Governor has already signed, the Department of State Lands;
7 this is the bonding bill, the State stimulus bill. The
8 Department has \$460,000 worth of projects that are a part of
9 that bill. We have four projects, the biggest one being to
10 replace our air conditioner here.

11 We, last summer, spent the summer limping along our
12 air conditioner by wrapping hoses around pipes and doing some
13 other things; running a fan to keep the thing from overheating
14 and burning up completely. But we made it through last summer
15 but we're not going to make it through another summer. So we
16 need to replace the air conditioner in the building.

17 We also have a couple of projects in eastern Oregon.
18 One is to do juniper removal to expedite the amount of work
19 that we've been doing there so we enhance the values of our
20 rangelands. We were the poster child for what's wrong with the
21 stimulus package in the Oregonian with that project. As much as
22 we tried to explain to the Oregonian reporter that the whole
23 purpose of removing that juniper was to not have the junipers
24 soak up what moisture is available on our southeast Oregon
25 rangelands, and to enhance the forage on those lands so that we

1 can continue to generate revenue off those lands and hopefully
2 increase that revenue over time.

3 We have a dilapidated fence that needs to be removed
4 from one of our properties. And then the fourth project is to
5 actually get a survey of a boundary of our property in Portland
6 Harbor, which will be very important come in conjunction with
7 the Portland Harbor superfund site cleanup. So we have four
8 projects that are a part of that bill.

9 And then there are literally 100 bills or more that
10 we are tracking just because they may have some impact on the
11 Department or they are of interest to the Department. And I'd
12 be happy to answer any questions on the legislative update.

13 **GOV. KULONGOSKI:** Any questions?

14 **MS. SOLLIDAY:** We'll bring back an update at the
15 April and June meetings as well, just to keep the Board posted.
16 And then the second thing I'd like to do; as you well know, we
17 have been trying to get from the federal government lands that
18 we were supposed to get at statehood, what we call the in-lieu
19 lands process. And I'm happy to announce that yesterday we
20 received in the mail the clear list for another 640 acres.

21 This a 640-acre parcel in Crook County. And we are
22 now down to 1594 acres that are still owed to the Department.
23 We started with 5200 acres back in 1991. So we have been moving
24 quickly over the last couple of years to try and get those
25 lands in our hands. Our goal was to have it all complete by

1 this week. We're not going to quite make that. We have one
2 large selection left, which is the Deschutes Market Road
3 parcel, which we're continuing to work with BLM on. But I
4 thought I'd announce, given that we're going to be 150 years
5 old today, that we're close to actually having all the land
6 that we were supposed to get in 1859.

7 And then just to follow up on that, over here you'll
8 see we have a brand new Oregon 150 display, which will be in
9 the Capitol the third week of March. And we have an Oregon 150
10 committee here at the Department, which is headed by Julie
11 Curtis. And we have staff from all of our divisions who have
12 been working on a variety of 150 projects. They designed this
13 display.

14 And it's just a real snapshot of what things were
15 like in 1859, showing that we got 3.4 million acres of land at
16 statehood, and shows today that we have 783,000 acres remaining
17 from those original 3.4 million acres. Tells a little bit
18 about why those acres were sold historically and a little bit
19 about where we are today in terms of managing those lands. And
20 we'll also have all of our brochures in the Capitol with that
21 display.

22 And then I want to just talk briefly about recent
23 projections from the Department of Forestry on our forest
24 revenues. Our revenues have been holding until now, and we are
25 about to get caught up in the decline of the lumber prices and

1 declining interest in harvest off of the state forest lands.
2 And in July the Board -- well, in October when the Department
3 of Forestry was here, they were projecting that this biennium
4 we would see about \$27 million in revenue.

5 That projection, as of January, is now down to \$21
6 million. So a \$6 million decrease in six months time. And
7 that's because people are just not interested in harvesting
8 timber at the moment, given where prices are and how low the
9 demand is. We are also working with the Department of
10 Forestry. We have had some of our contractors that we've
11 already sold timber to who have inquired about being able to
12 delay harvesting the timber that they've already purchased.

13 When they purchase timber they have three years to
14 actually cut the timber. We have some of those folks who are
15 coming up both for the remainder of this fiscal year and in
16 fiscal year 2010 who have inquired about being able to delay.
17 We have been working with the Department of Forestry to come up
18 with some options for those folks.

