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TRANSCRIPTION OF RECORDED INTERVIEW

OF

William Herms

September 24, 2012

Sacramento, California

Investigation of Department of Parks &
Recreation - Financial Irregularities

Interviewed by: Thomas M. Patton
Deputy Attorney General
Office of the Attorney
General
State of California

Transcribed by: David Rutt,
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1 MR. PATTON: It is 2:44 p.m.,
2 Monday, September 24, 2012. Thomas M. Patton,
3 Deputy Attorney General, speaking, with
4 Michael Mattson as an agent with our
5 Department of Justice, and he's here assisting
6 me. And we're recording the interview, and we
7 have with us this afternoon --

8 Go ahead and introduce yourself,
9 spell your last name for the record.

10 MR. HERMS: William Herms,
11 H-E-R-M-S.

12 MR. PATTON: And you are currently
13 employed as?

14 MR. HERMS: The Chief of Staff to
15 Assembly Member Roger Hernandez.

16 MR. PATTON: Okay. Excellent.
17 Thank you.

18 And previously, you worked, I think,
19 for the Parks Department.

20 MR. HERMS: I did. I was the Deputy
21 Director for Legislation.

22 MR. PATTON: And tell us about your
23 Parks Department career. How long were you
24 there?

25 MR. HERMS: I was there for

1 approximately five-and-a-half years.

2 MR. PATTON: And the whole time you
3 were Deputy Director for --

4 MR. HERMS: For Legislation, yes.
5 There was a short period where I was the
6 acting Chief Deputy, I think that was a couple
7 of months, but that was just to sort of fill
8 in.

9 MR. PATTON: You say four-and-a-half
10 years?

11 MR. HERMS: Five-and-a-half years.

12 MR. PATTON: Five-and-a-half years
13 Deputy Director at Parks for Legislation.

14 MR. HERMS: Um-hum.

15 MR. PATTON: So that entails, I
16 guess, being the legislative liaison?

17 MR. HERMS: Yes. And so my duties
18 and responsibilities were, in essence, to be
19 the interface between State Parks and the
20 legislature as well as reporting to agency and
21 the governor's office because the information
22 kind of goes both ways. It comes down from
23 the governor through State Parks over to the
24 legislature and then back again. So I would
25 take all calls from members and deal with all

1 issues that would come from that person.

2 MR. PATTON: Okay. So you must
3 have some background, I guess, prior to
4 diagnosis --

5 MR. HERMS: Prior to working at
6 State Parks --

7 MR. PATTON: Yeah.

8 MR. HERMS: -- I was the Chief of
9 Staff to a member in the building. I was also
10 a chief consultant to a policy committee. I
11 was also a chief consultant to an oversight
12 committee of the Joint Legislative Audit
13 Committee.

14 MR. PATTON: Do you mind telling me
15 which those were? You were Chief of Staff
16 previously to who?

17 MR. HERMS: Chief of Staff to
18 Assembly Member Parra, and I was chief
19 consultant to the Veterans Committee, which
20 was Assembly Member Dick Dickerson, and then
21 when I was chief consultant to the Joint
22 Legislative Audit Committee, that was also Ms.
23 Parra.

24 MR. PATTON: Joint Legislative Audit
25 Committee. That sounds -- so you've got --

1 how long were you consultant to them?

2 MR. HERMS: About a year, maybe a
3 little more.

4 MR. PATTON: Okay.

5 MR. HERMS: And I went from JLAC to
6 State Parks.

7 MR. PATTON: That just got my
8 attention because obviously audits are going
9 on now.

10 MR. HERMS: Obviously.

11 MR. PATTON: Obviously. All right.
12 So tell us -- you know, we'll just get
13 straight to the point. You've seen the news
14 reports.

15 MR. HERMS: I have.

16 MR. PATTON: And you may or may not
17 have seen some of the financial spreadsheets
18 at this point, the talk about a disparity in
19 fund reporting in the State Parks and
20 Recreation Fund.

21 MR. HERMS: Since I left before this
22 became an issue, I haven't seen any data or
23 spreadsheets at all.

24 MR. PATTON: Okay.

25 MR. HERMS: Really the only thing I

1 know is what I've read in the Sacramento Bee.

2 MR. PATTON: And you've probably
3 read that there's an issue about a
4 disparity -- the Bee's reported fifty-four
5 million dollars --

6 MR. HERMS: Right.

7 MR. PATTON: -- in disparate
8 reports. And we've taken a closer look at --
9 that was based on numbers attributable to both
10 the State Parks and Recreation Fund and the
11 Off Highway Vehicle Fund --

12 MR. HERMS: Correct.

13 MR. PATTON: -- based on the most
14 recent report coming out of Finance that there
15 was about twenty million -- twenty-and-a-half
16 million undisclosed in the State Parks and Rec
17 Fund and about thirty-three-and-a-half in the
18 OHV. And you're nodding your -- that's what
19 you've read. You're nodding your head.

20 MR. HERMS: That is --

21 MR. PATTON: You've read that?

22 MR. HERMS: That is what I've read,
23 yes.

24 MR. PATTON: And we've at this point
25 narrowed down our focus to the SPRF --

1 MR. HERMS: Um-hum.

2 MR. PATTON: -- Park and Rec Fund.
3 What we're hearing indicates that -- because
4 the numbers in the OHV over the years are sort
5 of all over the map. Some years --

6 MR. HERMS: They are, yes.

7 MR. PATTON: And how do you --
8 you're nodding your head yes. How do you know
9 that?

10 MR. HERMS: I've -- because I do
11 legislation --

12 MR. PATTON: Um-hum.

13 MR. HERMS: -- there was some
14 significant legislation on OHV, oh, early on,
15 within the first couple of years when I sort
16 of worked in Parks. So I know that there was
17 some restructuring of how the OHV fund
18 received its money. There was also -- as I
19 sort of stayed in touch with that, I know the
20 OHV division was looking to expand and buy new
21 lands and facilities, and I know that they
22 were having trouble with that. And I know
23 that as the trust fund grew, because the OHV
24 division was not able to be successful to go
25 out and develop new facilities, as the balance

1 in that trust fund grew, both administrations,
2 both the Schwarzenegger and the Brown
3 administrations, swept money from that fund to
4 fill the gap that we had in the budget.

