

**OREGON GOVERNMENT ETHICS COMMISSION**

**INVESTIGATION**

**CASE NO:** 14-191EDT

**DATE:** December 26, 2017

**RESPONDENT:** HAYES, Cylvia, former Policy Advisor and First Lady, Office of the Governor

**COMPLAINANT:** BERGER, Vicki

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(i)

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**RESPONDENT:** HAYES, Cylvia, former Policy Advisor and First Lady, Office of the Governor

**COMPLAINANT:** BERGER, Vicki

**RECOMMENDED ACTION:** Make a Preliminary Finding of Violations of ORS 244.025, ORS 244.040(1), and ORS 244.120(1)(c)

1 **SYNOPSIS:** Cylvia Hayes was an unpaid policy advisor in the Office of the Governor and  
2 the First Lady of Oregon during the period relevant to this investigation. The focus of this  
3 investigation was to determine if there is a preponderance of the evidence to make  
4 preliminary findings that Ms. Hayes committed violations of the prohibited use of office for  
5 personal financial gain, conflict of interest, and gift provisions of ORS Chapter 244.

6  
7 A review of available information indicates that Ms. Hayes solicited paid contracts using  
8 her official position in the Office of the Governor and the access it provided her, used her  
9 official position in the Office of the Governor to accomplish the deliverables on her paid  
10 contracts, and used the resources of the Office of the Governor to obtain a financial gain  
11 or avoid a financial detriment by using staff time and resources for her personal business.

12  
13 The available evidence indicates that Ms. Hayes made decisions in her official capacity  
14 that could have affected her personal financial interest when she made decisions about  
15 speeches, meetings, and policy that she used to obtain and complete paid contracts.

1 When met with these decisions, Ms. Hayes had potential conflicts of interest and was  
2 required to follow the procedure laid out in ORS 244.120(1)(c).

3  
4 The available evidence indicates that in 2013, Ms. Hayes accepted a gift that exceeded  
5 the gift limits in ORS 244.025 from United Airlines, a source that had a legislative or  
6 administrative interest in her decision-making as a public official.

7  
8 There is sufficient evidence to indicate that Cylvia Hayes committed violations of ORS  
9 244.025 by accepting a gift from a source with a legislative or administrative interest in  
10 her decision-making as a public official, that she committed violations of ORS 244.040(1)  
11 by using her official position for personal financial gain, and that she committed violations  
12 of ORS 244.120(1)(c) by failing to properly handle potential conflicts of interest.

13  
14 **RELEVANT STATUTES AND ADMINISTRATIVE RULES:** The Oregon Legislative  
15 Assembly revised portions of Chapter 244 of the Oregon Revised Statutes in 2015. The  
16 following Oregon Revised Statutes are from the 2013 Edition unless otherwise noted, and  
17 are applicable to the issues addressed herein, because all of the alleged conduct took  
18 place before the 2015 amendments went into effect:

19  
20 **244.020 Definitions.** As used in this chapter, unless the context requires otherwise:

21 (1) 'Actual conflict of interest' means any action or any decision or recommendation by a  
22 person acting in a capacity as a public official, the effect of which would be to the private  
23 pecuniary benefit or detriment of the person or the person's relative or any business with  
24 which the person or a relative of the person is associated unless the pecuniary benefit or  
25 detriment arises out of circumstances described in subsection (12) of this section.

26 (2) 'Business' means any corporation, partnership, proprietorship, firm, enterprise,  
27 franchise, association, organization, self-employed individual and any other legal entity  
28 operated for economic gain but excluding any income-producing not-for-profit corporation  
29 that is tax exempt under section 501(c) of the Internal Revenue Code with which a public  
30 official or a relative of the public official is associated only as a member or board director  
31 or in a nonremunerative capacity.

(3) 'Business with which the person is associated' means:

(a) Any private business or closely held corporation of which the person or the person's relative is a director, officer, owner or employee, or agent or any private business or closely held corporation in which the person or the person's relative owns or has owned stock, another form of equity interest, stock options or debt instruments worth \$1,000 or more at any point in the preceding calendar year;

(b) Any publicly held corporation in which the person or the person's relative owns or has owned \$100,000 or more in stock or another form of equity interest, stock options or debt instruments at any point in the preceding calendar year;

(c) Any publicly held corporation of which the person or the person's relative is a director or officer; or

(d) For public officials required to file a statement of economic interest under ORS 244.050, any business listed as a source of income as required under ORS 244.060 (3)...

(6)(a) "Gift" means something of economic value given to a public official, a candidate or a relative or member of the household of the public official or candidate:

(A) Without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or candidates or the relatives or members of the household of public officials or candidates on the same terms and conditions; or

(B) For valuable consideration less than that required from others who are not public officials or candidates.

(b) "Gift" does not mean:

(A) Contributions as defined in ORS 260.005.

(B) Gifts from relatives or members of the household of the public official or candidate.

(C) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento or similar item, with a resale value reasonably expected to be less than \$25.

(D) Informational or program material, publications or subscriptions related to the recipient's performance of official duties.

1 (E) Admission provided to or the cost of food or beverage consumed by a public  
2 official, or a member of the household or staff of the public official when accompanying  
3 the public official, at a reception, meal or meeting held by an organization when the public  
4 official represents state government as defined in ORS 174.111, a local government as  
5 defined in ORS 174.116 or a special government body as defined in ORS 174.117.

6 (F) Reasonable expenses paid by any unit of the federal government, a state or local  
7 government, a Native American tribe that is recognized by federal law or formally  
8 acknowledged by a state, a membership organization to which a public body as defined  
9 in ORS 174.109 pays membership dues or a not-for-profit corporation that is tax exempt  
10 under section 501(c)(3) of the Internal Revenue Code, for attendance at a convention,  
11 fact-finding mission or trip, conference or other meeting if the public official is scheduled  
12 to deliver a speech, make a presentation, participate on a panel or represent state  
13 government as defined in ORS 174.111, a local government as defined in ORS 174.116  
14 or a special government body as defined in ORS 174.117.

15 (G) Contributions made to a legal expense trust fund established under ORS 244.209  
16 for the benefit of the public official.

17 (H) Reasonable food, travel or lodging expenses provided to a public official, a relative  
18 of the public official accompanying the public official, a member of the household of the  
19 public official accompanying the public official or a staff member of the public official  
20 accompanying the public official, when the public official is representing state government  
21 as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special  
22 government body as defined in ORS 174.117:

23 (i) On an officially sanctioned trade-promotion or fact-finding mission; or

24 (ii) In officially designated negotiations, or economic development activities, where  
25 receipt of the expenses is approved in advance.

26 (I) Food or beverage consumed by a public official acting in an official capacity:

27 (i) In association with the review, approval, execution of documents or closing of a  
28 borrowing, investment or other financial transaction, including any business agreement  
29 between state government as defined in ORS 174.111, a local government as defined in  
30 ORS 174.116 or a special government body as defined in ORS 174.117 and a private  
31 entity or public body as defined in ORS 174.109;

2 (ii) While engaged in due diligence research or presentations by the office of the State  
3 Treasurer related to an existing or proposed investment or borrowing; or

4 (iii) While engaged in a meeting of an advisory, governance or policy-making body of  
5 a corporation, partnership or other entity in which the office of the State Treasurer has  
6 invested moneys.

7 (J) Waiver or discount of registration expenses or materials provided to a public official  
8 or candidate at a continuing education event that the public official or candidate may  
9 attend to satisfy a professional licensing requirement.

10 (K) Expenses provided by one public official to another public official for travel inside  
11 this state to or from an event that bears a relationship to the receiving public official's  
12 office and at which the official participates in an official capacity.

13 (L) Food or beverage consumed by a public official or candidate at a reception where  
14 the food or beverage is provided as an incidental part of the reception and no cost is  
15 placed on the food or beverage.

16 (M) Entertainment provided to a public official or candidate or a relative or member of  
17 the household of the public official or candidate that is incidental to the main purpose of  
18 another event.

19 (N) Entertainment provided to a public official or a relative or member of the household  
20 of the public official where the public official is acting in an official capacity while  
21 representing state government as defined in ORS 174.111, a local government as defined  
22 in ORS 174.116 or a special government body as defined in ORS 174.117 for a  
23 ceremonial purpose.

24 (O) Anything of economic value offered to or solicited or received by a public official  
25 or candidate, or a relative or member of the household of the public official or candidate:

26 (i) As part of the usual and customary practice of the person's private business, or the  
27 person's employment or position as a volunteer with a private business, corporation,  
28 partnership, proprietorship, firm, enterprise, franchise, association, organization, not-for-  
29 profit corporation or other legal entity operated for economic value; and

30 (ii) That bears no relationship to the public official's or candidate's holding of, or  
31 candidacy for, the official position or public office.

1 (P) Reasonable expenses paid to a public school employee for accompanying  
2 students on an educational trip...

3 (9) "Legislative or administrative interest" means an economic interest, distinct from that  
4 of the general public, in:

5 (a) Any matter subject to the decision or vote of the public official acting in the public  
6 official's capacity as a public official; or

7 (b) Any matter that would be subject to the decision or vote of the candidate who, if  
8 elected, would be acting in the capacity of a public official.

9 (10) 'Member of the household' means any person who resides with the public official or  
10 candidate...

11 (12) 'Potential conflict of interest' means any action or any decision or recommendation  
12 by a person acting in a capacity as a public official, the effect of which could be to the  
13 private pecuniary benefit or detriment of the person or the person's relative, or a business  
14 with which the person or the person's relative is associated, unless the pecuniary benefit  
15 or detriment arises out of the following:

16 (a) An interest or membership in a particular business, industry, occupation or  
17 other class required by law as a prerequisite to the holding by the person of the  
18 office or position.

19 (b) Any action in the person's official capacity which would affect to the same  
20 degree a class consisting of all inhabitants of the state, or a smaller class  
21 consisting of an industry, occupation or other group including one of which or in  
22 which the person, or the person's relative or business with which the person or the  
23 person's relative is associated, is a member or is engaged.

24 (c) Membership in or membership on the board of directors of a nonprofit  
25 corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.

26 (13) 'Public office' has the meaning given that term in ORS 260.005.

27 (14) 'Public official' means any person who, when an alleged violation of this chapter  
28 occurs, is serving the State of Oregon or any of its political subdivisions or any other  
29 public body as defined in ORS 174.109 as an elected official, appointed official, employee



or agent, irrespective of whether the person is compensated for the services.<sup>1</sup>

(15) 'Relative' means:

(a) The spouse, parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the public official or candidate;

(b) The parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the spouse of the public official or candidate;

(c) Any individual for whom the public official or candidate has a legal support obligation;

(d) Any individual for whom the public official provides benefits arising from the public official's public employment or from whom the public official receives benefits arising from that individual's employment; or

(e) Any individual from whom the candidate receives benefits arising from that individual's employment.

(16) 'Statement of economic interest' means a statement as described by ORS 244.060 or 244.070.

**244.025 Gift limit.** (1) During a calendar year, a public official, a candidate or a relative or member of the household of the public official or candidate may not solicit or receive, directly or indirectly, any gift or gifts with an aggregate value in excess of \$50 from any single source that could reasonably be known to have a legislative or administrative interest.

**244.040 Prohibited use of official position or office; exceptions; other prohibited actions.** (1) Except as provided in subsection (2) of this section, a public official may not use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment for the public official, a relative or member of the household of the public official, or any business with which the public official or a relative or member of the household of the public official is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official

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<sup>1</sup> The definition of "public official" was amended in 2015 to expressly include the First Partner. ORS 244.020(15) (2015).

1 position or office.

2 (2) Subsection (1) of this section does not apply to:

3 (a) Any part of an official compensation package as determined by the public body  
4 that the public official serves.

5 (b) The receipt by a public official or a relative or member of the household of the  
6 public official of an honorarium or any other item allowed under ORS 244.042.

7 (c) Reimbursement of expenses.

8 (d) An unsolicited award for professional achievement.

9 (e) Gifts that do not exceed the limits specified in ORS 244.025 received by a  
10 public official or a relative or member of the household of the public official from a  
11 source that could reasonably be known to have a legislative or administrative  
12 interest.

13 (f) Gifts received by a public official or a relative or member of the household of the  
14 public official from a source that could not reasonably be known to have a  
15 legislative or administrative interest.

16 (g) The receipt by a public official or a relative or member of the household of the  
17 public official of any item, regardless of value, that is expressly excluded from the  
18 definition of "gift" in ORS 244.020.

19 (h) Contributions made to a legal expense trust fund established under ORS  
20 244.209 for the benefit of the public official.

21 (3) A public official may not solicit or receive, either directly or indirectly, and a person  
22 may not offer or give to any public official any pledge or promise of future employment,  
23 based on any understanding that the vote, official action or judgment of the public official  
24 would be influenced by the pledge or promise.

25 (4) A public official may not attempt to further or further the personal gain of the public  
26 official through the use of confidential information gained in the course of or by reason of  
27 holding position as a public official or activities of the public official.

28 (5) A person who has ceased to be a public official may not attempt to further or further  
29 the personal gain of any person through the use of confidential information gained in the  
30 course of or by reason of holding position as a public official or the activities of the person  
31 as a public official.

(6) A person may not attempt to represent or represent a client for a fee before the governing body of a public body of which the person is a member. This subsection does not apply to the person's employer, business partner or other associate.

(7) The provisions of this section apply regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed under ORS 244.120.

**244.120 Methods of handling conflicts; Legislative Assembly; judges; appointed officials; other elected officials or members of boards.** (1) Except as provided in subsection (2) of this section, when met with an actual or potential conflict of interest, a public official shall:

(a) If the public official is a member of the Legislative Assembly, announce publicly, pursuant to rules of the house of which the public official is a member, the nature of the conflict before taking any action thereon in the capacity of a public official.

(b) If the public official is a judge, remove the judge from the case giving rise to the conflict or advise the parties of the nature of the conflict.

(c) If the public official is any other appointed official subject to this chapter, notify in writing the person who appointed the public official to office of the nature of the conflict, and request that the appointing authority dispose of the matter giving rise to the conflict. Upon receipt of the request, the appointing authority shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the appointing authority.

(3) Nothing in subsection (1) or (2) of this section requires any public official to announce a conflict of interest more than once on the occasion which the matter out of which the conflict arises is discussed or debated.

**244.130 Recording of notice of conflict; effect of failure to disclose conflict.** (1)

When a public official gives notice of an actual or potential conflict of interest, the public body as defined in ORS 174.109 that the public official serves shall record the actual or potential conflict in the official records of the public body. In addition, a notice of the actual or potential conflict and how it was disposed of may in the discretion of the public body be provided to the Oregon Government Ethics Commission within a reasonable period of

1 time.

2 (2) A decision or action of any public official or any board or commission on which the  
3 public official serves or agency by which the public official is employed may not be voided  
4 by any court solely by reason of the failure of the public official to disclose an actual or  
5 potential conflict of interest.

6  
7 **292.230 Policy on out-of-state travel; guidelines; use of travel awards; rules. (2)**  
8 Notwithstanding any other law, including but not limited to ORS 243.650 to 243.782, it is  
9 the policy of the state that travel awards earned while conducting state business shall be  
10 used to reduce the costs of state travel expenses except as otherwise required as a  
11 prerequisite to receipt of federal or other granted funds. The use of travel awards obtained  
12 while conducting state business for personal travel constitutes personal gain from state  
13 employment and violates ORS 244.040.

14  
15 The following Oregon Administrative Rules were in effect in 2014, and are applicable to  
16 the issues addressed herein:

17 **199-005-0035 Guidelines for compliance with ORS 244.020(6), 244.025, 244.040,**  
18 **244.042 and 244.047**

19 (1) The purpose of this rule is to define certain terms and to clarify substantive provisions  
20 of ORS 244.020(6), 244.025, 244.040, 244.042 and 244.047.

21 (2) The term "official duties" means that the public official's actions are directly related to  
22 serving the state of Oregon or any of its political subdivisions or any other public body as  
23 a public official.

24 (3) An "official compensation package" means the wages and other benefits provided to  
25 the public official. To be part of the public official's "official compensation package", the  
26 wages and benefits must have been specifically approved by the public body in a formal  
27 manner, such as through a union contract, an employment contract, or other adopted  
28 personnel policies that apply generally to employees or other public officials. "Official  
29 compensation package" also includes the direct payment of a public official's expenses  
30 by the public body, in accordance with the public body's policies.

31 (4) As used in ORS 244.040(2)(c), "reimbursement of expenses" means the payment by

2 a public body to a public official serving that public body, of expenses incurred in the  
3 conduct of official duties on behalf of the public body. Any such repayment must comply  
4 with any applicable laws and policies governing the eligibility of such repayment.  
5 Expenses paid by the public body to their own public officials need not be reported by the  
6 public official under ORS 244.060.

7 (5) "Confidential information" means any record that is exempt from public disclosure or  
8 inspection under state law, or any information obtained in the course of or by reason of  
9 holding position as a public official that is not publicly disclosed. The record or information  
10 is no longer confidential if it has been voluntarily disclosed by the public body, or been  
11 disclosed through a public records disclosure order or court order.

12 (6) As used in ORS 244.047, a public contract is "authorized by" a public official if the  
13 public official performed a significant role in the selection of a contractor or the execution  
14 of the contract. A significant role can include recommending approval or signing of the  
15 contract, including serving on a selection committee or team, or having the final  
16 authorizing authority for the contract.

17 (7) As defined in ORS 244.020(14), a public official includes anyone serving the State of  
18 Oregon or any of its political subdivisions or any other public body in any of the listed  
19 capacities, including as an "agent." An "agent" means any individual performing  
20 governmental functions. Governmental functions are services provided on behalf of the  
21 government as distinguished from services provided to the government. This may include  
22 private contractors and volunteers, depending on the circumstances. This term shall be  
23 interpreted to be consistent with Attorney General Opinion No. 8214 (1990).

24 **INVESTIGATION:** The Oregon Government Ethics Commission (Commission) received  
25 a letter of complaint from Vicki Berger on 10/15/14. #PR1. Ms. Berger alleged that Cylvia  
26 Hayes, then acting as an unpaid Policy Advisor in the Office of the Governor and as the  
27 First Lady of Oregon based on her relationship with then Governor John Kitzhaber, might  
28 have attempted to use her position for personal financial gain by using State of Oregon  
29 resources for her personal business, by using confidential information for her personal  
30 financial benefit, and by using her activities and position with the Office of the Governor  
31 to obtain consulting contracts. She also alleged that Ms. Hayes may have accepted an

1 in-kind donation from a source with a legislative or administrative interest in the Office of  
2 the Governor.

3  
4 After the preliminary review began, the Commission received information that a criminal  
5 investigation was being conducted by the Oregon Department of Justice (Oregon DOJ)  
6 and the U.S. Department of Justice (US DOJ) regarding the same circumstances that  
7 provided the basis for the preliminary review. As required by ORS 244.260(4)(e)(A)  
8 (2013), the preliminary review was suspended until information was received on 6/16/17  
9 that the criminal investigations were concluded. The Commission found cause to  
10 investigate on 7/14/17 after considering the information developed in the preliminary  
11 review. The investigation focused on whether there is enough information to find by a  
12 preponderance of the evidence that Ms. Hayes violated Oregon Government Ethics law.  
13 Ms. Hayes was notified of the Commission's actions in this matter, and was invited to  
14 provide any information that would assist the Commission in conducting this investigation.

15  
16 The initial complaint Ms. Berger submitted included a news article and alleged as follows:

- 17  
18 1. "Did Cylvia Hayes, individually or through her consulting business,  
19 3EStrategies (or 3EStrategies, LLC), or any other business or non-profit  
20 entity owned or controlled by her, engage in any consulting activities for the  
21 Energy Foundation, Demos or Resource Media using State of Oregon  
22 supplies, facilities, equipment, employees, records or other public  
23 resources, including government buildings such as offices, conference  
24 rooms and/or Mahonia Hall?
- 25 2. Did Cylvia Hayes, individually or through her consulting business, use  
26 Governor's Office staff to schedule meeting[s] or activities to further her  
27 work for the Energy Foundation, Demos or Resource Media?
- 28 3. Did Cylvia Hayes use confidential information gained as a public official to  
29 benefit her work for the Energy Foundation, Demos or Resource Media?
- 30 4. Did Cylvia Hayes use the title "First Lady" of Oregon in work that she did,  
31 individually or through her consulting business, in private consulting work

1 that she or her firm did for the Energy Foundation, Demos or Resource  
2 Media?

3 5. Did Cylvia Hayes, individually or through her consulting business, directly  
4 or indirectly, use her activities or position as "First Lady" and policy advisor  
5 to the Governor in order to obtain consulting contracts with the Energy  
6 Foundation, Demos or Resource Media?

7 6. Did Cylvia Hayes fail to disclose her economic ties to the Energy  
8 Foundation, Demos or Resource Media when speaking at events  
9 sponsored by them and using the title of "First Lady"?

10 7. Did Cylvia Hayes accept an in-kind donation of the salary of a press  
11 spokesperson from the Oregon Business Council, an organization which  
12 has economic and/or administrative interest in state policy[?]" #PR1.  
13

14 Ms. Berger submitted additional information on 1/12/15, which included two articles from  
15 the Willamette Week describing allegations that Ms. Hayes used staff in the Office of the  
16 Governor to track news about marine issues, request talking points, book travel for her  
17 private business, schedule meetings for her private business, and scan and organize  
18 receipts by organization/client for her private business. #PR2.  
19

20 Two additional complaints were submitted to the Commission, both of which were filed as  
21 duplicate complaints and consolidated with this case. Margie Hughes, director of the  
22 Oregon Republican Party, submitted a complaint on 10/16/14, alleging that Ms. Hayes  
23 had been conducting private business from the governor's office and/or using state  
24 employee staff to book her travel and administer her private consulting business. Articles  
25 from OregonLive.com were attached to the complaint. #PR3.  
26

27 Ifeanyichukwu Chijioke Diru submitted a complaint to the Commission on 11/10/14,  
28 alleging that Ms. Hayes might have used her official position for personal financial gain  
29 and that Ms. Hayes may have had conflicts of interest in the contracts she obtained to  
30 grow the interest of her private business. Mr. Diru also alleged that Ms. Hayes might have  
31 used government buildings to hold meetings that advanced the interests of her private

1 business. #PR4.

2

3 Liani Reeves, then General Counsel for the Office of the Governor, submitted redacted  
4 and unsigned copies of the contracts and several subsequent memoranda regarding Ms.  
5 Hayes's perceived potential or actual conflicts of interest related to the contracts to the  
6 Commission with a request for a Commission Advisory Opinion on the matter on  
7 10/13/14.<sup>2</sup> The memoranda, each titled "Disclosure of Potential or Actual Conflict of  
8 Interest," are from Ms. Hayes to Curtis Robinhold, then the Governor's Chief of Staff, and  
9 Ms. Reeves. Ms. Reeves and Mr. Robinhold responded within the memoranda with  
10 instructions on how to avoid the prohibition in ORS 244.040 on use of official position or  
11 office for personal financial gain. The memoranda and responses are dated between June  
12 and August 2014. In at least one of the responses the Governor's official residence,  
13 Mahonia Hall, is referred to as Ms. Hayes's "part-time residence," with guidelines for how  
14 Ms. Hayes could use the house while conducting her private business. #PR8.

15

16 This investigation focused on three areas of Oregon Government Ethics law:

17

18 1. Prohibited use of official position for personal financial gain, ORS 244.040(1),  
19 which included:

20 a. Examining whether Ms. Hayes accepted financial opportunities such as  
21 contracts for herself or a business with which she was associated that would  
22 not have been available to her but for her position[s] as First Lady and/or  
23 policy advisor to the Governor;

24 b. Examining whether Ms. Hayes used her position[s] as First Lady and/or  
25 policy advisor to the Governor to create or attempt to create opportunities  
26 for financial gain or avoidance of a financial detriment for herself or for a  
27 business with which she was associated, if those opportunities would not  
28 have been available if she did not hold her public positions; and

29 c. Examining whether Ms. Hayes used or attempted to use her access to State

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<sup>2</sup> The Commission denied the request for a Commission Advisory Opinion on 11/7/14 because the events described in the request had already occurred, and because this preliminary review had begun.



of Oregon resources such as state office equipment, state employee time, state contracts, or state property to obtain a financial benefit or avoid a financial detriment for herself or a business with which she was associated;

2. Conflicts of interest, ORS 244.120(1)(c), which involved examining whether Ms. Hayes took any actions in her official capacity as First Lady and/or policy advisor to the Governor that could or would have affected her personal financial interest, and, if so, whether she properly followed the procedures for handling conflicts of interest under Oregon Government Ethics law; and
3. Gifts, ORS 244.025, which involved examining whether Ms. Hayes had accepted something of economic value that was not offered to others who are not public officials on the same terms and conditions, of a value exceeding the \$50 per year limit specified by statute, from a single source with a legislative or administrative interest.

The investigation in this case involved review of many documents related to the case. This included portions of Governor Kate Brown's public records releases of emails that included emails to and from Dr. Kitzhaber's email accounts and emails to and from Ms. Hayes that were archived because they included Governor's office staff. It also included emails from Ms. Hayes's email accounts that are available from the Oregon State Archives that were released pursuant to a public records request. Due to the number of records that are available in this matter, most of which are publicly available in electronic format, the lack of uniform or comprehensive search functions, the limited staffing resources of the Commission, and the short statutory time period remaining after the completion of the state and federal criminal investigation, Commission staff were not able to review all of the documents available in this matter. Nor could staff follow up on every relevant document. The focus of this investigation was therefore limited to determining whether the documents that could be reviewed during the investigation period were relevant to the allegations made by the complainants in this case, and whether that relevant information supported one or more preliminary findings of violation of Oregon Government Ethics law. There remain, no doubt, relevant documents and inquiries that could not be included due the time and staffing constraints of this investigation.

1  
2 Ms. Hayes was invited to provide any information that would be helpful to the Commission  
3 in this matter; staff did review all of the documents that she submitted to the Commission.  
4

5 BACKGROUND -  
6

7 Dr. John Kitzhaber was elected Governor of Oregon for his third, non-consecutive term  
8 on 11/2/10 and took office on 1/10/11. Although First Lady or First Gentleman is a title  
9 traditionally given to the spouse of a head of state, both Governor Kitzhaber and Cylvia  
10 Hayes, his significant other, referred to Ms. Hayes as "First Lady," and she assumed that  
11 role. As First Lady, her official campaign was the Oregon Prosperity Initiative, which  
12 worked on issues of poverty alleviation. #INV6, GOV1489. She also announced in  
13 February 2012 that she would be focusing on issues of ocean health as First Lady in  
14 addition to her poverty and hunger work. #INV6, GOV194642-194647.  
15

16 During Governor Kitzhaber's administration, Ms. Hayes used several email accounts. She  
17 used a gmail account whose signature line identified her as First Lady ("First Lady  
18 account"). She used a 3EStrategies email account whose signature line identified her as  
19 CEO of 3EStrategies ("3EStrategies account"). For a brief period, she also had an email  
20 address with Rural Development Initiatives.  
21

22 As First Lady, Ms. Hayes received protection from the Dignitary Protection Unit (DPU) of  
23 the Oregon State Police. The DPU provides protection for the "Governor and members  
24 of the Governor's immediate family". Governor Kitzhaber designated Ms. Hayes as First  
25 Lady and asked that she be provided DPU protection. #INV31. The DPU policy states  
26 that "the Trooper assigned to the First Lady...will drive and provide protection for the First  
27 Lady during her daily appointments." The DPU policy does not limit its transportation and  
28 protection services for the first family to only official appointments. #INV17.  
29

30 ///

31 ///

///

**Ms. Hayes's Consulting Business:**

2

3 According to Ms. Hayes's résumé, she has been working as a consultant in the "New  
4 Economy" field since 2009. Ms. Hayes describes her mission as "to help accelerate the  
5 transition to a sustainable, resilient economy that restores natural systems and improves  
6 the wellbeing of people across the income spectrum." She explains that she "carried this  
7 passion and expertise into my work as First Lady of Oregon tackling issues related to a  
8 faulty economic model and systemic challenges of poverty." #INV1.

9

10 For her career history, Ms. Hayes lists, among others, positions as CEO and founder of  
11 3EStrategies (1998 to present), First Lady of Oregon (January 2011-Feb. 2015), and  
12 Senior Fellow with the Clean Economy Development Center (Feb. 2011 to August 2012).  
13 Under the heading "International Experience (within the past five years)", she states, "Led  
14 State of Oregon trade mission to Ghangzhou China to explore carbon-reduction  
15 opportunities and lean manufacturing." Under "Additional Experience," she lists, "Political  
16 experience, as a candidate, campaign manager, First Lady of Oregon and policy advisor."  
17 #INV1.

18

19 In the Career History section, under the heading "State of Oregon" and "First Lady of  
20 Oregon," Ms. Hayes says,

21

22 "As First Lady I launched the Oregon Prosperity Initiative designed to raise  
23 awareness about the crises and costs of poverty and implement system-  
24 wide strategies to reduce and prevent poverty. This initiative embedded  
25 poverty reduction strategies into the Ten Year State Budget Plan and has  
26 catalyzed numerous high impact, community-based Prosperity Impact  
27 projects.

28

29 I also participated in the development of the Oregon Ten Year Energy Plan  
30 and the Oregon Genuine Progress Indicator." #INV1.

31

1 Under the heading, "Clean Economy Development Center" and "Senior Fellow," Ms.  
2 Hayes says that her services included:

- 3
- 4 • "Writing, speaking and shaping narrative for policy innovation to accelerate  
5 clean economy developments. Catalyzed and advised on development of  
6 multi-state, regional, clean economy policies and initiatives, beginning in the  
7 Northwest.
  - 8 • Developed/ promoted adoption of effective, sustainable economic progress  
9 metrics." #INV1.
- 10

11 3EStrategies –

12

13 According to the Oregon Secretary of State Corporate Division, Ms. Hayes was one of  
14 four incorporators of a public benefit (nonprofit) corporation incorporated in January 2002  
15 as Earth Connections – Oregon. Ms. Hayes filed Articles of Amendment in 2003 changing  
16 the name to 3EStrategies, and again in 2009 changing the name to The Green Economy  
17 Institute, Inc. #INV2.

18

19 On the same date in 2009 that Ms. Hayes filed to change the name of the nonprofit from  
20 3EStrategies to The Green Economy Institute, Ms. Hayes filed Articles of Organization  
21 for a limited liability company called 3EStrategies. Ms. Hayes was listed as the organizer  
22 of this LLC, and continues to be listed as the registered agent and sole member. #INV3.

23

24 According to the 3EStrategies website, 3EStrategies "works with private companies,  
25 government agencies and non-profit organizations to create and promote successful  
26 projects and products that contribute to a healthier, more equitable and sustainable  
27 economy." A list of select consulting clients on the site includes public bodies such as the  
28 City of Bend, the Oregon Community Colleges and Workforce Development Department,  
29 and Oregon Housing and Community Services, companies such as Hix Rubenstein and  
30 Waste to Energy LLC, and nonprofits, some of which are at issue in this investigation.  
31 #INV4.

Ms. Hayes's Role in the Office of the Governor:

2

3 In addition to acting as First Lady during Governor Kitzhaber's third and fourth terms, Ms.  
4 Hayes was given the role of policy advisor in his office. In that capacity, she advised the  
5 Governor on issues of clean energy and economic development. #INV6, GOV1489.

6

7 As described below, Governor Kitzhaber involved Ms. Hayes in the activities of the Office  
8 of the Governor throughout the period 2011-2015. For example, at one point he copied  
9 her on an email to a staff member saying that he appreciated the proposal on dealing with  
10 gang issues. #INV7, Vol.10, email from J. Kitzhaber to D. Shepard, 9/2/11. He forwarded  
11 her information about the Elliott and Tillamook State Forests, and asked his staff to send  
12 a copy of the "Jobs and Innovation" strategy slides to Ms. Hayes if she didn't already have  
13 them. #INV7, Vol.14, RE: Elliott, email from C. Hayes to J. Kitzhaber, 10/18/11; email  
14 from J. Kitzhaber to S. Nelson and D. Carol, 10/21/11. At one point, Dan Carol, the  
15 Director of Multi-State and Strategic Initiatives in the Governor's office sent an email to  
16 Ms. Hayes, Dr. Kitzhaber, and Chief of Staff Curtis Robinhold that said, "Cylvia, I see you  
17 as the lead on all things poverty... I also see myself, and you, and Scott, as key team  
18 players on energy and many other issues. But not the leads." #INV7, Vol.33, Re: NGA's  
19 clean energy economic development policy academy, email from C. Robinhold to D.  
20 Carol, 2/28/13.

21

22 Apparently, Ms. Hayes had been involved before Governor Kitzhaber took office with a  
23 group concerned with environmental issues. She continued her work with that group after  
24 becoming First Lady, including facilitating the scheduling of meetings between the group  
25 and Governor's office staff. Specifically, after a meeting of the group in January 2011,  
26 John Miller, President of Wildwood/Mahonia, sent out an email summarizing what they  
27 had left to do. He ended by asking Ms. Hayes to schedule a meeting with Curtis Robinhold  
28 and Tim Raphael in the Office of the Governor to talk about a proposal. Ms. Hayes  
29 forwarded the email to Mr. Robinhold, asking him to look at the email from Mr. Miller and  
30 suggest a few dates that might work for "this next meeting." Mr. Robinhold responded that  
31 he would ask Grace, presumably an assistant, to find a time that worked for him and Mr.