19 The alternative is that we are likely to see a number
20 of defaults. And so we are trying to come up with a strategy
21 to avoid those defaults from happening on our timber contracts.
22 The Department of Forestry is prepared to send out a letter
23 this week that would give folks who have timber that's due to
24 be harvested either for the rest of this year or in fiscal year
25 2010 two options.

1 One would be that they would pay us 90 percent of the
2 revenue that's due, but they would not have to harvest the
3 timber. So they would get an extension of doing the actual
4 harvest to save them the cost of doing that harvesting. And
5 then they would pay us the remaining ten percent when they do
6 the harvest.

7 The other option would be a no-pay option. But they
8 would have to pay nine percent interest on those amounts. So
9 they would have a couple of options to use. We already have
10 some companies who have expressed an interest in the first
11 option. There may be others who are interested in the second
12 option. So I just wanted the Board to be aware that we are
13 starting to feel the effects of the timber economy and the
14 decline there.

15 And we are working with the Department Forestry on
16 alternative strategies. But I wanted you to know the revenue
17 projection has dropped significantly in the last six months.
18 And we are working with the companies who do have harvests that
19 are due this year and next year on alternative strategies for
20 them.

21 **GOV. KULONGOSKI:** Louise, help me. I just want to
22 make sure I understood that the companies that are not going to
23 be able to meet their three-year cut requirement, harvest
24 requirement; are you saying that the letter that the forestry
25 is going to send out about presenting nine percent of the

1 revenues; that it's directed toward those companies that are
2 not going to be able to meet? And tell me what happens when
3 either one or two is not acceptable to the person who has the
4 contract.

5 **MS. SOLLIDAY:** We may end up with some defaults
6 occurring.

7 **GOV. KULONGOSKI:** Okay. Do we have a policy about
8 continuing a period of time from three years to five or
9 whatever?

10 **MS. SOLLIDAY:** Yeah, the Board does have in each of
11 the contracts a provision that allows for extension of those
12 contracts.

13 **GOV. KULONGOSKI:** Okay.

14 **MS. SOLLIDAY:** So if this continues to be; we
15 continue to operate in the basement for a longer period of
16 time, we'll have to revisit that issue and determine whether we
17 need to make additional extensions.

18 **GOV. KULONGOSKI:** Okay. Okay. Thank you.

19 **TREAS. WESTLUND:** Also Louise, I'm sure I heard you
20 say they can pay nine percent?

21 **MS. SOLLIDAY:** Ninety.

22 **TREAS. WESTLUND:** Ninety.

23 **MS. SOLLIDAY:** Nine-zero. They can pay 90 percent of
24 the revenue, the bid price. They'll pay us the ten percent
25 later on when they harvest. Or they can pay zero percent of

1 the bid price but they'll have to pay nine percent interest at
2 the back end when they do pay us.

3 **TREAS. WESTLUND:** On the bid price.

4 **MS. SOLLIDAY:** On the bid price.

5 **TREAS. WESTLUND:** And then say they opt for either of
6 those options; the extension is how long?

7 **MS. SOLLIDAY:** We'll look at one-year extensions to
8 begin with.

9 **TREAS. WESTLUND:** Okay. All right. Thank you.

10 **MS. SOLLIDAY:** Any other questions on that? I just
11 wanted the Board to be aware because we're about to enter a
12 period year where things are going to be unpredictable.

13 **TREAS. WESTLUND:** Yeah, and just as a general
14 comment; that seems somewhat onerous. I mean it's forest
15 products industry, they're flat on their back. Can't imagine
16 anyone's going to opt for the 90 percent; otherwise going to --
17 I understand they're making a commodity play in terms of the
18 price of timber.

19 The nine percent obviously seems more palatable. But
20 what happens after the end of that year? Is that it; they get
21 a chance then to pay 18 percent interest for another year or
22 what happens at the end of that year if it's not economically
23 feasible to harvest the timber?

24 **MS. SOLLIDAY:** Treasurer Westlund, we actually have
25 some -- there are some companies who are willing to pay us the

1 90 percent; the larger companies. The smaller companies; that
2 becomes economically tough.

3 **TREAS. WESTLUND:** Problematic.

4 **MS. SOLLIDAY:** Which is why we're creating -- why
5 Forestry has decided to add this second option in that would
6 allow the no-pay but pay us interest. And as I said, we're in
7 this period of uncertainty. But the idea is they would pay
8 nine percent annually. So if we're extending beyond a year, it
9 would be not continue to pay us.

10 **TREAS. WESTLUND:** All right. That makes sense to me.

11 **MS. SOLLIDAY:** Okay.