5 MR. PATTON: Swept or borrowed?

6 MR. HERMS: The technical term would
7 be "borrowed", of course.

8 MR. PATTON: Okay. Well, we'll get
9 back to looking at some years at the OHV fund
10 and see if you have a recollection of any of
11 these loans, sweepings and -- but then let's
12 shift gears for a minute and talk about the
13 SPRF fund.

14 Our review of this indicates that --
15 and Finance's review indicates that for some
16 period of time, and particularly -- for some
17 period of time, and it does go back at least
18 twelve years, there was twenty or more million
19 of a disparity between what was reported at
20 the end of the year through the accounting
21 side of Parks Admin Services to the
22 Controller's office and what was reported
23 budget-wise to the Department of Finance. And
24 so what we're interested in knowing is what,
25 if anything, other than what you've read about

1 in the papers had you ever heard about any
2 reserve monies or anything at Parks.

3 MR. HERMS: And I had never heard
4 anything. I had never even heard a discussion
5 about the discrepancies in the numbers and
6 certainly nothing about a reserve. In fact,
7 during the time that I was there, especially
8 the latter years, the concern was much more on
9 the department running deficit spending than
10 having any kind of reserve.

11 MR. PATTON: So before we went on
12 the record, you said that -- and I told you
13 that I've -- we've talked with some people who
14 know a lot about this discrepancy, some who
15 say they have no knowledge of it and some --
16 and you identified yourself as someone who
17 might fall in the middle. So what were you
18 referring to?

19 MR. HERMS: Well, I guess what I
20 have knowledge is the discussions about the
21 department's budget, how the budget was
22 characterized to the executive team, how I
23 felt the executive team -- or where I felt the
24 executive team believed the department was
25 fiscally. And so I guess I fall in the middle

1 in that I had never heard any discussion of
2 the technical difference between what was
3 being reported to the Controller or to the
4 governor's office. That wasn't something I --

5 MR. PATTON: So tell me what you are
6 talking about. First of all, the executive
7 team would be?

8 MR. HERMS: The Director, the Chief
9 Deputy, the acting Chief Deputy, myself, the
10 Chief Deputy for Operations, the Chief Deputy
11 for Administration, for Planning, for -- who
12 else was in there. I'm trying to -- there
13 were -- we would have meetings every two
14 weeks, and it was all the deputies.

15 MR. PATTON: So all the other
16 division deputy directors?

17 MR. HERMS: Yeah, basically, yes.

18 MR. PATTON: And you were there
19 five-and-a-half years.

20 MR. HERMS: Yes.

21 MR. PATTON: So you were there '7,
22 '8, '9, '10, '11, and half of '12.

23 MR. HERMS: Something like that,
24 yeah.

25 MR. PATTON: So the Chief Deputy

1 during your time, the acting Chief Deputy was
2 Mike Harris?

3 MR. HERMS: In the latter years.
4 Early on was Romero, Paul Romero.

5 MR. PATTON: Okay. And so when you
6 started in '07, Paul Romero was the Chief
7 Deputy --

8 MR. HERMS: Yes.

9 MR. PATTON: -- and Mike Harris was?

10 MR. HERMS: He was the Deputy
11 Director for Strategic Planning.

12 MR. PATTON: Okay. And at some
13 point, did he take over the Deputy Director
14 for Admin Services?

15 MR. HERMS: I think that was before
16 I was there. When I was there, he was
17 never --

18 MR. PATTON: Okay.

19 MR. HERMS: -- Deputy Director for
20 Admin Services.

21 MR. PATTON: Okay. Then he went
22 from Strategic Planning to taking Romero's
23 spot.

24 MR. HERMS: To being acting Chief
25 Deputy, yes.

1 MR. PATTON: So you say, as part of
2 the executive team, you were there at biweekly
3 meetings --

4 MR. HERMS: Um-hum.

5 MR. PATTON: -- where budget matters
6 are discussed. Tell me about those
7 discussions.

8 MR. HERMS: Well, the discussions,
9 especially as the Schwarzenegger
10 administration began signaling that they were
11 going to reduce our budget and then ultimately
12 when the Brown administration did reduce our
13 budget by twenty-two million, was how do we
14 deal with that, what are the impacts going to
15 be on the department.

16 There was a great deal of concern
17 about how the department would adjust in order
18 to be able to come up with twenty-two million
19 dollars in savings. And at no time do I
20 recall anybody being concerned that we were
21 going to have a surplus. The genuine honest
22 concern of everybody at the table was we've
23 got an ongoing reduction of twenty-two
24 million, and that's twenty-two million every
25 single year. There were --

1 MR. PATTON: Not cumulative -- not
2 an additional twenty-two more million --

3 MR. HERMS: No.

4 MR. PATTON: -- cut the next year
5 we're going to have to live with twenty-two
6 million less each year --

7 MR. HERMS: Right.

8 MR. PATTON: -- here on out.

9 MR. HERMS: Which means that the
10 department was going to have to reduce its
11 expenditures -- its annual expenditures by
12 twenty-two million and make them go away and
13 they can never come back.

14 MR. PATTON: Do you know how much
15 the Parks Department budget is total?

16 MR. HERMS: I was the leg guy, not
17 the budget guy, but it -- I'm guessing, I'm
18 guessing. It seems to me SPRF was somewhere
19 around ninety-something million or a hundred
20 million. Our General Fund came down to about
21 a hundred million, maybe a little under that.
22 Then we had some other funds that -- we'd get
23 some fed funds. That was the unusual thing
24 about State Parks is we had so many different
25 funding sources --

1 MR. PATTON: Um-hum.

2 MR. HERMS: -- and we were always
3 trying to project and keep track and determine
4 our funding projections as we moved forward
5 knowing that we were going to have to take
6 twenty-two million dollars of General Funding
7 out of the system.

8 MR. PATTON: Yeah. That's pretty
9 consistent with the numbers we've heard, a
10 little over 100,000 in General Fund, a little
11 under in SPRF revenue fund for a total of
12 around 200,000. And when all is told in all
13 the other funds, OHV and everything else is
14 added in, it actually gets, I think, closer to
15 400,000.