1 Raphael. #INV6, 58228-58231. The meeting appears to have been scheduled for 1/31/11,  
2 and in advance of the meeting, Mr. Miller circulated a document titled "Recommendations  
3 to Governor Kitzhaber 1/31/11" that contained legislative and other suggestions for the  
4 Governor on natural resources and the environment, including a recommendation that  
5 Governor Kitzhaber meet with other governors at the upcoming National Governors  
6 Association meeting regarding collaborative work on clean energy and climate change  
7 efforts. #INV8, *FW: From John Miller*, email from J. Miller to C. Hayes, et al., 1/26/11.

8

9 Ms. Hayes also continued her involvement in a group that was making recommendations  
10 to the Governor's office on energy and climate related issues. Ms. Hayes suggested to  
11 the group on an email that they use a piece by Pat Egan, one of the group, as the basis  
12 for a list of principles that the group would recommend to the Governor to use when  
13 considering legislation. #INV8, *RE: next 10 year energy policy meeting on Feb. 11*, email  
14 from P. Egan to C. Hayes et al., 2/2/11.

15

16 On 2/15/11, Ms. Hayes forwarded to Dr. Kitzhaber an email in which Governor's office  
17 staff explained to her that the state was not able to provide technology support for her  
18 personal electronic devices. #INV8, *FW: Computer/Blackberry Support*, email from C.  
19 Hayes to J. Kitzhaber, 2/15/11. On 2/17/11, Ms. Hayes sent an email to Dr. Kitzhaber  
20 detailing her assigned follow-ups from a conversation they had that night. The list included  
21 meeting with Dr. Kitzhaber's new legal counsel to help her "relax" and "indoctrinating"  
22 Curtis [Robinhold], the Governor's Chief of Staff, with the "Big Picture/vision/mission," as  
23 well as helping the entire staff understand the "brand and vision." #INV8, *Pings*, email  
24 from C. Hayes to J. Kitzhaber, 2/17/11.

25

26 A few days later, on 2/21/11, Dr. Kitzhaber sent Ms. Hayes an email (excerpted further  
27 below) in which he expressed his understanding about her distaste for fundraising for her  
28 job and his hope that her work and his work would come together to become "our" work.  
29 He also said, "I also think that getting you set up in the office will be an important step to  
30 get you out of that big house and around your loving peeps (especially this peep) during  
31 the work day." #INV8, *FW: A few words from your mate*, email from J. Kitzhaber to C.

Hayes, 2/21/11. On 2/23/11, Ms. Hayes sent Dr. Kitzhaber a reminder email concerning  
2 to check on some things they had discussed, which included whether Ms. Hayes could  
3 testify about legislation and with what services Mary [Rowinski] could help Ms. Hayes.  
4 "[C]ould she for instance pick up NGA supplies for me?" #INV8, *A few items*, email from  
5 C. Hayes to J. Kitzhaber, 2/23/11. (It is unclear to what NGA refers.)  
6

7 When Ms. Hayes received an email from John Audley, then with Renewable Northwest,  
8 referring to a phone conversation they had, Ms. Hayes followed up with an email saying  
9 that she could "help/ participate" with messaging in four ways: by incorporating some of  
10 the message elements into the West Coast Clean Economy work (with Rural  
11 Development Initiatives, see below), using the First Lady platform, keeping "the Kitz  
12 Admin and key staff" aware of developments, and tying it into her work with  
13 PDX2GulfCoast. #INV8, *RE: follow up*, email from C. Hayes to J. Audley, 2/28/11.  
14

15 Early in Dr. Kitzhaber's third term, Ms. Hayes received, at her 3EStrategies email  
16 address, an email from Bruce Sullivan, a Green Building Consultant, asking if Dr.  
17 Kitzhaber would be interested in giving the keynote speech at an event in Bend. Mr.  
18 Sullivan wrote that he had also left a voicemail and sent an email to the Governor's office,  
19 but that he did not expect a response. Ms. Hayes forwarded the email to Dr. Kitzhaber  
20 with a note that said, "Hey Dear, This would be one to refer back to me. Love, C." Dr.  
21 Kitzhaber forwarded it to his scheduler. #INV7, Vol.1, *FW: NW Green Building Summit*,  
22 email from J. Kitzhaber to J. Murdock, 2/16/12.  
23

24 In March 2011, when the Governor's office got a request from the Oregon Environmental  
25 Council for a time to brief the Governor on the Oregon Sustainability Center, the  
26 Governor's scheduler, Jan Murdock, forwarded the request to Dr. Kitzhaber, saying that  
27 it seemed like something that Ms. Hayes would be interested in and that she could have  
28 Ms. Hayes's scheduler, Mary Rowinski add it to Ms. Hayes's calendar. "Yes," Dr.  
29 Kitzhaber replied, copying Ms. Hayes at her 3EStrategies email address, "I think Cylvia  
30 would be interested in this." Ms. Hayes asked that it be put on her schedule. #INV7, Vol.1,  
31 *RE: request for briefing for the Governor on the Oregon Sustainability Center*, email from

1 C. Hayes to J. Kitzhaber, 3/30/11.

2

3 In April 2011, Dr. Kitzhaber made remarks at the launch of *Just Below the Surface*, a  
4 discussion curriculum that resulted from the experience of 22 Oregonians who went to  
5 the Gulf Coast after the BP Macondo oil spill into the Gulf of Mexico. Ms. Hayes hosted  
6 the event. In the event description that was sent to the Governor's office, Ms. Hayes was  
7 identified as the CEO of 3EStrategies and the Rural Development Initiative's Director of  
8 the West Coast Clean Economy Collaborative. Dr. Kitzhaber had been interviewed for the  
9 accompanying documentary, "Beyond the Spill," the trailer for which was shown at the  
10 event. #INV7, Vol. 2, *FW: Event on April 13<sup>th</sup> - Talking points*, email from J. Murdock to J.  
11 Kitzhaber, 4/12/11; *Fw: Please note - slightly revised agenda*, email from J. Murdock to  
12 J. Kitzhaber, 4/12/11. Although the full documentary does not appear to be available  
13 online, Dr. Kitzhaber appeared in the trailer. He was pictured in front of shelves and the  
14 US and Oregon flags in what appears to be the Oregon Governor's ceremonial office, but  
15 there was no accompanying text in the trailer identifying him as Governor of Oregon.  
16 #INV22. Ms. Hayes had an article in the discussion curriculum entitled *Building a 21<sup>st</sup>*  
17 *Century Sustainable Economy*, which also described her as the founder and CEO of  
18 3EStrategies. #INV48. In her emails with the organizer, Ms. Hayes said, "Also, we should  
19 promote the fact that the Gov and First Lady will be a part of this. Since this is a volunteer  
20 effort on my part I can wear my First Lady hat. That's probably a better draw for really  
21 good attendance." #INV8, *Re: Event on April 13<sup>th</sup>*, email from M. Rosen to C. Hayes,  
22 4/6/11.

23

24 In June 2011, Dr. Kitzhaber sent a discussion paper on "Moving Toward a Clean  
25 Economy" to Scott Nelson in his office. The discussion paper laid the framework for a  
26 meeting to discuss a game plan for moving Oregon toward a clean economy. Dr.  
27 Kitzhaber's discussion paper talked about the transition to a clean economy as a growth  
28 opportunity for the economy. Mr. Nelson made some minor changes to the document,  
29 and Dr. Kitzhaber suggested that the meeting, scheduled for 6/29/11, include eight  
30 people, mostly from his staff, including Ms. Hayes. #INV7, Vol.6, *RE: Clean Economy*  
31 *Meeting Next Tuesday*, emails from S. Nelson to J. Kitzhaber and J. Kitzhaber to S.



1 Nelson, 6/24/11. Ms. Hayes was not copied on the governor's email containing  
2 attachments for the meeting, which was scheduled for 7/6/11. Dr. Kitzhaber said that "the  
3 challenge of moving toward a clean economy is the next big item – and is an important  
4 component of building a sustainable economy and sustainable jobs going forward." The  
5 attachments laid out the broad components of the challenge, and included some elements  
6 that would require a regional or multi-state approach. #INV7, Vol.6., *Clean Economy*  
7 *Meeting*, email from J. Kitzhaber to C. Robinhold, et al., 7/4/11. It appears that Ms. Hayes  
8 may have attended the meeting because she sent an email to several members of the  
9 group, including Dr. Kitzhaber, on 7/10/11, with the subject, "Enviro vision and brainstorm  
10 session" saying, "As promised here is the list of names I captured from our meeting a few  
11 days ago. These are the people we thought should attend the discussion session at the  
12 Govs [sic] office... As for agenda, we talked about the following:

- 13 • General shore up about how important their issues are to the Administration
- 14 • Strategies/ messaging for enviro movement...
- 15 • Importance of 2013 elections
- 16 • Outline a work plan, gameplan for taking the movement on the offense – bold vision  
17 here." #INV7, Vol.6, *FW: Enviro vision and brainstorm session*, email from J.  
18 Kitzhaber to R. Whitman, et al., 7/12/11.

19  
20 Dr. Kitzhaber forwarded the email to members of his staff, including some additional  
21 names as well as proposed legislators to be involved. #INV7, Vol.6, *FW: Enviro vision*  
22 *and brainstorm session*, email from J. Kitzhaber to R. Whitman, et al., 7/12/11.

23  
24 On 7/15/11, Ms. Hayes forwarded to Dr. Kitzhaber an email she had received regarding  
25 concerns that the conservation community had about some actions he had taken. In his  
26 response, Dr. Kitzhaber said, "Also the real issues [sic] is to get a process in place for this  
27 kind of thing so you (and I) don't have to take unnecessary incoming and burn up time  
28 and focus on shadow boxing." #INV8, *RE: Forest Roads Clean Water Case*, email from  
29 J. Kitzhaber to C. Hayes, 7/15/11.

30  
31 Dr. Kitzhaber was clearly concerned about clean economy issues, including asking his

1 staff to review the list of people scheduled to attend the Governor's trade mission to Asia  
2 and see if there were additional people who should be added. #INV7, Vol.6, RE: *governor*  
3 *mission itinerary and delegation list*, email from S. Nelson to J. Kitzhaber, 7/13/11. On  
4 9/7/11, Dr. Kitzhaber forwarded to Ms. Hayes an email string that discussed the "buckets"  
5 of energy, natural resources, and environment policy issues for which he was working on  
6 arranging staffing as well as a strategy, suggested by his Natural Resources Policy  
7 Director, of getting a Department of Justice attorney working on coal export issues.  
8 #INV7, Vol. 10, RE:, email from C. Hayes to J. Kitzhaber, 9/7/11.

9  
10 In October 2011, Governor Kitzhaber forwarded Ms. Hayes the draft work plan for a 10-  
11 year energy plan for Oregon, which included proposed leadership, staffing, design teams,  
12 and a timeline. Dr. Kitzhaber said to Ms. Hayes, "Looks good to me but wanted to get  
13 your comments." Ms. Hayes responded, "Well, I'm not totally OK with the fact that it's my  
14 vision, my idea and I have no role at all. I have assumed all along that I'd have a part to  
15 play in the overarching vision and direction for this. My work on the [Renewable Energy  
16 Working Group] and the Green Jobs Plan lends itself to this project." #INV7, Vol.13, RE:  
17 *Staffing for ten year plan*, email from J. Kitzhaber to C. Hayes, 10/9/11.

18  
19 "And that is exactly why I sent the draft to you," Dr. Kitzhaber said. "What do you have in  
20 mind?" #INV7, Vol.13, RE: *Staffing for ten year plan*, email from J. Kitzhaber to C. Hayes,  
21 10/9/11.

22  
23 Ms. Hayes said, "Well, I'd like to steer rather than row on this one. I think it would probably  
24 make the most sense if I were on the Policy Advisor team. I don't want to be down in the  
25 weeds on this but I would like to be able to influence overall direction and make sure this  
26 is inspired as well as practical." #INV7, Vol.13, RE: *Staffing for ten year plan*, email from  
27 J. Kitzhaber to C. Hayes, 10/9/11.

28  
29 "Makes perfect sense to me," Governor Kitzhaber said. #INV7, Vol.13, RE: *Staffing for*  
30 *ten year plan*, email from J. Kitzhaber to C. Hayes, 10/9/11.

31 ///

1 Dr. Kitzhaber's office released the 10-Year Energy Action Plan on 12/14/12. Ms. Hayes  
2 was listed in the Task Force Leadership as First Lady of Oregon. The list also included  
3 seven policy advisors and other staff from the Office of the Governor. #INV13.  
4

5 On 10/9/11, Governor Kitzhaber sent out an email addressed to Curtis Robinhold, copying  
6 Ms. Hayes and several Governor's office staff. The subject was "Sustainable Clean  
7 Economy -- Policy Development." The Governor's email says, "As I mentioned, I want to  
8 intentionally build out this policy priority; develop more detail on the restoration and  
9 conservation aspects of this as well as the innovation element -- and engage some  
10 broader thinking. To do so we need a bit more structured process which I have outlined  
11 below. Scott would be the policy staff lead on this overall issue." Dr. Kitzhaber's list of  
12 steps begins with developing the attached working drafts of his Narrative for a Sustainable  
13 Clean Economy and his Sustainable Clean Economy document as a project between Ms.  
14 Hayes, several of Dr. Kitzhaber's staff, and Michael Jung. The same group would develop  
15 a charge for an outside work group appointed by the Governor. He hoped to have a final  
16 draft of the document by the end of the year, followed by clarifying roles and  
17 responsibilities, then designing "roll-out/messaging/communications strategy." #INV7,  
18 Vol.13, *Sustainable Clean Economy -- Policy Development*, email from J. Kitzhaber to C.  
19 Robinhold, 10/9/11.  
20

21 The drafts that Dr. Kitzhaber attached to the email described changes needed to 1. Get  
22 the private sector economy going again, 2. Transform the public education system, and  
23 3. Transform the health care system. He summarized the components of a sustainable  
24 clean economy as the conservation economy, the restoration economy, and the  
25 innovation economy, to create and retain wealth, family wage jobs, and economic activity  
26 while reducing the carbon footprint and restoring the natural environment. #INV7, Vol.13,  
27 *Sustainable Clean Economy -- Policy Development*, email from J. Kitzhaber to C.  
28 Robinhold, 10/9/11.  
29

30 When Governor Kitzhaber invited Robert Young from the University of Oregon to meet  
31 with him, Ms. Hayes, and some of his staff at Mahonia Hall to talk about realigning public

1 institutions and the economy around a common set of goals and aspirations, he attached  
2 to the email a document entitled, "Advancing a Healthy, Resilient Economy" that Ms.  
3 Hayes had written about the clean economy, together with his Unified Theory of  
4 Everything document. #INV7, Vol.26, *Monday Night Dinner*, email from J. Kitzhaber to R.  
5 Young, 4/5/12.

6  
7 Curtis Robinhold, who was Chief of Staff for Governor Kitzhaber, recalled that Ms. Hayes  
8 was initially not invited to weekly senior policy staff meetings, because Mr. Robinhold had  
9 concerns about public meetings law. In late 2011 or early 2012, Mr. Robinhold recalled,  
10 she was added to the meetings at the Governor's request. Ms. Hayes then attended or  
11 called into the meetings occasionally. #INV5. Throughout the period 2011-2015, while Dr.  
12 Kitzhaber was Governor of Oregon, Ms. Hayes was invited to policy meetings, both within  
13 the Governor's office and with outside entities, such as the OR-WA Climate & Energy  
14 Monthly Call, whose invitees are primarily Oregon and Washington officials. See, e.g.  
15 #INV6, GOV71.

16  
17 It is not clear whether Ms. Hayes submitted weekly reports to Mr. Robinhold and received  
18 the weekly report summaries of Governor's office staff activities throughout the Kitzhaber  
19 administration, but she did receive a copy of the weekly report summary on 10/8/12,  
20 forwarded to her by Ms. Rowinski. #INV8, FW: Weekly Report Summary 9/28/12, email  
21 from M. Rowinski to C. Hayes, 10/8/12.

22  
23 Ms. Hayes initially expressed an interest in working on issues of at-risk children and youth  
24 as First Lady, and Dr. Kitzhaber sent several emails asking people to talk with her about  
25 ways she might get involved. These included Ken Thrasher, Duncan Campbell, and Tony  
26 Hopson. #INV6, GOV327575. As time went by, she also stated that she wanted to work  
27 on ocean acidification as First Lady. In October 2011, she sent an email to Governor  
28 Kitzhaber with a list of proposed First Lady of Oregon "ocean advisors," saying, "Here is  
29 my list. I don't really know most of these so I am totally open to your suggestions." #INV7,  
30 Vol.14, FLO ocean advisors list, email from C. Hayes to J. Kitzhaber, 10/15/11.

31 ///

September 2011: First Lady/Policy Protocol –

2

3 In a document from September 2011, with the heading First Lady/Policy Protocol, Ms.  
4 Hayes's focus areas are listed as poverty/hunger, at-risk youth, ocean health, and clean  
5 economy (Governor's office priority). This appears to be a draft document that was  
6 circulated between Ms. Hayes, Dr. Kitzhaber, and one or more unidentified persons. This  
7 document was provided to OGEC by Ms. Hayes as part of the submission her Federal  
8 Public Defender made to the US Attorney's office in the federal criminal investigation.  
9 #PR9.

10

11 Media/Communications: In the first area, Media/Communications, the objective listed is  
12 "to maintain Cylvia's role as an effective channel for moving the Governor's agenda in the  
13 focus areas and to support the broader advocacy of the Governor's office." The document  
14 goes on to say, "When making policy-oriented speeches on her Focus Areas, the First  
15 Lady will coordinate her schedule and talking points with the communications staff and  
16 the relevant policy advisor, notifying XYZ<sup>3</sup> of speaking engagements and running talking  
17 points by staff as appropriate." #PR9.

18

19 Ms. Hayes added a comment that said, "I think all my speeches – policy, advocacy,  
20 human interest – should be coordinated with the policy advisors and communications  
21 staff. My intent here is to lean in and use my First Lady position to the best of my ability  
22 to make our administration as effective as possible. That being said, there is a fine line  
23 for me as I am not comfortable just being a mouth piece for others' agendas. THAT being  
24 said, I know there isn't much daylight between my values and JKs so it shouldn't be a  
25 problem." #PR9.

26

27 Governor Kitzhaber added a comment that said, "I think we need to more clearly articulate  
28 the objectives/vision in the first three areas and the staff support time that will be involved.  
29 But basically this part of the protocol is fine."

---

3 The draft reads "XYZ." No policy advisor is identified.

1 Ms. Hayes commented that she wanted to make a major impact in the area of poverty  
2 and hunger but did not see herself doing much on the at-risk youth issue independent of  
3 her work on poverty and hunger. She said,

4  
5 "Ocean Health. I am still not clear on how to best help on this issue. I definitely  
6 want to advocate and speak out about the fact that our oceans are in serious  
7 trouble. I have had a lot of folks suggest that I take a policy-oriented role and I am  
8 happy to convey ideas, but I don't have the bandwidth to get into the weeds on  
9 policy issues... I would really love some help from JK, Curtis, Richard W in thinking  
10 through my angle on this one. As John and I have talked about it may be helpful  
11 to actually appoint me to a position associated with this issue...

12 Clean Economy. This is the area that I have real value to add from a policy  
13 perspective. That being said, I do NOT have any desire to spend time drilling down  
14 into really specific policy data. My best value add here is articulating vision,  
15 connecting dots, sharing best practices and helping our administration go bold  
16 strategically." #PR9.

17  
18 Policy Advocacy: the objective in the Policy Advocacy section was "to forward the relevant  
19 policy agenda, maintain policy focus in the Governor's office, maintain the integrity and  
20 effectiveness of the Governor's Senior Policy advisors, and keep a consistent voice on  
21 policy from the administration." #PR9. The document went on to say, "Policy advisors are  
22 the owners of the policy agenda for all aspects of the Governor's Office. Cylvia's primary  
23 role is to be a spokesperson and an advocate for that agenda." Ms. Hayes commented,  
24 "Cylvia needs to be more than just a mouthpiece. I would never go rogue (without great  
25 cause ☺) but I am not just a mouthpiece. I need to feel like a co-author in the agenda I  
26 am promoting." #PR9.

27  
28 Governor Kitzhaber responded in this section, saying,

29  
30 "This all makes sense from the standpoint of lines of communication – but it does  
31 not speak to how Cylvia play a role in policy development and advocacy. And this

2 brings us to her fourth focus area – the Clean Economy – which is a priority of the  
3 Governor’s Office.

4 Resolving this is complicated by the fact that we do not yet have a clear policy on  
5 the clean economy; and that this area has an overlap between energy, natural  
6 resources, the environment and economic development...

7  
8 I think the real challenge involves definition and coordination.

9  
10 We need a process to define and develop our policy around the clean economy  
11 and Cylvia needs a role in that process because this is her area of expertise and  
12 she can add value. Once we have completed this process we will be in a better  
13 position to clarify roles and coordination with senior policy staff and Cylvia.

14  
15 One important point is that Cylvia needs to be advocating the same clean economy  
16 policy in her role as spokesperson/advocate for the Governor’s Office and her role  
17 as a Clean Economy Fellow. There cannot be any daylight between them. But this  
18 is another reason why she needs a role in developing the policy itself.

19  
20 Next Steps:

- 21 ➤ Define a sustainable clean economy
- 22 ➤ Describe the policy development process
- 23 ➤ Define Cylvia’s role as a spokesperson/advocate.” #PR9.

24  
25 Ethics/Identification of Potential Conflicts: the objective in this section is “to obey in all  
26 cases the letter and intent of the law, and to avoid any cases where Cylvia’s work with  
27 the Governor’s Office is anything but positive.” The document then says, “If Cylvia is being  
28 paid by private sector clients in Oregon working on energy issues, she will not participate  
29 in policy discussions on energy issues for the duration of that contract.” #PR9.

30  
31 Ms. Hayes commented, “I need more clarification here. Is this really mutually exclusive if

1 I sign a conflict of interest form? If so, I will pretty much have to either forgo all consulting  
2 or any policy involvement with our Administration.” #PR9.

3  
4 The document continues, “In regard to her Fellowship, Governor’s Legal Counsel will  
5 work with Cylvia to complete the Declaration of Potential Conflict of Interest form. That  
6 Declaration will be treated in the same method as any potential conflicts from staff: the  
7 declaration to be signed and shared with the relevant manager – in this case Chief of  
8 Staff Curtis Robinhold.” Ms. Hayes commented, “It was my recollection that the Conflict  
9 of Interest form was regarding my current waste to energy client not the fellowship.”  
10 Governor Kitzhaber commented, “I think there may be a qualitative difference between  
11 the ethics/conflict of interest issues in Cylvia’s role as a private sector contractor; her role  
12 as a spokesperson/advocate for the administration; and her role as a Clean Energy  
13 Fellow. We should discuss this further with Liani [Reeves, the Office of the Governor’s  
14 Legal Counsel].” #PR9.

15  
16 November 2011: Conflict of Interest Meeting –

17  
18 On 11/4/11, Curtis Robinhold, the Governor’s Chief of Staff, requested a meeting between  
19 himself, Ms. Hayes, and the Office of the Governor’s Legal Counsel, Liani Reeves. “Can  
20 we three talk potential conflict issues and how to declare the [sic] in the next week or so?”  
21 he asked. Ms. Hayes agreed to the meeting and told him to work with her assistant, Mary  
22 Rowinski, to schedule the meeting. #PR9. No further information about this meeting is  
23 available.

24  
25 Publication –

26  
27 In 2013, Ms. Hayes had a piece published in a book called Everything We Know About  
28 Leadership Is Less Than We Still Have to Learn by Jeff Golden “in dialogue with the  
29 American Leadership Forum” (ALF) and others. Ms. Hayes was identified as ALF-Oregon.  
30 In her piece, she said, “Now my service as first lady feels something like a doctoral  
31 program in leading from beside and behind! After many years working on clean energy



1 and sustainable economy development, I suddenly felt blocked from openly contributing  
2 my expertise. I wasn't a state employee or member of the governor's staff, which  
3 complicated my participation in certain formal meetings. And even though I wasn't paid  
4 for my policy work, the governor's team was concerned about public perception. So my  
5 policy development leadership was kept behind the scenes. I was leading from behind...  
6 As I grow into this role and strive to make the most of it in service to positive change, I  
7 am consciously applying the lessons I learned in ALF." An electronic copy of this book  
8 was attached to an email that Ms. Hayes sent to Dr. Kitzhaber, pointing her piece out to  
9 him. #INV7, Vol.38, FW: Book, email from C. Hayes to J. Kitzhaber, 8/29/13.

10  
11 Ms. Hayes's Private Work during the Kitzhaber Administration:

12  
13 Summary –

14  
15 Ms. Hayes's private work during Governor Kitzhaber's administration took three forms:

- 16  
17 1. She was employed by Rural Development Initiatives from February to June 2011  
18 as the Director of the fledgling West Coast Clean Economy Collaborative  
19 (WCCEC), which included fundraising for the WCCEC;  
20 2. She worked as a Clean Economy Acceleration Fellow with the Clean Economy  
21 Development Center (CEDC), from September 2011 to December 2012. In this  
22 role, she advised the WCCEC, worked with the Pacific Coast Collaborative (PCC),  
23 gave speeches and wrote on clean economy issues, worked on ocean acidification  
24 issues, and worked with Portland State University and Demos on a baseline  
25 Oregon Gross Prosperity Index (GPI). She also engaged in fundraising efforts to  
26 finance her fellowship or other paid contracts; and  
27 3. In 2013 she entered into three contracts that continued much of the work she had  
28 been doing through the Clean Economy Acceleration Fellowship, including  
29 working with the WCCEC and PCC, speaking and writing on clean economy  
30 issues, working on ocean acidification, and working on GPI. These contracts were  
31 with Resource Media, the Energy Foundation, and Demos.

1 Rather than being discrete jobs, it appears that Ms. Hayes was doing much of the same  
2 work throughout the time period 2011-2013, despite being paid for that work by several  
3 different organizations. See Appendix A. It also appears that she was doing some of that  
4 same work as First Lady and as a representative of the State of Oregon, including work  
5 on the WCCEC, the PCC, GPI, and ocean acidification. It also appears that some of the  
6 speeches she gave during this time may have been on behalf of both the State of Oregon  
7 as First Lady and as a deliverable for her fellowship or one of her contracts. During this  
8 time, Ms. Hayes was also seeking funding for her fellowship or for other contracts.

9  
10 In May 2013, Ms. Hayes and Liani Reeves, the Office of the Governor's Legal Counsel,  
11 had a telephone conversation about Ms. Hayes's contracts. After this meeting, Ms.  
12 Reeves asked Ms. Hayes to send her copies of all three contracts. Ms. Hayes then filed  
13 "Disclosure of Potential or Actual Conflict of Interest" memoranda addressed to Curtis  
14 Robinhold, the Governor's Chief of Staff, asking him to dispose of the conflict. The dated  
15 versions of these forms are dated between July and August 2013, after Ms. Hayes had  
16 agreed to perform all of the paid work in this matter. In these forms, the response from  
17 Mr. Robinhold and Ms. Reeve is that Ms. Hayes does not have a conflict of interest  
18 because she does not make decisions on behalf of the State of Oregon that would be to  
19 the financial benefit or detriment of the organizations with which she has contracts. They  
20 do, however, caution her about the Commission's Guidelines for Outside Employment of  
21 Public Officials, and offer guidelines on use of her First Lady title and Mahonia Hall. #PR8,  
22 #PR9.

#### 23 24 **Rural Development Initiatives –**

25  
26 From February to June 2011, beginning one month after Governor Kitzhaber took office,  
27 Ms. Hayes worked for Rural Development Initiatives (RDI), a nonprofit organization based  
28 in Eugene, Oregon. According to a press release from RDI, dated 2/5/15, "Ms. Hayes was  
29 hired to explore clean economy options for rural communities. The nature of her work was  
30 programmatic, helping to design the framework for the Clean Economy Collaborative  
31 [which would become the WCCEC], speaking about rural clean economy opportunities

and sharing success stories at RDI trainings and events and contributing to the RDI newsletter." #INV9.

WCCEC Description:

Before Ms. Hayes started working for RDI, she sent a description of the West Coast Regional Clean Economy Collaborative (WCCEC), the program which she would design and direct while working with RDI, by email to Curtis Robinhold, Governor Kitzhaber's Chief of Staff, saying, "Here you go. Let me know what you think." The attached program description listed intended outcomes of the program as:

- "Create regional interstate policy initiatives that catalyze greater energy efficiency and utilization of renewable energy.
- Create partnerships with Governors, NGO's and clean economy businesses to accelerate in clean economy growth.
- Deliver quick wins to demonstrate that clean economy policies and practices are smart economic development strategies.
- Streamline clean economy resource production in rural regions." #INV6, GOV57611-57621, 1/27/11.

The program summary described the political climate and said that the WCCEC would "work with assigned representatives from the Governor's offices in Washington, Oregon and California to stay abreast of state-level policy developments and opportunities for integrating policies regionally... The Collaborative will leverage and enhance the efforts of leading NGOs and local and state government entities that are already engaged in clean economy efforts. The initiative will facilitate relationships between NGO leadership and Governors' offices and key state officials...The Collaborative will not develop independent policy agendas or legislative concepts but will, instead, coordinate and communicate credible policy opportunities being developed by leaders in the clean economy field... The special value added of the WCCEC is its combination of a strong track record working with governors' offices, skill in facilitating collaborative process, deep

1 understanding of rural needs and resources and broad expertise in clean economy issues  
2 and policies." #INV6, GOV57611-57621, 1/27/11.

3

4 A key tool of the WCCEC, according to the description, would be "implementation of  
5 Strategy Academies. Strategy Academies provide guidance on the implementation of  
6 innovative policies and programs at the state and regional level. These Academies focus  
7 on specific, practical steps—including executive orders, administrative rule changes, and  
8 legislation—to implement effective programs in the near- and long-term. Strategy  
9 Academies include experts from think tanks, university research centers, and public  
10 opinion firms... Governors are consulted to select the most effective experts. Legislators,  
11 other interested parties, and the media are also welcome based on the preference of the  
12 participating Governors." #INV6, GOV57611-57621, 1/27/11.

13

14 The deliverables for the program included such things as, "[i]mplement Strategy  
15 Academies to launch program in Oregon, Washington and California," "[i]dentify  
16 legislative opportunities: work with western states' 2011 legislative sessions to enhance  
17 rural clean economy development," and "[i]ntegrate rural interests into the Oregon  
18 Sustainable Energy Plan." The budget called for a total of \$801,000 over three years. The  
19 WCCEC is described as a joint project of RDI and the Center for State Innovation, with  
20 three staff biographies included: Ms. Hayes as Program Director and two senior advisors.  
21 #INV6, GOV57611-57621, 1/27/11.

22

23 Dr. Kitzhaber on RDI:

24

25 On 2/21/11, Dr. Kitzhaber sent Ms. Hayes an email that appears to reference her work at  
26 RDI. In the email, he says,

27

28 "Let me start by saying that I appreciate that everything you are feeling right now  
29 is legitimate: the concern about where the early funding is going to come from; the  
30 distaste to be fundraising again for your job; the sense of isolation; the feeling that  
31 you and I are not saving the world together. So let me just share a few thoughts.

2 First, I will continue to do everything I can to make sure that the bridge funding  
3 comes through and will use my own resources if necessary. I am getting an update  
4 this Friday which will hopefully offer some encouragement. And as I said to you a  
5 few days ago, I think you need to lean into the WORK over this next month and  
6 concentrate on the foundation front (I believe that I can send support letters to  
7 foundations) for the longer term funding of what is a very exciting program.

8 I also think this will come together with "my" work to become our work. I don't want  
9 to give you any more to do but I have attached the Transition Team Report on  
10 Early Childhood which speaks to exactly the kind of system thinking and system  
11 integration we need to do in the clean-economy/environment-climate change  
12 work... It offers a good template and can offer a roadmap for the work (our work)  
13 we can pick up once I get the budget balanced.

14  
15 It seems to me that we can begin to discuss how we want that integration to happen  
16 here in Oregon and what steps we can begin to put in place even now while the  
17 focus is on the budget and Education/Healthcare transformation. I see the work  
18 you are getting set up with the [West Coast Clean Economy Collaborative] as  
19 converging with the education/social service transformation I am counting on to  
20 make the budget work. I see us doing this together and realizing our dream of  
21 saving our planet as a team. That is going to happen.

22  
23 I also think that getting you set up in the office will be an important step to get you  
24 out of that big house and around your loving peeps (especially this peep) during  
25 the work day. I will get on that as soon as I get back and we will have the Green-  
26 Goddess/Earth Star/FL space organized." #INV8, FW: A few words from your  
27 mate, email from J. Kitzhaber to C. Hayes, 2/21/11.

28  
29 It is not clear from the email to what "bridge funding" refers.

30 ///

31 ///

1 Fundraising for RDI:

2  
3 Beginning around the same time, Ms. Hayes was contacting various entities to raise  
4 money to support her work. For example, she exchanged emails with Guido Rahr,  
5 President and Chief Executive of the Wild Salmon Center, regarding two possible funders,  
6 Jubitz (apparently the Jubitz Family Foundation) and Forest Capital Partners. #INV8, *RE:*  
7 *Jubitz*, email from C. Hayes to G. Rahr, 2/24/11; *RE:*, email from C. Hayes to P. McCaig,  
8 3/2/11. Mr. Rahr forwarded a document describing Ms. Hayes's work with RDI to Forest  
9 Capital Partners. The attachment was no longer attached to the email when it was  
10 released to the public. Ms. Hayes sent the email thread on to Patricia McCaig, who was  
11 advising the Governor on the Columbia River Crossing. Ms. Hayes suggested that it might  
12 make sense for Ms. McCaig to contact Matt Donegan at Forest Capital Partners; Ms.  
13 McCaig said that she would do so and asked if Ms. Hayes had an amount in mind. #INV8,  
14 *RE:*, email from C. Hayes to P. McCaig, 3/2/11; *see also* #INV10.