12 **TREAS. WESTLUND:** I mean it's functionally forcing
13 them in -- if it was capped at a year, that's forcing them to
14 make a decision on economic future when we're all in uncharted
15 territory here so --

16 **MS. SOLLIDAY:** And there may be some companies who
17 don't opt for either of these that they're just going to go
18 ahead and harvest as scheduled. I think some of the mills are
19 trying to keep operating at a minimal level.

20 **TREAS. WESTLUND:** Right.

21 **MS. SOLLIDAY:** One of our concerns is you don't want
22 to see the harvest level get so low that you lose your
23 infrastructure. And when the economy recovers you don't have
24 people bidding on sales because the infrastructure is gone. So
25 we want to try and keep some flow going into the economy over

1 the next couple of years till things return.

2 **TREAS. WESTLUND:** Right. Okay.

3 **GOV. KULONGOSKI:** Go ahead.

4 **MS. SOLLIDAY:** Okay. Last item is our ceremonial
5 planting today. And just a couple of things about that; I
6 think we've got everybody in the room here. We decided we'll
7 do the speeches inside to save folks standing outside while
8 we're doing the actual planting. Our Oregon 150 Committee
9 headed by Julie Curtis designed a couple of projects for the
10 Department to work on. The display is one of them.

11 The second one was the idea that we had this great
12 resource right alongside this building called Mill Creek. And
13 it was overgrown with invasive species. And so through the
14 leadership of Jevra Brown, who has been the project leader for
15 this project, who's a DSL staff person in our wetlands section.
16 We have had a number of work parties going on out along Mill
17 Creek. We have had over 40 volunteers who have been out there
18 on Friday afternoons and Saturdays pulling out a number of
19 invasive species, cutting down some larger ones, pulling a lot
20 of weeds that we have; ivy. I hate it after spending a couple
21 days out here working on -- yanking ivy out. It's an ugly job
22 to do.

23 We also had OWEB staff participate with us and some
24 other State agencies in the surrounding area. We even had some
25 neighbors come and help us during a couple of these work

1 parties. The Governor and the First Lady were out here for the
2 very first work party, spent a couple hours, so he's got some
3 sweat equity in this project.

4 And we had six workdays when folks were working. We
5 believe there's been more than 150 hours of volunteer labor
6 that's gone into preparing the site for the planting that we're
7 going to begin today. There are a number of partners who have
8 worked with us. And I want to thank them. And I think they're
9 all behind me somewhere. So when I recognize you, just sort of
10 wave so the Board knows who you are.

11 First of all, we've had great cooperation from our
12 friends at the Department of Administrative Services who work
13 in the Landscape Maintenance and Planning Department. And they
14 include Robert Sisk, Lenny McAllister, Tom Barrows and Bill
15 Halibi. And they've been great. They provided us with
16 wheelbarrows and a lot of the tools that we've been using.

17 They've also brought dumpsters over here for us to
18 dump the materials in that we're removing. And so they've gone
19 way beyond the call of duty to help us with this project.
20 We've also had Allied Waste, which provided a dumpster and
21 debris removal to us voluntarily. So one of our local waste
22 management companies has donated a dumpster.

23 Marion County Public Works donated mulch to the
24 project so the nice rich mulch that you're going to see out
25 there today came courtesy of Marion County. The Oregon

1 Lottery, through the Oregon Watershed Enhancement Board,
2 provided all the work gloves that we provided to folks. And
3 we'll have some of those today.

4 We also had two nurseries who have provided plant
5 materials to us; Champoeg Nursery, Paul Stormo. Is Paul here?
6 And also Mahonia Nursery, John Miller. I see him back here.
7 So I want to thank them for the plant materials that they're
8 providing for us to use today. Also the State Oregon 150
9 Committee has been very supportive. And SOLV has also been
10 very supportive of this project.

11 And we also have with us today a couple of staff
12 people and some students from Parrish Middle School, so Laurie
13 Ashworth and Laurie Baird. And their students I think are back
14 here; welcome. And they're going to help you all with the
15 planting today. So this has been a great project.

16 We've had lots of our staff involved. It's exciting
17 for us. We're actually doing something that's directly related
18 to what we do in our everyday work. I think a lot of our staff
19 has been walking by this creek every day, looking at it with
20 their heads down because we knew it was overgrown with these
21 invasive species. And so with that I think we'll head outside.
22 And we're going to head to the area where we've got the canvass
23 overhang set up. And we'll begin the planting. So with that,
24 we're adjourned in here.

25 **GOV. KULONGOSKI:** We're adjourned.

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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