16 MR. HERMS: It does, yes, but those
17 are special funds that aren't necessarily
18 available to the department.

19 MR. PATTON: So the twenty-two
20 million out of the 200 million is -- sounds
21 like approximately ten percent cut.

22 MR. HERMS: Uh-huh. And this after
23 a number of significant cuts over the last
24 several years. State Parks -- and again, I'm
25 just going off memory, and this is a job that

1 I haven't had for a while, so my understanding
2 was -- and listening to the director as she
3 gave testimony to the legislature, that we'd
4 seen over an eighty-million dollar reduction
5 in our General Fund over the last decade.

6 MR. PATTON: Um-hum.

7 MR. HERMS: And so the twenty-two
8 million wasn't just an isolated twenty-two
9 million.

10 MR. PATTON: An eighty million
11 dollar reduction in General Fund --

12 MR. HERMS: Yeah.

13 MR. PATTON: -- appropriation.

14 MR. HERMS: Right.

15 MR. PATTON: Do you recall anything
16 about how much SPRF revenue might have
17 increased over that period of time so that you
18 had a feel for what the net operating
19 reduction or had things stayed the same or
20 what?

21 MR. HERMS: I can't give you numbers
22 because that's --

23 MR. PATTON: Yeah.

24 MR. HERMS: -- getting too
25 technical --

1 MR. PATTON: Yeah.

2 MR. HERMS: -- but I remember seeing
3 a graph --

4 MR. PATTON: Yeah.

5 MR. HERMS: -- that did bring all of
6 that together, and the graph was sloping in
7 the negative direction --

8 MR. PATTON: Okay. All right.

9 MR. HERMS: -- so that when you
10 combined it all, State Parks was operating
11 with less and less money year after year after
12 year, and that was sort of the baseline
13 understanding that the executive team had.

14 MR. PATTON: So what was the -- what
15 was the gist of the conversation about how are
16 we going to deal with this twenty-two million
17 dollar cut?

18 MR. HERMS: Well, obviously, there
19 were a number of conversations, but basically
20 it broke out into, well, do we spread this
21 across the entire system. In other words,
22 we've got 279 state parks, twenty or so
23 districts, do we just tell the twenty
24 districts you're all operating with less money
25 and the entire system spends less or -- and an

1 argument was made that since there had been
2 such significant cuts over such a long period
3 of time, the argument was referred to as the
4 death by a thousand cuts that if we tried to
5 do another round of reductions across the
6 system that there were going to be places
7 where we were going to see public safety
8 compromised, we were going to see health
9 issues and law enforcement issues and issues
10 that we had barely been keeping under control
11 and in some places not keeping under control,
12 and it was going -- the twenty-two million
13 reduction across the board was going to
14 exacerbate that to a point where many in the
15 field felt that we couldn't go.

16 And so the argument was made that
17 what we needed to think about was identifying
18 those units that were most expensive to
19 operate with the least amount of revenue, the
20 least amount of visitation, and take those
21 units off line and move those dollars, in
22 essence, to the rest of the system to keep the
23 majority of the system functioning at a safe
24 level. And so that was the debate as to which
25 way we should go.

1 MR. PATTON: So this is where we get
2 into the discussion of park closures?

3 MR. HERMS: Exactly.

4 MR. PATTON: Okay. And you say some
5 of the more expensive and less visited units.

6 MR. HERMS: Right.

7 MR. PATTON: Okay. And so -- and a
8 plan basically was drawn up to figure out how
9 to do that?

10 MR. HERMS: Right. So what we did
11 was we brought our most experienced field
12 people together, district directors and other
13 experienced park professionals, and we put
14 them in room. And there were, I'm guessing,
15 twelve to fifteen, it's been quite a while,
16 but approximately. And we put them in a room,
17 and we gave them the charge of -- we're going
18 to take -- I think the initial charge for them
19 was give us a ten, a twenty, and a thirty
20 million dollar list, start giving us a ranking
21 because at that time we didn't know exactly
22 what the hit would be.

23 And so they began doing that, and
24 this was an ongoing process where they began
25 to look at a number of parameters. And then

1 Mr. Huffman (ph.) passed a bill -- oh, I'm
2 sorry. It wasn't a bill; it was in the budget
3 that instructed Parks to use certain
4 parameters to determine what parks should
5 remain open and what parks so be on the list,
6 and I believe that is -- it's been a while --
7 AB-98.

8 MR. PATTON: Okay.

9 MR. HERMS: Something like that.

10 MR. PATTON: So a priority list --

11 MR. HERMS: A priority list with
12 the --

13 MR. PATTON: -- the parameters for
14 identifying a priority list --

15 MR. HERMS: Right.

16 MR. PATTON: -- were specified.

17 MR. HERMS: And so you can imagine
18 that a park that is fairly remote that doesn't
19 get much visitation but still requires that it
20 has buildings and so they have to be
21 maintained, and so we still have to send crews
22 out there, we still have to have permanent
23 staff out there, yet it has little or no
24 revenue, and so the expense of keeping that
25 park open is much greater than a park where

1 you've got much larger visitation and so
2 forth.

3 So it wasn't just cost benefit
4 analysis, and if you look at the list of
5 criteria, you'll also see we looked at natural
6 resource assets, we looked at historic
7 resource as sets. We looked at a variety of
8 things that made parks unique so that even if
9 a park didn't make a lot of money, but it told
10 a unique story that nobody else told, we felt
11 that that was important enough to leave it
12 open even though we might be closing another
13 park that might have better cost benefit
14 analysis numbers but doesn't have the natural
15 resources. So it was a difficult task. All
16 of these parks are unique and special. There
17 isn't a lousy one out there.

18 MR. PATTON: Yeah.

19 MR. HERMS: And asking these
20 professionals to come up with this list was
21 not an easy thing for them to do either.

22 MR. PATTON: I would imagine. I'm
23 curious about something because I've -- I
24 remember seeing -- I've heard that there are
25 all told in the system are something like 270

1 parks?

2 MR. HERMS: Well, when I left, there
3 were 279.

4 MR. PATTON: Okay. You know what?
5 That's the number I heard. 279 parks, and in
6 the process of trying to deal with this
7 proposed cut, some seventy parks were
8 identified as targeted for closure.

9 MR. HERMS: Correct.

10 MR. PATTON: And based on my rough
11 math skills, seventy is twenty-five percent of
12 280. And so closing twenty-five percent of
13 the parks achieves a ten percent reduction.
14 In my mind, we must talking about a lot of
15 these parks are smaller.