15  
16 Ms. Hayes attached a copy of the WCCEC program description to an email she sent in  
17 March 2011 to a person whose affiliation is not noted. Ms. Hayes described it as "the  
18 program I am currently launching." #INV8, *Me again*, email from C. Hayes to J. Hellard,  
19 3/7/11.

20  
21 Within the Governor's Office:

22  
23 By March 2011, Governor Kitzhaber's office was developing responses to questions  
24 about Ms. Hayes's work at RDI and whether it constituted a conflict of interest. Ms. Hayes  
25 sent an email to Curtis Robinhold and Tim Raphael saying,

26  
27 "Given that I have spent another day immersed in dealing with reporters I want to  
28 reiterate that I'd like some help in getting ahead of the curve on this. Tim suggested  
29 that I write up the questions and answers I've been dealing with and doing [sic]  
30 out. I would prefer that you guys think through the tough questions to the various  
31 audiences we noted and your suggested talking point [sic]. I will fill in my responses

2 from my position and we can go from there. What I'd like is some help on the front  
3 end so that I am not alone in dealing with all of this incoming." #INV6, GOV50661-  
4 50662, 3/11/11.

5 Mr. Robinhold responded:

6  
7 "Tim's crew will put together bullets for the Governor's Office on these issues, and  
8 will also address the issues relating to your role as First Lady (hunger issues, etc.).  
9

10 I believe Tim was suggesting that you should prepare Q&A on your private  
11 business activity for your own use. We can't help you with those issues, of course,  
12 but will get started on the Govs Office stuff right away." #INV6, GOV50661-50662,  
13 3/11/11.  
14

15 The proposed responses for the Governor's office, sent from Curtis Robinhold to Ms.  
16 Hayes, who forwarded it to Dr. Kitzhaber, contained proposed responses from Ms. Hayes,  
17 Dr. Kitzhaber, RDI, and RDI funders to questions such as "Why did you contribute to RDI?  
18 You have been a contributor to the Governor, and his companion, Cylvia Hayes, works  
19 for RDI. Are you trying to gain favor or access with the Governor?" The document  
20 described Ms. Hayes's work with RDI as "focus[ing] on policy collaboration between West  
21 Coast States to advance economic development initiatives that support environmental  
22 protection and restoration, energy security, and economic opportunities." In response to  
23 the question of conflicts of interest, the script for both Governor Kitzhaber and Ms. Hayes  
24 stated that neither of them would use the office to benefit themselves financially. Ms.  
25 Hayes's portion explained that "...the Governor will not be asking anybody for money for  
26 the project, and I will be focussed [sic] on foundation funding." #INV8, FW: Q&A draft 1,  
27 email from C. Hayes to J. Kitzhaber, 3/13/11.  
28

29 The Bend Bulletin published an article about Ms. Hayes's employment with RDI on  
30 3/13/11, which quoted Ms. Hayes saying, "I have stepped back from my consulting work  
31 and chosen to route my work through this really credible not-for-profit organization to

1 avoid any potential conflict of interest – and as many of the perception challenges as  
2 possible.” The article also stated, but did not provide a quote, that the Executive Director  
3 of the OGEC, Ron Bersin, said that the Commission had not been asked whether there  
4 were implications for Dr. Kitzhaber and Ms. Hayes. #INV20.

5  
6 In June 2011, Dr. Kitzhaber taped remarks for the RDI rural conference. #INV7, Vol. 3,  
7 *Talking points - taping for RDI rural conference*, email from J. Murdock to J. Kitzhaber,  
8 6/3/11. Ms. Hayes was, at the time, working for RDI.

9  
10 In June 2011, Dr. Kitzhaber forwarded to Ms. Hayes an email from a supporter. Dr.  
11 Kitzhaber’s accompanying note to Ms. Hayes said:

12  
13 “As I said in my earlier email I know how hard this time is for you. But you are not  
14 alone ... I stand ready to help and support you in any way. I am getting a list of  
15 possible questions for the Ethics Commission to give us clarity one way or the  
16 other; when you come up for air let me know your monthly expenses so I can  
17 calculate cash flow financing to allow you to be the Energy/Clean Economy Guru  
18 for the administration if it comes to that. Mostly I think we need a clear plan  
19 forward.” #INV8, *FW: last evening*, email from J. Kitzhaber to C. Hayes, 6/2/11.

20  
21 The Government Ethics Commission did not receive a request for advice regarding this  
22 matter in June 2011. The Commission first received a request for advice regarding Ms.  
23 Hayes in October 2014.

24  
25 In emails from her RDI email address, including one sent on 3/14/11 and one on 4/1/11,  
26 which Ms. Hayes later forwarded to Dr. Kitzhaber and his scheduler, Jan Murdock, Ms.  
27 Hayes’s signature line describes her as “Director, West Coast Clean Economy  
28 Collaborative.” #INV8, *RE: [Bulk] RE: Cylvia in Seattle*, email from J. Kitzhaber to C.  
29 Hayes, 4/6/11.

30 ///

31 ///



WCCEC Meetings:

2

3 In early April 2011, Ms. Hayes and Andrea Durbin, Executive Director of the Oregon  
4 Environmental Council, began emailing to plan calls and meetings between participants  
5 from Oregon, Washington, and California for the WCCEC. Ms. Durbin suggested May 11-  
6 12 as a date that worked for Washington participants, the Rockefeller Brothers Fund  
7 (RBF) and the Energy Foundation. "I'm crossing my fingers it works for you and JK for  
8 dinner at least!" she said. Ms. Hayes responded that those dates worked for her, but "I  
9 don't yet know about JK. However, I think we may need to think this through and move it  
10 back a little bit to ensure we can get OR and WA governors and the other big foundations  
11 – Rockefeller B, Turner, etc... My thinking is that at the end of this we put together a big  
12 request that will fund all of us and make the ask of these big foundations." #INV8, *Finally!*,  
13 email from C. Hayes to C. Hayes, 4/8/11.

14

15 The attached document listed next steps, including a conference call with participating  
16 organizations including WCCEC, a conference call with participating organizations and  
17 Pacific Coast Collaborative (PCC) representatives, and the in-person meeting on May 11  
18 and 12. Proposed participants in the in-person meeting included funders such as Marcus  
19 Schneider and Katie McCormack of the Energy Foundation, Michael Northrop of the  
20 Rockefeller Brothers Fund, as well as Climate Funders Working Group, the Turner  
21 Foundation, and two other suggestions. Among other proposed participants were Ms.  
22 Hayes, Ms. Durbin, and representatives from Renewable Northwest, the PCC, and the  
23 Governors' offices of Oregon, Washington, and California. Ms. Hayes ended the  
24 document with agenda items and questions. The questions were:

25

- 26 1. "Do we want to bring California in at this point?"
- 27 2. Do we want the government folks there?
- 28 3. What specifically do we want to do with the funders?
- 29 4. How fleshed out should our mega-proposal be in advance?" #INV8, *Finally!*, email  
30 from C. Hayes to C. Hayes, 4/8/11.

31 ///

1 Ms. Durbin responded with comments highlighted and/or in all capital letters in the  
2 attachment. Ms. Durbin suggested leaving the government representatives out of the  
3 meeting, saying, "I really think we need to keep this discussion to NGOs and funders as  
4 we craft the agenda and big picture strategy. If we bring in the gov't reps at this point, it  
5 is very likely that the agenda would be confined and restrained. At the beginning, we want  
6 to keep it more focused on what is possible, not what is probable." [All-caps omitted.]  
7 #INV8, *Re: Finally! – back at you*, email from A. Durbin to C. Hayes, 4/8/11. She  
8 suggested that they limit the meeting to three funders – the Energy Foundation, the  
9 Rockefeller Brothers Fund, and Paige. She said, "They are the ones that are all more  
10 involved in climate and clean energy strategy at the regional level and they are the  
11 connectors and can help share the message with the other funders about the opportunity  
12 in our states. Part of our strategy discussion will be about how we reach out to more  
13 funders about this as well." [All-caps omitted.] She said, "We want [the funders] to be  
14 bought into this strategy so that they help us fund it, spread the word and provide some  
15 short term support for some needs, such as an economic analysis of our agenda." [All-  
16 caps omitted.] She proposed having a working draft of the mega-proposal, and asked Ms.  
17 Hayes whether she would rather plug in with ideas or respond to a draft. #INV8, *Re:*  
18 *Finally! – back at you*, email from A. Durbin to C. Hayes, 4/8/11.

19

20 The draft agenda for a "Tri-State Climate/Clean Energy Strategy Meeting" began with  
21 inviting Governor Kitzhaber to join for dinner or dessert to talk with the group. #INV8, *Re:*  
22 *Finally! – back at you*, email from A. Durbin to C. Hayes, 4/8/11. Three days later, Ms.  
23 Durbin sent Ms. Hayes a draft invitation to the strategy meeting on May 11 and 12, "to  
24 develop a shared agenda to propose to the Governors of Washington, Oregon and  
25 California, and map out a strategy for how we'll make tangible progress in the next 2 years  
26 on climate and clean energy policy at the regional level." The letter, which had both Ms.  
27 Hayes and Ms. Durbin listed in the signature line, stated, "We expect to be joined for  
28 dinner by Oregon's Governor Kitzhaber." #INV8, *invitation and invite list: ready to go on*  
29 *Tuesday*, email from A. Durbin to C. Hayes, 4/11/11.

30 ///

31 ///

WCCEC Funding Request:

2  
3 In May 2011, Ms. Hayes sent a copy of the WCCEC funding request to Michael Northrop  
4 at the Rockefeller Brother Fund (RBF), asking for his thoughts on it. Among other things,  
5 the proposal said that the WCCEC would "coalesc[e] the Governors, key not-for-profits,  
6 rural leaders and businesses in developing a common agenda and implementing  
7 complementary strategies for those top priority opportunities... In essence, we will  
8 function as glue, bringing the various parties together and supporting the Collaborative  
9 partners to maximize outcomes... As requested by Governors and other Collaboration  
10 participants... the WCCEC will convene policy design exercises, working sessions, and  
11 follow up meetings with participating organizations, state executives and rural leaders as  
12 needed to develop specific policies, investment and funding mechanisms and other  
13 economic development tools and to facilitate an ongoing unified approach in  
14 implementing the strategies targeting the top priority areas." The proposal aimed for "an  
15 integrated clean economy policy agenda between the states of OR, WA, and CA" by the  
16 end of 2012. #INV40, pp. 36-40.

17  
18 The proposal sought funding from the federal Economic Development Administration,  
19 foundations, partner organizations (in kind) and the governors' offices of Oregon and  
20 Washington (in kind). #INV40, pp. 36-40.

21  
22 Leaving RDI:

23  
24 An undated "Response to Recent Media Coverage Regarding Cylvia Hayes's  
25 Employment with RDI" on the RDI website states that Ms. Hayes left RDI because "after  
26 five months of effort no funding had been secured for this body of work and because her  
27 schedule became increasingly busy." #INV9.

28  
29 After RDI:

30  
31 Ms. Hayes's employment with RDI and therefore her position as director of the WCCEC

1 ended in June 2011, but on 7/27/11, she sent an email to Mr. Robinhold asking to debrief  
2 him and other governor's office staff "about the call I just had with the leading energy  
3 NGO's from Washington, Oregon, California. Some interesting intelligence that has  
4 relevance to our west coast collaborative. Can we set up a quick phone call?" #INV6,  
5 GOV28552-28553, 7/27/11.

6  
7 Rockefeller Brothers Fund:  
8

9 In June 2011, Dan Carol sent an email to Michael Northrop at RBF, and to Katie  
10 McCormack and Marcus Schneider at the Energy Foundation (EF). He attached a one-  
11 page fellowship description for a Regional Acceleration fellowship through the Clean  
12 Economy Development Center (CEDC). "My sense is that we are all ready when you are  
13 to whip up a 9 month-1 year work plan for the first fellowship and move forward based on  
14 a 100k budget from RBF and EF, and feel confident we can raise the rest when we get  
15 the 100% go sign from EF," he said. "I recommend that Cylvia Hayes be the first fellow  
16 given the opportunities we all agree exist in the Northwest." #INV40, pp. 48-49. Mr. Carol  
17 was not yet working for Governor Kitzhaber. According to his LinkedIn profile, he worked  
18 for NDN/New Policy Institute in Washington D.C. until September 2011. His LinkedIn  
19 profile states that he started working for Governor Kitzhaber as Director of Multi-State  
20 and Strategic Initiatives in October 2011. #INV49.

21  
22 During the months of July and August, Ms. Hayes and Jeffrey King of CEDC sent several  
23 drafts of fellowship descriptions to Mr. Northrop. In the versions that mention Ms. Hayes  
24 by name, there is no mention of her title or role in the Office of the Governor. #INV40.

25  
26 Ms. Hayes sent an early draft of the CEDC Regional Acceleration Fellowship description  
27 and workplan to Michael Northrop at RBF and Katie McCormack and "Marcus" at the  
28 Energy Foundation in July 2011. The work plan called for the fellow to:

- 29  
30 • "Develop an integrated structure for a West Coast Clean Economy Initiative that  
31 links local initiatives, state government, advocacy groups and the private sector.

- 2 • Develop the policies and financing mechanisms necessary for a collaborative  
3 energy efficiency initiative between the states of Oregon and Washington (and lay  
4 the foundation for the inclusion of California).
- 5 • Guide the development of the Oregon Ten Year Energy Plan and identify regional  
6 component opportunities in the Oregon and Washington energy plans.
- 7 • Provide policy review and recommendation components to selected regional clean  
8 economy roadshows.
- 9 • Provide additional capacity and policy expertise to the Gulf Coast Sustainable  
10 Economies Project.
- 11 • Speak at and write for strategic venues as identified by the CEDC team."#INV40,  
12 pp. 56-58.

13 The Goals / Intended Outcomes for Year 1 included "catalyze a bold, inspirational clean  
14 energy vision in Oregon and Washington," "Establish collaborative bi-state energy  
15 efficiency initiative in Oregon and Washington," and "Raise awareness about clean  
16 economy opportunities among political leaders, Governors, Governors' spouses,  
17 Governors' staff, economic development organizations, rural leaders, 30-55 year old  
18 aspiring patriots." #INV40, p. 58.

19  
20 Jeffrey King, the director of the CEDC, copied Ms. Hayes on another draft to the same 3  
21 people six days later, with the language about raising awareness among Governors,  
22 spouses, and staff removed. #INV40, pp. 53-55.

23  
24 In July 2011, Mr. Northrop sent Governor Kitzhaber a draft agenda for a Pacific Coast  
25 Clean Energy Economy Initiative "Sherpa Meeting" to be held in early to mid-August 2011.  
26 The objectives, according to the draft, were "define scope of initiative," "confirm  
27 commitment to pursuing initiative," "determine initial activities and target outcomes and  
28 timeline," and "plan next steps." The meeting was to be sponsored by RBF/Michael  
29 Northrop, Energy Foundation/Katie McCormack, and Marcus Schneider. Participants  
30 included representatives from Washington, Oregon, and California; the named Oregon  
31 representatives were Governor's office staff members Dan Carol, Scott Nelson, and

1 Curtis Robinhold. #INV6, GOV28990-28993, 7/25/11. As noted above, Mr. Carol was not  
2 yet employed by the Office of the Governor.

3  
4 Mr. Northrop addressed the email to Governor Kitzhaber and Dan (presumably Dan  
5 Carol), asking for edits on the draft agenda and input on logistical details. Governor  
6 Kitzhaber copied Jan Murdock and Ms. Hayes on his response, saying, "This looks fine.  
7 I will work with Jan Murdock to find a time that works for everyone. As I mentioned I plan  
8 to send Scott Nelson, Dan Carol and possibly my Chief of Staff. I would like to ask that  
9 Cylvia be kept in the loop on this even though she will not be attending this meeting."  
10 #INV6, GOV28990-28993, 7/25/11.

11  
12 At the end of August, Mr. Northrop sent Governor Kitzhaber a document that Mr. Northrop  
13 described as "some preliminary potential analysis of potential policy options for a tri-state  
14 CLEAN ENERGY ECONOMY initiative." "I can describe this briefly on the phone today,"  
15 he said. The attached document was a list of possible multistate actions "that could result  
16 in triple win outcomes (economic, energy, and environmental) with that are [sic] also  
17 ranked highly for economic stimulus form initial investment and that are candidates for  
18 creative financing mechanisms." Dr. Kitzhaber forwarded the document to Ms. Hayes.  
19 #INV8, FW: For our 8:30 am call if you have tie [sic] to look at it.. I will be on my cell  
20 [redacted], email from J. Kitzhaber to C. Hayes, 9/2/11. Around the same time, the Clean  
21 Economy Development Center was applying for funding from RBF, Michael Northrop's  
22 organization.

23  
24 On 9/13/11, Mr. Northrop sent another email, whose recipients are not visible, saying,  
25 "Thanks everyone for your personal energy and commitment to trying to find ways forward  
26 on energy and economy. In a short time we discussed quite a lot and found several areas  
27 for potential collaboration. A good start. It felt, as well, like there might be a longer list of  
28 potential topics to collaborate on over the next several years if we can get this first phase  
29 done well. Katie, Marcus and I will be back to you with notes and also with a first, very  
30 rough draft document that we expect you will tear to shreds several times over." Mr.  
31 Northrop thanked Governor Kitzhaber's staff for helping to organize the meeting.

1 Governor Kitzhaber responded a few days later, copying Ms. Hayes and saying, "Thanks  
2 for this. I look forward to seeing your draft document. And could you please copy Cylvia  
3 on all this as we are pretty much joined at the hip in this policy space." #INV7, Vol.11, RE:  
4 *Clean Energy Economy Initiative meeting*, email from J. Kitzhaber to M. Northrop,  
5 9/21/11.

6  
7 Several years later, Ms. Hayes apparently asked Mr. King for the letters that had been  
8 submitted to RBF and the Energy Foundation. Mr. King forwarded them to her. The two  
9 letters from the Clean Economy Development Center (CEDC) to the Rockefeller Brothers  
10 Fund and the Energy Foundation, dated 8/17/11 and 8/22/11, proposed one fellowship in  
11 2011, two in 2012, and three in 2013. The letter to RBF was addressed to Michael  
12 Northrop. The letter to the Energy Foundation was addressed to Katie McCormack.  
13 #INV6, GOV280-285. Both Mr. Northrop and Ms. McCormack were involved with the  
14 Governor's office in planning and leadership of the meeting on 9/13/11, described above.  
15 #INV6, GOV28990-28993, 7/25/11; #INV7, Vol.11, RE: *Clean Energy Economy Initiative*  
16 *meeting*, email from J. Kitzhaber to M. Northrop, 9/21/11.

17  
18 According to the letters, fellows would work on Clean Economy Roadshows that brought  
19 together state, federal, and private stakeholders "to accelerate the implementation of  
20 clean economy projects and outcomes" in the region. Fellows would also "[a]dvise on  
21 CEDC regional plans and lead in the development of new, multi-state, regional initiatives,  
22 beginning in the Northwest," and "[w]rite, speak and evangelize for policy innovation to  
23 accelerate clean economy developments at the state and multi-state regional levels." The  
24 work plan for 2011 included communications and publicity, speaking and writing, work on  
25 the roadshows, consulting for the Gulf Coast Sustainable Economies Project, and  
26 networking and engaging diverse, strategic stakeholders in clean economy conversation  
27 and development. The goals for that year included: promoting multi-region policies,  
28 projects, success stories and models, and raising awareness about clean economy  
29 opportunities with, among others, political leaders. #INV6, GOV280-285.

30  
31 According to the accompanying email from Jeffrey King, the Executive Director of the

1 CEDC, these formal letters were submitted to the Energy Foundation and the Rockefeller  
2 Brothers Fund, who "accepted these proposals and funded the program with the  
3 understanding that you and Jules Bailey would be the senior fellows." Ms. Hayes  
4 forwarded the fundraising letters to Liani Reeves, the Governor's legal counsel. #INV6,  
5 GOV280-285.

6  
7 The Rockefeller Brothers Fund and the Energy Foundation provided funding for Ms.  
8 Hayes's Clean Economy Acceleration Fellowship in 2011 and 2012, and for her contract  
9 with the Energy Foundation in 2013. While RBF was funding Ms. Hayes's work, she sent  
10 Mr. Northrop periodic updates by email that included, "Just wanted to let you know that it  
11 looks like the West Coast Governors will be making a joint clean economy acceleration  
12 announcement at the Globe Conference in March." (1/30/12) and "Attached is the DRAFT  
13 write up of the economic paradigm shift we are working on. This reflects an evolution in  
14 my thinking that the work on clean economy, poverty, ocean health and the big systems  
15 work of the Kitzhaber administration may be headed toward being greater than the sum  
16 of their parts. We certainly need a saner economic model," (3/11/12) #INV40, pp. 2, 47.

#### 17 18 **Clean Economy Acceleration Fellowship –**

19  
20 It appears that at least some of the work that Ms. Hayes was doing for RDI, namely work  
21 on the WCCEC, continued via a Clean Energy Acceleration Fellowship through the Clean  
22 Economy Development Center (CEDC).

#### 23 24 Speeches and Meetings:

25  
26 During the period when she was a fellow with the Clean Economy Acceleration  
27 Fellowship, Ms. Hayes made numerous visits, meetings, and speeches as First Lady of  
28 Oregon on topics that included clean economy and ocean issues. She also wrote about  
29 the issues. In February 2012, while on a trip to Washington D.C. for a National Governors  
30 Association meeting, Ms. Hayes requested a meeting and field trip to learn more about  
31 the Chesapeake Bay. The National Ocean Council arranged the trip, which featured in a



Spring 2012 newsletter from the US Department of the Interior. The newsletter identified her as First Lady of Oregon and noted that she had identified healthy oceans as one of her top priorities. #INV8, *DOI Newsletter*, email from J. Hamilton Keys to C. Hayes, 5/3/12.

Around the same time, Ms. Hayes sent an email to Ben Ward, a Special Assistant on Multi-State Initiatives and Workforce Policy in Governor Kitzhaber's office, saying, "Please send over a few of the clean economy success story case studies." Mr. Ward responded, "Here is what I've compiled with regard to clean economy success stories. Let me know if you need anything else!" He attached seven documents containing stories about sustainability, energy efficiency, and alternative energy sources. #INV8, *FW: reminder*, email from C. Hayes to C. Hayes, 3/3/12. Collecting clean economy success stories was one of the deliverables for Ms. Hayes's Clean Economy Acceleration Fellowship.

Ms. Hayes gave a speech in Port Orford, OR on 2/11/12 to celebrate the release of a film called *Ocean Frontiers*, in which Port Orford had been featured. In this speech, she said that she had been working on poverty and hunger issues as First Lady. "By nurturing a culture where innovation and creativity thrive, where our solutions support quality, family-wage jobs, you are propelling us toward a future that is more prosperous and sustainable over time," she said. She also announced in the speech that, as First Lady, she would be championing ocean health issues. Her intent, she said, was to raise awareness about the economic and environmental importance of ocean and marine resources. "I believe making the transition to a more resilient, prosperous, environmentally-sound economy is the greatest challenge and opportunity of our generation," she said. Ms. Hayes sent the speech to Governor's office staff and Ed Bowles at the Oregon Department of Fish and Wildlife for review. Mr. Bowles made some comments for her to consider. #INV6, GOV194642-194647.

In March 2012, Dr. Kitzhaber and Ms. Hayes attended the Pacific Coast Collaborative meeting in Vancouver, B.C. The protocol for the event includes a closed-door Pacific Coast Collaborative Leaders Forum. Attendees were Washington Governor Christine

1 Gregoire, Oregon Governor John Kitzhaber, British Columbia Premier Christy Clark, and  
2 California Natural Resources Agency Secretary John Laird. Each leader had one to two  
3 observers in attendance. Ms. Hayes and Dan Carol attended with Governor Kitzhaber.  
4 Ms. Hayes was the only First Partner present. #INV6, GOV184458-186465. (As noted  
5 below, the re-invigorated PCC was one of the items listed as an accomplishment of Ms.  
6 Hayes's Clean Economy Acceleration Fellowship. #INV8, *Introduction to First Lady of  
7 Oregon*, email from S. Ranney to S. Earle, 9/2/12.)

8  
9 Ms. Hayes had Jan Murdock at the Governor's office book the flights to Vancouver, B.C.  
10 Ms. Murdock said, "I booked your flight – charging it to JK... We cannot change to whom  
11 it is charged; so I thought it was safest to use his credit card. You can reimburse him if  
12 you are paying for it." Ms. Hayes responded, "According to legal I will need to have my  
13 fellowship pay for this." #NV6, GOV19528-19532.

14  
15 Ms. Hayes emailed Kevin Ranker, a Washington State Senator, from her First Lady email  
16 account, asking about a National Ocean Policy (NOP) meeting in Seattle in April 2012.  
17 She asked, "Would it be possible to meet with you to discuss how to get our states ready  
18 to help with implementation of the NOP among other things?" Mr. Ranker then asked if  
19 she would be attending the dinner after the workshop to continue the dialogue with other  
20 attendees. #INV8, *Re: Meeting to discuss west coast national ocean policy strategy*, email  
21 from K. Ranker to C. Hayes, 3/26/12.

22  
23 Ms. Hayes spoke at the Port Orford Water Festival and the Oregon State University (OSU)  
24 Hatfield Marine Science Center Marine Science Day in April 2012. Regarding Marine  
25 Science Day, she told the organizers that she would "be happy to give some brief remarks  
26 about the importance oceans [sic] and coastal communities in the emerging clean  
27 economy." OSU news and communications provided the support for the event and  
28 "Oregon First Lady Cylvia Hayes' appearance" at the Marine Science Day. In the course  
29 of the planning, Ms. Hayes received an email from Caren Braby at the Oregon  
30 Department of Fish and Wildlife (ODFW) with a PowerPoint attachment of images of wave  
31 energy devices. Ms. Braby said, "Ed [Bowles, at ODFW] indicated that you needed

1 images of wave energy devices for your powerpoint. I've attached a powerpoint that has  
2 some images in it. Please let me know if these do not fit your needs or if you need any  
3 explanation of the images." #INV8, RE: *Marine Science Day*, email from C. Braby to C.  
4 Hayes, 4/11/12. Some of these images appear in Ms. Hayes's PowerPoint Presentation  
5 described below under "June 2012 Report on Fellowship."  
6

7 In a follow-up email after the Marine Science Day event, Ms. Hayes referred to Mr. Bowles  
8 and Ms. Braby as "oceanic advisors" and said, "I would love to connect with some of the  
9 direct research (and I know the Gov would as well)." #INV8, RE: *Thanks!*, email from M.  
10 Rowinski to C. Hayes, 5/1/12.  
11

12 In June 2012, Ms. Hayes wrote an article for the Medford Mail Tribune with Leesa Cobb  
13 of the Port Orford Ocean Resource team that discussed Port Orford and National Ocean  
14 Policy. Ms. Hayes was identified as first lady of Oregon. The brief biography said that she  
15 "is championing ocean health issues." #INV8, Fwd: *FYI Article: National Ocean Policy*  
16 *vital to Oregon's coastal communities*, email from J. Hamilton Keys to C. Hayes, 6/11/12.  
17

18 In September 2012, Ms. Hayes emailed Gabriela Goldfarb, the Governor's Natural  
19 Resources Advisor, to set a time to talk about a climate resiliency event. Her email to Ms.  
20 Goldfarb said, "I think the ocean acidification issue likely has a role in this." Ms. Goldfarb  
21 responded that she didn't think there would be a clear ocean acidification link, but said  
22 that they could discuss it when she knew more. #INV8, RE: *climate resiliency event*, email  
23 from G. Goldfarb to C. Hayes, 9/19/12.  
24

#### 25 June 2012 Report on Fellowship:

26

27 The interim report for the Clean Economy Acceleration Fellowship, submitted to the  
28 Energy Foundation, states that the fellowship accomplished the following between August  
29 2011 and May 2012:  
30

- 31 • "Catalyzed the development of a clean economy collaboration between the West

1 Coast states, including the governor's offices and between government and NGOs.  
2 This involved numerous meetings in Oregon, Washington and British Columbia,  
3 and dozens of conference calls.

- 4 • Informed development of clean energy and economic development strategies for  
5 West Coast states.
- 6 • Developed an inventory of clean economy success story case studies.
- 7 • Created and began implementation of a strategic media and communications plan.
- 8 • Formulated a success-story based set of talking points and delivered 29 speeches  
9 on clean economy issues.
- 10 • Toured coastal communities highlighting clean economy opportunities and  
11 delivered the foundation speech that ties ocean and coastal resource management  
12 to clean economy opportunities." #INV26.

13  
14 Included with the interim report was a sample speech, an ebook article, and sample  
15 PowerPoint slides. The PowerPoint presentation was titled, "Creating an Economy that  
16 Works, Cylvia Hayes, April 2012." It included two slides that had photos of Ms. Hayes and  
17 Governor Kitzhaber. It also included a slide of wave energy buoys. The sample speech  
18 was called "Engineering the Clean Economy," presented to the Oregon Engineers in May  
19 2012. Ms. Hayes gave several examples of situations where the clean economy was  
20 working. She also told a story of visiting the Monterey Bay aquarium with Governor  
21 Kitzhaber and said, "I am working on ocean health as one of my top priorities as First  
22 Lady." #INV26. Ms. Hayes's speech to the Professional Engineers of Oregon was  
23 coordinated by the Oregon Governor's office. #INV6, GOV280329-280330.

24  
25 Additional Funding:

26  
27 In August 2012, Ms. Hayes emailed Jeffrey King, the Executive Director of the CEDC, to  
28 tell him that the Turner Foundation would be sending \$10,000 to the fellowship and asking  
29 for the best mailing address. Mr. King responded with the address, asking if she had  
30 heard anything from Michael or Lydia at RBF, the Rockefeller Brothers Fund, or if he  
31 should reach out to them. There is no record of Ms. Hayes's response on the matter of

funding. #INV6, GOV20317-20318, 8/24/12.

2  
3 Fellowship Description and Resource Media Communications Plan:

4  
5 In early September 2012, Ms. Hayes was copied on an email from Sally Ranney, who,  
6 according to her website, works in "the environmental, energy and climate change fields,"  
7 to Sylvia Earle, who is an oceanographer and leader of Mission Blue at the Sylvia Earle  
8 Alliance. See #INV8, *Introduction to First Lady of Oregon*, email from S. Ranney to S.  
9 Earle, 9/2/12; #INV11; #INV12.

10  
11 Ms. Ranney said,

12  
13 "... I wanted to introduce you to the remarkable First Lady of Oregon, Cylvia Hayes.

14  
15 Cylvia was a speaker at the AREDAY Summit this year and gave a superb [sic]  
16 presentation on what Oregon is doing to ramp up a clean energy economy.  
17 Because Oregon is a coastal state, the state's clean energy economy is tightly  
18 linked to ocean conservation, and Cylvia has taken this on as one of her primary  
19 focal points as First Lady. Therefore, I knew you would be very interested in her  
20 work, and am hoping the two of you can have a conversation in the very near future  
21 to the mutual benefit of ocean conservation.

22  
23 I have attached a couple of background documents for you which explain her work  
24 in more detail, per a fellowship program in which she is engaged." #INV8,  
25 *Introduction to First Lady of Oregon*, email from S. Ranney to S. Earle, 9/2/12.

26  
27 Ms. Ranney attached the Clean Economy Acceleration Fellowship Program description  
28 dated 8/12 and a Communications Campaign (August 2012 – June 2013) for Healthy  
29 Oceans Healthy Economy.

30 ///

31 ///

1 Clean Economy Acceleration Fellowship Program Description: The Clean Economy  
2 Acceleration Fellowship Program Description says,

3  
4  
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6  
7  
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9

“Fellows will submit articles and opinion pieces to strategic media outlets, deliver speeches to targeted audiences, and participate in strategy discussions to identify and develop clean economy opportunities. The fellowship will continue to support the reinvigorated intergovernmental Pacific Coast Collaborative and the advocacy organizations that are participating in the West Coast Clean Economy Alignment initiative.

10  
11  
12  
13

All of these services are intended to condition the public, political leadership and media to be supportive of clean economy policies and programs.” #INV8, *Introduction to First Lady of Oregon*, email from S. Ranney to S. Earle, 9/2/12.

14  
15

For deliverables, the program description lists:

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- “Build public and media support for clean economy and climate change mitigation and adaptation efforts:
  - Expand the inventory of documented case studies that quantify the economic benefits of the clean economy that can be used to informat the media, elected officials and clean economy allies;
  - Work with both the clean economy and ocean conservation advocates to develop mutually beneficial messaging based on an economic frame;
  - Submit regular articles, essays and op-eds to targeted media outlets;
  - Establish clean economy blogs and e-communication;
  - Develop and deliver speeches at strategic events to targeted audiences.
  
