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MEETING  
STATE OF CALIFORNIA  
STATE LANDS COMMISSION

STATE CAPITOL  
ROOM 447  
SACRAMENTO, CALIFORNIA

ORIGINAL

THURSDAY, SEPTEMBER 23, 1982

10:00 A.M.

Cathleen Slocum, C.S.R.  
License No. 2822

PETERS SHORTHAND REPORTING CORPORATION

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MEMBERS PRESENT

Kenneth Cory, State Controller, Chairperson

Susanne Morgan, Representing Mary Ann Graves,  
Director of Finance

David Ackerman, Representing Mike Curb,  
Lt. Governor

MEMBERS ABSENT

NONE

STAFF PRESENT

Claire Dedrick, Executive Officer

Robert Trout, Assistant Executive Officer

Robert Hight, Esq., Commission Counsel

Greg Taylor, Assistant Attorney General

Jack Rump

Diane Jones

Bob Faber

Dwight Sanders

Jane Smith, Secretary

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PROCEEDINGS

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CHAIRPERSON CORY: Okay. We'll call the meeting to order.

The first item of business is the confirmation of the minutes of the August 26th and September 13th meetings. Are there any corrections or additions?

Without objection, the minutes will be approved as presented.

The next item is the report of the Executive Officer.

EXECUTIVE OFFICER DEDRICK: Yes. I issued a permit to the Parks Service and a group of people who are examining the waters off Point Reyes for wrecked Spanish galleons and so forth. For your information, there's a map in front of you some place of the area and that's the only thing that's happened since the last meeting.

CHAIRPERSON CORY: Would you like to rephrase that?

(Laughter.)

CHAIRPERSON CORY: We could cut down our overhead a great deal if that's true.

EXECUTIVE OFFICER DEDRICK: The only thing I didn't need Commission guidance for. How's that?

CHAIRPERSON CORY: Questions from Commissioners?

Next item is staff report on coastal matters.

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MR. TROUT: No report.

CHAIRPERSON CORY: No report.

All right. The next item are the consent calendar items. For those people in the audience, those are the items that have a prefix "C" in there. They're items C-1 through 19. Unless someone in the audience has some objection to the proposed staff recommendation, they will be taken up in one motion and approved. So if anybody has any objection to the proposed staff recommendations in any of the items C-1 through 19, they should let us know now.

If not, without objection, the consent calendar will be approved as presented.

(Thereupon Agenda Items 20 and 21 were submitted under separate cover.)

CHAIRPERSON CORY: Next item, Item 22. We'll take up that item and we'll probably have a break for lunch, much as I hate to do that.

Item 22 is a request of Mr. Elkins. Mr. Elkins brought the attention of strong possibility of having some of our oil resources drained and in the item we've got the -- it's adjacent to PRC 1824, is that --

EXECUTIVE OFFICER DEDRICK: Yes.

CHAIRPERSON CORY: Mr. Elkins, you want to come up. Your request is that we commence some negotiations with you to provide a negotiated lease for you to enable

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1 the State to avoid the loss of money by drainage, as I  
2 understand the situation.

3 MR. ELKINS: That's correct, sir.

4 CHAIRPERSON CORY: I would guess what we ought  
5 to do is try to find out what other people think about  
6 that one in terms of do we, contemplating putting a  
7 platform in the sanctuary or how do you plan on --

8 MR. ELKINS: There would be no platform in the  
9 sanctuary. That is precluded by law. But you may put  
10 a platform, if the geology warrants it, on the edge of  
11 the sanctuary. They have new tilt platforms now which  
12 means that you can go further in than you would otherwise.  
13 Depending on the length of drainage, would depend on the  
14 kind of platform you put there.

15 CHAIRPERSON CORY: Okay. Is there anyone in the  
16 audience on this item?

17 EXECUTIVE OFFICER DEDRICK: I think there is  
18 a representative of Chevron here.

19 CHAIRPERSON CORY: I was going to ask if Chevron  
20 had, whether you had an interest in whether or not --  
21 looks like you have a platform closeby

22 MR. HARRIS: Fairly close.

23 CHAIRPERSON CORY: Could you identify yourself  
24 for the record?

25 MR. HARRIS: Sure. My name is Dick Harris, and

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1 I work for Chevron.