16 MR. HERMS: Very small. And so that
17 becomes the difficult political part the sell,
18 which is you're closing a quarter of the
19 system. The truth is, and as the Director
20 testified to the legislature, and again I'm
21 going to go for the numbers, we preserved
22 ninety-eight percent of our attendance and
23 ninety-six percent of our revenue by closing
24 those seventy parks.

25 MR. PATTON: Yeah.

1 MR. HERMS: So as a sheet with just
2 names on it, we closed twenty-five percent of
3 all parks, but if you look at the percent of
4 places that Parks people attend and the
5 revenue that is generated, we only closed
6 between six and eight percent.

7 MR. PATTON: Yeah. That makes a lot
8 more sense to me. So a lot of these small
9 parks like Stanford House is a park.

10 MR. HERMS: Yes.

11 MR. PATTON: Governor's Mansion is a
12 park.

13 MR. HERMS: Is a park.

14 MR. PATTON: And so these were on
15 the list --

16 MR. HERMS: Yes.

17 MR. PATTON: -- to be targeted --

18 MR. HERMS: Yes.

19 MR. PATTON: -- for closure and a
20 lot of other one-stop --

21 MR. HERMS: Very small, yeah.

22 MR. PATTON: -- small operations.

23 MR. HERMS: Yeah, yeah. And remote
24 places, again.

25 MR. PATTON: Yeah, okay. But the

1 big -- you know, the big parks, the new
2 Brighton Beach Park, the large heavily visited
3 places.

4 MR. HERMS: Makes no sense to close
5 them.

6 MR. PATTON: Right. Okay. So
7 you -- so a plan was discussed. This was in
8 just -- recently, in recent years.

9 MR. HERMS: Well, the discussion
10 began -- that first discussion began when Ted
11 Jackson was the Deputy Director for
12 Operations.

13 MR. PATTON: Was this under Brown's
14 administration or --

15 MR. HERMS: That was under
16 Schwarzenegger.

17 MR. PATTON: Yeah.

18 MR. HERMS: You may remember around
19 at one point said that he was going to close
20 every state park.

21 MR. PATTON: Yeah.

22 MR. HERMS: I mean, he came out and
23 said that, and so we were given direction to
24 begin putting a plan together to do that, and
25 then he changed his mind and said, no, only

1 close -- I don't even remember what the number
2 was -- forty-eight. The number was fluid, it
3 was a very political sort of issue. Each
4 administration was sort of throwing things out
5 there, pulling them back, and we were trying
6 to respond to that in a timely manner because,
7 you know, when the governor says he wants a
8 list and he wants numbers, he wants it now.
9 And so we would try and respond to that.

10 But what we found was -- this was
11 over about three years, from the
12 Schwarzenegger administration through the
13 Brown administration, when all these different
14 proposals were put out there. And we
15 appreciated, and even though he's not my boss
16 anymore, we appreciate the current governor
17 who said to State Parks this is the size to
18 cut, you've got some parameters, take your
19 time, use the parameters, get the
20 professionals in the room, and give me a good
21 list. And so we had almost a month to do
22 that. Under Schwarzenegger, we had three
23 days.

24 And so you can imagine it was
25 predominantly cost benefit. It was the data,

1 incomplete though it was, that we could get
2 our hands on really rapidly, and even when we
3 has had the -- more time to do this, there
4 isn't a ranking of natural resource importance
5 of all the parks. We had to go into our
6 historic documents, we had to go into other
7 reports and, in house, have debates.

8 I testified at a hearing where I was
9 asked, well, why isn't there -- where did this
10 park rank on the natural resource importance.
11 There is no ranking. It was a group of
12 experienced park professionals argued over the
13 value of every single state park, taking into
14 account all of the criteria. It was a
15 difficult exercise.

16 MR. PATTON: So a list of seventy
17 was -- came up, and this was -- so Brown took
18 office in 2011.

19 MR. HERMS: Um-hum.

20 MR. PATTON: So this was sometime in
21 2011 that this exercise --

22 MR. HERMS: Almost right away, yeah.

23 MR. PATTON: Okay.

24 MR. HERMS: Yeah, because he had his
25 budget write-up.

1 MR. PATTON: That's right. He
2 walked in, and there was some major billions
3 of dollars short --

4 MR. HERMS: Right, exactly.

5 MR. PATTON: -- in the budget, so
6 he's trying to come up with a viable budget.
7 And so right at the beginning of 2011 and
8 then -- so there's discussions and a lot of
9 work's being done to identify how do we do
10 this.

11 MR. HERMS: Right.

12 MR. PATTON: And then I think the
13 volunteer groups, people started coming out
14 from the outside world, the non-government
15 world, trying to figure out how to help.

16 MR. HERMS: Right. And that, quite
17 frankly, at first, you have to remember, our
18 house is on fire at this point. We're about
19 to lose twenty-two million. We're trying to
20 figure out how to do this. We're trying to
21 figure out how do you close a park. In the
22 history of State Parks, a park has never been
23 closed before.

24 So we're struggling internally with
25 the legal issues, liability issues, the

1 personnel issues. How do you move rangers
2 from one place to another. We're struggling
3 internally with trying to answer a lot of very
4 difficult questions that have never been asked
5 before. And at the same time we have a lot of
6 voices on the outside saying, how can we help?

7 So early on -- and I think it's fair
8 to say, early on, we didn't know how people
9 could help us early on. In fact, we weren't
10 even sure if we could turn over a park to a
11 nonprofit, and in fact, it was subsequent
12 legislation that gave us the authority to be
13 able to do that. That was one of the things
14 that we went to the legislature and said, hey,
15 this would help us if we can do this, and so
16 that's Mr. Huffman.

17 MR. PATTON: So did anybody in Parks
18 management start having meetings with
19 representatives of nongovernment entities?

20 MR. HERMS: Well, I think the short
21 answer is yes. Many people came and spoke to
22 the Director, and probably the most common
23 contact was with the district superintendants,
24 all the guys out in the field, because these
25 were fringe groups.