- Continue to catalyze and support multi-state clean economy and ocean conservation collaboration between the West Coast States.
  - Advise and support the Pacific Coast Collaborative and the West Coast Clean Economy Alignment initiative including decision makers and

advocates in California, Oregon, Washington and British Columbia;

- Aid in developing a strategic and coordinated approach to the issue of ocean acidification;
- Communicate West Coast regional successes to catalyze clean economy and ocean conservation progress in other states and regions.” #INV8, *Introduction to First Lady of Oregon*, email from S. Ranney to S. Earle, 9/2/12.

According to the project description, “[t]he expanded Fellowship Program is strategically designed to build upon the momentum and accomplishments of the first year of the program.” It then lists Accomplishments to Date, which are:

- In year one the Fellowship was instrumental in re-convening the intergovernmental Pacific Coast Collaborative and encouraging the Governors and Premiere of the four west coast jurisdictions to commit to a collaborative approach to clean energy development. Concurrently, the Fellowship informed leading energy and climate NGOs about the existence of the PCC and the strategic opportunity to better align the agendas of the advocates and Governors' offices. This resulted in the development of a clean economy alignment initiative between the west coast states. The Governors of California, Oregon and Washington and Premier of British Columbia issued a joint resolution in support of clean economy acceleration. NGO advocates and PCC staff are now in regular communication. Prior to these efforts, the PCC was inactive and the NGOs did not know it existed or that there was significant opportunity for collaboration across state lines.
- Informed development of clean energy and economic development strategies for west coast states including overall energy independence planning and carbon pricing strategies.
- Developed an inventory of clean economy success story case studies.
- Developed, and began implementation, of a strategic media and communications plan.

- 1 • Formulated and delivered a success-story based set of talking points and  
2 delivered 26 speeches on clean economy issues.
- 3 • Toured coastal communities highlighting clean economy opportunities and  
4 developed and delivered the foundation speech that ties ocean and coastal  
5 resource management to clean economy opportunities. #INV8, *Introduction*  
6 *to First Lady of Oregon*, email from S. Ranney to S. Earle, 9/2/12.

7  
8 Under "Qualifications:" was Ms. Hayes's biography. She is the only fellow listed. Her  
9 biography reads:

10  
11 "Cylvia is Founder and CEO of 3EStrategies and has worked with clients including  
12 government entities, real estate developers, renewable energy companies,  
13 airports, engineering firms. Cylvia has 23 years of professional experience in  
14 sustainable energy, economic development, workforce development, green  
15 building, waste prevention and sustainable forestry and agriculture. She served as  
16 member and co-chair of the Oregon Renewable Energy Working Group which  
17 developed the state Renewable Energy Standard, Renewable Fuels Standard and  
18 other clean energy policies. Cylvia is author of a number of papers, including  
19 *Green Jobs Growth Plan: An Eight Year Map to a Green Economy in Oregon*.  
20 Cylvia has been honored as a Top 50 Leader in Oregon by Oregon Business  
21 magazine and was trained by former Vice President Al Gore to deliver climate  
22 change educational presentations. She holds an MES from the Evergreen State  
23 College and has training in oceanography and marine biology." #INV8, *Introduction*  
24 *to First Lady of Oregon*, email from S. Ranney to S. Earle, 9/2/12.

25  
26 Resource Media Healthy Oceans Healthy Economy Communications Plan: The  
27 communications campaign plan for Healthy Oceans Healthy Economy (HOHE) that was  
28 also attached to Ms. Ranney's email describes a budget of \$90,000 for a period from  
29 August 2012-June 2013: \$50,000 for Resource Media (see below) to provide media  
30 planning, publishing (print and digital), and speaking engagements; \$30,000 for Ms.  
31 Hayes's salary, and \$10,000 for travel. The plan called for speaking engagements, op-



eds, articles, and television appearances for the following purposes:

- "Shift the narrative to increase understanding of the importance of ocean conservation to local, state and national economies.
- Provide conservation advocates and policy makers with communications tools including economic data, success story case studies and messaging support.
- Raise public awareness and commitment.
- Build support for strong ocean conservation policies including the National Ocean Policy." #INV8, *Introduction to First Lady of Oregon*, email from S. Ranney to S. Earle, 9/2/12.

Strategies for this involved focusing on the importance of healthy oceans for the economy and success stories in ocean conservation, particularly states and regions implementing successful policies. #INV8, *Introduction to First Lady of Oregon*, email from S. Ranney to S. Earle, 9/2/12.

#### Involvement with Governor's Office:

The same day that Ms. Ranney sent out the above email, Ms. Hayes emailed Gabriela Goldfarb, the Governor's Natural Resources Policy Advisor, to say, "I would like to interview some shell fishers, etc. who are directly experiencing acidification issues. Please check to see if there are any such opportunities in the areas of my upcoming coast trips." Ms. Goldfarb responded that she would be happy to look into it and would get back to Ms. Hayes as soon as possible. #INV8, *RE: upcoming coast trips and ocean acidification*, email from G. Goldfarb to C. Hayes, 9/3/12. Ms. Hayes also emailed Ms. Goldfarb to ask her for more information about an upcoming Oregon Coast Fisheries and Communities Briefing, which Ms. Hayes was scheduled to attend. Ms. Goldfarb explained that, as she was getting up to speed, she would be briefed by Oregon Department of Fish and Wildlife (ODFW) marine program staff about key programs and activities on the coast, and she heard that Ms. Hayes might be interested in participating. #INV8, *RE: Accepted: Oregon Coast Fisheries and Communities Briefing*, email from G. Goldfarb to C. Hayes, 9/3/12.

1 Around the same time, Dan Carol, who was the Governor's Director of Multi-State and  
2 Strategic Initiatives, sent Ms. Hayes and two staff of the Oregon Environmental Council  
3 an email containing a draft proposal that the jurisdictions in the Pacific Coast  
4 Collaborative (PCC) were discussing. The draft proposed a Climate Risk and  
5 Infrastructure Forum to be held in November 2012. #INV8, *RE: climate risk and PCC,*  
6 *update*, email from A. Durbin to D. Carol, 9/4/12. (As noted above, the re-invigorated PCC  
7 was one of the items listed as an accomplishment of Ms. Hayes's Clean Economy  
8 Acceleration Fellowship. #INV8, *Introduction to First Lady of Oregon*, email from S.  
9 Ranney to S. Earle, 9/2/12.) Mr. Carol's email suggested a phone call, and scheduling  
10 discussions ensued. #INV8, *RE: climate risk and PCC, update*, email from A. Durbin to  
11 D. Carol, 9/4/12. Ms. Hayes apparently referred the scheduling to Ms. Rowinski in the  
12 Governor's office, who had it on a list of pending calls when she checked in with Ms.  
13 Hayes on 9/5/12. #INV8, *RE: list of pending meetings*, email from M. Rowinski to C.  
14 Hayes, 9/5/12.

15  
16 As the Climate Risk and Infrastructure Forum developed, Ms. Hayes and Mr. Carol  
17 clashed over some aspects of the event. Mr. Carol said that he was the lead for the  
18 Climate Risk Roundtable, and that the assignment for Ms. Hayes and others was to think  
19 about who to invite, including other funders and parties interested in scaling up the west  
20 coast alignment work. Ms. Hayes responded that she intended to add "the ocean  
21 acidification piece" to the resiliency discussion, and would let him know if she would have  
22 other ocean-specific meetings. Mr. Carol responded that "we have 25-plus multiple  
23 players and personalities trying to find alignment on some specific areas of work within  
24 official government agencies, so I hope you will understand that your agenda can't always  
25 be at the top of the list, or on the list[.] Where you say "I intend" for ocean acidification to  
26 be part of this meeting, that won't be possible given where other jurisdictions are, what  
27 we are limited to by the March PCC agreement, and given the fact that folks have stripped  
28 out specific work on water, emergency management and other specific aspects of  
29 resiliency[.] I hope you can understand that, but as noted in the the [sic] email we can  
30 explore a scoping session for your interests in ocean acidification." Mr. Carol resolved the  
31 situation, in part, by saying that he would re-connect her with Wade Crowfoot in California

1 so that she and Mr. Crowfoot could develop an ocean conversation and find a space for  
2 it during the forum. #INV6, GOV229497-229505. He then emailed Mr. Crowfoot, copying  
3 Ms. Hayes, saying that he wanted to connect the two to them to arrange strategy sessions  
4 on ocean acidification. Ms. Hayes and Mr. Crowfoot began talking about a time to speak.  
5 #INV6, GOV229495-229496. Ms. Hayes then suggested to Mr. Carol that, in addition to  
6 RBF and the Energy Foundation, he invite to the evening reception representatives from  
7 the Turner Foundation, the Resources Legacy Fund, the Packard Foundation, the Surdna  
8 Foundation, and "Bullet," which appears to refer to the Bullitt Foundation. #INV6,  
9 GOV229585-229588.

10  
11 Also in September 2012, Ms. Hayes received a briefing from Caren Braby at the Oregon  
12 Department of Fish and Wildlife regarding the issues facing the marine resources  
13 program, including ocean acidification. #INV6, GOV165645-165657.

14  
15 On 9/26/12, Ms. Rowinski forwarded to Ms. Hayes a Google Alert based on the terms  
16 "oregon ocean activism," which contained a link to an OregonLive.com article about  
17 microplastic on Oregon shorelines. #INV8, FW: Google Alert - oregon ocean activism,  
18 email from M. Rowinski to C. Hayes, 9/26/12.

19  
20 In December 2012, Ms. Hayes sent an email with a First Lady of Oregon signature line to  
21 Gabriela Goldfarb, the Governor's Natural Resources Policy Advisor, and Ed Bowles at  
22 the Oregon Department of Fish and Wildlife, saying, "Greetings You Two, I want to talk  
23 to a couple of salmon fishers for the article I am writing. A native American would be great.  
24 Who would you recommend?" #INV6, GOV225335.

25  
26 Additional Networking:

27  
28 Ms. Hayes also emailed Julia Roberson of the Ocean Conservancy with a copy of her  
29 fellowship description dated 8/12 and the HOHE communications campaign concept  
30 dated 7/27/12, saying that she would like to get Ms. Roberson's feedback. The  
31 accompanying email, sent from Ms. Hayes's 3EStrategies account, said that she was

1 excited by her conversation with Ms. Roberson that day and said, "I had a GREAT  
2 conversation with our ODFW marine staff today and moved the ball forward on some of  
3 the strategies you and I discussed during our call." The email subject read, "Info I  
4 promised." #INV6, GOV14656-14659, 9/13/12.

5  
6 In November 2012, Guido Rahr, President of the Wild Salmon Center, sent emails to two  
7 contacts: Aileen Lee, whose email address is at the domain of the Gordon and Betty  
8 Moore Foundation, and "Leslie," whose email address is at the domain of the Oak  
9 Foundation. Both emails were to introduce Ms. Hayes, who was copied on the emails, as  
10 a good friend and colleague as well as "Oregon's First Lady and a high profile leader in  
11 Oregon and the Pacific Northwest on sustainability and marine conservation issues."  
12 #INV8, *Introduction*, emails from G. Rahr to A. Lee (aileen.lee@moore.org) and "Leslie"  
13 (leslie@oakfnd.org) 11/29/12.

14  
15 Mr. Rahr said:

16  
17 "We are very excited about Cylvia's work, especially in the marine conservation  
18 and ocean acidification sphere. Cylvia is about to launch a partnership with  
19 Resource Media to advance these issues, and I think she would benefit from your  
20 advice and any contacts you may have.

21  
22 Please take a look at the attached material... In the meantime, Cylvia will likely  
23 follow with you on the phone." #INV8, *Introduction*, emails from G. Rahr to A. Lee  
24 and "Leslie," 11/29/12.

25  
26 Attached to both of Mr. Rahr's emails were three documents:

- 27
- 28 1. A cover letter dated 11/20/12 from Ms. Hayes, describing her public and  
29 professional roles;
  - 30 2. A copy of the Clean Economy Acceleration Fellowship Program description for  
31 2013; and

1 3. A copy of a proposal from Resource Media to the Lazar Foundation, requesting  
2 a \$15,000 grant for Ms. Hayes and Resource media "to work together to  
3 advance the goals of the Clean Economy Acceleration Fellowship initiative's  
4 Health Oceans, Healthy Economy communications project." #INV8,  
5 *Introduction*, emails from G. Rahr to A. Lee and "Leslie," 11/29/12.  
6

7 Cover Letter: Ms. Hayes's cover letter read:  
8

9 "Subject: Description of professional and public activities.  
10

11 My combined roles as a clean economy professional and First Lady of Oregon can  
12 be confusing so I offer this letter as explanation.  
13

14 **The Challenge of a Unique Situation:**

15 I have 24 years of professional expertise in clean energy, sustainable economic  
16 development and climate change issues and opportunities. Currently I am  
17 probably most well-known as founder and CEO of 3EStrategies LLC, a clean  
18 economy consulting firm. I specialize in developing effective clean energy, green  
19 building and green jobs policy and in serving as a writer and spokesperson.  
20

21  
22 At this point in my life, however, I do not think that my highest and best use is  
23 consulting for specific clients. Rather I believe my most significant contribution lies  
24 in the opportunity to educate, motivate and catalyze progress toward a sustainable  
25 economy. And so, I have put 3EStrategies on hold.  
26

27 Unfortunately, as I am not independently wealthy and need to support myself, I  
28 cannot afford not to earn a paycheck while I am in this complicated situation. And  
29 Oregon State ethics laws prevent me from being paid for my work as First Lady.  
30 Therefore, to make the most of this opportunity to drive positive clean economy  
31 change I need to have a vehicle that allows me to pay my bills while maximizing

1 my professional expertise and unique position.

2  
3 **My Professional Position:**

4  
5 As a natural extension of my professional clean economy communications work  
6 and policy expertise I have taken a fellowship with the Clean Economy  
7 Development Center, a 501c3 organization. Through this fellowship I am working  
8 to accelerate clean economy development with a special emphasis on the unique  
9 links between ocean health and the emerging clean economy. I am also working  
10 to advance clean economy developments through a collaboration of West Coast  
11 states. The fellowship is foundation-funded and pays my salary and professional  
12 travel expenses.

13  
14 This is a significant portfolio and consumes the bulk of my time. However, I also  
15 have undertaken some duties in the role of First Lady of Oregon. This is unpaid  
16 work and is not a part of the fundraising efforts and documents accompanying this  
17 letter.

18  
19 **First Lady Position:**

20  
21 In my role as First Lady I am working on poverty by leading the Oregon Prosperity  
22 Initiative. In this work I am raising awareness about the crisis of poverty in Oregon  
23 and what can be done about it. I am also leading a team in developing the first  
24 comprehensive poverty reduction plan in state history.

25  
26 Finally, I also perform certain, more traditional, First Lady activities including  
27 hosting events at the residence, attending events with the Governor, standing in  
28 for the Governor at certain events. However, I am careful to keep a lid on these  
29 types of activities so that I can focus on my Clean Economy Fellowship projects.

30 ///

31 ///

## How it All Comes Together:

2  
3 I understand that the mosaic of my work activities is a bit complicated. However,  
4 my approach to all of this work is integrated. I see all three issues -- clean economy  
5 development, ocean health and poverty reduction -- as critical components in the  
6 evolution of an economic system that builds fiscal capital along with natural and  
7 social capital.

8  
9 Bringing about such an evolved, sustainable economy is the focus of my life's  
10 work. Additionally, my twenty plus years' experience as a social entrepreneur have  
11 prepared me well for effectively juggling big issues in dynamic situations.

12  
13 Thank you for your interest and support." #INV8, *Introduction*, emails from G. Rahr  
14 to A. Lee and "Leslie," 11/29/12.

15  
16 Clean Economy Acceleration Fellowship Description: The Clean Economy Acceleration  
17 Fellowship Program 2013 description, dated 11/12, built on the earlier fellowship  
18 description from 8/12. The program description appears to relate only to Ms. Hayes, not  
19 to any other possible fellows, and it says,

20  
21 "The purpose of the Clean Economy Acceleration Fellowship program is to build  
22 public, political and media support for clean economy policies and projects... As a  
23 Fellow, Cylvia Hayes will submit articles and opinion pieces to strategic media  
24 outlets, deliver speeches to targeted audiences, and participate in strategy  
25 discussions to identify and develop clean economy opportunities. The fellowship  
26 will continue to support multi-state, collaborative efforts to accelerate clean  
27 economy policies and developments...

28  
29 As a result of the first 18 months of this fellowship program the West Coast Clean  
30 Economy Alignment initiative has formed. This consists of the Pacific Coast  
31 Collaborative, comprised of staff from the Governor's offices of California, Oregon,

1 Washington and British Columbia and leading energy and climate advocacy  
2 organizations from the four jurisdictions. This fellowship has advised, convened  
3 and supported these leaders and advocates in aligning around a common set of  
4 clean economy strategies and messages. In spring 2012, the Governors of the four  
5 jurisdictions signed a joint resolution to this effect...

6  
7 Heading into 2013 this Clean Economy Acceleration Fellowship program is well-  
8 positioned to deliver two timely services:

- 9 • Supporting West Coast leaders and advocates in developing strong energy  
10 and climate policies and communicating the multiple benefits of those  
11 policies;
- 12 • Communicating these West Coast successes to other regions to catalyze  
13 replication." #INV8, *Introduction*, emails from G. Rahr to A. Lee and "Leslie,"  
14 11/29/12.

15  
16 The November 2012 version of the fellowship description listed three work projects or  
17 strategies for 2013:

- 18  
19 1. Clean economy communications: in addition to speeches, articles, and blog posts,  
20 this included the Healthy Oceans Healthy Economy campaign through Resource  
21 Media and "[e]stablishing a web and social media presence that more effectively  
22 positions Hayes as a spokesperson on these issues;"
- 23 2. "Convening strategic partners and stakeholders to accelerate clean economy and  
24 ocean health policies and projects," primarily through the West Coast Clean  
25 Economy Alignment initiative; and
- 26 3. "Developing full cost/ benefit economic metrics. One barrier to scaling up the clean  
27 economy and reducing carbon emissions is that current metrics such as the Gross  
28 Domestic Product or Gross State Product do not capture the full costs and benefits  
29 of our economic and infrastructure decisions. The Genuine Progress Indicator  
30 (GPI) is an alternative metric that is gaining significant traction. Under Hayes'  
31 leadership, a baseline GPI has been developed for the State of Oregon. Three



2 other states are moving in this direction. The organization Demos is supporting  
3 these states in working through applying GPI to policy and budget decisions."  
4 #INV8, *Introduction*, emails from G. Rahr to A. Lee and "Leslie," 11/29/12.

5 Listed deliverables were:

- 6
- 7 • "Build public and media support for clean economy and climate change mitigation  
8 and adaptation efforts:
  - 9 ○ Expand the inventory and distribution of documented clean economy  
10 successes case studies;
  - 11 ○ Published articles, essays and op-eds to targeted media outlets;
  - 12 ○ Establish clean economy blogs and e-communication;
  - 13 ○ Develop and deliver speeches at strategic events to targeted audiences.
    - 14 • Continue to catalyze and support multi-state clean economy and ocean  
15 conservation collaboration between the West Coast states.
  - 16 ○ Advise and support the Pacific Coast Collaborative and the West Coast  
17 Clean Economy Alignment initiative including decision makers and  
18 advocates in California, Oregon, Washington and British Columbia;
  - 19 ○ Aid in developing a strategic and coordinated approach to the issue of  
20 ocean acidification." #INV8, *Introduction*, emails from G. Rahr to A. Lee and  
21 "Leslie," 11/29/12:

22

23 In addition to the accomplishments listed in the 8/12 version of the fellowship description,  
24 this version included, "[c]onvened representatives from Washington, Oregon, and  
25 California Governors offices and representatives from the shellfish industry to explore a  
26 regional approach to addressing ocean acidification," "[p]ersuaded Huffington Post to add  
27 a Clean Economy section to the HP Business section," "33 speeches on clean economy  
28 issues, and "[o]versaw development of a baseline Genuine Progress Indicator for the  
29 State of Oregon. Met with representatives from Maryland, Vermont and Utah to explore  
30 how to apply GPI to policy and budget decisions." #INV8, *Introduction*, emails from G.  
31 Rahr to A. Lee and "Leslie," 11/29/12.

1 The budget for the fellowship included \$95,000 for salary, \$15,000 for travel, \$45,000 for  
2 communication services, and other smaller amounts, for a total of \$177,000. Under  
3 Secured/ Committed Funds, the description lists \$12,000 in existing grant funds from the  
4 Rockefeller Brothers Fund, \$30,000 from the Packard Foundation for the Healthy Oceans  
5 Healthy Economy project, and \$15,000 from the Lazar Foundation for the Healthy Oceans  
6 Healthy Economy project. #INV8, *Introduction*, emails from G. Rahr to A. Lee and "Leslie,"  
7 11/29/12.

8  
9 Ms. Hayes's biography is identical to the 8/12 version, save for the addition of the line,  
10 "As First Lady of Oregon Cylvia is working on poverty reduction through the Prosperity  
11 Initiative, which is developing the first comprehensive poverty reduction plan in Oregon's  
12 history." #INV8, *Introduction*, emails from G. Rahr to A. Lee and "Leslie," 11/29/12.

13  
14 Healthy Oceans Healthy Economy Proposal to Lazar Foundation: The proposal from  
15 Resource Media to the Lazar Foundation, also attached to Mr. Rahr's emails, requests a  
16 \$15,000 grant "for clean economy expert Cylvia Hayes and Resource Media to work  
17 together to advance the goals of the Clean Economy Acceleration Fellowship initiative's  
18 Healthy Oceans, Healthy Economy communications project." #INV8, *Introduction*, emails  
19 from G. Rahr to A. Lee and "Leslie," 11/29/12.

20  
21 Cylvia Hayes, the proposal says, "combines a background in oceanography, natural  
22 resource policy *and* sustainable economic development with the political stature needed  
23 to spark a new conversation, tying ocean conservation to healthy local, regional and  
24 national economies, starting with the West Coast of the U.S... Cylvia Hayes, as a leading  
25 West Coast spokesperson on ocean health and healthy economies opens up several  
26 communications opportunities: a ground-up approach on issues that have a solid track  
27 record of success at the state, not federal level; a jobs *and* environment story frame that  
28 will work in recessionary and robust economic times; a solutions-oriented, positive  
29 message; a unique link between clean economy and ocean conservation; and a politically  
30 powerful, credible, articulate advocate." #INV8, *Introduction*, emails from G. Rahr to A.  
31 Lee and "Leslie," 11/29/12.

1 As described in the proposal to the Lazar Foundation, the Healthy Oceans Healthy  
2 Economy Communications Campaign would focus on developing messaging and  
3 narrative, developing a communications campaign plan, and conducting outreach.  
4 Among the criteria by which the success of the campaign would be judged was, "The  
5 Clean Economy Acceleration Fellowship initiative has a clear sense of where the best  
6 opportunities are for building productive connections for policy makers and community  
7 leaders around clean economy growth and development and ocean conservation."  
8 #INV8, *Introduction*, emails from G. Rahr to A. Lee and "Leslie," 11/29/12.

9  
10 The proposal noted that, in addition to the Lazar Foundation, the campaign was also  
11 seeking funding from the Packard Foundation as well as the Kingfisher, Sandler, and Oak  
12 Foundations and The Center for the Next Generation. Ms. Hayes was not described as  
13 First Lady of Oregon in her biography in this proposal. #INV8, *Introduction*, emails from  
14 G. Rahr to A. Lee and "Leslie," 11/29/12.

15  
16 September 2013 Report on Fellowship:

17  
18 The Clean Economy Development Center submitted a final narrative report to the Energy  
19 Foundation on 9/1/13. The report said,

20  
21 "CEDC Fellows contributed articles and opinion pieces to strategic media outlets,  
22 delivered speeches to targeted audiences, and participated in strategy discussions  
23 to identify and develop clean economy opportunities. The Fellowship provided  
24 ongoing support for the reinvigorated intergovernmental Pacific Coast  
25 Collaborative and the advocacy organizations that participated in the West Coast  
26 Clean Economy Alignment initiative.

27  
28 All of these services succeeded in moving the public, political leadership and  
29 media toward a greater support of clean economy policies and programs."

30 ///

31 ///

1 Payment:

2

3 It appears that Ms. Hayes was not paid personally for her Clean Economy Acceleration  
4 fellowship. In 2012, at least, the money was paid to Ms. Hayes's company, 3EStrategies.  
5 Jeffrey King, the Executive Director of the CEDC, sent Ms. Hayes an email in February  
6 2013 asking her to complete a W9 form, saying,

7

8 "As CEDC's accounting firm is preparing to close 2012 fiscal year, they are being  
9 very thorough and tell me there is a relatively new requirement that even  
10 businesses that are LLCs or sole proprietorships should receive a 1099.

11

12 Enclosed is the W9 form template that should be completed by anyone who was  
13 paid as businesses that are LLCs, partnerships, sole proprietorships etc. Please  
14 complete for 3EStrategies and return to me and they will send you a 1099 right  
15 away." #INV6, GOV13416-13417, 2/27/13.

16

17 Ms. Hayes wrote in a draft response to questions from Hillary Borrud of the EO Media  
18 Group that she was paid \$30,000 for the fellowship in 2011 and \$80,000 in 2012. #INV8,  
19 *East Oregonian responses*, email from C. Hayes to J. Kitzhaber, 12/23/14.

20

21 **Resource Media –**

22

23 Resource Media, according to its website, is a nonprofit communications firm with nine  
24 offices around the US and works exclusively in support of social change. It provides  
25 services such as strategic planning, message development and media relations for  
26 partner organizations who work in areas that include energy, justice, water, and climate.  
27 #INV56.

28

29 As noted above, Ms. Hayes and Resource Media had been submitting proposals to  
30 secure funding for the Healthy Oceans Healthy Economy communications plan. Before a  
31 contract was signed, Julie Roberson at the Ocean Conservancy emailed Ms. Hayes

1 asking if she wanted to appear on camera talking about ocean acidification for a video to  
2 highlight the importance of local voices and "how stories can play a role in painting a  
3 picture of OA for audiences such as policymakers, funders, Ocean Conservancy's  
4 members, etc... We could pay you for your time on this project and ideally, we could use  
5 this as a way to showcase other opportunities to work together." This was a project in  
6 conjunction with Resource Media, and Resource Media coordinated the video shoot with  
7 Mary Rowinski. At one point, Liz Banse of Resource Media said, "My initial thinking would  
8 be to have the Capitol building as a backdrop in keeping with the theme of state-based  
9 solutions for OA." #INV8, RE: *Opportunity to work together*, email from L. Banse to C.  
10 Hayes, 1/29/13.

11  
12 In the resulting video, *Ocean Acidification and the People of Washington State*, which  
13 was produced by the Ocean Conservancy, Ms. Hayes appeared on the steps of the  
14 Oregon State Capitol, with her name and the title First Lady of Oregon on the screen as  
15 she spoke. #INV21. Ms. Hayes included this as one of the services on her first invoice to  
16 Resource Media, see below.

17  
18 Contract with Resource Media:

19  
20 According to the documents provided to the Commission by Governor Kitzhaber's office  
21 with Ms. Reeves's request for a Commission Advisory Opinion in October 2014, Ms.  
22 Hayes, through 3EStrategies, entered into a contract with Resource Media that was  
23 effective from 2/19/13 to 4/30/13. The contract called for Ms. Hayes to "build stronger  
24 commitment among key West Coast audiences to develop and support policies that  
25 conserve our marine resources and boost our West Coast economy." Ms. Hayes was to  
26 be paid a total of \$20,611 upon receipt of funding from two sources: Lazar and Packard.  
27 #PR8.

28  
29 It appears that the 2/19/13-4/30/13 contract submitted to the Commission by the Office of  
30 the Governor was not the final contract between Ms. Hayes and Resource Media. The  
31 final, signed version of the contract, which was provided to the OGEC by an attorney for

1 Resource Media, contained a term of 2/19/13-12/31/13, and is dated 3/1/13. All other  
2 terms were the same. #INV19. Ms. Hayes's first invoice to Resource Media, dated 3/1/13,  
3 was in the amount of \$8500, for services described as "development of media and  
4 outreach campaign plan," "development of speeches on ocean acidification," and "filming  
5 video on ocean acidification." #INV19. That invoice asked that payment be sent to  
6 3EStrategies' address in Bend; all other invoices through December 2013 requested  
7 payment to 533 S Lincoln St, Salem OR 97302, the address of the Oregon Governor's  
8 official residence, Mahonia Hall. #INV19.

9

10 Although the terms of the contract were not amended in writing, Ms. Hayes was paid more  
11 than the contract amount of \$20,611. Resource Media provided 3EStrategies with a 1099-  
12 MISC for Miscellaneous Income for 2013 in the amount of \$34,611. An additional invoice,  
13 which Ms. Hayes submitted in December 2013 but Resource Media paid in January, was  
14 for an additional \$10,500, bringing the total paid under the contract to \$45,111. #INV19.  
15 The documents provided to the OGEC had Resource Media's clients, who provided the  
16 money for the contract, redacted. Two organizations other than the Lazar Foundation and  
17 the Packard Foundation provided funding for Ms. Hayes's contract with Resource Media.  
18 #INV19. One of these was presumably the Marisla Foundation, draft proposals to which  
19 will be described in this section, and whose 2013 IRS Form 990 lists Resource Media as  
20 having received a \$25,000 grant for the purpose of "3EStrategies/Healthy Oceans  
21 Healthy Economy Project." #INV25.

22

23 Ms. Hayes had been meeting with the Lazar Foundation, which provided \$15,000 for the  
24 Resource Media Healthy Oceans Healthy Economy project, and the Packard Foundation,  
25 which provided \$30,000 for the project, for some time.

26

27 Packard: In January 2012, before she and the Governor went to California on a vacation,  
28 Ms. Hayes appears to have had a telephone conversation with Michael Sutton at the  
29 Monterey Bay Aquarium. He emailed her afterward, saying, "I'm delighted that you plan  
30 to use your position and clout as First Lady of Oregon to highlight ocean conservation  
31 issues... I'd like to offer you a behind-the-scenes tour of the Aquarium and lunch with me

1 and our Executive Director, Julie Packard. As you may know, Julie is also Vice Chair of  
2 the Packard Foundation Board, her family philanthropy that is one of the largest private  
3 funders of marine conservation in the United States... I look forward to spending some  
4 time with you and the Governor while you're in town, and discussing how you can use  
5 your status to help advance ocean conservation in Oregon and beyond." #INV7, Vol.20,  
6 *RE: Dates in Monterey*, email from C. Hayes to J. Kitzhaber, 1/17/12.

7  
8 Lazar: In June 2012, Ms. Hayes emailed Ms. Rowinski in the Office of the Governor to  
9 say that she was staying in Portland that night and would need the Dignitary Protection  
10 unit to provide her with a ride in the morning from Dr. Kitzhaber's house to a 9 am meeting  
11 at the Lazar Foundation. #INV8, *RE: DPU pickup*, email from M. Rowinski to C. Hayes,  
12 6/27/12.

13  
14 On 12/14/12, after Ms. Hayes and Resource Media had applied for funding from the Lazar  
15 Foundation, Sybil Ackerman of the Lazar Foundation sent an email invitation to Richard  
16 Whitman and Curtis Robinhold in the Office of the Governor, inviting Governor Kitzhaber  
17 and Ms. Hayes to give the keynote speech on 4/3/13 for the Marine Conservation  
18 Program at the annual meeting of the Consultative Group on Biological Diversity (CGBD).  
19 "I feel that it would be very helpful for the group to hear from both the Governor and First  
20 Lady Cylvia Hayes about all of the good innovative work Oregon is doing to further  
21 stewardship of the ocean," Ms. Ackerman said. Ms. Ackerman then forwarded the  
22 invitation to Ms. Hayes, saying, "I wanted to forward you the formal invitation I just sent  
23 to Richard asking that you and the Governor speak to a group of important philanthropic  
24 institutions as a joint keynote presentation in April. I think it will be very powerful for both  
25 you and the Governor together to tell these funders how Oregon takes ocean stewardship  
26 seriously." #INV8, *Fwd: Invitation for the Governor to speak at philanthropic conference*  
27 *about ocean issues*, email from S. Ackerman to C. Hayes, 12/14/12.

28  
29 According to the invitation, "[t]he CGBD is a grantmakers forum that seeks to focus  
30 attention on issues and program opportunities related to the conservation and restoration  
31 of biological resources." The attached list of CGBD members included: the Lazar

1 Foundation and the David and Lucile Packard Foundation, which were funding Ms.  
2 Hayes's work through the Healthy Oceans Healthy Economy communications campaign;  
3 the Gordon and Betty Moore Foundation and the Oak Foundation, which Guido Rahr had  
4 contacted on behalf of Ms. Hayes (see above); the Rockefeller Brothers Fund, which  
5 funded Ms. Hayes's Clean Economy Acceleration Fellowship; the Marisla Foundation,  
6 which Ms. Hayes and Resource Media contacted in March 2013 about funding for Ms.  
7 Hayes's work, and the Surdna Foundation, from which Demos received funding in April  
8 2013 for work that included Ms. Hayes. #INV8, *Fwd: Invitation for the Governor to speak*  
9 *at philanthropic conference about ocean issues*, email from S. Ackerman to C. Hayes,  
10 12/14/12; #INV8, *RE: Marisla proposal Cyl pieces*, email from C. Hayes to L. Banse,  
11 3/29/13; #INV8, *materials and news*, email from L. Daly to C. Hayes, 4/12/13.