2 I saw the item and it sort of peaked my curiosity  
3 about what the proposal might be, but I think as a general  
4 rule -- and I've just spoken with Roy Lynam of Exxon, and  
5 we've taken a position that conceptually we don't oppose  
6 the idea of some kind of development of marine sanctuary.  
7 However, I think there are some real practical considerations  
8 that have to be taken into account, and I'm not prepared  
9 today to answer questions that you might have regarding  
10 some of those practicalities. Specifically, how to drill,  
11 from where, some of the economic constraints that might  
12 be felt.

13 CHAIRPERSON CORY: From where in the economic  
14 constraints gets to the point in my mind as I look at the  
15 map is would Chevron and Exxon consider allowing a lessee  
16 of an adjacent property to utilize Hilda to reach that  
17 area?

18 MR. HARRIS: Well, I think that if the Commission  
19 awarded a lease and as a stipulation of that lease required,  
20 at least authorize some negotiations, we would be willing  
21 to negotiate those. But I have to say that there would  
22 be no chance at all that we would break even or take a  
23 loss on it. That would be our standpoint in entering into  
24 these negotiations with Mr. Elkins.

25 CHAIRPERSON CORY: So you would have to have

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1 something to make it worth your while to put up with the  
2 tenant?

3 MR. HARRIS: That's correct.

4 CHAIRPERSON CORY: You aren't going to rent the  
5 room out unless you can make a profit on the deal.

6 MR. HARRIS: We have big hearts, but they're  
7 not necessarily that big.

8 MR. ELKINS: Well known for them.

9 I don't think that a stipulation of the lease  
10 should be having to do business with Standard Oil. If  
11 it happened and it was beneficial to Standard and beneficial  
12 to the State Lands, then I think something could be worked  
13 out. But to make it a stipulation, that is kind of like  
14 letting the lion have the lamb.

15 CHAIRPERSON CORY: Which is which?

16 [Laughter.]

17 MR. ELKINS: Well, I wouldn't want to pick on  
18 Standard or brag. Also, you have another thing that it  
19 will basically be the drainage. Some people feel there  
20 is some drainage, but because of the fact that it's been  
21 drained for quite a while, it may not be economically  
22 feasible to put a platform in there. Now, there's another  
23 theory which has not been proven and would have to be done  
24 with a fair amount of geological work involved in it that  
25 may make it economically feasible to drill offside the

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1 sanctuary, and if it is a fairly large area, then you may  
2 not be able to reach all of it from platform Hilda. To  
3 make it a necessity to deal with Standard would not be  
4 to the benefit of the State because it would not be able  
5 to drain as much area.

6 CHAIRPERSON CORY: How would you propose getting  
7 the oil if you don't use Hilda?

8 MR. ELKINS: Perhaps it would be possible to  
9 put your own drilling platform there.

10 COMMISSIONER MORGAN: Are we talking about the  
11 sanctuary?

12 MR. ELKINS: No, ma'am. We're talking right  
13 next to the sanctuary because we don't want to put a  
14 platform in the sanctuary. If it was economically feasible,  
15 we would put it right next to the sanctuary and obviously  
16 would be concerned with whatever environmental things,  
17 would work closely with Santa Barbara --

18 CHAIRPERSON CORY: Have you had any conversations --

19 MR. ELKINS: -- to make sure that they would  
20 be very happy.

21 I'm sorry, sir.

22 CHAIRPERSON CORY: Have you had any conversations  
23 with them as to how they --

24 MR. ELKINS: No, I have not. I was not aware  
25 whether I'd be able to get the lease or not.

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COMMISSIONER MORGAN: I think I'd like to hear from staff on what's going on here exactly.

EXECUTIVE OFFICER DEDRICK: Mr. Hight.

COMMISSIONER ACKERMAN: Maybe I need to preface it with a question, a general question. My recollection, we had not before had an individual or company approach us on a drainage question --

MR. ELKINS: And Standard does not object.