1 Most parks, many parks have fringe
2 organizations that support them through
3 volunteer work, through a wide variety of just
4 volunteer stuff that they do to help the park
5 just on the natural. And so many of these
6 fringe groups would go to the district
7 superintendant and say, hey, your park is on
8 the list, we'll take it over. The district
9 superintendants, especially early on, did not
10 know how to react to that. They did not know
11 if they had the authority to say okay. They
12 didn't -- there were just a lot of unanswered
13 question.

14 And the administration was
15 struggling, because remember, this was in the
16 early days. The Brown administration was
17 struggling getting staffed up, getting people
18 in place who could sort of ingest this much
19 information. People think that this is a
20 simple exercise. Most people have no idea how
21 incredibly complicated it was. And we had
22 lots of meetings through the state with lots
23 of groups, but early on --

24 MR. PATTON: "We" who had those
25 meetings?

1 MR. HERMS: The district
2 superintendants, State Parks personnel. But
3 early on, it wasn't clear what we could say to
4 them with respect to here's how you could help
5 us.

6 MR. PATTON: Was authority then
7 obtained legislatively to be able to avail
8 parks?

9 MR. HERMS: Yes, and that came
10 later.

11 MR. PATTON: In 2011? Well, it's
12 2012 now

13 MR. HERMS: I believe it was in the
14 2011-'12 budget is where we saw the authority.

15 MR. PATTON: Okay. And ultimately,
16 my understanding is that monies were
17 contributed and --

18 MR. HERMS: Yes.

19 MR. PATTON: -- and volunteer
20 efforts were contributed.

21 MR. HERMS: Yes.

22 MR. PATTON: And my understanding is
23 none of the seventy have ended up being
24 closed.

25 MR. HERMS: None of the seventy have

1 ended up being closed, but I no longer work
2 for State Parks, so I'm going to just give you
3 my unvarnished truth to this.

4 MR. PATTON: Okay.

5 MR. HERMS: None of the seventy are
6 being closed because politically it has become
7 impossible to do so. However, many of the
8 volunteer groups that are stepping up, many of
9 the fiscal sources that are being provided in
10 order to keep a park open are not stable.
11 These are groups that do not have the capacity
12 to do what they are saying that they're going
13 to be able to do. And monies that are being
14 donated, many of which are one-year, two-year,
15 three-year -- the twenty-two million dollar
16 cut to State Parks is ongoing.

17 MR. PATTON: And let me just ask
18 you, that shortfall was filled with donations
19 then? That's how --

20 MR. HERMS: No.

21 MR. PATTON: -- we've managed to
22 avoid it?

23 MR. HERMS: No, no, that is not. In
24 the majority of cases, fewer services are
25 being provided, a lot fewer services in some

1 cases. In some places, it's just volunteers
2 that are going to be doing things. In other
3 cases, it's donors giving state parks -- for
4 example, I believe it was -- forgive me. It's
5 one of our large forested, beautiful oak
6 parks. They gave them 300 -- three different
7 donors 100,000 dollars a year for three years,
8 900,000 dollars over a three-year period. I
9 don't know what the total of the dollars were
10 or the in-kind volunteers, but it is far, far
11 less than twenty-two million dollars.

12 MR. PATTON: Okay. Now, let me ask
13 you this. So you never -- in all the -- so
14 you've described a year of dealing with
15 basically impending doom and a very big
16 shortfall of money and a plan to scale back
17 operations really by about six percent in
18 order to achieve that ten percent --

19 MR. HERMS: Yeah.

20 MR. PATTON: -- savings --

21 MR. HERMS: Yeah.

22 MR. PATTON: -- although the gross
23 number of park closures is a little more
24 shocking --

25 MR. HERMS: Right.

1 MR. PATTON: -- but in fact, it
2 sounds like more like a six percent
3 curtailment of Park operations. And through
4 all these discussions and all this planning
5 for that, in these executive committee
6 meetings or anywhere else, you don't recall
7 ever hearing about there being any additional
8 monies that the Parks Department might be able
9 to avail itself of, not contributions, any
10 additional monies within the Parks budget?

11 MR. HERMS: The Parks budget is very
12 fluid, so when you say "additional monies",
13 every year we do a projection on what we're
14 going to get in fees.

15 MR. PATTON: Um-hum.

16 MR. HERMS: And when we change fees,
17 we have to try and think, all right, we raised
18 some fees, what's that going to give us.
19 Sometimes when we raise fees, we see an
20 increase. Sometimes when we raise fees, we
21 see a decrease. So, yes, there were
22 discussions about different ways that State
23 Parks might be able to bring in additional
24 funds; however, most of those were in the out
25 years. They weren't, certainly not for the

1 current year, and the projections were
2 educated guesses. And no one felt confident
3 enough in those kinds of projections and the
4 more entrepreneurial things that we were doing
5 to build it into the budget because if we were
6 wrong and it went the wrong way, then we're in
7 a deficit again.

8 MR. PATTON: Okay. Well, I just --
9 I have to just throw this out just so I get
10 your response to this. In one of the
11 interviews I've had, and so we're going to get
12 into a couple of levels of hearsay, but I
13 asked the -- I got one of my first briefings
14 from the new Admin Services Officer, Aaron
15 Robertson, who learned of this information
16 about a twenty million dollar disparity and
17 actually twenty million in undisclosed funds
18 sitting in a State Parks and Rec account that
19 had been there for some time and never
20 expended because they had been undisclosed --

21 MR. HERMS: Um-hum.

22 MR. PATTON: -- they'd never been
23 appropriated.

24 MR. HERMS: Um-hum.

25 MR. PATTON: And Mr. Robertson told

1 me that -- because I asked him had anyone
2 indicated to you that they -- they're aware or
3 that Ruth was aware of this difference
4 sometime back prior to Aaron disclosing it to
5 Ruth, and Robertson told me, I talked to Tony
6 Perez afterward, after this story had hit,
7 after it had gone public in response to the
8 PRA request, I talked to him, I asked him did
9 you know about this.

10 He, Perez said he did not know but
11 he had heard that there was some money out
12 there. He said he had heard -- he didn't
13 describe it as clearly succinctly as a fund
14 balance discrepancy, he just had heard that
15 there was a pot of money out there. He
16 believed that there was discussions about this
17 in the past prior to Aaron coming to the
18 department. And I asked Aaron, discussions
19 amongst whom, and Robertson said, discussions
20 among Manny Lopez, among Bill Herms, among
21 Michael Harris.