12

13 A few weeks before the speech, on an email string in which the Governor's staff  
14 communicated about the details and topic of the speech the Governor was to give at the  
15 event, Ms. Hayes sent an email to Gabriela Goldfarb, the Governor's Natural Resources  
16 Policy Advisor, who would be writing the Governor's speech, listing what she intended to  
17 speak about, which included, "[m]y commitment to ocean issues," "[o]cean acidification  
18 what we're doing," "[i]nterface to climate change (ten year energy plan, Clean Fuels),"  
19 and "[r]eal solution is shifting economic models (triple bottom line, internalize costs/  
20 benefits. Oregon GPI." #INV6, GOV203516-203521.

21

22 CGBD Marine Conservation Program Event: Ms. Hayes and Dr. Kitzhaber did give the  
23 keynote speech at the CGBD Marine Conservation Program event. They were billed as  
24 "Governor John Kitzhaber and First Lady Cylvia Hayes" in the program. No further  
25 biography was provided. Ms. Goldfarb prepared the event memo and (see above) wrote  
26 the Governor's speech. In the same email confirming that, she said, "Cylvia, I know I owe  
27 you info on ocean acidification, will send you a separate email to set a time." #INV6,  
28 GOV197299-197323

29

30 A few days before the speech, Ms. Hayes sent her draft speech to Dr. Kitzhaber, saying,  
31 "Hey Dear, My draft speech is attached. I thought this might help you in developing your



1 own pieces and I'd love to hear your thoughts." #INV8, *Cyls ocean speech*, email from C.  
2 Hayes to J. Kitzhaber, 3/30/13.

3  
4 In the final version that Ms. Hayes sent to Dr. Kitzhaber the day before the speech, asking  
5 him to print it, Ms. Hayes says, having added some language about the West Coast  
6 Governor's Alliance and developments in collaboration between Oregon and California,

7  
8 "...I am contracting with Resource Media to raise awareness about ocean  
9 acidification, in the short-term particularly with law-makers. And I am working to  
10 help develop a more unified, collaborative, multi-state approach to this issue.

11  
12 And, in fact, the West Coast Governor's Alliance very recently adopted ocean  
13 acidification as a new priority for coordination and action...

14  
15 Another piece of policy work that has direct implications for ocean acidification is  
16 the Oregon Ten Year Energy Plan. We have developed a plan and are in the  
17 process of enacting policies that will bend the curve so that within ten years we are  
18 on a path toward low-carbon energy and transportation systems.

19  
20 So this provides a bit of an overview of some of the specific policy pieces we are  
21 working on but I want to go a bit broader because the umbrella over all of the work  
22 that John and I are engaged in is the need to transition to a truly sustainable  
23 economic system...

24  
25 In my professional work I am working with the organization Demos on a project  
26 called Beyond GDP, which is working with states across the nation to develop  
27 Triple Bottom Line metrics for measuring progress and making policy decisions.  
28 What do those decisions mean not just for our fiscal capital but also for our social  
29 and natural capital.

30  
31 We are moving forward with the development, and application of, a Genuine

1 Progress Indicator here in Oregon and working with other states to do something  
2 similar. So far five states are actively doing so.

3  
4 And in fact, John and I leave in just two weeks for Bhutan to work with a team from  
5 all over the world, funded by the government of Germany, on this very topic."  
6 #INV8, *please print*, email from C. Hayes to J. Kitzhaber, 4/2/13.

7  
8 Dr. Kitzhaber's speech for the CGBD event, according to his outline, focused on marine  
9 reserves and the value of the conservation community. He specifically thanked several  
10 foundations that supported that process, including the Pew Charitable Trusts, the Packard  
11 Foundation, the Lazar Foundation, and the Meyer Memorial Trust. He also mentioned  
12 marine renewable energy and a proposal for Community Fishing Associations. #INV6,  
13 GOV2224310-224319.

14  
15 Marisla Proposal:

16  
17 In March 2013, Liz Banse of Resource Media emailed Ms. Hayes to say that she had  
18 spoken to the Marisla Foundation, and the Marisla Foundation would like to invite Ms.  
19 Hayes to apply for a \$25,000 grant. Resource Media and Ms. Hayes would then apply  
20 together to the Silicon Valley Community Foundation for funding for the Resource Media  
21 portion of the remaining funds needed. #INV8, *Marisla report!*, email from L. Banse to C.  
22 Hayes, 3/21/13.

23  
24 Beginning on 3/26/13, Ms. Hayes and the Resource Media staff traded drafts of a  
25 proposal to the Marisla foundation. In a draft attached to an email from Ms. Hayes to Ms.  
26 Banse and Ms. Dixon on 3/29/13, Ms. Hayes said that she accepted all of Ms. Banse's  
27 suggested edits. She also included in her email a budget that included \$14,500 for her  
28 own salary. According to the email, "this would raise the total Cyl salary project line item  
29 by \$5000." #INV8, *RE: Marisla proposal Cyl pieces*, email from C. Hayes to L. Banse,  
30 3/29/13.

31 *///*

1 According to the attached draft proposal to the Marisla Foundation, "[t]he goal of the  
2 Healthy Oceans Healthy Economy (HOHE) project is to encourage elected officials,  
3 business and community leaders and other key decision makers to undertake new  
4 initiatives to address ocean acidification, with the long-term goal of creating momentum  
5 for the development of clean energy and other solutions that can help slow down ocean  
6 acidification." The first strategy of the project was to target decision makers. According to  
7 the draft,

8  
9 "Hayes has been instrumental in raising awareness among policy makers about  
10 the seriousness of ocean acidification. In November 2012 Hayes convened  
11 strategic policy advisors for the governors of Washington, Oregon and California  
12 to share each state's current approach to ocean acidification and explore the  
13 opportunities for a more robust regional approach. Since that meeting, and as a  
14 result of Hayes' continued shepherding, the West Coast Governor's Alliance on  
15 Ocean Health (WCGA) has added acidification as a priority action area... The  
16 Healthy Oceans Healthy Economy campaign will build on these efforts and focus  
17 primarily on mobilizing decision makers to move OA solutions forward.

18  
19 The WCGA will be a key asset in helping advance policy goals that address ocean  
20 acidification, along with the Pacific Coast Collaborative, the California Ocean  
21 Protection Council, Southern California Coastal Water Research Project  
22 (SCCWRP) and state agencies. HOHE will specifically work to:

- 23 • Encourage establishment of a collaborative Oregon / California working  
24 group within the West Coast Governors Alliance on Ocean Health  
25 (WCGA) to share technical understanding, data and information.
- 26 • Advocate for a single West coast-wide OA monitoring network to assess  
27 the level of OA in all three states and put baseline data in place.

28 In addition to supporting the work of these policy development agencies, HOHE  
29 will raise awareness about the seriousness of ocean acidification among state and  
30 federal lawmakers." #INV8, RE: Marisla proposal Cyl pieces, email from C. Hayes  
31 to L. Banse, 3/29/13.

1 The second strategy, convening strategic stakeholders, specified that the targeted  
2 interest groups included "elected officials, tribes, shellfish and fishing industries, clean  
3 energy businesses, energy and climate change advocates, and ocean conservation  
4 advocates." Other strategies were speaking engagements and public and media  
5 outreach. The campaign would "endeavor to make Cylvia Hayes' name synonymous with  
6 the OA effort, and give the issue some much-needed "star power", branding Hayes as  
7 one of the go-to voices for reporters on the West Coast." #INV8, RE: *Marisla proposal Cyl*  
8 *pieces*, email from C. Hayes to L. Banse, 3/29/13.

9  
10 The draft proposal includes a biography of Ms. Hayes that includes her business and her  
11 title as First Lady of Oregon. The biography then lists examples of the effectiveness of  
12 her approach to "catalyzing important policy development, convening strategic and  
13 effective group processes and guiding concept into concrete action on large and complex  
14 issues." The examples are:

- 15  
16 • The West Coast Clean Economy Alignment, concerning which Ms. Hayes  
17 says, "Beginning in 2009, recognizing an opportunity to accelerate clean  
18 economy development through a multi-state regional approach on the West  
19 Coast, Hayes worked with West Coast leaders to reinvigorate the intra-  
20 governmental Pacific Coast Collaborative (PCC). Simultaneously, in a  
21 parallel effort, Hayes convened leading energy and climate NGOs in the  
22 West Coast region to develop a more unified set of clean economy policy  
23 strategies. For the first time, the NGOs were integrated into the PCC  
24 process. In March 2012, the Governors of California, Oregon and  
25 Washington and Premier of British Columbia issued a joint resolution in  
26 support of clean economy acceleration." #INV8, RE: *Marisla proposal Cyl*  
27 *pieces*, email from C. Hayes to L. Banse, 3/29/13.
- 28 • Multi-State Ocean Acidification Approach. Ms. Hayes says in this example  
29 that in November 2012 she "convened strategic policy advisors for the  
30 governors of Washington, Oregon and California to share each state's  
31 current approach to ocean acidification and explore the opportunities for a

2 more robust regional approach. Since that meeting, as a result of continued  
3 shepherding the West Coast Governor's Alliance on Ocean Health has  
4 added acidification as a priority action area." #INV8, RE: Marisla proposal  
Cyl pieces, email from C. Hayes to L. Banse, 3/29/13.

- 5 • Oregon Ten Year Energy Plan. According to the proposal, "Hayes advised  
6 the Oregon Governor of the need for a comprehensive, practical plan to put  
7 Oregon on a path toward low carbon energy and transportation systems.  
8 Hayes then served as a volunteer policy advisor, convening and supporting  
9 dozens of staff and citizen advisors in the development of that plan. Several  
10 important pieces of energy and climate legislation resulting from this plan  
11 are now moving through the legislative process." #INV8, RE: Marisla  
12 proposal Cyl pieces, email from C. Hayes to L. Banse, 3/29/13.

13  
14 HOHE Events:

15  
16 In March 2013, Julie Dixon at Resource Media emailed Ms. Hayes twice, cc.ed to Ms.  
17 Banse, asking her to hold dates in her calendar for two speaking opportunities: an ocean  
18 acidification conference in Irvine, CA on 5/3/13, and Capitol Hill Oceans Week (CHOW)  
19 in Washington D.C. 6/4/13-6/6/13. They later informed Ms. Hayes that she would be  
20 giving the opening remarks at the Ocean Acidification session at CHOW, a slot "usually  
21 reserved for a Senator or Congressman." #INV8, FW: May 3<sup>rd</sup> Conference -Cylvia Hayes,  
22 email from J. Dixon to C. Hayes, 3/28/13; #INV8, Capitol Hill Oceans Week Update, email  
23 from J. Dixon to C. Hayes, 3/28/13; #INV8, RE: CHOW date and time, email from C.  
24 Hayes to J. Dixon, 4/11/13.

25  
26 HOHE Plan:

27  
28 On 4/1/13, Ms. Dixon sent an updated version of the HOHE plan to Ms. Hayes, "with the  
29 First Lady language scrubbed." The new version also included a calendar of scheduled  
30 events. #INV8, Revised Comms Plan, email from J. Dixon to C. Hayes, 4/1/13.

1 Although the accompanying email described the attachment as having had the First Lady  
2 language scrubbed, the communications plan referred to Ms. Hayes as "environmental  
3 entrepreneur (and Oregon First Lady)." In addition to communications, one of the  
4 objectives of the plan was to build the relationship with the West Coast Governors Alliance  
5 and other decision-making entities. Regarding convening stakeholders, the plan says,  
6 "There is an excellent opportunity to put Ms. Hayes' convening capabilities to work in  
7 bringing together governor's offices, agency representatives, tribes, coastal community  
8 leaders, NGO's and others around a shared agenda." #INV8, *Revised Comms Plan*, email  
9 from J. Dixon to C. Hayes, 4/1/13.

10  
11 "Campaign communications," according to the plan, "should be aimed at those decision  
12 makers who can propel the issue of ocean acidification to a policy resolution, as well as  
13 new and potential supporters who can push on elected officials, such as the West Coast  
14 tribes and state and regional water agencies. Some key targets include: West Coast  
15 Governors: Kitzhaber, Brown and Inslee..." The plan goes on to say, "Ms. Hayes has the  
16 ability to reach high-level decision makers with the OA message, and there are a number  
17 of opportunities already identified at the regional, state, and national levels... Resource  
18 Media will provide communications support for Ms. Hayes' outreach to decision makers.  
19 In many cases, this will involve developing materials – from PowerPoint decks to leave-  
20 behinds – to further influence decision makers to throw their support behind the ideas that  
21 Ms. Hayes promotes." #INV8, *Revised Comms Plan*, email from J. Dixon to C. Hayes,  
22 4/1/13.

23  
24 The communications plan discusses generating media coverage and gathering success  
25 stories before saying, "In all outreach, it will be essential to keep a line drawn between  
26 state policy-making and Ms. Hayes' role in educating and building awareness. The  
27 campaign will need to advance her brand as an innovator and successful business owner  
28 independent of her role as First Lady – even though that title will be key in opening doors  
29 to decision makers." #INV8, *Revised Comms Plan*, email from J. Dixon to C. Hayes,  
30 4/1/13.

31 ///

1 The list of events in the HOHE plan for 2013 included the CGBD Marine Conservation  
2 Program Annual Meeting in Portland in April 2013, at which Ms. Hayes and Dr. Kitzhaber  
3 gave the keynote speech, the Good Jobs Green Jobs conference in Washington D.C. in  
4 April 2013, an Ocean Acidification Conference in Irvine, CA in May 2013, and Capitol Hill  
5 Oceans Week in Washington D.C. in June 2013. #INV8, *Revised Comms Plan*, email  
6 from J. Dixon to C. Hayes, 4/1/13.

7  
8 Dr. Kitzhaber had also been invited to speak at the Good Jobs Green Jobs conference in  
9 Washington D.C. in April 2013. Dave Foster of the BlueGreen Alliance sent an invitation  
10 to Jan Murdock in January 2013, copying Ms. Hayes at her gmail address, which  
11 contained a signature line identifying her as First Lady of Oregon. Ms. Murdock  
12 responded that she believed it was unlikely that Dr. Kitzhaber would be able to attend,  
13 due to his extremely busy travel schedule. Ms. Hayes then emailed Ms. Murdock from the  
14 gmail address, saying, "For what it's worth I am supposed to be speaking or doing a panel  
15 at this event. It would be great if John and I could do a joint speech. I know it's highly  
16 unlikely but ...." Ms. Murdock said that she would be sure the scheduling team knew that,  
17 but that it was very close to the Bhutan trip that Dr. Kitzhaber and Ms. Hayes were  
18 scheduled to make that weekend. #INV6, GOV152432-152435, 1/3/13.

19  
20 In advance of the Good Jobs Green Jobs conference, Ms. Hayes sent a panel outline and  
21 content to the other panelists. Ms. Hayes intended to introduce the panel, give an  
22 overview of the West Coast Clean Economy Alignment, and speak about Oregon clean  
23 economy and green jobs developments, including the Ten Year Energy Action Plan, clean  
24 fuels, and the voluntary carbon emissions reduction program. #INV8, *Good Jobs Green*  
25 *Jobs Panel*, email from C. Hayes to "Becky" and C. Zabin, 4/6/13.

26  
27 Governor's Office Assistance in Making Arrangements for Events:

28  
29 As part of her contract with Resource Media, Ms. Hayes attended the Good Jobs Green  
30 Jobs conference in Washington D.C. from 4/15-4/17/13. Ms. Hayes's registration for the  
31 conference lists her company name as 3Estrategies and her Occupation/Title as Clean

1 Economy Strategist. Ms. Hayes was also scheduled to speak at the conference. Mary  
2 Rowinski made the flight reservations for Ms. Hayes for the GJGJ conference through  
3 Azumano Travel, the state's travel agent. "Let me know what card to use," she emailed  
4 Ms. Hayes. #INV6, GOV211148-211151. Ms. Hayes requested that Ms. Rowinski pay for  
5 the booking with a different credit card, saying, "Also, I want to start using a different visa  
6 card to reserve these because my new one gets flier miles." Ms. Rowinski also made the  
7 hotel reservation, at the discounted rate for the conference. #INV54.

8

9 After the GJGJ conference, Mary Rowinski emailed Ms. Hayes to ask, "Refresh my  
10 memory – are you supposed to get reimbursed for this trip? If so, do you have any  
11 receipts? I have the hotel and airfare info." Ms. Hayes responded, "Actually I pay for this  
12 as part of my contract but it would be helpful to get the hotel and airfare info from you."  
13 #INV6, GOV141010-141011; #INV54

14

15 Ms. Hayes spoke at an Ocean Acidification conference at the University of California  
16 Irvine (UCI) on May 3, 2013. Her invitation to this conference was also coordinated by  
17 Resource Media. UCI paid the bill for travel and lodging. #INV55.

18

19 Ms. Hayes forwarded emails from Resource Media staff about travel arrangements to Ms.  
20 Rowinski, asking her to check on options given the information in the emails and also to  
21 "find out if we need to get reimbursement or have them book flights?" Blue 1bB8. Ms.  
22 Rowinski contacted UCI regarding travel arrangements. She also contacted Azumano  
23 Travel to find out if there were less expensive flights available. #INV55.

24

25 Included with the emails were conversations between Ms. Hayes and Resource Media  
26 about how Ms. Hayes would be identified in the program for the event. Julie Dixon, a  
27 Senior Program Director at Resource Media, suggested "environmental entrepreneur,"  
28 and said that she had told the organizer to leave off the First Lady title. Ms. Hayes said  
29 that it was fine to use First Lady as long as they did not lead with it, and that she preferred,  
30 "Clean Economy expert." Ms. Dixon replied with "Clean economy expert and First Lady  
31 of Oregon," to which Ms. Hayes said, "Fine." #INV55.



Final Report for Resource Media Contract:

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In February 2014, Resource Media submitted a final report to the Packard Foundation on the grant to partner with 3EStrategies. The report stated that because of Ms. Hayes's efforts to convene policy advisors from the three West Coast states, Oregon and California were moving forward to establish a joint bi-state scientific panel. It identified several speeches that Ms. Hayes had given as part of her contract with Resource Media. These included the Ocean Acidification conference at the University of California Irvine and the Capitol Hill Oceans Week in Washington D.C., both of which were secured by Resource Media. It also included other speeches Ms. Hayes had given, including the CGBD keynote speech with Governor Kitzhaber, a panel on ocean acidification at the University of Oregon at the Land Air and Water conference in March 2013, and a keynote speech at an event for supporters of the Oregon Coast Aquarium. #INV24.

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In March 2014, Heather Ludemann from the Packard Foundation Conservation and Science Program emailed Ms. Hayes, saying, "I recently reviewed the final report for our grant to Resource Media in support of your efforts to advance HOHE communications. Congratulations on your success in convening policy advisors and establishing a joint bi-state scientific panel! Sounds like you have capitalized on multiple opportunities to speak about OA along the West Coast and DC to a diversity of audiences." Ms. Ludemann said that she would be in Portland the next week and asked whether Ms. Hayes would like to meet for coffee to talk about her work over the previous year, her plans moving forward, and "upcoming priorities." #INV6, GOV4152-4154, 3/6/14.

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**Energy Foundation –**

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The Energy Foundation is a nonprofit organization based in San Francisco, CA. According to its website, the Energy Foundation's primary role is as a grantmaker. It focuses on "making the buildings, power and transportation sectors more efficient, and on advancing effective policies that open big markets for clean energy technology." #INV57.

1 On 3/25/13, Ms. Hayes emailed Michael Northrop at the Rockefeller Brothers Fund,  
2 inviting him to send some blocks of time that might work for him to "visit Oregon and meet  
3 with key policy advisors and makers on how what we're doing on energy and climate in  
4 the northwest could be used to catalyze momentum elsewhere?" After some back and  
5 forth, they settled on May 9 and 10. *RE: Happy Trails and a follow up*, email from C.  
6 Hayes to M. Northrop, 4/15/13.

7

8 On 3/30/13, Ms. Hayes emailed Mr. Northrop again, asking him to comment on an  
9 attached draft of a Request for Clean Economy Acceleration Project Support. "Please  
10 bear in mind," she said, "that I do not have things formalized with the Energy Foundation  
11 yet so I don't want to circulate this yet." The attached draft was a memorandum from Ms.  
12 Hayes, in the name of the Energy Foundation, to Mr. Northrop, requesting support from  
13 RBF in the amount of \$25,000 "to support the continued work of a Clean Economy  
14 Acceleration consultant... The funds being requested in this proposal will support hiring  
15 a strategic consultant to join the Public Engagement team to develop and fund strategies  
16 that creates [sic] a winning coalition to achieve ambitious policy goals in the power,  
17 buildings, transportation, and climate sectors." The total budget for 2013 in the draft  
18 proposal was \$50,000. #INV8, *Proposal Draft*, email from C. Hayes to M. Northrop,  
19 3/30/13.

20

21 The services proposed in the draft included supporting the West Coast Clean Economy  
22 Alignment by working on strategy and momentum for the Pacific Coast Collaborative,  
23 consulting with the Energy Foundation's Public Engagement program, supporting policy  
24 development at state and multi-state regional scales, raising awareness and support for  
25 clean economy developments among strategic audiences, and convening strategic  
26 partners around "issues that have potential to drive policy and market development." The  
27 intended outcomes were: policies that drive clean energy and low-carbon infrastructure  
28 development and [greenhouse gas] emission reductions, targeted steps toward specific,  
29 concrete policy and actions, and shifting people's thinking and the narrative on clean  
30 economy and climate efforts. #INV8, *Proposal Draft*, email from C. Hayes to M. Northrop,  
31 3/30/13.

1 As in other funding proposals, Ms. Hayes listed recent accomplishments of the Clean  
2 Economy Acceleration Project that included the clean economy collaboration between  
3 the governors' offices on the West Coast, aiding in the development of clean energy  
4 policies at the state level, clean economy success stories and speeches, and the multi-  
5 state collaboration on ocean acidification. Her biography was also similar to those in other  
6 funding proposals, adding, "Hayes has a proven track record catalyzing action on big and  
7 complex issues and then convening the right teams to develop concrete policies and  
8 project: For example, Hayes identified the need for, and lent policy advice, on a Ten Year  
9 Energy Action Plan in Oregon that would put the state on a path toward low carbon energy  
10 and transportation systems. In another example, Hayes convened leading ecological  
11 economists from Portland State University and spearheaded the development of Genuine  
12 Progress Indicator (GPI) for the State of Oregon. Hayes has since been working with the  
13 organization Demos to assist other states in moving in this direction. In addition, she has  
14 convened two projects directed at applying the GPI tool to education reform policies and  
15 in counties struggling with reduced revenue from timber sales." #INV8, *Proposal Draft*,  
16 email from C. Hayes to M. Northrop, 3/30/13.

17  
18 Contract with Energy Foundation:

19  
20 Ms. Hayes, through 3EStrategies, entered into a contract with the Energy Foundation.  
21 The contract provided to the Commission by the Governor's office in 2014 called for her  
22 to perform the following work for the Energy Foundation's Clean Economy Acceleration  
23 Initiative:

- 24
- 25 • Design and execute communications strategy, including speeches, blogs  
26 and targeted publications and social media outlets.
  - 27 • Develop success story case studies.
  - 28 • Provide catalyst and support services to the West Coast Clean Economy  
29 Alignment Initiative.

30 ///

31 ///

1 This contract, which was entered into on 5/20/13, ran from 5/1/13 to 4/30/14, and called  
2 for 3EStrategies to be paid a maximum of \$40,000 inclusive of expenses. #PR8.

3

4 The Energy Foundation, through its attorney, provided the OGEC with a copy of the  
5 statement of work dated 7/15/13 that included one additional piece of work, which was to  
6 advise on communications for public engagement. It contained the same contract start  
7 and end dates, but called for a maximum of \$50,000 to be paid to Ms. Hayes. According  
8 to the accompanying summary from the attorney, the Energy Foundation paid  
9 3EStrategies a total of \$50,000 between 8/13/13 and 12/10/13. #INV26.

10

11 In the final report from 3EStrategies to the Energy Foundation, dated 2/11/14, Ms. Hayes  
12 lists deliverables that include speeches to: Oregon Coast Aquarium major donors (also  
13 listed as a deliverable in the Resource Media report, above), American Association of  
14 University Women Southern Oregon, World Environment Day Portland OR, Gund  
15 Institute VT, Oregon State University Cascades 2013 Commencement, IBM Global  
16 Collaborative team, Women Sustainability Leaders network, Pacific Northwest Shellfish  
17 Conference, Willamette Women's Group, Oregon Business Council, One Pacific Coast  
18 Bank, Central Oregon City Club, and Portland City Club. She also lists "participated at  
19 TED 2014," despite the fact that the TED 2014 conference she attended took place after  
20 the date on the final report. #INV26.

21

22 Ms. Hayes also listed as accomplishments several items related to the PCC: participation  
23 in the Skamania 3 working session, assistance with planning and implementing the PCC  
24 Leaders Forum in San Francisco, and messaging and strategic communications in  
25 support of the PCC. She also said that she "helped create a path forward for implementing  
26 the multi-state action plan on energy and climate," that she "convened meetings with  
27 United Nations Environment Program [sic] representatives interested in multi-state clean  
28 economy approach, Clinton Global Initiative, creative financial experts (Intergenerational  
29 Finance Group), key northwest clean energy advocates, northwest lawmakers,  
30 prospective major funders and supporters of a West Coast approach to climate issues,  
31 including with ocean conservation funders interested in collaborating on approach to

1 carbon." In addition to these accomplishments, Ms. Hayes listed 3EStrategies Clean  
2 Economy Bulletins, posts in Grist and Huffington Post, a redesigned 3EStrategies  
3 website, and participation in TED 2014. #INV26.  
4

5 Both Ms. Hayes and Dr. Kitzhaber attended the PCC Leaders Forum in San Francisco,  
6 assistance and planning for which Ms. Hayes listed as one of her accomplishments.  
7 Governor Kitzhaber signed a Pacific Coast Action Plan on Climate and Energy dated  
8 10/28/13. #INV39. Governor's office staff organized travel to the forum for both Ms. Hayes  
9 and Dr. Kitzhaber. #INV38.  
10

11 Speeches:  
12

13 Not all of the speeches mentioned in the 3EStrategies final report to the Energy  
14 Foundation could be verified due to the time constraints of the investigation. Regarding  
15 the OSU Cascades Commencement speech in 2013, however, Ms. Hayes was invited to  
16 speak by Rebecca Johnson, Vice President for OSU-Cascades, whose email invitation  
17 said, "In recognition of your leadership in Central Oregon and around the state as a  
18 visionary for a sustainable future, and your role as First Lady, I am honored to invite you  
19 to deliver the keynote address at the 2013 Oregon State University - Cascades  
20 commencement ceremony." #INV6, GOV13755-13759. The OSU press release for the  
21 event began, "Oregon's First Lady Cylvia Hayes to deliver commencement address at  
22 OSU-Cascades." It identified her as First Lady of Oregon and a champion of  
23 sustainability. Mary Rowinski coordinated the details of the event, and the Governor's  
24 office prepared an event briefing memo for Ms. Hayes. #INV6, GOV185487-185494. Ms.  
25 Hayes's speech, available on the OSU-Cascades website, begins with words about  
26 Governor Kitzhaber's support of public education. Ms. Hayes spoke about her personal  
27 history, talked about alternative economic metrics to GDP, and urged the graduates to  
28 think about whether their work would be part of the problem or part of the solution.  
29 #INV28.  
30

31 Ms. Hayes was invited to keynote the Ocean Steward Luncheon of the Oregon Coast

1 Aquarium by the Aquarium's Vice President of Development. #INV6, GOV13994-13996.  
2 The Governor's office prepared an event memo for the event, which stated that her  
3 speech should include a funding request to support the Aquarium. The Aquarium  
4 requested that she develop her own remarks, given her significant background in the area  
5 of healthy oceans. #INV6, GOV 148824-148827.  
6

7 Ms. Hayes's expenses for the Vermont event were covered by the organizers of the  
8 conference she attended, sponsored by the Donella Meadows Institute and the University  
9 of Vermont's Gund School (on ecological economics). Mary Rowinski booked Ms.  
10 Hayes's flights through Azumano Travel, on Ms. Hayes's visa card. #INV29.  
11

12 Ms. Hayes attended the TED 2014 conference in Vancouver in March 2014. She asked  
13 Governor's office staff to make the reservations for her flight to Vancouver, which Jan  
14 Murdock did through Azumano Travel. #INV30, #INV42. Ms. Hayes also wrote a  
15 Huffington Post post about TED 2014. #INV43.  
16

#### 17 **Demos –**

18  
19 Demos is a public policy organization working on issues that include reducing the role of  
20 money in politics, guaranteeing the freedom to vote, expanding and diversifying the  
21 middle class in a sustainable economy, and elevating the values of community and racial  
22 equity. Demos has offices in New York, Washington D.C., and Boston. #INV44.  
23

#### 24 Contact with Demos:

25  
26 Ms. Hayes was in contact with Demos as early as July 2011, when she was introduced  
27 to one of their Associate Program Directors, Patrick Bresette. Janet Byrd of Neighborhood  
28 Partnerships in Portland introduced them and then connected them by email, "so you can  
29 be in touch directly about creating an opportunity for Patrick to share his research." Mr.  
30 Bresette then sent Ms. Hayes an email saying that he looked forward to "whatever ways  
31 we might find to work together" with a link to the website dedicated to their fieldwork and

1 a copy of a speech he had given. Ms. Hayes forwarded that email to Dr. Kitzhaber and  
2 two other governor's office staff, stating that "Patrick would be happy to come and talk  
3 with us about the Demos' [sic] findings related to people's opinion and relationship to  
4 government." Dr. Kitzhaber forwarded the email chain to Greg Wolf in his office with an  
5 FYI that, after an exchange of emails, culminated in Dr. Kitzhaber saying that they should  
6 get Mr. Bresette out here to talk about his work. #INV7, Vol. 6, RE: *Connecting Cylvia*  
7 *and Patrick*, email from J. Kitzhaber to G. Wolf, 7/15/11.

8

9 Introduction to GPI:

10

11 In December 2011, Ms. Hayes sent an email to Robert Costanza, a professor at Portland  
12 State University (PSU), telling him:

13

14 "I have been granted a fellowship with the Clean Economy Development Center. I  
15 am charged with speaking, writing and helping to shift the national narrative around  
16 clean economy success stories...

17

18 I need some help identifying strategic speaking engagements and publications. My  
19 work is national in scope and I especially need help engaging beyond the  
20 Northwest.

21

22 On another note, in my First Lady role, I will be working on Ocean Health issues,  
23 mostly awareness-raising work. Ecosystem services will certainly be part of my  
24 message.

25

26 Any thoughts/suggestions?" #INV8, RE: *checking in*, email from L. Daly to R.  
27 Costanza and C. Hayes, 1/3/12.

28

29 Dr. Costanza responded, copying Lew Daly, director of the Demos Sustainable Progress  
30 Initiative. He suggested *Solutions* as a venue for her publications and said:

31

1 "We should talk about other things. In particular, I'd like to talk to you about  
2 convening a group around estimating the Genuine Progress Indicator (GPI) for  
3 Oregon. You may know that Maryland has officially adopted the GPI and Vermont  
4 is considering it. Can you help convene the right group in Oregon to consider this?  
5 We could get some of the people involved in the Maryland and Vermont efforts to  
6 come. I'm copying Lew Daly from Demos in NY on this – Lew has been  
7 coordinating some of this activity and would be happy to help us." #INV8, RE:  
8 *checking in*, email from L. Daly to R. Costanza and C. Hayes, 1/3/12.

9  
10 Ms. Hayes said:

11  
12 "I would be most interested in submitting a piece to the Solutions journal. And also  
13 most interested in talking with you about the GPI. I have been talking with the  
14 Governor about the need for Triple Bottom Line accounting in our decisions around  
15 energy, infrastructure and consumption investments/ expenditures. In fact we  
16 talked about it during the holiday break. I would be more than happy to convene  
17 the group." #INV8, RE: *checking in*, email from L. Daly to R. Costanza and C.  
18 Hayes, 1/3/12.

19  
20 The group began planning a conference call to discuss GPI in Oregon. Mr. Daly sent Ms.  
21 Hayes an email describing what Demos was doing on a federal and state level regarding  
22 GPI. He explained that they were starting the conversation in Washington State and, "It  
23 would be great to get a similar discussion going in Oregon, giving us something of a  
24 northwest approach." #INV8, RE: *checking in*, email from L. Daly to R. Costanza and C.  
25 Hayes, 1/3/12.

26  
27 Measuring Oregon's GPI:

28  
29 In April 2012, the Oregonian reported that Dr. Kitzhaber and Ms. Hayes attended the first,  
30 three-hour long meeting of a class taught by Dr. Costanza on measuring Oregon's GPI.  
31 According to the article, Dr. Kitzhaber asked if there were ways to tie GPI to budget and



policy decisions in order to measure progress. #INV14.

2

3 In May of 2012, Ms. Hayes, Dr. Costanza, and Mr. Daly exchanged emails about the  
4 Oregon GPI. Mr. Daly said, "Hi Cylvia: I've heard from Bob about all the progress on an  
5 Oregon GPI. This is good news and I really want to commend you for engaging on this  
6 and introducing these ideas within governor's office." He suggested that he might try to  
7 start a parallel conversation with legislators. #INV8, *RE: legislation for new indicators*,  
8 email from L. Daly to C. Hayes, 5/14/12.

9

10 Dr. Costanza replied, saying:

11

12 "The class is doing great assembling the Oregon GPI. We should have a beta  
13 version by next Wed...