22 So we heard from one source,
23 admittedly secondhand, that Tony Perez -- have
24 you talked with anyone since this story hit at
25 Parks?

1 MR. HERMS: I have talked to
2 Michael.

3 MR. PATTON: Michael Harris?

4 MR. HERMS: Michael Harris, not
5 about the details of any of this stuff.

6 MR. PATTON: You haven't talked
7 about the reported fund discrepancies?

8 MR. HERMS: No.

9 MR. PATTON: So this report that
10 Aaron received from Tony that Tony had heard
11 sort of vaguely that there was some money out
12 there and Perez saying to Robertson that he
13 believed he had heard this discussed among
14 Harris, Herms, Lopez --

15 MR. HERMS: Um-hum.

16 MR. PATTON: -- not something you
17 recall?

18 MR. HERMS: No, not at all. And I
19 think I -- honestly, I think I would have
20 remembered. I suspected that -- and I've
21 given this a great deal of thought, that could
22 this have been discussed but in a way that we
23 didn't recognize what they were saying --

24 MR. PATTON: Yeah.

25 MR. HERMS: -- and as I've been

1 trying to talk to you about the long list of
2 sort of uncertainties and the things that were
3 in front of us, it's quite possible that in
4 the context of a larger budget discussion that
5 this could have been brought up, but similarly
6 not recognized as a surplus because the
7 liability side seems so large that it would
8 not have shown up as a surplus. It's
9 certainly possible. All I know is that at no
10 time in any meeting did I ever come to hear
11 anything portrayed as, we got twenty million
12 dollar of unallocated money sitting here that
13 we can use any way that we want.

14 MR. PATTON: Okay.

15 MR. HERMS: At no time do I recall
16 ever hearing that.

17 MR. PATTON: Okay. With regard to
18 the OHV fund, had you ever heard -- had there
19 ever been, tell me -- and we started on --
20 early on and you talked about this a little
21 bit, and then I said I'd show you the
22 spreadsheets and we might try to identify what
23 was going on in a few years. We have a
24 Finance Department spreadsheet. The top
25 section is a SPRF account, and you'll probably

1 find it fascinating.

2 This is the disconnect. This is the
3 disparity. The second to last number is the
4 adjusted balance reported to the Controller.
5 This is the balance reported to the Controller
6 minus reserves for encumbrances, some deferred
7 payroll, and you get to an adjusted Controller
8 balance, and then this is what we're told was
9 in the fund condition statement --

10 MR. HERMS: Um-hum.

11 MR. PATTON: -- to Finance.

12 So there's -- at the most recent
13 year ending June 30, 2011, there was a twenty
14 million dollar disparity. It's been about --
15 it's been in the twenty million dollar range
16 for about six years. It was larger for a
17 period of time in the first part of the 2000s,
18 and it seems to have got its birth in the
19 latter part of the '90s, around '98 when it
20 started growing, had a growth period. This is
21 its adolescence. Here's its birth,
22 adolescence, and then adulthood for six years.

23 MR. HERMS: And I'm assuming you
24 know how it was born because I still have no
25 idea (indiscernible - simultaneous speaking).

1 MR. PATTON: Well, we won't go -- I
2 wasn't there, but we'll see what I am able to
3 learn about --

4 MR. HERMS: Okay.

5 MR. PATTON: -- its conception.

6 MR. HERMS: I'm looking forward to
7 the Bureau of State Audit's report.

8 MR. PATTON: Yeah. And I -- but I'm
9 just talking to people who knew something
10 about this. And a lot of people have -- there
11 has been some -- there's been awareness of
12 this in different circles. That's why I'm
13 asking you what you might have heard because
14 you were in one --

15 MR. HERMS: Um-hum.

16 MR. PATTON: -- you were in the
17 executive circle. In the Off Highway Vehicle
18 fund, we've had -- and you were there from
19 '07 --

20 MR. HERMS: Um-hum.

21 MR. PATTON: -- to '11, so I'll just
22 look at these five years. The most recent
23 year is identified as there being a thirty-
24 three-and-a-half million dollar disparity,
25 thirty-three-and-a half less reported to

1 Finance than to the Controller. Well, the
2 year before, it shows twenty million more
3 being reported to Finance than to the
4 Controller. For '09 and '08, things are
5 fairly close. In '07, again, we've got an
6 overreport, '07 and '6, much more reported to
7 Finance than to the Controller.

8 So this -- as I indicated early on,
9 this has been all over the map --

10 MR. HERMS: Yeah.

11 MR. PATTON: -- the OHV. And I'm
12 sort of curious if you have a recollection of
13 anything in particular -- you mentioned
14 sweepings, loans. Do you recall which years
15 there might have been some borrowing of OHV
16 funds?

17 MR. HERMS: You know, I don't know
18 the exact years, but all of that's in the
19 governor's budget --

20 MR. PATTON: Yeah, okay.

21 MR. HERMS: -- because those were
22 all very openly identified. I know that over
23 the last several years it's been more than a
24 hundred million; it's been quite a lot.

25 MR. PATTON: Okay. Any other

1 things? Like we've heard about some
2 interesting credits, some gas tax, swap
3 dollars being credited. You ever hear
4 anything about credits that were one-time
5 deals?

6 MR. HERMS: Not one-time deals. The
7 legislation --

8 MR. PATTON: Multiple time?

9 MR. HERMS: Well, but the
10 legislation dealt with its ongoing permanent
11 funding source --

12 MR. PATTON: Um-hum.

13 MR. HERMS: -- which is part of
14 that; it's from gas tax. But it wasn't one
15 time, and it was done through legislation
16 and --

17 MR. PATTON: So there has been a gas
18 tax credit to the OHV account?

19 MR. HERMS: Yes. That's part of
20 their annual revenue. They --

21 MR. PATTON: Do you know how long
22 that's been going on?

23 MR. HERMS: A long time.

24 MR. PATTON: Okay. Before you
25 arrived?

1 MR. HERMS: Twenty, thirty years --
2 oh, yes, yeah.

3 MR. PATTON: Oh, okay.

4 MR. HERMS: Quite a long time.

5 MR. PATTON: Okay. So that's about
6 as much as you can tell us about OHV?

7 MR. HERMS: Yeah.

8 MR. PATTON: Any other discussions
9 ever had that you can recall about the OHV
10 fund status?

11 MR. HERMS: The only -- the majority
12 of the discussions about the OHV fund have
13 been about the inability of the division to
14 spend the dollars, to go out and build new --

15 MR. PATTON: Yeah.

16 MR. HERMS: And that made them
17 vulnerable to having their fund borrowed by
18 the administration to fill the budget gap.