14

15 We are planning a presentation of the results on Saturday, June 2<sup>nd</sup>. Is that a day  
16 when you, the Gov., and relevant state agency reps might be able to attend? We  
17 could possibly arrange to do it in Salem if necessary. Lew and Sean McGuire from  
18 Maryland will probably also attend, either live or over skype." #INV8, *RE: legislation*  
19 *for new indicators*, email from L. Daly to C. Hayes, 5/14/12.

20

21 Ms. Hayes's response was:

22

23 "Greetings Robert,

24

25 It would be most helpful if you would be a bit more considerate of the possible  
26 political ramifications of this. I do not think June 2<sup>nd</sup> will work for me, but more  
27 importantly, we should be strategic in how/ where/ to whom this is rolled out. As I  
28 have warned MANY times this could get derailed if it comes out of the gates  
29 ineffectively.

30

31 We need to think this through rather than just doing a pre-set public presentation."

1 #INV8, RE: legislation for new indicators, email from L. Daly to C. Hayes, 5/14/12.

2  
3 Mr. Daly also advised caution, and then Ms. Hayes said:

4  
5 "Greetings Lew,

6  
7 Thanks for sending this. If we blunder on the front end of this work it will be DOA.  
8 Until the email about June 2<sup>nd</sup>, I did know [sic] that Bob planned to publically  
9 present the initial work of the class. I think it would be better not to.

10  
11 We need to be aware of a few things:

- 12  
13 1. We have a unique opportunity to imbed more effective metrics into the Oregon  
14 Ten Year Budget Plan, now being developed.  
15 2. We are not at all sure that we need Legislation to move this forward.  
16 3. The Governor is already doing some HEAVY lifting with the education and  
17 health care transformation pieces and will need to stay on message and  
18 focused.  
19 4. The best approach may be to stay fairly quiet about this until things are more  
20 developed. For pete's sake do not talk to the media about this.

21  
22 Bob, can you please tell me your plans for any publicity/public presentations?"  
23 #INV8, RE: legislation for new indicators, email from L. Daly to C. Hayes, 5/14/12.

24  
25 Mr. Daly responded to Ms. Hayes, saying that the Governor's health and education focus  
26 "is actually a very rich area for new accounting approaches and the one with the most  
27 interest from economists... I'd be happy to help you think about at least these two "core"  
28 measurement needs for Oregon as well. I think this is eminently doable at the state level,  
29 and it could be a powerful new driver for state decision-making in these critical areas." He  
30 agreed that they needed to be very careful about the GPI rollout politically. #INV8, RE:  
31 legislation for new indicators, email from L. Daly to C. Hayes, 5/14/12.

1st Practitioners Meeting:

2

3 In August 2012, Mr. Daly at Demos invited Ms. Hayes to a "GPI practitioners convening"  
4 in Maryland in October, hosted by Governor O'Malley's office. "The main focus of the  
5 discussion is state-level policy applications with alternative metrics, as well as  
6 political/institutional issues surround alternative metrics, and communication issues," he  
7 said. "I hope you would see this as an important discussion for your efforts in Oregon,  
8 and we would love to have you participate." #INV8, RE: invite GPI practitioners  
9 convening, email from L. Daly to C. Hayes, 8/31/12. Ms. Hayes responded that she was  
10 interested in attending. She asked for more agenda information and whether it was  
11 possible to get travel costs covered. Mr. Daly responded that they could cover travel and  
12 lodging. #INV8, RE: invite GPI practitioners convening, email from L. Daly to C. Hayes,  
13 8/31/12. Ms. Rowinski in the Office of the Governor worked on travel arrangements for  
14 the trip, finding flights and conferring with Demos staff. Demos staff booked the flight.  
15 #INV8, RE: Oct 8/9 convening [sic] for GPI practitioners, email from J. Hochman to C.  
16 Hayes, 9/27/12.

17

18 Introducing GPI to Oregon State Government:

19

20 Also in August 2012, Nicole Gorko from PSU send out a review draft of the Oregon GPI  
21 report. After a response from Sean McGuire from the Maryland Office for a Sustainable  
22 Future, Dr. Costanza said, "On the "process", that is what we are counting on Cylvia to  
23 spearhead, now that we have gotten to first base. Cylvia, what are the next steps?" #INV8,  
24 Re: Oregon GPI Draft for Internal Review, email from N. Gorko to C. Hayes, 8/30/12. Ms.  
25 Hayes replied that, "The next step for our Oregon GPI is for me to hear back from the  
26 people in the Administration that I have put it forward to. I will let you know." Dr. Costanza  
27 asked if they could send the draft around within the GPI research community while that  
28 was happening. "Is it time to make it a final report that the Oregon gov people can then  
29 discuss and react to? Or better to have their "buy in" before we finalize? We defer to your  
30 advice on this." Ms. Hayes said, "I think it is fine to vet it with the research community.  
31 Please try not to have any media or general public visibility. The Governor is looking at it

1 now. We will then meet with several key staff to look at how we would begin implementing  
2 new metrics going forward. It has moved a little slowly on our end because of staff  
3 vacations during summer." #INV8, *Re: Oregon GPI Draft for Internal Review*, email from  
4 N. Gorko to C. Hayes, 8/30/12.

5  
6 On September 2, 2012, Ms. Hayes forwarded the Oregon GPI draft to Mary Rowinski in  
7 the Office of the Governor and Jan Murdock, the Governor's assistant, asking them to,  
8 "[p]lease convene a meeting as soon as possible for me, JK [Governor Kitzhaber], Mike  
9 Jordan and Steve Marks to discuss the draft Oregon Genuine Progress Indicator (GPI)  
10 report attached here. Also, please let Curtis [Robinhold] know in case he'd like to attend.  
11 I may be going to DC Oct 8 and 9 related to this work." Ms. Murdock scheduled a lunch  
12 meeting for 9/25/12. #INV8, *Re: Oregon GPI Draft for Internal Review*, email from J.  
13 Murdock to C. Hayes, 9/5/12.

14  
15 Further Work with Demos; Possible Contract:

16  
17 In January 2013, Lew Daly sent an email to Ms. Hayes at her 3EStrategies email address.  
18 In that email, which had a subject of "washington state etc.," he said,

19  
20 "Hi Cylvia: I just wanted to follow up on inviting someone from Gov. Inslee's office  
21 to join us on February 8 for the consultation on the education metrics. Getting that  
22 kind of synergy going is really important for the momentum of this work, and John  
23 seemed to think it would be a very good idea. You have the memo I did for the  
24 earlier conference call if needed, and of course please pull me in by email or phone  
25 if needed for the outreach to Inslee's office.

26  
27 Also, fyi, I'd like to talk to you about possibly playing a role as a state advocacy  
28 fellow with us. It would be part time, Western-focused; I don't have the money for  
29 it yet and I don't know if I'll get the money, but let me know if you are interested.

30  
31 Finally, I attach the draft of a fact sheet about Oregon education cuts. This is part

1 of a larger Demos research project called The Great Cost Shift. Your education  
2 guys know all about this I'm sure, but this may be a handy version. It's still  
3 unformatted and in draft, so please let me know if you may want to use in in some  
4 public way.

5  
6 In the meantime, let's get ready for Brazil! Lew" #PR9.

7  
8 Dr. Kitzhaber, and presumably Ms. Hayes and other office staff, were scheduled to meet  
9 with Mr. Daly on 2/8/13 in Portland. According to an email sent to Governor Kitzhaber  
10 from Jan Murdock, she had set one of his meetings for that afternoon in Portland because  
11 "everyone will be in Portland for the meeting with Lew." #INV7, Vol.33, *lunch with FLO on*  
12 *Friday, 2/8*, email from J. Murdock to J. Kitzhaber, 2/1/13.

13  
14 In March 2013, Mr. Daly emailed Ms. Hayes to ask, "Do you guys have a good connection  
15 with MA governor Deval Patrick? I was recently in Boston to meet with Patrick's metrics  
16 guru in the Executive Office, to talk about a GPI initiative for Massachusetts... Very  
17 positive conversation overall, and there was definitely a higher comfort level from the fact  
18 that Maryland and Oregon governors are getting behind this. Do you know if John or  
19 Deval know each other well or at all? At some strategic point, it might be good to arrange  
20 a phone call." Ms. Hayes responded, "They know each other but not all that well. Glad to  
21 hear he's receptive," and the conversation moved to Ms. Hayes contacting Governor  
22 Inslee's administration in Washington State to encourage them to delegate someone to  
23 attend a GPI in the States meeting. #INV8, *RE: gov patrick?*, email from L. Daly to C.  
24 Hayes, 3/29/13. Ms. Hayes did contact Trudi Inslee, the First Lady of Washington, to invite  
25 her and Mary Alice Heuschel, Governor Inslee's Chief of Staff, to the GPI in the States  
26 meeting. It is not clear whether a representative from Washington did attend the meeting,  
27 although a phone call was scheduled between Ms. Hayes and Ms. Heuschel to discuss  
28 details. #INV8, *RE: GPI in the States Summit SAVE THE DATE*, email from C. Hayes to  
29 R. Kim.

30 ///

31 ///

1 Around the same time, a series of emails circulated regarding a "roadmap" that included  
2 budgets. According to the first email, "Cylvia's budget has been folded into Demos, as  
3 they requested." Lew Daly suggested a need for a planning meeting and emailed Ms.  
4 Hayes to say, "As our political point person (behind the scenes), I think it would be  
5 appropriate for you to call together a planning meeting. We've got to go deeper into  
6 substance, strategy, work-planning, and fundraising, or the effort will drift apart in small  
7 pieces... PS: Surdna [Foundation] news very soon!" #INV8, RE: Roadmap v2, email from  
8 L. Daly to C. Hayes, 3/29/13.

9

10 2<sup>nd</sup> Practitioners Meeting:

11

12 In March 2013, Ms. Hayes asked Mary Rowinski in the Office of the Governor to check  
13 on flights to Baltimore for the GPI in the States summit in Baltimore in June, with a side  
14 trip to Vermont. Ms. Rowinski checked with Azumano Travel, the state's travel agent, and  
15 offered flight options to Ms. Hayes, who sent it to Ms. Hayes. #INV8, RE: Baltimore in  
16 June, email from C. Hayes to M. Rowinski, 4/2/13. Demos was covering travel and  
17 lodging. "They are covering it," Ms. Hayes said in another email, "but I'm not sure if we  
18 need to arrange it and then get reimbursed. I will send you an email with the person to  
19 work with." #INV8, RE: TRAVEL ARRANGEMENTS Second GPI in the States summit,  
20 email from C. Hayes to M. Rowinski, 4/3/13.

21

22 Demos Contract:

23

24 In April 2013, Mr. Daly sent Ms. Hayes an email saying, "I received the Surdna  
25 [Foundation] grant letter today, and we were approved for the full amount. So, here we  
26 go! I'll be in touch next week about a letter of agreement. We should try to have that in  
27 place before we head to Bhutan." He also provided a link to a Beyond GDP anchor paper  
28 with background on ideas and substance and attached a strategic outline of the Beyond  
29 GDP project, including Oregon, other state, and federal work. "This write-up provides a  
30 snapshot," he said, "but of course I am always available to have more detailed  
31 conversation about the strategic vision or the day-to-day work with potential donors. Let

me know if these materials are sufficient and on target for what you need. Don't hesitate  
2 to ask for something different, if that's what you think you need for a given conversation."  
3 #INV8, *materials and good news*, email from L. Daly to C. Hayes, 4/12/13.

4  
5 The contract between Demos and 3EStrategies that was provided to the OGEC by  
6 Governor Kitzhaber's office in 2014 was signed on 7/13/13, but specified a term of 6/1/13-  
7 11/30/13. The contract called for Ms. Hayes to be paid a total fee of \$25,000. According  
8 to the contract, Ms. Hayes would be advising Demos on Gross Prosperity Initiatives in the  
9 US states and advising stakeholders in US states, including such tasks as: gathering  
10 information about GPI-related activities in US states, developing opportunities for  
11 information sharing about best practices, assisting with planning for a national meeting of  
12 GPI practitioners, developing content for a cyber-hub, assisting in developing state-  
13 specific GPI models, and advising state and county leaders on implementation of GPI  
14 and related systems. #PR8.

15  
16 This contract with Demos was the second version of the contract. The first contract,  
17 provided to the OGEC by Ms. Hayes in the packet of material that her Federal Public  
18 Defender sent to the US Attorney's office, was signed by Ms. Hayes on 5/10/13. It called  
19 for her to cultivate business support through business associations and individual  
20 business leaders, educate and cultivate support from in-state advocacy and community  
21 groups, locate and cultivate potential donors to support Demos' contributions in Oregon  
22 and other needs within the Oregon GPI partnership, help organize public events and  
23 strategic communications around the Oregon GPI, and targeted public speaking and  
24 writing on the Oregon effort. It also called for work related to GPI in Washington and  
25 California. #PR9. According to the cover letter from Ms. Hay to the US Attorney's office  
26 and the attached Conflict of Interest form, Liani Reeves did not see a specific conflict  
27 related to this work, although she did provide Ms. Hayes with the OGEC's Guidelines for  
28 Outside Public Employment for Public Officials. #PR9.

29  
30 Ms. Hayes sent an invoice to Demos on 5/10/13 in the amount of \$8,333.00 for  
31 "[c]onsulting services delivered through the Beyond GDP / GPI in the States project as

1 described in the Surdna Foundation grant agreement.” The invoice requested that  
2 payment be sent to 3EStrategies at 533 S Lincoln St, Salem OR 97302. #PR10. The  
3 address for Mahonia Hall, the Oregon Governor’s Residence, is 533 Lincoln St S, Salem  
4 OR 97302.

5  
6 Soon after she sent out the invoice to Demos, Ms. Hayes began to plan meetings with  
7 State of Oregon personnel, including Governor Kitzhaber, regarding GPI. She emailed  
8 Steve Marks, then working for the Chief Operations Officer’s Office at the Department of  
9 Administrative Services, from her 3EStrategies email address, asking him to come to  
10 dinner with her and the Governor at Mahonia Hall to discuss GPI and the Ten Year Budget  
11 Plan. #INV7, Vol.34, *Re: dinner with me and JK*, email from J. Murdock to C. Hayes,  
12 5/20/13. Jan Murdock scheduled the meeting for the group, sending an email specifically  
13 to Governor Kitzhaber that said, “Cylvia asked me to find a time when the two of you could  
14 have dinner with Steve Marks (and Kathy) at Mahonia to talk about GPI and the 10 year  
15 budget plan as soon as possible.” She asked Dr. Kitzhaber if he wanted to fix dinner or  
16 have her order something. #INV7, Vol.34, *Dinner on May 31<sup>st</sup>*, email from J. Murdock to  
17 J. Kitzhaber, 5/20/13.

18  
19 Dr. Kitzhaber and Ms. Hayes gave a presentation entitled, “Global Well-Being: Innovating  
20 Beyond GDP” to the Oregon Humanities Idea Lab on 7/26/13, where they spoke about  
21 their trip to Bhutan and “their vision for the economic future of Oregon.” #INV27.

22  
23 On 11/23/13, a week before the end of Ms. Hayes’s contract with Demos, Ms. Hayes sent  
24 Governor Kitzhaber an email asking him to take a look at the attached Oregon GPI  
25 Implementation Outline. The outline read:

26  
27 “November 2103 [sic] – April 2014

- 28 • Write up description
- 29 • Get comments on proposal back from Michael Jordan
- 30 • Secure funds to hire Sean (state??)
- 31 • Determine how to move forward with natural capital accounts



- 1 • Complete funding proposal
- 2 • Raise funds to complete sub-accounts, natural capital assessments,
- 3 website
- 4 • Develop accounts
- 5 • Integrate GPI with Ten Year Budget Plan and if possible Oregon
- 6 Business Plan
- 7 • Develop website
- 8 • Work with targeted stakeholders (key lawmakers, Kate Brown, OBC,
- 9 OCF, OSU, PSU, etc)

10  
11 April / May 2014

- 12 • Convene working session on applying comprehensive metrics to state
- 13 budget developments
- 14 • Apply GPI tool to development of state biennial budget
- 15 • Develop a GPI awareness raising campaign plan

16  
17 June – December 2014

- 18 • Implement campaign plan: Build broader support for GPI." #INV35.

19  
20 Demos did not respond to a request for information in this case.

21  
22 **After Ms. Hayes's Contracts –**

23  
24 According to statement drafts exchanged between Ms. Hayes and Dr. Kitzhaber, she did  
25 not take any paid work in 2014. #INV8, *statement draft*, email from C. Hayes to J.  
26 Kitzhaber, 12/4/14; re: statement draft, email from J. Kitzhaber to C. Hayes, 12/14/14.

27  
28 Ms. Hayes remained involved in the Kitzhaber administration. In June 2014, Ms. Hayes  
29 received a copy of a strategic planning document that appears to include deliverables for  
30 senior policy staff of the governor's office. #INV6, pp. 826+. She toured the Department

1 of Corrections (DOC) recycling center with DOC Director Colette Peters, resulting in a  
2 follow-up letter from Ms. Peters concerning DOC sustainability efforts. At the end of the  
3 letter, Ms. Peters addressed Ms. Hayes's desire for her nephew to be transferred from  
4 his incarceration in Oklahoma to Oregon, and explained that the process of requesting  
5 an interstate compact transfer would begin with Ms. Hayes's nephew making the request  
6 in OK. #INV6, pp. 811-815.

7  
8 She continued to be involved in work within the Governor's office on the same issues  
9 concerning which she had contracts in 2013. For example, Ms. Hayes and Governor  
10 Kitzhaber were both scheduled to be briefed on public opinion about different carbon  
11 mitigation measures by organizations in the field. The meeting was set up by Margi  
12 Hoffman in the Office of the Governor, with Andrea Durbin from the Oregon  
13 Environmental Council. #INV6, GOV1273-1276. Ms. Hayes sent emails to Governor  
14 Kitzhaber and his staff about GPI in early 2014, and asked Dr. Kitzhaber to be interviewed  
15 for an article that Lew Daly from Demos was writing about GPI for New Republic  
16 magazine. #INV46. Governor Kitzhaber was quoted in the article, published 2/3/14,  
17 saying that Oregon was integrating GPI into a ten-year state budget plan. #INV37.

18  
19 Ms. Hayes made speeches and attended conferences, at times being reimbursed for  
20 expenses by the Governor's Office. For example, she spoke at a CommonBound  
21 conference on a panel about leveraging business, civil society and government for system  
22 change in June 2014, and she gave a speech in Portland to the Geothermal Resources  
23 Council in September 2014. #INV6, pp. 779-788, 1439-1447. She gave the keynote  
24 speech on "Creating an Economy that Works for Everyone" at the SolWest Fair in  
25 LaGrande in June 2014. #INV6, GOV1577-1582; #INV33. She continued to talk with  
26 people about clean economy issues and alternative economic metrics such as GPI. See,  
27 e.g. #INV6, GOV1089-1090, 1104. At one point, Ms. Hayes emailed the governor's  
28 Communications Director, Nkenge Harmon Johnson, asking that the governor's  
29 communications staff handle getting her biography sent out for speeches, and that her  
30 professional expertise be included in her biography "(when relevant to the meeting at  
31 hand)." #INV6, p. 1488-1489.

1 During 2014, there were more events related to the First Lady's Prosperity Initiative.  
2 Stakeholder Forums were scheduled for October 2014 in Forest Grove, Portland,  
3 Gresham, Albany, Baker City, North Bend, and Roseburg. #INV6, GOV485-490. Ms.  
4 Hayes emailed with a representative of ISITE Design about setting up a meeting to  
5 discuss communications for the Prosperity agenda. #INV6, GOV741-742.  
6

7 It also appears that Ms. Hayes was appointed to the Board of Trustees for the Oregon  
8 Institute of Technology during this time. Although an email inquiry to Lita Colligan at  
9 Oregon Tech during this investigation went unanswered (#INV34), Ms. Hayes received  
10 emails from Ms. Colligan in late 2014 regarding the Board Orientation and first meeting,  
11 concerning which she responded that she might be in Peru for climate talks for at least  
12 one of the meetings. #INV6, GOV529-530. Trustees for Oregon Tech are appointed by  
13 the Governor. This is an uncompensated position, according to the bylaws dated January  
14 2015. #INV32. It is not clear for how long Ms. Hayes actually held the position.  
15

16 Ms. Hayes also continued her engagement with the Pacific Coast Collaborative in 2014.  
17 For example, Ms. Hayes exchanged emails with Ms. Rowinski about her attendance at a  
18 PCC meeting at the PDX Conference Center at the Portland Airport in June of  
19 2014. #INV6, GOV397-400. Funding for PCC work was provided by the States of  
20 Washington and California, the Bullitt Foundation, the Ocean Conservancy, and RBF.  
21 #INV6, GOV474. Ms. Hayes was also involved in scheduling discussions for a PCC ocean  
22 acidification phone call set for July 2014. #INV6, pp. 376-377, 397-400, 603. She was  
23 included on invitations and follow-up emails for PCC monthly meetings and strategy  
24 sessions. See, e.g. #INV6, pp. 71, 376-377, 545, 748-750, 753-755, 944-946, 1278-1298,  
25 1473-1486. When she inquired, "Are we set to have a PCC presence at the Kerry ocean  
26 summit?" in an email to Gabriela Goldfarb and Jay Manning at Cascadia Law Group in  
27 Washington, Ms. Goldfarb said no, but copied Dan Carol and asked if Ms. Hayes thought  
28 she could attend. Ms. Hayes could not. #INV6, GOV1086. According to a summary from  
29 the September 2014 PCC call, Ms. Hayes was scheduled to participate in panel  
30 introductions or presentations on behalf of the PCC at the UN Climate event (see below  
31 for more information on her participation at that event). #INV6, GOV1279-1280.

1 In addition to her involvement with the Kitzhaber administration, Ms. Hayes also  
2 maintained 3EStrategies and continued to network, including both her private and public  
3 work in her networking emails. For example, Ms. Hayes sent an email to Georgia Kelly,  
4 the Director of the Praxis Peace Institute on 9/13/14, saying that she was not able to  
5 attend an upcoming conference due to her schedule, but that she "wanted to introduce  
6 myself so that I might be considered as a speaker for future such conferences. I am a  
7 long-time clean economy practitioner and current First Lady of Oregon. The website  
8 [www.3estrategies.org](http://www.3estrategies.org) shows some of my work and a bio is attached." Ms. Kelly  
9 responded, saying, "You are in a unique position to manifest real change, so I am very  
10 interested in learning more about what your are [sic] involved in." Ms. Hayes forwarded  
11 the conversation to Mary Rowinski to set up a phone meeting. #INV6, pp. 1567-1569. A  
12 few weeks later, Ms. Kelly appears to have invited Ms. Hayes to the conference. Ms.  
13 Hayes had flights scheduled to attend the conference until she canceled the night before  
14 because "a very frustrating emergency has cropped up here and I cannot leave Oregon  
15 tomorrow" on 10/7/14, the day that an article entitled "First Lady, Inc." appeared in the  
16 *Willamette Week*. #INV6, GOV379-382; #INV15.

17

18 She was also invited to speak in Russia, but canceled in May 2014 in an email from her  
19 3EStrategies account, saying, "President Obama recently asked U.S. CEO's not to attend  
20 an economic summit in Russia scheduled for later this year. I feel I need to honor that  
21 request. Moreover, since John (my partner) is campaigning for re-election this November  
22 there is no question that news of my visit to Russia will be taken out of context and used  
23 to create nasty stories. None of the positive aspects of the work we would be doing will  
24 get mentioned it will all be about trying to turn this into a scandal." #INV6, GOV1436-  
25 1438. She offered to appear by Skype or video-conference. Ms. Hayes also sent an email  
26 with similar language to Dr. Kitzhaber, Patricia McCaig, and several others, telling them  
27 that she would not be going to Russia. She also forwarded her email to Dr. Kitzhaber to  
28 Nkenge Harmon Johnson, saying, "FYI. Thanks for your wise council." Ms. Harmon  
29 Johnson responded that the office could help arrange technology if she wanted to  
30 participate by Skype. #INV6, GOV4203-4204. It is unclear whether Ms. Hayes had been  
31 invited to participate in the Russia event as First Lady or as CEO of 3EStrategies.

1 On 9/15/14, she sent out a "Clean Economy Bulletin" from her 3EStrategies email address  
2 with the headline, "Join Me and our Pacific Coast Collaborative at New York Climate  
3 Week." In the text, Ms. Hayes said:

4  
5 "In one week world leaders are coming to New York City for a UN summit on  
6 climate crisis. UN Secretary Ban Ki-moon is urging governments to support an  
7 ambitious global agreement to dramatically reduce global warming pollution.

8  
9 I and several other representatives of the Pacific Coast Collaborative will be there  
10 to share our West Coast effort to grow the clean economy and reduce climate  
11 pollution.

12  
13 Through the PCC the governors of California, Oregon, Washington and the  
14 premier of British Columbia have agreed to collaborative action to promote market  
15 based mechanisms for reducing [greenhouse gas] emissions and innovative  
16 mechanisms for building more resilient, sustainable and efficiently financed  
17 infrastructure.

18  
19 Once the UN talks are over it really falls on jurisdictions to go beyond talking and  
20 take concrete action to achieve climate pollution reduction goals.

21  
22 At the PCC session on Nov. 24<sup>th</sup> you will hear directly from staff leads from OR  
23 and WA who are at the front lines of delivering these results." #INV6, GOV356-  
24 361.

25  
26 The bulletin contained two additional articles noting that atmospheric levels of  
27 greenhouse gas hit a new record high and that plastics hold value as recyclables. At the  
28 end of the email was Ms. Hayes's 3EStrategies email address, a preferences/unsubscribe  
29 box, and the name 3EStrategies with an address in Bend. #INV6, pp. 356-361.

30 ///

31 ///

1 Ms. Hayes attended the UN Climate event mentioned in the 3EStrategies Clean Economy  
2 Bulletin in New York from 9/21-9/25/14 at the State of Oregon's expense, requesting and  
3 receiving reimbursement upon return for \$3077.78 in expenses. Ms. Rowinski worked on  
4 her accommodations and reimbursement. #INV6, pp. 801-802, 1106-1107, 1244.  
5 #INV51, VP019902n

6

7 In March 2014, Ms. Hayes spoke at a conference in San Francisco, the Climate Action  
8 Reserve's Navigating the American Carbon World. It appears that her travel to this  
9 conference was paid by the State of Oregon, and she was reimbursed for expenses by  
10 the State. #INV51, VP079117. Ms. Hayes was one of three people on a panel about the  
11 Pacific Coast Collaborative. The description of the panel said, "Representatives from the  
12 PCC will have a roundtable discussion on initiatives within their states, future actions, and  
13 new potential partners to the agreement." Ms. Hayes was identified as the First Lady of  
14 Oregon, and her detailed bio described her as founder and CEO of 3EStrategies as well  
15 as First Lady of Oregon and a policy advisor to the Governor on issues of clean energy  
16 and economic development. It also listed some publications. #INV47.

17

18 Ms. Hayes was also invited to speak at the Conference on Sustainable, Responsible,  
19 Impact Investing (SRI Conference) in November 2014. She sent an email to Patricia  
20 McCaig, one of Governor Kitzhaber's private advisors, and to Nkenge Harmon Johnson,  
21 the Governor's Communications Director, asking them to take a look at the invitation for  
22 the SRI Conference. "I am 90% certain I want to accept this speaking invite," she said.  
23 "Also, I have asked John to think about joining me. I think we could make a powerful joint  
24 presentation about making the transition to a sustainable, clean economy to people in  
25 control of a LOT of money. Whether or not John can attend, I would like to do so." #INV6,  
26 pp. 1076-1084. It is not clear from the email why Ms. Hayes was concerned about the  
27 finances of the persons at the conference. She did not ultimately attend the conference;  
28 her invitation was revoked by the host on 10/10/14, saying that he assumed she would  
29 be expecting this "given the revelations that have hit the airwaves and cyberspace in the  
30 past 24 hours." #INV6, pp. 331-332. The media had reported that week on Ms. Hayes's  
31 role in the Governor's office, her private consulting contracts, and her marriage for money

1 to an immigrant seeking legal status in the United States. See #INV15, #INV16.

2  
3 Use of State Employee Time and Office Resources –

4  
5 State staff time:

6  
7 As noted in various places above, a review of emails between Ms. Hayes and Governor's  
8 office staff indicates that Ms. Hayes repeatedly used Mary Rowinski and Jan Murdock's  
9 time as paid state employees to book travel and perform tasks on Ms. Hayes's personal  
10 behalf or on behalf of her business. This included booking flights and travel reservations  
11 for events where Ms. Hayes was under contract to speak on issues of ocean acidification  
12 and a clean economy. When Ms. Rowinski and Ms. Murdock purchased tickets for Ms.  
13 Hayes through Azumano Travel, she was receiving the discounted fares available through  
14 the state's contract with Azumano, which may also have been a personal financial benefit  
15 to her if she was not reimbursed by another organization for the purchase. See #INV45.

16  
17 Pets:

18  
19 It also appears that state employees were involved in transporting and caring for Ms.  
20 Hayes's pets. For example, in April 2013, Dr. Kitzhaber said that he could bring Ms.  
21 Hayes's dog, Tessa, with him to Portland on May 2, when Ms. Hayes would be in  
22 California. Jan Murdock, the Governor's assistant, offered herself and "Joe" to help as  
23 well. Ms. Hayes asked if Ms. Murdock could stay at Mahonia Hall that night. Ms. Murdock  
24 demurred, asking if Ms. Hayes would prefer to stay at Dr. Kitzhaber's house in Portland  
25 and have Tessa greet her there, but saying, "whatever you think works best for Tessa  
26 works for me." #INV8; RE: May 2<sup>nd</sup>, email from J. Murdock to C. Hayes, 4/16/13.

27  
28 On 6/5/13, Jan Murdock sent Dr. Kitzhaber an email saying that she "promised Cylvia  
29 that I would stay at Mahonia with Tessa this evening," and apologizing that she would not  
30 be heading back to Portland that night with documents for him. #INV7, Vol.35, Thursday  
31 Schedule, email from J. Murdock to J. Kitzhaber, 6/5/13. On 6/13/13, 10/14/13, 1/23/14,

1 and 4/7/14, the DPU log for Mahonia Hall indicates that Jan Murdock, the Governor's  
2 assistant, stayed overnight at Mahonia Hall with Tessa, Ms. Hayes's dog. On 6/14/13,  
3 Jan fed the cats and picked up Tessa to take her to Portland. On 6/24/13 and 10/19/13,  
4 DPU staff delivered Tessa to Mahonia Hall. #INV53.

5  
6 Personal Business while on State Trips:

7  
8 Ms. Hayes also attended private business-related meetings while on trips for which she  
9 received reimbursement from the State of Oregon, including one to Washington State in  
10 August 2013, while she was under contract with Resource Media and Demos to work on  
11 ocean acidification and alternative economic metrics. One meeting was with Betty  
12 Peabody of the Puget Sound Foundation, regarding ocean acidification. The other was  
13 with Wendy Korthuis-Smith, who was working on developing "more effective metrics of  
14 economic outcomes for Washington State." #INV6, GOV48-51. The rest of the trip  
15 involved personal vacation time for the Governor and Ms. Hayes, dinner with Washington  
16 Governor Jay Inslee and his wife, and a Prosperity Initiative meeting with the Casey  
17 Family Foundation. Ms. Hayes told Ms. Rowinski that the meetings with Gov. Inslee and  
18 the Casey Foundation were the justification for the state expense form. #INV6, GOV110-  
19 113; #INV52. (Note: there was some confusion about the dates of this trip. Nigel Jaquiss  
20 at the *Willamette Week* asked several questions about the trip in late 2014, describing  
21 the trip as occurring in August 2014. #INV6, GOV48-51. The trip was in fact in August  
22 2013, according to emails between Ms. Hayes and Ms. Rowinski. #INV6, GOV101-106,  
23 110-113.)

24  
25 Governor Kitzhaber and Ms. Hayes had been informed early in Governor Kitzhaber's third  
26 term that she could only be reimbursed for travel if she had only participated in First Lady  
27 events. If she held other fundraising events, she could not be reimbursed. #INV8, *FW:*  
28 *Reimbursement*, email from J. Kitzhaber to C. Hayes, 4/19/11.

29 ///

30 ///

31 ///



DPU:

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Ms. Hayes was provided with transportation by the Dignitary Protection Unit (DPU) of the Oregon State Police on occasions that appear to be related to her personal business or for her personal convenience. For example, on 6/26/12, she asked DPU to pick her up at Dr. Kitzhaber's house and take her to a meeting at the Lazar Foundation. #INV8, RE: DPU pick up, email from M. Rowinski to C. Hayes, 6/27/12. Although she generally did not have DPU take her out to Bend or stay in Bend when she was there, she did on one occasion have them pick her up at the Redmond Airport and drive her to the Portland Airport so that she could leave her car at the Redmond Airport, where she would arrive on her return flight. #INV36. On a third occasion, when she traveled to Seattle for a trip that combined state and personal business, she emailed Ms. Rowinski and said, "As for DPU I will need to figure out transportation since I will likely not have my car." #INV52.

DPU policy states that DPU provides protection for "the Governor and members of the Governor's immediate family." It also says, "the Trooper assigned to the First Lady... will drive and provide protection for the First Lady during her daily appointments." #INV17. According to DPU staff, Governor Kitzhaber made the determination that Ms. Hayes was the First Lady and should be provided with DPU protection based on that designation. #INV31.