19 MR. PATTON: Never had heard any
20 discussions where problems with the reports to
21 Controller --

22 MR. HERMS: No.

23 MR. PATTON: -- versus Finance?

24 MR. HERMS: No. From my
25 perspective, all of this is accounting stuff,

1 and this was well below a level that I would
2 have been involved in at all. I'm -- it's
3 still not clear to me what all of this is. As
4 I said, I look forward to the Bureau of State
5 Audit's report to come out.

6 MR. PATTON: Anyone ever mention
7 revenues being generated from automated pay
8 machines?

9 MR. HERMS: Yeah. There was --
10 early on, when it became obvious that State
11 Parks budget was going to be negatively
12 impacted and that this was probably going to
13 just get worse as the years went by, the
14 Director basically said, let's start looking
15 into ways of increasing revenues, all ways, so
16 let's look at parking lots where we don't have
17 a kiosk, we don't have somebody in there. So
18 she sort of sent the word out to all the
19 district superintendants, and they began kind
20 of doing an analysis of the system to get at
21 that.

22 I know that -- I don't know a lot
23 about it because that was sort of the Ops side
24 of the house, but I do know that sites were
25 identified, machines, I believe, were

1 purchased, and I don't remember if any got
2 installed before I left or not. But it was a
3 program that was active and ongoing, probably
4 still is.

5 MR. PATTON: So you remember
6 discussions about automated pay machine, that
7 program?

8 MR. HERMS: Yes.

9 MR. PATTON: Do you recall ever
10 receiving -- being part of a group that
11 received a report about its success, that
12 we've done it, we've implemented it in part?

13 MR. HERMS: I cannot recall. It is
14 certainly possible, but I don't recall anybody
15 saying or me seeing any pictures of here's
16 where we put it in. But I remember lots of
17 discussion about moving down the road, down
18 that process to get it because there's a lot
19 of things. It's not just -- you just don't go
20 out and buy it and put it in. It's a Sequa
21 (ph.) analysis, so you've got all kinds of
22 legal restrictions and so I heard a great deal
23 of discussion about the difficulties of moving
24 forward on this.

25 MR. PATTON: But no financial status

1 reports?

2 MR. HERMS: No, no.

3 MR. PATTON: Okay. And nobody ever
4 mention anything that you recall hearing about
5 hanging onto part of those revenues?

6 MR. HERMS: No.

7 MR. PATTON: No.

8 MR. HERMS: The only discussion
9 there might have been, towards the end, before
10 I left, the legislature had put into the
11 budget, because we had developed kind of an
12 entrepreneurial system that said state parks
13 could hold a small amount of money back, and I
14 think it was like 3.6 million, I'm not exactly
15 sure what the number was, and then we could
16 provide that money to district superintendants
17 for them to go out and do things like put in
18 an automated machine to increase revenues.

19 And it wasn't just sort of automated
20 machines; it was anything that would increase
21 revenues in their district but something that
22 would require capital up front. And so there
23 was a discussion on, all right, how do we
24 incentivize this kind of entrepreneurial
25 spirit among our district superintendants.

1 So the idea was that we would
2 provide -- they would provide a proposal
3 saying here's what I want to do. We would
4 evaluate that. If we thought it had merit, we
5 would provide the capital. They would do
6 whatever it is they're going to do, and their
7 revenues would increase. That would flow back
8 to headquarters. Half of that revenue, the
9 discussion was, would flow back to the
10 district superintendant as an incentive for
11 being successful. And the other half would
12 flow into headquarters where it would go into
13 SPRF where that would be completely divvied up
14 amongst all the rest of the units, because
15 some of the units have much more opportunity
16 to be entrepreneurial and to make more money
17 than other units.

18 And so we were looking for that
19 balance of we want to get incentive for those
20 who can make money, but we recognize those who
21 can't make money, we need to help them as
22 well, and so there was this idea of a split.

23 MR. PATTON: Okay. So a profit-
24 sharing plan.

25 MR. HERMS: Yes, yes, very much so.

1 MR. PATTON: Okay. So you've
2 never -- other than that, you don't really
3 have any fix on how much monies and increased
4 revenues might have been attained and how much
5 was profit shared back out to Operations?

6 MR. HERMS: The program -- that
7 particular program hadn't even started when I
8 left, and in fact, I'm not sure of its status
9 today.

10 MR. PATTON: Okay.

11 MR. HERMS: So I guess the answer is
12 no, I don't have any knowledge of that.

13 MR. PATTON: I'm sorry. You said
14 that you've talked with who at Parks since you
15 left?

16 MR. HERMS: Michael Harris.

17 MR. PATTON: Michael Harris. And
18 that's it?

19 MR. HERMS: Oh, I have talked to
20 Ruth, yes. I talked to Ruth on the phone
21 quite some time ago. I think she's in Europe
22 right now; I'm not sure.

23 MR. PATTON: You've talked with her
24 before or after she resigned?

25 MR. HERMS: After she resigned.

1 MR. PATTON: And what was the
2 substance of that conversation?

3 MR. HERMS: Well, a lot of it was
4 about the job that I have because I have --
5 I'm in a unique situation, so we talked about
6 that. We talked about her job hunting because
7 she's looking for jobs. We clearly sort of
8 stated up front that we weren't going to talk
9 about this because we knew we weren't supposed
10 to. So we didn't talk about anything specific
11 to this.

12 MR. PATTON: So she never said to
13 you anything about whether this was all news
14 to her or --

15 MR. HERMS: Well, that -- I'm trying
16 to think of the early days, you know, when
17 this was all breaking.

18 MR. PATTON: Um-hum.

19 MR. HERMS: In the early days when
20 this was all breaking, I don't -- I can't
21 recall a specific conversation, but in general
22 I believe that I had a conversation with Ruth
23 where we both said this was utterly news to
24 us, that neither one of us had any idea that
25 there was this twenty million dollar

1 unallocated fund sitting out there, but I
2 can't remember the specific conversation, but
3 I'm pretty sure I did.

4 MR. PATTON: When did you leave?

5 MR. HERMS: I guess it was early
6 May, yeah.

7 MR. PATTON: May. I'm trying to
8 think when -- so where did you first learn of
9 this story because I don't think the news
10 stories came until later.

11 MR. HERMS: And that's when I first
12 heard.

13 MR. PATTON: When?

14 MR. HERMS: When it was published in
15 the Sac Bee.

16 MR. PATTON: So you -- but you left
17 in May, so you --

18 MR. HERMS: Right.

19 MR. PATTON: -- first talked with
20 her about it after the news stories came out.

21 MR. HERMS: After the news story,
22 yeah, that's correct.

23 MR. PATTON: And so by then, you're
24 already out of the department.

25 MR. HERMS: I'm out of the

1 department. But it may have been while she
2 was still there. I can't remember. She
3 didn't stay very long after this broke. I
4 can't remember --

5 MR. PATTON: So you --

6 MR. HERMS: As I said, I know that I
7 had the conversation. I believe that we
8 talked about this, and I think we both were
9 shocked at the -- what was being revealed.
10 But at that point, we weren't thinking in
11 terms of sort of legal -- we were just two
12 good friends who were both shocked about what
13 was going on.

14 MR. PATTON: So you'd left, she was
15 still there.

16 MR. HERMS: Yeah.

17 MR. PATTON: The news reports came
18 out --

19 MR. HERMS: Right.

20 MR. PATTON: -- I think, in July,
21 and that's when the story basically came out
22 publicly.

23 MR. HERMS: Um-hum.

24 MR. PATTON: The review internally,
25 I think Aaron had initiated a little bit

1 earlier than that, about the time you were
2 leaving, but you had not -- you've never --

3 MR. HERMS: (Indiscernible).

4 MR. PATTON: All right. Anything
5 else that you can recall that we ought to be
6 aware of that I haven't asked you?

7 MR. HERMS: Things you haven't asked
8 me.

9 MR. PATTON: If you were doing my
10 job, what else would you have asked Bill
11 Herms?

12 MR. HERMS: Well, the big one was,
13 was I involved in any conversations that
14 talked about a twenty million surplus, and I
15 just want to be crystal clear on that. No,
16 that there may have been discussions, broader
17 discussions on the budget where perhaps that
18 piece may have come in, but at no time was
19 twenty million dollar ever identified as
20 unallocated and that we could use it in any
21 way we wanted, because if it had, I'd have
22 used it. I'd have been standing on a table
23 somewhere saying, let's go use this, as would
24 Michael Harris and Ruth and the entire team.
25 So, no, I didn't know about that.

1 The real concern, the general
2 concern of the executive team was more about
3 hitting the twenty-two million ongoing target
4 and what happens if we can't move people fast
5 enough, we get sued because something happens
6 at a park that we closed, any number of
7 liabilities. What happens if, and we run a
8 deficiency. These were genuine concerns that
9 the executive team had, and that's what most
10 of the discussions were about was how do we
11 deal with these things.

12 MR. PATTON: Let me ask you, early
13 on you indicated that facing a twenty-two
14 million dollar cut, you'd gotten to the
15 point -- the department had gotten to the
16 point where reducing staffing levels,
17 maintenance issues, all these things, public
18 safety was starting to become a concern,
19 health issues a concern. It had gotten to the
20 point where the department had identified that
21 we can't simply absorb this as an across-the-
22 board cut and not close down some units
23 because we're now cutting things -- we've gone
24 beyond the level of reasonableness.

25 MR. HERMS: There were many people

1 in the department who felt that we had clearly
2 crossed the line of going beyond that point of
3 reasonableness already.

4 MR. PATTON: Now, as a -- in
5 response, some monies were donated --

6 MR. HERMS: Um-hum.

7 MR. PATTON: -- some volunteer
8 organizations have stepped up, but that
9 twenty-two million dollar gap, which was
10 cut --

11 MR. HERMS: Um-hum.

12 MR. PATTON: Right?

13 MR. HERMS: Um-hum.

14 MR. PATTON: -- was not met through
15 contributions.

16 MR. HERMS: No.

17 MR. PATTON: And yet none of the
18 parks, and a lot of work was gone into setting
19 up a list of parks, the most appropriate for
20 closure, the most economically viable plan,
21 and yet nothing was -- no closures occurred.
22 So it all -- from what I heard, it sounds like
23 we've gone into this area of woefully
24 underfunded and public safety -- you're
25 nodding your head yes.

1 MR. HERMS: Yes, that is exactly
2 what has happened, is that the thing that we
3 wanted to avoid in the beginning, in the end
4 became the only place that we would be allowed
5 to go. Politically, it was the only place
6 that we would be allowed to go.

7 MR. PATTON: To basically reduce
8 funding and service and maintenance level to
9 an unacceptable level, but that's more
10 acceptable than closing a unit.

11 MR. HERMS: Correct. That's more
12 acceptable to the administration, to the
13 people in the field who have to maintain those
14 parks, who have to keep them clean and keep
15 them safe and serve the public, to many people
16 in the field it's not, but it's not their
17 decision.

18 MR. PATTON: Okay. All right. So I
19 just wanted to be clear that that is -- that's
20 the territory we've entered into.

21 MR. HERMS: Yeah. It's unfortunate.

22 MR. PATTON: All right. Anything
23 else you want to ad?

24 MR. HERMS: I am more than happy to
25 come back and talk if you have additional

1 questions. I love State Parks. I loved my
2 time there. This is a difficult situation.
3 It is a difficult -- this is a difficult one
4 to get your head around. That's why I said
5 I'm really looking forward to the Bureau of
6 State Audits coming out and telling us exactly
7 how much money is there because I know the
8 legislature is concerned about, well, if
9 there's money there, what should we do with
10 it.

11 MR. PATTON: Yeah. Okay.
12 Appreciate your time. We will go off the
13 record at 3:37.

14 (End of audio)

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TRANSCRIBER'S CERTIFICATE
William Herms interview on 9-24-12

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 This is to certify that I
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 I have subscribed this certificate
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