Frequent Flyer Miles and Credit Card Rewards:

This investigation also looked at whether Ms. Hayes received frequent flyer miles for flights made in Ms. Hayes official capacity as First Lady or policy advisor. ORS 292.230 states that the use of travel awards obtained while conducting state business for personal travel constitutes personal gain from state employment and violates ORS 244.040. Note, however, that Ms. Hayes was not employed by the State of Oregon. The Commission will have to determine whether, in the absence of employment by the state, acceptance of frequent flyer mileage or credit card rewards by Ms. Hayes violated ORS 244.040(1).

///

1 Most of the trips Ms. Hayes took during the Kitzhaber administration were personal or for  
2 her personal business rather than for state business. Although having Ms. Rowinski or  
3 Ms. Murdock make the reservations appears to be a violation of the use of office provision  
4 of ORS 244.040(1), it is not clear that she was not permitted to accept frequent flyer miles  
5 for the personal or business travel that was booked through the Governor's office.

6  
7 Ms. Hayes did receive frequent flyer miles for state-reimbursed travel to:

- 8
- 9 • Washington D.C. for a National Governors Association meeting in  
10 February 2014 (#INV51, VP018999);
- 11 • New York, NY for Climate Week in September 2014 (#INV51,  
12 VP019902);
- 13 • Burbank, CA for a meeting of the Clinton Global Initiative in April 2014  
14 (#INV51, VP019160).
- 15

16 Where Ms. Hayes's travel reservations were made through Ms. Rowinski, Ms. Hayes paid  
17 for the reservations with her own credit card (it is unclear whether the credit card was her  
18 personal card or a 3EStrategies card). Some of these were reimbursed by the State of  
19 Oregon.<sup>4</sup> Others were paid by Ms. Hayes as a part of her contracts or were paid by outside  
20 organizations.

21  
22 The credit card that Ms. Hayes used for travel reservations through the Office of the  
23 Governor earned frequent flyer miles beginning with her trip to Washington D.C. for the  
24 Good Jobs Green Jobs conference in April 2013. Based on the last four digits of the card,  
25 which was only viewable on some documents, Ms. Hayes used it, and earned frequent  
26 flyer miles, on the following occasions for which she was reimbursed by the State of  
27 Oregon:

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29 ///

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4 Until December 2014, Ms. Hayes paid with her own credit card for all of her travel through the Governor's office and was reimbursed by the state if her travel was for official business. #INV50

- 1 • Reimbursement of \$744.82 for furniture and décor for Mahonia Hall on  
2 March 2013, #INV51, VP017832;
- 3 • Reimbursement of \$285.51 for Vintage Park Hotel Seattle, August 2013,  
4 #INV51, VP018511;
- 5 • Reimbursement of \$327.00 for a flight to Burbank, CA for a meeting of  
6 Clinton Global Initiative in April 2014 (#INV51, VP019160);
- 7 • Reimbursement of \$311.00 for a flight to Chicago, IL for a Leadership  
8 Summit in May 2014(#INV51, VP019371).

9  
10 While there may be other occasions when Ms. Hayes earned rewards for flying or  
11 purchases on her credit card, they could not be analyzed within the time and staffing  
12 constraints of this investigation.

13  
14 Gifts –

15  
16 **Spokesperson:** During the preliminary review, gifts were identified as an area for  
17 investigation, based on an allegation that the Oregon Business Council provided Ms.  
18 Hayes with communications services valued at \$35,000 to advance the Prosperity  
19 Initiative.

20  
21 The original language of the contract between the Oregon Business Council (OBC) and  
22 Therese Lang, the consultant who was hired to perform these communications services  
23 stated that Ms. Lang would provide "Focused, Proactive Support and Coverage of First  
24 Lady Activities: This may include help with speech-writing, photography and videography,  
25 generating media coverage." Liani Reeves, the Governor's Legal Counsel, reviewed the  
26 proposed contract and suggested language that would clarify that Ms. Lang was working  
27 for OBC on the Prosperity Initiative that Ms. Hayes led, not working for Ms. Hayes directly.  
28 The proposed language, to which an OBC representative agreed, stated that OBC was  
29 hiring a Prosperity Communications Director "to maximize the media and public  
30 awareness and engagement opportunities for the Prosperity Initiative, led by First Lady  
31 Cylvia Hayes." As Communications Director, she would provide "Focused, Proactive

1 Support and Coverage of the Prosperity Initiative. This may include with assisting [sic] the  
2 First Lady and strategic communications surrogates with speech preparation,  
3 photography and videography, generating media coverage." #INV6, GOV128772-  
4 128774, GOV149026-149030.

5  
6 Based on this change, it does not appear that the Communications Director funding  
7 constituted a gift to Ms. Hayes but was provided to support a service of government.

8  
9 **United Airlines Platinum Status:** On 9/16/13, United Airlines staff provided Governor  
10 Kitzhaber and Ms. Hayes Premier Platinum status in the United Airlines Mileage Plus  
11 program. As part of that premier status, they were eligible to have the fee for TSA Pre-  
12 check or Global Entry reimbursed by United Airlines. #INV7, Vol.37, *FW: MP Status*  
13 *Nomination - Approved*, email from J. Murdock to J. Kitzhaber and C. Hayes, 9/17/13.  
14 Although United Airlines did not provide requested information about the value of Premier  
15 Platinum status by the date of this report, its value was estimated at \$4335 in 2016 by the  
16 Points Guy. Premier Platinum is the second highest mileage status for United Airlines.  
17 According to the 2016 article, it included perks such as unlimited complimentary upgrades  
18 as early as 72 hours before a flight. #INV41.

19  
20 The upgrades and lounge access available through Premier Platinum status were a  
21 personal benefit to Governor Kitzhaber and Ms. Hayes; they were not permitted to use  
22 frequent flyer numbers when flying on state business. When Governor Kitzhaber and Ms.  
23 Hayes flew to San Francisco for the PCC Leaders forum in October 2013, Ms. Murdock  
24 told Ms. Hayes that Azumano was working on getting seats for her and Dr. Kitzhaber  
25 together. Although Ms. Hayes was eligible for better seats through her premier status for  
26 the flights Ms. Murdock mentioned, the Governor could not have his frequent flyer number  
27 associated with the flights because he was traveling as a state employee. #INV38.  
28 Assisting in planning this PCC meeting was listed as a deliverable for Ms. Hayes's  
29 contract with the Energy Foundation. #INV26.

30 ///

31 ///

Ms. Hayes's Responses:

2  
3 During the preliminary review period in this case, Ms. Hayes submitted to the Commission  
4 a letter that was originally sent from her Federal Public Defender, Lisa Hay, to the US  
5 Department of Justice. This letter, which was provided to the Commission in its entirety  
6 with the Preliminary Review report, read, in relevant part:

7  
8 "As you are aware, Cylvia Hayes was a successful business consultant  
9 before John Kitzhaber took office as Governor in 2011. Her company,  
10 3EStrategies, had numerous contracts with private businesses and with  
11 state government to promote and implement clean energy and  
12 environmental projects and policies... We also listed her contracts and  
13 demonstrated that she earned more annually from consulting before John  
14 Kitzhaber became Governor than afterwards, contrary to the implication in  
15 the press. Finally, we provided a summary of interviews conducted with  
16 people who knew and worked with Cylvia before 2011. The interviews  
17 show the respect that people had for her work and the success that her  
18 consulting business achieved.

19  
20 When John Kitzhaber was elected, the understanding was always that  
21 Cylvia Hayes would continue working. She wanted to continue work that  
22 she found meaningful and important. In addition, she is not independently  
23 wealthy, is not married to the Governor, and was not being supported by  
24 him. She maintained her own residence and own bank accounts, while  
25 also joining the Governor at Mahonia Hall. As far as we are aware,  
26 Oregon had never had a First Lady in a similar position before. With  
27 hindsight, we can see that the State had not developed clear guidelines  
28 for how to treat an unmarried, working, partner of the Governor. Despite  
29 the best efforts of many, Cylvia received contradictory and incomplete  
30 advice about her work.

1 Oregon law allows public officials to receive compensation for private  
2 employment, but officials must carefully differentiate between their public  
3 and private work. Whether the First Lady even qualifies as a "public  
4 official" can be subject to debate, but in any case it is beyond dispute that  
5 the First Lady role does not carry a defined portfolio of public work. This  
6 formed the crux of the problem for Cylvia and the administration as she  
7 tried to continue her private consulting work while also entering the role of  
8 First Lady. When much of Cylvia's private work involved promoting an  
9 idea or a message in order to generate public interest in advancing an  
10 energy or environmental cause, it was difficult to differentiate that work  
11 from her endorsement of the same ideas as First Lady. On the other hand,  
12 it was not clear that she needed to differentiate those messages, because  
13 she was not a lobbyist for particular legislation, none of her time was  
14 clearly defined as "public time," and she did not have authority to  
15 implement policy. In addition, in her role as First Lady, it was not expected  
16 that she "would ever be in the position to make financial decisions on  
17 behalf of the State" that could benefit her clients. Or at least, this was the  
18 advice she was given by the governor's legal counsel in the conflict of  
19 interest forms described below.

20  
21 Cylvia attempted in good faith to define her role as both the First Lady and  
22 as a consultant in order to understand the boundaries of each. She  
23 frequently sought advice. Any errors in adhering to state ethics rules or  
24 statutes were the result of confusion within the administration, mistakes,  
25 and the lack of clear guidelines for an unmarried partner and not due to  
26 criminal intent to commit fraud. There is no dispute that Cylvia Hayes  
27 wanted to continue working and pushed back against advice that she  
28 "just" not get paid for her work. She could not afford to be unemployed.  
29 But she disclosed her work contracts, sought advice, and believed she  
30 was acting within the law." #PR9.

31 ///

1 During the investigation period, Ms. Hayes, through her attorney, submitted a document  
2 that provides a history of Ms. Hayes's career in PowerPoint format. The document will be  
3 provided to the Commission in its entirety. It describes Ms. Hayes's education, founding  
4 of Earth Connections – Oregon, running for legislative office, and founding of  
5 3EStrategies. It lists awards that she earned, her work on the REWG under Governor  
6 Kulongoski, her training by the Al Gore Training Project, and some of her 3EStrategies  
7 contracts. The contracts included:

- 8
- 9 • A contract with HNTB, a civil engineering corporation, to identify and incorporate  
10 green building and sustainable energy components into the Redmond Airport  
11 expansion;
- 12 • A contract on the Sustainable Oregon Workforce Initiative to assist in determining  
13 the extent to which each region had begun to address sustainable energy  
14 workforce needs;
- 15 • A contract with the City of Bend to develop a vision and plan to make Bend a  
16 sustainable, modern city;
- 17 • A contract with Columbia Gorge Community College to help in the development of  
18 a model to ensure the efficient use of state resources for green workforce  
19 development;
- 20 • A contract with the State of Oregon through the Oregon Department of Community  
21 Colleges and Workforce Development to work on the Green Jobs Growth Plan;
- 22 • A contract with the State of Oregon through the Oregon Housing and Community  
23 Services Agency as lead author on a strategic assessment of energy and  
24 weatherization programs;
- 25 • A contract with the US Department of Energy – Oakridge Institute for Science and  
26 Education to review grant applications for funds to support energy efficiency and  
27 weatherization projects. #INV18.
- 28

29 The document does not provide any information on the amount paid under contracts that  
30 3EStrategies had before Dr. Kitzhaber was re-elected as Governor in 2010.

1 **CONCLUSIONS:** Cylvia Hayes was acting as a policy advisor in the Office of the  
2 Governor during the time period relevant to this investigation. She also held the title of  
3 First Lady because of her personal romantic relationship with then Governor John  
4 Kitzhaber.

5  
6 Public Official –  
7

8 Ms. Hayes, through her attorney, argued during the preliminary review that she was not  
9 a public official as defined in ORS Chapter 244 during this time period, and therefore that  
10 the Commission does not have jurisdiction over her actions. Pursuant to ORS  
11 244.020(14) (2013), "public official" means any person who, when an alleged violation of  
12 ORS Chapter 244 occurs, is serving the State of Oregon or any of its political subdivisions  
13 or any other public body as defined in ORS 174.109 as an elected official, appointed  
14 official, employee or agent, irrespective of whether the person is compensated for the  
15 services.

16  
17 OAR 199-005-0035(7) states that, "as defined in ORS 244.020(14), a public official  
18 includes anyone serving the State of Oregon or any of its political subdivisions or any  
19 other public body in any of the listed capacities, including as an "agent." An "agent"  
20 means any individual performing governmental functions. Governmental functions are  
21 services provided on behalf of the government as distinguished from services provided  
22 to the government. This may include private contractors and volunteers, depending on  
23 the circumstances. This term shall be interpreted to be consistent with Attorney General  
24 Opinion No. 8214 (1990)."  
25

26 Ms. Hayes also argued that she was not a public official subject to public records law in  
27 *Cylvia Hayes v. Oregonian Publishing Co.*, Marion County Circuit Court Case No.  
28 15CV04530. In a written opinion in that case, Judge Tracy A. Prall granted summary  
29 judgment on the matter of whether Ms. Hayes was a "public body" for purposes of public  
30 records law. Judge Prall based her determination that Ms. Hayes was the functional  
31 equivalent of a "public body" on the six non-exclusive factors found in *Marks v. McKenzie*



1 *High School Fact-Finding Team*, 319 Or. 451 (1994), including: that Ms. Hayes was  
2 "created by government," meaning that she was "authorized, encouraged, and allowed"  
3 to participate actively in the executive branch by the Governor; that she performed  
4 functions similar to that of policy advisors and senior policy advisors employed by the  
5 Governor's office, which were "traditionally associated with government;" that she had  
6 authority granted to her by the Governor to define and develop his policy; that she had  
7 government financial involvement because she was reimbursed for expenses and had an  
8 office, a desk, and a computer in the Governor's office; that the Governor exercised  
9 control over her position and could appoint and release her; and that Ms. Hayes had a  
10 significant role in the Governor's office and authority over government employees,  
11 including regularly directing state employees to assist her in carrying out activities related  
12 to governmental business. #PR6.

13  
14 Based on this analysis and the information presented above about Ms. Hayes's  
15 involvement in Governor Kitzhaber's administration, it appears that Ms. Hayes was a  
16 public official serving the State of Oregon during the time period when she was serving  
17 as a policy advisor and First Lady for the Office of the Governor, because she engaged  
18 in activities that constituted governmental functions as described in OAR 199-005-  
19 0035(7).

20  
21 Business with which a Public Official is Associated –

22  
23 Under ORS 244.020(2) (2013), "business" includes, among others, a corporation,  
24 proprietorship, firm, enterprise, organization, self-employed individual or any other legal  
25 entity operated for economic gain. An income-producing not-for-profit corporation that is  
26 tax exempt under section 501(c) of the Internal Revenue Code is not a business if the  
27 public official or a relative of the public official is associated with the not-for-profit only as  
28 a member or board director or in a nonremunerative capacity.

29  
30 A private business or closely held corporation of which the person or the person's relative  
31 is a director, officer, owner or employee, or agent is a business with which a public official

1 is associated. ORS 244.020(3)(a).

2  
3 Because Ms. Hayes is the sole member of 3EStrategies, LLC, it is a business with which  
4 she is associated for purposes of Oregon Government Ethics law.

5  
6 Prohibited Use of Office for Personal Financial Gain –

7  
8 Public officials are prohibited by ORS 244.040(1) (2013) from using or attempting to use  
9 their official position or office to obtain financial gain or avoidance of financial detriment  
10 for the public official, a relative or member of household, or any business with which the  
11 public official or a relative or member of the household of the public official is associated,  
12 if the financial gain or avoidance of financial detriment would not otherwise be available  
13 but for the public official's holding of the official position or office. ORS 244.040(4) (2013)  
14 further prohibits a public official from using confidential information gained in the course  
15 of or by reason of holding position as a public official or activities of the public official.  
16 These provisions apply regardless of whether actual or potential conflicts of interest are  
17 announced or disclosed. ORS 244.040(7) (2013).

18  
19 **Cases Relating to ORS 244.040: Prohibited Use of Office –**

20  
21 Three cases help explain the prohibited use of office for personal financial gain provisions  
22 of ORS 244.040(1):

23  
24 1. Davidson v. Oregon Government Ethics Commission:

25  
26 In *Davidson v. Oregon Government Ethics Commission*, the Oregon Supreme Court  
27 provided clarification on the word "use" in ORS 244.040(1). 300 Or. 415 (1985). In that  
28 case, petitioner David Davidson worked for the State Accident Insurance Fund (SAIF)  
29 and ordered a car for his personal use as an add-on through SAIF's fleet purchase, which  
30 saved Mr. Davidson almost \$1300. Mr. Davidson argued that "use" should be applied  
31 actively to mean "the actual or attempted exercise of the power and influence of an official

1 position and the execution of the duties and responsibilities of a public office in order to  
2 achieve an improper financial gain." The Supreme Court, however, used the definition "to  
3 avail oneself of," and found that Davidson "availed himself of" an add-on purchase by  
4 buying a car at a price that was only available to him as a public official. *Id.* at 92. The  
5 term "use," the Court said, "is not restricted only to influence peddling." *Id.* Rather, the  
6 Court found that ORS 244.040(1) was violated when a public official gained personal  
7 financial advantage through his access to the assets and other attributes of government.  
8 Because a private citizen could not have walked into a car dealership, asked for an add-  
9 on purchase fleet discount, and received the same price Mr. Davidson did, he had "availed  
10 himself" of the add-on purchase. *Id.*

11  
12 2. *Groener v. Oregon Government Ethics Commission:*

13  
14 The Oregon Court of Appeals also provided guidance on the meaning of this statute in  
15 *Groener v. Oregon Government Ethics Commission*. In that case, petitioner Richard  
16 Groener was a State Senator and Chair of the Senate Labor Committee. Mr. Groener  
17 received payment for consulting for three firms owned by Dennis Williams. Mr. Williams's  
18 firms were "private vendors" who received referrals from the Vocational Rehabilitation  
19 Division (VRD) of the Workers' (then Workmens') Compensation Board. 59 Or.App. 459  
20 (1982).

21  
22 During the time period relevant to the case, Senator Groener attended meetings with Mr.  
23 Williams at which Mr. Williams discussed his private vendor services and expressed his  
24 desire for more business from the VRD and the Workers' Compensation Board. Senator  
25 Groener also made phone calls concerning Mr. Williams's companies and competing  
26 vendors, sometimes at Mr. Williams's request, and held social events where Mr. Williams  
27 sold his services to staff of the Workers' Compensation Board. *Id.*

28  
29 The Government Ethics Commission made findings that:

- 30  
31
- Mr. Groener was paid by Mr. Williams to use the influence or power of his office

1 to obtain business for Mr. Williams. Mr. Groener used his office for personal  
2 financial gain by not making a clear and unequivocal distinction between his office  
3 and his private consulting service, and by using his official position to advance his  
4 consulting business;

- 5 • Mr. Groener used his office for personal financial gain directly by requesting  
6 business for Mr. Williams;
- 7 • Mr. Groener used his office for personal financial gain indirectly by:
  - 8 a. Setting up meetings permitting Mr. Williams to sell his services;
  - 9 b. Interceding on Mr. Williams's behalf;
  - 10 c. Letting it be known that he was a supporter and friend of Mr. Williams.

11  
12 Mr. Groener argued that ORS 244.040(1) was unconstitutionally vague. The court in  
13 *Groener* said that the Commission interpreted "use" as including both direct and indirect  
14 use, which was within the plain, dictionary meanings of the term, "and is compatible with  
15 the legislative policy to safeguard the public trust. It is implicit in the order [the Commission  
16 issued] that it is not necessary for a public official to identify expressly the public office he  
17 holds when attempting to influence someone, so long as that someone knows it. The  
18 evidence here supports the findings that those persons knew who petitioner was without  
19 being told by him that he was a state senator." *Id.*

20  
21 The court in *Groener* noted that the evidence indicated a financial benefit to Mr. Groener,  
22 but that the precise amount of financial benefit to Mr. Groener could not be determined,  
23 and so the forfeiture under ORS 244.360 could not be assessed. *Id.*

24  
25 3. *Buntyn v. Government Standards and Practices Commission:*

26  
27 In this case, petitioner Samuel Buntyn was employed as a custodial supervisor by a  
28 school district that was unsatisfied with the company that provided repair work and  
29 janitorial supplies. Mr. Buntyn lent his son \$3000 to start a business that would compete  
30 with the company providing the repair work, and was named (without his knowledge) as  
31 a co-owner of the business, although he never received any compensation from the

1 business. The new business solicited business from the school district, mentioning the  
2 familial relationship to Mr. Buntyn in the letter. Mr. Buntyn was also open about the familial  
3 relationship with the district. 185 Or.App 357 (2003).

4  
5 Over the next 20 months, Mr. Buntyn initiated approximately 44 purchase orders, which  
6 required approval from other staff, for purchases from his son's company. Approximately  
7 21 of them resulted in services rendered by, and payment to, his son's business. When  
8 Mr. Buntyn moved to a different position, the school district continued to use his son's  
9 company for services because it provided the best value. *Id.*

10  
11 The appeals court in *Buntyn* said, "The plain meaning of the statute precludes public  
12 officials from arguing that they *could* have obtained the same benefit by means other than  
13 use of public office because the statute requires public officials to show that,  
14 notwithstanding their public office, they *would* have received the same benefit." In *Buntyn*,  
15 the court concluded that "the undisputed evidence" was that the district would have hired  
16 the business regardless of Mr. Buntyn's position, and so the business would have  
17 received the same financial benefit even if Mr. Buntyn had not held his official position  
18 with the district. The court found no violation of ORS 244.040 but upheld the violations of  
19 ORS 244.120(1)(c) regarding conflicts of interest. *Id.*

20  
21 Application to Ms. Hayes's Circumstances:

22  
23 Ms. Hayes was prohibited by ORS 244.040(1) from using or attempt to use her official  
24 position as First Lady or policy advisor to the Governor for her own personal financial  
25 benefit or to benefit 3Estrategies, if that financial benefit would not have been available  
26 but for her official position.

27  
28 Each public official is personally responsible to comply with Oregon Government Ethics  
29 law, and Ms. Hayes was personally responsible to ensure that she did not engage in any  
30 policy work, discussions, speeches, travel, use of access, use of influence, or use of  
31 resources that would further her paid work. Even if she had a dual purpose for some of

1 her actions, such as furthering her own paid work and furthering the work of the Office of  
2 the Governor at the same time, the evidence indicates that she was using the opportunity  
3 of her official position for her own personal financial benefit and the financial benefit of  
4 her company, 3EStrategies. Ms. Hayes was required to clearly separate the two roles  
5 and not engage in any work in her official capacity that would financially benefit her  
6 personally or financially benefit 3EStrategies, a business with which she was associated.

7

8 There appears to be a preponderance of the evidence to indicate that Ms. Hayes used  
9 her official position as First Lady and policy advisor to the Governor to obtain financial  
10 gain or avoid a financial detriment for herself and her business, and that the financial  
11 benefit to her or 3EStrategies would not have been available but for her position as First  
12 Lady and policy advisor to the Governor.

13

14 There appears to be a preponderance of the evidence to show the following violations of  
15 ORS 244.040(1):

16

17 1. Use or attempted use of official position to obtain funding for paid fellowship and  
18 contracts: Ms. Hayes used and knowingly allowed others to use her position as  
19 First Lady and policy advisor to the Governor's office and the access and influence  
20 she had in those positions to solicit and obtain funding for the fellowship and  
21 contracts that paid her salary and travel expenses. These included:

22

- 23 • Promoting her ability to open doors, facilitate relationships, and convene  
24 groups that she would not have been able to gather without her public  
25 position;
- 26 • Promoting her ability to integrate the organizations' preferred policy into that  
27 of the State of Oregon and other states;
- 28 • Promoting her ability to access and influence executive and legislative  
29 decision makers.

30 ///

31 ///

1 2. Use of official position to advance paid agenda: in accordance with promises made  
2 to prospective funders, Ms. Hayes used her position as First Lady and policy  
3 advisor to the Governor to accomplish the following tasks, for which she was being  
4 paid by those funders:

- 5 • To convene governors and governor's office staff to discuss and get behind  
6 her funders' agendas;
- 7 • To make speeches where she was identified as the First Lady of Oregon to  
8 advance funders' agenda;
- 9 • To advance, "behind the scenes" in the Governor's office, the policy  
10 positions that she was paid to advance by funders.  
11

12  
13 3. Use of state resources for private business:

- 14  
15 • Ms. Hayes repeatedly used Ms. Rowinski and Ms. Murdock, staff from the  
16 Governor's office, to make travel arrangements for Ms. Hayes private  
17 business travel;
- 18 • Ms. Hayes allowed members of the Governor's staff, including senior  
19 advisors, to set up meetings and provide Ms. Hayes with contacts for her  
20 private business work;
- 21 • Members of the Governor's staff and other state agencies provided Ms.  
22 Hayes with information that she used for her private business work;
- 23 • Members of the Governor's staff reviewed and provided input on speeches  
24 relating to Ms. Hayes paid work; and,
- 25 • Ms. Hayes received discounted state travel rates and used state  
26 government travel agency services for trips for her private business.  
27

28 These opportunities for financial gain or avoidance of financial detriment would not have  
29 been available to Ms. Hayes but for her position as First Lady and policy advisor to the  
30 Governor: Ms. Hayes solicited and accepted opportunities for paid work in her personal  
31 capacity that would not have been available to her if she did not hold her official position

1 in the Office of the Governor. The available information indicates that these financial  
2 opportunities were available to her because of her official position, both because of her  
3 title and because her official position allowed her to influence policy and call together  
4 public officials who might not have responded to her if she were not First Lady and  
5 integrally involved in the Office of the Governor. She used access that was not available  
6 to a private citizen.

7  
8 Ms. Hayes used her position and access as First Lady and unpaid policy advisor to  
9 Governor Kitzhaber to build the accomplishments of her position as Clean Economy  
10 Acceleration Fellow, and used those accomplishments to solicit additional funding and  
11 contracts, opportunities for financial gain which would not have been available but for  
12 public position. She also used them as accomplishments to satisfy the requirements and  
13 deliverables for her contracts. These included such things as high-level participation in  
14 the PCC, meetings involving governors and policy advisors of the three West Coast states  
15 and British Columbia, claiming responsibility for a joint resolution by West Coast  
16 jurisdictions, developing policy in the Office of the Governor through the Ten Year Energy  
17 Action Plan, speeches that she was invited to give because she was First Lady of Oregon,  
18 being paid to appear in a video as First Lady of Oregon, and making tours of coastal  
19 communities where she appeared as First Lady.

20  
21 Ms. Hayes also used staff time in the Office of the Governor to avoid the financial  
22 detriment of taking the time or employing staff to make her flight and hotel reservations  
23 for work done under her contracts, and to avoid the financial detriment of paying for pet-  
24 sitting for her pets.

25  
26 While Ms. Hayes also used DPU services to provide her with transportation, it appears  
27 that DPU policy allows the use of DPU services at any time for both personal and state  
28 purposes. DPU policy provides for services to the Governor and "his immediate family."  
29 The Governor determined that Ms. Hayes was entitled to DPU services. It appears that  
30 DPU protection is part of the Governor's official compensation, but it is not clear that  
31 Governor Kitzhaber had the authority to permit DPU to provide transportation for a person



1 who was not covered by the written DPU policy, namely, his unmarried partner. The  
2 Commission's administrative rule on this matter, OAR 199-005-0035 states that "an  
3 official compensation package' means the wages and other benefits provided to the public  
4 official. To be part of the public official's "official compensation package," the wages and  
5 benefits must have been specifically approved by the public body in a formal manner,  
6 such as through a union contract, an employment contract, or other adopted personnel  
7 policies that apply generally to employees or other public officials."  
8

9 The Commission will have to determine whether Ms. Hayes was permitted under ORS  
10 244.040(2)(a) to accept DPU transportation as a member of Governor Kitzhaber's  
11 household.  
12

13 Conflicts of Interest –  
14

15 Actual and potential conflicts of interest are defined in ORS 244.020(1) and (12) in the  
16 2013 statutes. A public official has an actual or potential conflict of interest when  
17 participating, in his or her capacity as a public official, in any action, decision, or  
18 recommendation the effect of which would or could be to the private pecuniary benefit or  
19 detriment of the public official, a relative, or any business with which the public official or  
20 a relative are associated. ORS 244.120(1)(c) describes the method by which an  
21 appointed official shall handle a conflict. When met with a conflict of interest, the public  
22 official shall notify in writing the person who appointed the public official to office of the  
23 nature of the conflict, and request that the appointing authority dispose of the matter giving  
24 rise to the conflict.  
25

26 The available information shows that Ms. Hayes took the following actions and made the  
27 following recommendations in her capacity as First Lady and policy advisor to the  
28 Governor, the effect of which would or could have been to her of her business's private  
29 pecuniary benefit:  
30

///

- 1 • Convening governors of the western states, including Governor Kitzhaber to  
2 discuss clean economy policy, ocean acidification, and GPI, work she was  
3 being paid to do;
- 4 • Making paid speeches where she was identified as First Lady and where she  
5 did not clearly state that she was speaking in her private capacity as a paid  
6 speaker;
- 7 • Attending meetings made available to her as First Lady and policy advisor  
8 where she was furthering her paid work without disclosing in writing to her  
9 appointing authority that she was doing so;
- 10 • Participating in policy discussions/recommendations as a policy advisor to the  
11 Governor's office and First Lady without disclosing in writing to her appointing  
12 authority that she was being paid to influence the same policies;
- 13 • Using Governor's staff resources for private business purposes without  
14 disclosing in writing to her appointing authority that she was doing so.

15  
16 In taking the actions described in this report, Ms. Hayes did not dispose of her conflicts  
17 of interest in a timely or sufficient manner. Although the available information suggests  
18 that she completed conflict of interest memorandum, these were general forms submitted  
19 sometime after 5/23/13. They described the terms of three contracts she had already  
20 accepted and requested the Governor's staff dispose of the potential for conflicts of  
21 interest, dated after the contracts began. They were not written notifications specific to  
22 each action, decision or recommendation described above for which she was met with a  
23 potential or actual conflict of interest.

24  
25 Gifts –

26  
27 Oregon Government Ethics law limits gifts that a public official may accept. A gift is  
28 defined as something of economic value given to a public official without valuable  
29 consideration of equivalent value, which is not extended to others who are not public  
30 officials on the same terms and conditions. ORS 244.020(7)(a). A public official may not  
31 solicit or receive, directly or indirectly, any gift or gifts with an aggregate value in excess

1 of \$50 from any single source that could reasonably be known to have a legislative or  
2 administrative interest; that is, an economic interest, distinct from that of the general  
3 public, in any matter subject to the decision or vote of the public official acting in their  
4 capacity as a public official. ORS 244.025, 244.020(9).

5  
6 In this case, it appears that Ms. Hayes received a gift that violated ORS 244.025 in 2013  
7 when she was given Premier Platinum status by United Airlines, which had a value of  
8 more than \$50. United Airlines had an economic interest in Ms. Hayes's decision-making  
9 as a public official because Ms. Hayes could choose whether or not to spend state funds  
10 to fly on United Airlines when flying on official State of Oregon business.

11  
12 The spokesperson hired by the Oregon Business Council does not, however, appear to  
13 be a gift to Ms. Hayes, because, under the terms of the final contract, the benefit was not  
14 provided to her personally but to the state initiative she led as First Lady.

15  
16 **RECOMMENDATIONS:** The Oregon Government Ethics Commission should make  
17 preliminary findings of violation of ORS 244.025, ORS 244.040(1) and ORS 244.120(1)(c)  
18 by Sylvia Hayes.

19  
20 **ASSOCIATED DOCUMENTS:**

- 21 #PR1 Complaint and attachments received 10/15/14 from Vicki Berger.  
22 #PR2 Supplemental information received 1/12/15 from Vicki Berger.  
23 #PR3 Complaint and attachments received 10/16/14 from Margie Hughes; filed  
24 as duplicate.  
25 #PR4 Complaint received 11/10/14 from Ifeanyichukwu Chijioke Diru; filed as  
26 duplicate.  
27 #PR5 Memorandum of Law Requesting Dismissal of Ms. Sylvia Hayes for Lack  
28 of Jurisdiction, signed by Stephen T. Janik, received 12/8/14.  
29 #PR6 Letter from Judge Tracy A. Prall to Whitney P. Boise and Charles F.  
30 Hinkle in *Sylvia Hayes v. Oregonian Publishing Co.*, Marion County Circuit  
31 Court Case No. 15CV04530, dated 8/5/15.

- 1 #PR7 Business Entity Data for 3EStrategies, LLC from Oregon Secretary of  
2 State website.
- 3 #PR8 Request for Commission Advisory Opinion, Supplemental Letter, and  
4 attachments from Liani Reeves to OGEC, dated and received 10/13/14.  
5 #PR9 Letter and attachments from Lisa Hay, Federal Public Defender, District of  
6 Oregon, to Assistant US Attorney Scott Bradford, dated 4/18/17, submitted  
7 to OGEC by Cylvia Hayes on 7/5/17.
- 8 #PR10 Invoice from Cylvia Hayes to Demos, dated 5/10/13.
- 9 #INV1 Cylvia Hayes résumé, printed August 2017 from  
10 [www.3estrategies.com/cvcylviahayesshort.pdf](http://www.3estrategies.com/cvcylviahayesshort.pdf)
- 11 #INV2 Business Entity Data for the Green Economy Institute, printed from  
12 Oregon Secretary of State Corporation Division.
- 13 #INV3 Business Entity Data for 3EStrategies, LLC, printed from the Oregon  
14 Secretary of State Corporation Division.
- 15 #INV4 Portions of 3EStrategies website, printed September 2017.
- 16 #INV5 Notes on Phone Calls in Kitzhaber/Hayes cases.
- 17 #INV6 Select emails from Governor Kate Brown's public records release of  
18 Cylvia Hayes emails to/from Governor's office staff, released on  
19 <http://www.oregon.gov/gov/media/Pages/Public-Records-Log.aspx>  
20 beginning 4/3/15.
- 21 #INV7 Select emails from Governor Kate Brown's public records release of John  
22 Kitzhaber emails to/from Governor's office staff, released on  
23 <http://www.oregon.gov/gov/media/Pages/Public-Records-Log.aspx>,  
24 beginning 9/8/15.
- 25 #INV8 Select emails from Cylvia Hayes's email accounts, held by Oregon State  
26 Archives.
- 27 #INV9 Information printed from Rural Development Initiatives website, including  
28 press release concerning Ms. Hayes dated 2/5/15.
- 29 #INV10 Nigel Jaquiss, "Serving Two Masters," Willamette Week, 3/2/11, available  
30 at <http://www.wweek.com/portland/article-17018-serving-two-masters.html>
- 31 #INV11 Biography of Sally Ann Ranney, available at

- 1 <http://www.sallyranney.com/meetsally.html>.
- 2 #INV12 Biography of Dr. Sylvia Earle, available at
- 3 <https://www.marinesanctuary.org/member/dr-sylvia-earle/>.
- 4 #INV13 John A. Kitzhaber, M.D., Governor, Oregon Ten Year Energy Action Plan,
- 5 12/14/12, available at
- 6 <https://digital.osl.state.or.us/islandora/object/osl%3A16627/datastream/OBJ/view>.
- 7
- 8 #INV14 "How happy is Oregon? Governor Kitzhaber joins Portland State
- 9 University class that aims to find out," by Bill Graves, *The Oregonian*,
- 10 4/17/12, available at:
- 11 [http://www.oregonlive.com/education/index.ssf/2012/04/how\\_happy\\_is\\_oregon\\_governor\\_k.html](http://www.oregonlive.com/education/index.ssf/2012/04/how_happy_is_oregon_governor_k.html).
- 12
- 13 #INV15 Nigel Jaquiss, "First Lady, Inc.," *Willamette Week*, 10/7/14, available at:
- 14 <http://www.wweek.com/portland/article-23203-first-lady-inc.html>.
- 15 #INV16 Jeff Mapes, "Cylvia Hayes, in 9 sorrowful minutes, tries to blunt damage to
- 16 John Kitzhaber from illegal marriage," *The Oregonian/OregonLive*,
- 17 10/9/14, available at:
- 18 [http://www.oregonlive.com/politics/index.ssf/2014/10/cylvia\\_hayes\\_in\\_9\\_sorrowful\\_mi.html#incart\\_2box](http://www.oregonlive.com/politics/index.ssf/2014/10/cylvia_hayes_in_9_sorrowful_mi.html#incart_2box).
- 19
- 20 #INV17 *RE: DPU policy*, email and attachment from B. Fugate, Oregon State
- 21 Police, to M. Scheffers, OGEC, 8/28/17.
- 22 #INV18 *Hayes Matter*, email and attachments from J. Ewing to M. Scheffers,
- 23 12/15/17.
- 24 #INV19 *Cylvia Hayes/3-E Strategies – OGEC – Resource Media*, email and
- 25 attachments from A. Blitz to M. Scheffers, 12/15/17.
- 26 #INV20 Nick Budnick, "Kitzhaber's partner resents scrutiny," *Bend Bulletin*,
- 27 3/13/11, available at <http://www.bendbulletin.com/slideshows/1402502-151/kitzhabers-partner-resents-scrutiny>.
- 28
- 29 #INV21 *Ocean Acidification and the People of Washington State*, Ocean
- 30 Conservancy, published 4/23/13, available at
- 31 <https://www.youtube.com/watch?v=5IJI-INsVYE>.

- 1 #INV22 *Beyond the Spill* trailer, Uncage the Soul Productions, published 4/20/11,  
2 available at <http://vimeo.com/20500772>.
- 3 #INV23a&b *Re: Oregon Government Ethics Commission investigation*, emails from M.  
4 Sutton to M. Scheffers, 12/12/17, 9:06 am and 1:34 pm.
- 5 #INV24 *RE: Oregon Government Ethics Commission Inquiry re. Cylvia Hayes*  
6 *(Packard Foundation)*, email from S. Neel to M. Scheffers, 12/19/17.
- 7 #INV25 2013 IRS 990 Form of Marisla Foundation, available at:  
8 <http://990finder.foundationcenter.org/990results.aspx?action=Find&fn=marisla&st=CA&ei>.  
9
- 10 #INV26 *RE: Oregon Government Ethics Commission Inquiry re. Cylvia Hayes*  
11 *(Energy Foundation)*, email from S. Ryan to M. Scheffers, 12/19/17.
- 12 #INV27 Oregon Humanities Idea Lab Summer Institute document, available at  
13 <http://www.statehumanities.org/wp-content/uploads/2015/09/Oregon-Humanities.pdf>  
14
- 15 #INV28 Cylvia Hayes Commencement Address, Oregon State University –  
16 Cascades, 2013, available at: <http://osucascades.edu/oregons-first-lady-cylvia-hayes-commencement-address-2013>.  
17
- 18 #INV29 *FW: june 11 or 12 in VT?*, emails between C. Hayes and M. Rowinski,  
19 provided to OGEK on flash drive from Ball Janik during preliminary review.
- 20 #INV30 *FW: Purchases HAYES/CYLVIA LYNNE 17 Mar Vancouver, BC*, email  
21 from J. Murdock to C. Hayes, 2/19/14, GOV99914-99923.
- 22 #INV31 Investigator notes on 8/14/17 meeting with Bill Fugate, Mike Bates,  
23 Oregon State Police.
- 24 #INV32 Oregon Institute of Technology Bylaws, adopted 1/22/15, available at:  
25 <http://www.oit.edu/docs/default-source/board-of-trustees-documents/2015-meetings/january/adopted-bylaws-22jan15.pdf?sfvrsn=2>.  
26
- 27 #INV33 SolWest Fair Program Guide, available at: [http://oregonrural.org/wp-content/uploads/2014/01/SolWest\\_program\\_guide.pdf](http://oregonrural.org/wp-content/uploads/2014/01/SolWest_program_guide.pdf).  
28
- 29 #INV34 *question from Oregon Government Ethics Commission*, email from M.  
30 Scheffers to L. Colligan, 8/29/17.
- 31 #INV35 *OR GPI implementation outline*, email from C. Hayes to J. Kitzhaber,

11/23/13, from Governor's Office release

11\_19\_15\_Release\_Kitzhaber\_Emails\_000049.

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3 #INV36

Emails about DPU coordination from 2014, provided to OGEC on flash drive from Ball Janik during preliminary review.

4

5 #INV37

Lew Daly and Sean McElwee, "Forget the GDP. Some State Have Found a Better Way to Measure Our Progress," *New Republic*, 2/3/14, available at: <https://newrepublic.com/article/116461/gpi-better-gdp-measuring-united-states-progress>.

6

7

8

9 #INV38

*FW: Itinerary – Detailed – CYLVIA LYNNE HAYES Travel Date: Monday, October 28, 2013*, emails from J. Murdock to C. Hayes and calendar entries, provided to OGEC on flash drive from Ball Janik during preliminary review.

10

11

12 #INV39

Pacific Coast Action Plan on Climate and Energy, signed 10/28/13 at San Francisco, available at: <http://pacificcoastcollaborative.org/Documents/Pacific%20Coast%20Climate%20Action%20Plan.pdf>.

13

14

15

16 #INV40

Documents provided to OGEC on 12/20/17 by Patterson Belknap Webb & Tyler LLP, attorney for Rockefeller Brothers Fund.

17

18 #INV41

The Points Guy, "How Much Are Airline Status Levels Really Worth?" *Forbes*, 2/23/16, available at: <https://www.forbes.com/sites/thepointsguy/2016/02/23/how-much-is-elite-status-really-worth/#40ab6e635411>.

19

20

21

22 #INV42

*FW: TED2014: Program Changes and Vancouver Arrival Details*, et al., emails between C. Hayes and J. Murdock, provided to OGEC on flash drive from Ball Janik during preliminary review.

23

24

25 #INV43

Cylvia Hayes, "TED 2014: Satellites, Fireflies and Ass-Kickers," *Huffington Post*, 3/24/14, available at: [https://www.huffingtonpost.com/cylvia-hayes/ted-2014-satellites-firef\\_b\\_5022138.html](https://www.huffingtonpost.com/cylvia-hayes/ted-2014-satellites-firef_b_5022138.html).

26

27

28 #INV44

About Demos, <http://www.demos.org/about-demos>.

29

30 #INV45


Oregon Department of Administrative Services, Presentation to 2013 Travel Forum, Oregon Employment Department Auditorium, 9/24/13, available at: <http://www.oregon.gov/das/Procurement/Documents/AzumanoTravel2013>.


31

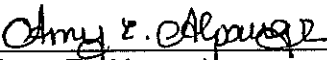
- 1 pdf.
- 2 #INV46 *Interview on GPI*, email from C. Hayes to J. Kitzhaber, 1/3/14; *Bakken*
- 3 *madness*, email from C. Hayes to J. Kitzhaber, 1/8/14; *RE: GPI Colorado*,
- 4 email from C. Hayes to R. Whitman, cc. J. Kitzhaber, 1/16/14, from
- 5 Governor's Office release 11\_19\_15\_Release\_Kitzhaber\_Emails\_000049.
- 6 #INV47 <http://www.nwei.org/assets/JB-e.pdf>
- 7 #INV48 *Just Below the Surface: Perspectives on the Gulf Coast Oil Spill*, available
- 8 at: <http://www.nwei.org/assets/JB-e.pdf>.
- 9 #INV49 Dan Carol LinkedIn Profile, available at: [https://www.linkedin.com/in/dan-](https://www.linkedin.com/in/dan-carol-a342985)
- 10 [carol-a342985](https://www.linkedin.com/in/dan-carol-a342985).
- 11 #INV50 *RE: Out of state form*, email from S. Campos to K. Looney, 12/22/14,
- 12 provided as part of #INV51.
- 13 #INV51 Reimbursement Documents, provided by Oregon Department of
- 14 Administrative Services on flash drive.
- 15 #INV52 *Re: Seattle questions*, emails between C. Hayes and M. Rowinski, provided
- 16 to OGEK on flash drive from Ball Janik during preliminary review.
- 17 #INV53 DPU Log from Mahonia Hall, attachment to 10/30/14 email from L. Reeves
- 18 to T. Anderson, submitted by Ball Janik (not printed due to length).
- 19 #INV54 FW: April 16<sup>th</sup> – GJGJ Conference?, emails between M. Rowinski and C.
- 20 Hayes, provided to OGEK on flash drive from Ball Janik during preliminary
- 21 review.
- 22 #INV55 FW: May 3<sup>rd</sup> Confirmed – UC Irvine, emails between M. Rowinski and C.
- 23 Hayes, provided to OGEK on flash drive from Ball Janik during preliminary
- 24 review.
- 25 ///
- 26 ///
- 27 ///
- 28 ///
- 29 ///
- 30 ///
- 31 ///



- 1  
2 #INV56 Resource Media webpage documents, available at: [http://www.resource-](http://www.resource-media.org/about/)  
3 [media.org/about/](http://www.resource-media.org/about/).  
4 #INV57 Energy Foundation Webpage -- About Us, available at:  
5 <http://www.ef.org/about-us/>.

PREPARED BY  \_\_\_\_\_ 1/2/18  
Marie Scheffers Date  
Investigator

APPROVED BY  \_\_\_\_\_ 1/2/18  
Ronald A. Bersin Date  
Executive Director

REVIEWED BY  \_\_\_\_\_ 1/2/18  
Amy E. Alpaugh Date  
Assistant Attorney General

# Appendix A

## Rural Development Initiatives (RDI)

Feb.-June 2011

1. Fundraising
2. Director, West Coast Clean Economy Collaborative

## Clean Economy Acceleration Fellowship

~August 2011-September 2013

1. Re-convened Pacific Coast Collaborative
2. Advice and support West Coast Clean Economy Alignment Initiative
3. Media/communications/stories
4. 33 speeches on clean economy issues
5. Convened policy advisors from West Coast Gov. offices re. ocean acidification
6. Oversaw baseline Oregon Gross Prosperity Index (GPI)

## Resource Media

Feb. 2013-Dec. 2013

1. Mobilize decision makers, including West Coast governors, to address ocean acidification
2. Convene stakeholders, including governors' offices
3. Speaking engagements
4. Public and media outreach

## Energy Foundation

May 2013-Apr. 2014

1. Communications strategy (speeches/blogs/publications/social media)
2. Success story case studies
3. Support and catalyst for the West Coast Clean Economy Alignment Initiative

## Demos

June 2013-November 2013

1. Gather info on GPI in US states
2. Develop opportunities to share info on best practices
3. Planning for national GPI meeting
4. Content for GPI cyber-hub
5. Advise on state-specific GPI models
6. Advise on implementation of GPI

## Appendix B

ALF – American Leadership Forum

CEDC – Clean Economy Development Center

CGBD – Consultative Group on Biological Diversity

DPU – Dignitary Protection Unit of the Oregon State Police

GDP – Gross Domestic Product

GJGJ – Good Jobs Green Jobs conference

GPI – Genuine Progress Indicator

HOHE – Healthy Oceans Healthy Economy (communications plan with Resource Media)

JK – John Kitzhaber

NOP – National Ocean Policy

OBC – Oregon Business Council

ODFW – Oregon Department of Fish and Wildlife

PCC – Pacific Coast Collaborative

PSU – Portland State University

RBF – Rockefeller Brothers Fund

RDI – Rural Development Initiatives

WCCEC – West Coast Clean Economy Collaborative

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(

**SCHEFFERS Marie \* OGEC**

---

**m:** Josh Ewing <josh@boisematthews.com>  
**c:** Friday, December 15, 2017 1:53 PM  
**To:** SCHEFFERS Marie \* OGEC  
**Subject:** Hayes Matter  
**Attachments:** Hayes Matter.pdf

Dear Ms. Scheffers,

Attached please find a document that highlights some of Ms. Hayes significant work on sustainability and the green economy for the time period about which you inquired.

Please contact me if you have any questions.

Thank you for your time.

Sincerely,  
Josh

Josh B. Ewing

**BOISE | MATTHEWS**<sup>LLP</sup>

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# Cyivid Hayyes

# Early Career / Nonprofit Work

1999 - 2008

1999 Hayes receives master's degree from Evergreen State College

2000 Hayes founds EOCO

2002 Hayes founds Farm Connections - Oregon

2002 Hayes runs for the Oregon Legislature

2003 Hayes founds CESTICOGES

2005 Hayes becomes editor of the publication of Green + Social Building Magazine

2006 Hayes is asked to help create the Oregon LEW

2007 Hayes is hired by A Care to deliver a more engaging presentation

2008 Hayes is hired by A Care to deliver a more engaging presentation

2008 Hayes is hired by A Care to deliver a more engaging presentation



# 1999: Graduation

4/15/1999: Hayes earned a Master's degree in Environmental Studies, Biodiversity Preservation and Sustainability from the Evergreen State College in Olympia, WA.

The Biodiversity of Lake Balkai:  
Status, Problems and Solutions

Cybil Hayes  
PO Box 1021  
Parmenter, OR 97795

April 13, 1999

Master's Thesis  
MES Program  
The Evergreen State College

In her 222-page thesis, Hayes wrote about many of the ideas and issues that she pursued in her professional career; climate change due to increased atmospheric concentrations of human-created carbon in the atmosphere, a tax on carbon emissions, and how the increased use of coal is incompatible with protecting air quality and reducing acid precipitation.

# 2000: ECCO (Earth Connections of Central Oregon)

## Founder

**"The mission of Earth Connections of Central Oregon is to accelerate the transition to sustainable living practices and economic models by empowering people through education, research and community collaboration."**

▶ **Dr. James Delp**, first ECCO donor. Hayes was a professional, wonderful and exciting speaker. She was creative and brought people of like minds together. She followed through with things she promised and was passionate about her belief in sustainability.

▶ **Emily Herbert**, ECCO board member. Hayes wrote grants, gave speeches and did community outreach. Hayes was enthusiastic, friendly and charismatic. People were drawn to her because she was a leader and was passionate about the earth. She was goal-oriented, practiced what she preached, and really walked her talk.

▶ **ECCO** evolved into Earth Connections - Oregon, which later morphed into 3E Strategies.

### Earth Connections of Central Oregon

Minutes of July 26, 2001 meeting  
Meeting called to order by Lawrence Schlichter at 11:05.  
Dick Kaufmann (Secretary)  
Minutes from 7/13/2001 meeting approved as submitted

#### FINANCIAL:

CyViva submitted the financial report for the period Jan. 1-June 30, 2001 with budget for the year and notes related and spent YTD. She will add a column showing YTD budget and the cash flow report she makes from the check book each month for our first meeting of each month. Brenda indicates approx. \$180 cash on hand.

#### FUNDRAISING:

Wilderness Foundation has rejected our application, but with some tentative help for a willing to give some coaching and/or review for our applications also.

#### OLD BUSINESS:

Articles of Incorporation, moved by Dick, 2nd by CyViva to authorize Lewis to proceed with incorporation of articles and necessary documents for submission. To be approved by all. Responses to be provided, VP and Sec.

#### BOARD MEMBER UPDATE:

Family indicated she will be a member of the Advisory Board, not a Director. We need to set a separate meeting for the purpose of board organization and selection of more directors.

#### NEWSLETTER UPDATE:

Deadlines for submission 8-15-01, but we need articles by 8-10-01 to setup the 8 pages. The mission of Earth Connections of Central Oregon is to accelerate the transition to sustainable living practices and economic models by empowering people through education, research and community collaboration.

#### MISSION STATEMENT:

Approved as follows:  
The mission of Earth Connections of Central Oregon is to accelerate the transition to sustainable living practices and economic models by empowering people through education, research and community collaboration.

#### NEW BUSINESS:

Tour of Solar Homes, October 13, 2001 ECCO will take the lead in the organization of the tour with the first organizational meeting set for August 9, 2001 7:00 PM at the Environmental Center, CyViva, Chantia Ann and Dick will put together lists of families.

#### OTHER BUSINESS:

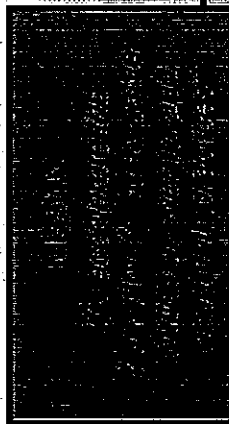
Lawrence is going to make available trees to (sell) at the Tour of Homes. COCC class will meet Oct. 10<sup>th</sup> on "The High Desert Bio-Region" sponsored by ECCO for a weekly session. Adjourned at 12:45





# 2003: 3Estrategies

## Founder and Executive Director



**Staff**  
 Sylvia Hayes (Executive Director)  
 Marilee Koehn, Development Director

**Board of Directors**  
 Mike Byers - President (Planning Consultants)  
 Kathryn Gray (UrbanSun Designs)  
 John Macintosh (Cascade Sun Works)  
 Matt Shindeman (OSU-Cascades Campus)  
 Tom Wykes (OSU Extension)

**Advisory Board**  
 Whitney Bates (Professor Emerita  
 Portland State University) | Peter Brewer  
 (Oregon Dept. of Environmental Quality)  
 Peter Gaiser (American Express  
 Financial Services) | Patrick Griffiths  
 (City of Bend) | John Hummel (Attorney  
 Bend City Council) | Kate Kimball  
 (Sustainable Oregon) | Paula Kinzer  
 (Eccentric Consulting) | Mark Kramer  
 (Brian S. Cabinas) | Jeff Rolz (Deschutes  
 Soil & Water Conservation District)

2003/2004



The Building Green  
 Council of  
 Central Oregon

The purpose of the Building Green Council is to help people design, build and renovate homes and commercial buildings that are high quality, efficient and healthy. Highlights of the program include:

- An online Building Green Resource Directory that gives easy access to local green designers, builders and product suppliers.
- Green Building New Construction and Remodel Guides.
- Educational forums and workshops on a variety of topics including financial incentives, making green building profitable, and LEED certification.
- Implementation of paid and earned media campaign to educate about the benefits of green building, promote the Council and distinguish area professionals who are doing exemplary work.

### ■ Solar and Green Built Home Tour and Fair:

3E Strategies coordinates the statewide Oregon Tour of Solar Homes, part of a national event. As part of that work, we produce the Oregon Tour of Solar Homes magazine.



Our event has set the bar for the state and the country. The two-day Tour includes a Building Green Fair in downtown Bend.

The Tour and Fair provide hands-on opportunities to learn about passive solar design, solar hot water heating, photovoltaics, conservation measures, ecologically sound interior design and home maintenance products, and sustainable construction materials and techniques.



2004: Oregon Department of Energy Solar Pioneer Award



2004: Sustainable Industries Journal  
Top 25 Green Building Leader



2006: Cascade Business News  
Top 40 Under 40



2006: Central Oregon Environmental Center Earth Star Award



**Cylvia Hayes, executive director of 3E  
Strategies, honored with Earth Star  
Award**

Green superstar

By Jim Witty / The Bulletin

Published Sep 9, 2006 at 05:00AM

# 2006-2009: REWG (Renewable Energy Working Group) Co-Chair

▶ REWG, created by Governor Kulongoski, worked from 2004-2009. Members consisted of 40 people of different organizations and 4 key representatives of the State of Oregon.

▶ Hayes and Mike McArthur co-chaired the group from 2006-2009. McArthur, a former Sherman County Judge, described Hayes as very bright and a quick study, and passionate about renewable energy, sustainability, and a small carbon footprint. These were her core values. She was a born leader, got things done, and had strong follow-through.

▶ The REWG, under Hayes' leadership, developed Oregon's landmark Renewable Portfolio Standard and other key clean energy policies.

## Renewable Energy Working Group Meeting

April 27, 2009

Local Government Center, Salem

### Meeting Notes

Links to the handouts and presentations mentioned in the notes are located on the REWG meeting website: <http://www.oregon.gov/ENERGY/NEW/REWG/REWG-Meetings.shtml>

#### Energy Future and the Need for Renewables

Cylvia Hayes, REWG co-chair, gave an overview of the REWG and the charge for the REWG to implement the Renewable Energy Action Plan. She noted that we have invited other natural resource agencies and groups to today's meeting, since the REWG and the other groups all have interests in renewable energy for combating climate change. She stated that there are trends showing that there is going to be explosive population growth and development in the west over the next few decades. In addition, scientific studies are showing that the western states will be experiencing some of the worst effects of climate change as well.

Cylvia gave an overview of Oregon's energy use and electricity sources. She stated that we still get more electricity from fossil fuel sources (natural gas and coal) than hydro. Noting the importance of conservation, she said that given the population growth, we are still going to need to add new electricity sources for Oregon while emphasizing efficiency and smart growth. Oregon's renewable portfolio standard (RPS) requires that 25% of our new energy sources will be renewable energy by 2025, which shows that Oregon is serious about a low-carbon future.

Cylvia stated that the solutions we implement to combat climate change and provide clean energy, must be developed with the idea of conserving our natural resources and protecting wildlife habitat. She noted a need to make sure that our actions are environmentally sustainable or ideally even environmentally restorative.



# 2007: Al Gore Training Project

## Global Warming Messenger

Hayes was among the first 1,000 leaders worldwide chosen by former Vice President Al Gore who were trained to deliver the climate change presentation that led to the film **An Inconvenient Truth**. Hayes completed the training in January 2007, she presented at more than a dozen venues including Bend's Tower Theater on April 20, 2007 and St. Charles Medical Center on August 24, 2007.

**"INCONVENIENT TRUTHS AND UNFORESEEN OPPORTUNITIES":** A presentation by Sylvia Hayes of 3E Strategies focused on finding solutions to global warming in Oregon; free, 5:30 p.m.; Central Oregon Environmental Center, 16 N.W. Kansas Ave., Bend, 410-1720.



Friday, August 24th, 2007, 12:00PM-1:30PM, Fielding 5610, St. Charles Medical Center - Bend  
Cynthia Hayes of 3E Strategies was the first to deliver the training for Al Gore's An Inconvenient Truth. Hayes will present the climate change presentation on impacts of global climate change. She will focus on the unique challenges and opportunities for Oregon.

# 2008: Redmond Airport

## 3E Contract

HNTB, a civil engineering corporation, contracted with 3E to identify and incorporate green building and sustainable energy components into the Redmond Airport expansion.



**BE STRATEGIES**<sup>TM</sup>  
 ECOLOGY • ECONOMY • EQUITY

On-site Energy Generation at U.S. Airport Facilities



3E Strategies, at the request of the Redmond Airport, has conducted research into proposed and completed on-site renewable energy generation projects associated with airport facilities in the United States.

What follows are the results of this research, packaged as facility specific case study summaries. These case studies provide a detailed and concise understanding of what has been done and/or what is being proposed including, when available, technical specifications of installation and the type of financing/leasing models utilized for on-site energy generation projects supported across the U.S.

### **3E STRATEGIES**

Attachment A

#### Detailed Scope of Work For the Redmond Airport

##### Scope of Work:

3E Strategies will assist the Redmond Airport in identifying and incorporating green building and sustainable energy components in the expansion of the airport facility in Redmond Oregon. Specific services provided by 3E Strategies will include:

- 1) Coordinating the process of securing relevant tax and cash incentive opportunities including state and federal government incentives, utility incentives, carbon credits, and possible grant funding.
- 2) Serving as a liaison with key stakeholders including public officials, utilities and planning department representatives.
- 3) Creating Project Sponsorship package and soliciting sponsors.
- 4) Developing a public education and marketing strategy to highlight the progressive measures Redmond Airport is undertaking. This will include measures to document the design and construction of the project so a permanent educational display can be implemented in the completed facility should Redmond Airport choose to do so.

NOTE: 3E Strategies would be interested in submitting a Phase Two proposal to implement the project process documentation and later the Educational Campaign plan as the project nears completion.

##### Timeline:

The above Phase One services will be completed between September 15<sup>th</sup>, 2008 and December 31<sup>st</sup>, 2008

##### Key Personnel:

Cylvia Hayes, 3E Strategies' Executive Director

# 2007-2009: Sustainable Oregon Workforce Initiative

## 3E Contract

*3E worked with key regional economic, investment boards, and response teams to determine the extent to which each region had begun to address sustainable energy workforce needs.*

The implementation of the Project through the conduct of Phase 2 activities will be performed by 3E Strategies, an Oregon-based 501(c)(3) not-for-profit corporation, working in conjunction with members of a consortium of sustainable energy companies and stakeholders, collectively known as the Business Alliance for Sustainable Energy (BASE).

### An Inventory of Renewable and Efficient Energy in Oregon

Completion of a statewide inventory of sustainable energy development efforts, their status, and primary contact information to better assist companies in connecting with communities and workforce development agencies.

David Raffind, BASE/3E Strategies  
Cylvia Hayes, 3E Strategies  
Oregon AFL-CIO  
Workforce Oregon

Sustainable Oregon Workforce Initiative  
Building the Clean Energy Workforce in Oregon



**3E STRATEGIES**  
REGIONS • BUILDS • EMPLOY

# 2007-2008: Sustainable Oregon Workforce Initiative

## Phase 1

### Executive Summary

Oregon is poised to do something big. As conventional energy sources become more costly in both economic and environmental terms, the renewable energy and energy efficiency industries are burgeoning. Oregon possesses a tremendous diversity of renewable energy resources and a solid base of clean energy companies. The state has an opportunity to become a national leader in the clean energy economy generating innovative, family wage jobs and providing solutions to the pressing energy and environmental issues of our age. In order to do so it must develop a strong workforce for clean energy companies.

Sustainable Oregon Workforce Initiative  
Building the Clean Energy Workforce in Oregon

An Analysis of Clean Energy Workforce  
Needs and Programs in Oregon

Sustainable Oregon Workforce Phase 1 Report

March, 2008



CyWia Hayes, 3E Strategies and the Business Alliance for Sustainable Energy  
Barbara Byrd, Oregon AFL-CIO

Final Text-Only Version

Analysis of Clean Energy Workforce Needs and Programs in Oregon – Text Only Version 1

# 2009: Sustainable Oregon Workforce Initiative Phase 2

## An Inventory of Renewable and Efficient Energy in Oregon

Compilation of a statewide inventory of sustainable energy development efforts, their status, and primary contact information to better assist companies in connecting with communities and workforce development agencies.

David Rankin, BASE3 Strategies  
Gailia Hayes, BE Strategies  
Oregon AFL-CIO  
Worksource Oregon

Sustainable Oregon Workforce Initiative  
Building the Clean Energy Workforce in Oregon



A key highlight of the Phase 2 effort was development of the Oregon Sustainable Energy Development Inventory. This inventory provides an overview of renewable energy and energy efficiency development status in Oregon. It includes chapters on: renewable energy and energy efficiency development status; local, state and federal incentives, employment and training resources; economic and business development resources; and case studies covering each of the key renewable energy and energy efficiency sectors. Developing this inventory required a year's worth of research via literature review, direct phone and personal interviews, electronic surveys and numerous inquiries to local, state and federal government agencies. The Inventory of Renewable and Efficient Energy Development in Oregon will be a key networking tool as well as a benchmarking tool to assess Oregon's progress in clean energy development.

# 2008: Sustainability Action Plan 3E Contract

Comprehensive EECBG Implementation Plan  
for the City of Bend, Oregon

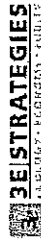


100 WALL STREET  
SUITE 1000, NEW YORK  
NEW YORK, NY 10038-2075  
www.bend.or.gov

June 24, 2009

Contact: Brad Emerson, City of Bend, (541) 317-3054  
or Cylvia Hayes, 3E Strategies, (541) 817-9013

Prepared by 3E STRATEGIES  
[www.3estrategies.org](http://www.3estrategies.org)

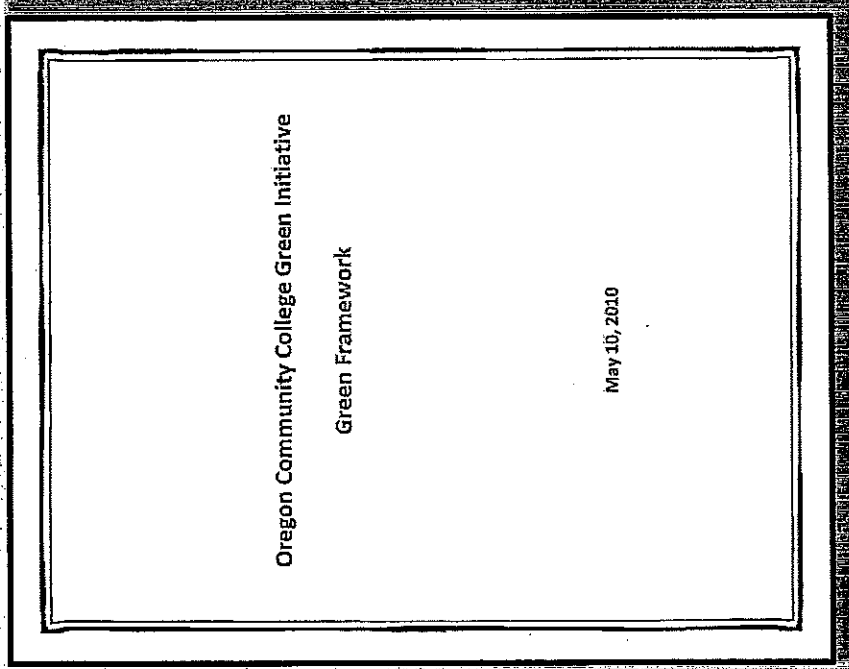


City of Bend Comprehensive EECBG Implementation Plan

Worked with the City of Bend to  
develop a vision and plan to make  
Bend a sustainable, modern city.

ADAMS

# 2009: Oregon Community Colleges Green Initiative 3E Contract



**Columbia Gorge Community College contracted with 3E to help in the development of a model to ensure the efficient use of state resources for green workforce development**

A "Green" literature review was conducted by Cylvia Hayes, 3E Strategies, Bend, Oregon.

# 2009 - 2010: Green Jobs Growth Plan 3E Contract



**Contract with State of Oregon acting through Oregon Department of Community Colleges and Workforce Development - Creating A Map to Oregon's Green Economy**

"To develop the Green Jobs Growth Plan, Governor Kulongoski convened a Green Jobs Council and the State hired 3E Strategies, LLC, to work closely with OWB and OBDD to develop the Plan."



# 2009 - 2010: Roadmap to Increasing Sustainability Measures and Fiscal Viability within the Energy and Weatherization Programs 3E Contract

Roadmap to Increasing Sustainability Measures and Fiscal Viability within the Energy and Weatherization Programs

Serving Working Families in a 21st Century Economy  
January 2011 through December 2012



Contact with State of Oregon acting through Oregon Housing and Community Services Agency (OHCS)

3E Served as Lead Author for strategic Assessment, commissioned by OHCS, of its energy and weatherization related programs.

**2009 - 2010: Energy Efficiency and Renewable Energy  
Weatherization Innovation Review  
3E Contract**

**Contract with U.S. Department of Energy  
- Oakridge Institute for Science and  
Education**

3Estrategies was hired to review grant applications from cities, counties and American Indian tribes applying for funds from the federal government to support energy efficiency and weatherization projects.