COMMISSIONER ACKERMAN: -- at least not while I've served on the Commission, I don't believe.

I just would like to have staff comment as to the legalities involved as to what the Commission's breadth of action is and can we negotiate a lease in this case, is there proof of drainage? The calendar item seems a little ambiguous and leaves much to conjecture rather than fact.

EXECUTIVE OFFICER DEDRICK: Alan Hager here is your legal adviser.

CHAIRPERSON CORY: Alan Hager is with the Attorney General's Office. He's going to bail Bob Hight out of his dilemma on this one.

MR. HAGER: I'm not positive that the Commission has the authority to lease these lands simply because they're in the Santa Barbara Sanctuary. There's provision in the Public Resources Code requiring or forbidding the Commission

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1 to lease sanctuary land but allowing leasing only in the  
 2 event of drainage from adjoining lands owned by others  
 3 and the State. If there is drainage here, the drainage  
 4 is from the lands owned by the State, the Chevron-Exxon  
 5 lease. This is peculiar to the Santa Barbara Sanctuary,  
 6 but this is the sanctuary we're talking about. So it's  
 7 our opinion that under the Public Resources Code the  
 8 Commission would not have authority to lease these lands  
 9 either on a competitive bid basis or a negotiated basis.

10 MR. HIGHT: I might continue from there. Assuming  
 11 that we could -- and Alan, I think, was reasonably clear  
 12 that we can't -- then we'd have an environmental problem  
 13 of giving the negotiated lease without having done the  
 14 environmental considerations and any new platform definitely  
 15 would create additional problems.

16 CHAIRPERSON CORY: Okay. The first problem --

17 MR. ELKINS: Could I comment on that?

18 CHAIRPERSON CORY: First I want to make sure  
 19 I understand. The first question is whether or not legally  
 20 it is possible on the sanctuary exemption and you've got  
 21 doubts as to the language of that. Has there been a formal  
 22 AG opinion on that or not?

23 MR. HAGER: No.

24 CHAIRPERSON CORY: The next question is if for  
 25 some reason that would pass muster, then to proceed we'd

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1 have to do an EIR you're telling me?

2 MR. HIGHT: Correct.

3 CHAIRPERSON CORY: Before we negotiate the lease?  
4 I mean, how does that --

5 EXECUTIVE OFFICER DEDRICK: Yes.

6 MR. HIGHT: The EIR has to come first.

7 CHAIRPERSON CORY: And that would deal with those  
8 questions as to whether they were using platform Hilda,  
9 whether they were doing something separate?

10 EXECUTIVE OFFICER DEDRICK: Right.

11 CHAIRPERSON CORY: But the property adjacent  
12 can be used for that purpose given Chevron's lease, that  
13 is an option?

14 MR. HIGHT: Yes.

15 COMMISSIONER ACKERMAN: The calendar item also  
16 states that it would be possible to issue drill sites along  
17 the common boundary with the sanctuary without the consent  
18 of Chevron; is that still correct?

19 MR. ELKINS: Yes.

20 CHAIRPERSON CORY: Mr. Elkins.

21 MR. ELKINS: I have several comments. I did  
22 not bring, unfortunately, my lawyer's statement because  
23 I did not expect that to be in the thing today. But there  
24 is another statute which I do not have with me which allows  
25 you to lease the land even if you do own the land in fact.

1 Now, in my opinion you would have an increase  
2 in royalty if the extension of that field is as large as  
3 there's a possibility that it might be. Are you familiar  
4 with that other --

5 MR. HAGER: Yes. I know what you're talking  
6 about.

7 MR. ELKINS: Because we talked about it one time,  
8 didn't we?

9 MR. HAGER: I didn't, but I think you talked  
10 to someone in our office about it.

11 MR. ELKINS: Their contention was that it was,  
12 in my opinion, that it was fairly ambiguous and with the  
13 two statutes, it could be taken either way.

14 COMMISSIONER MORGAN: Now, I have a question.  
15 Assuming that we ignored our counsel's advice  
16 and said: Gee, since we think there might be a way to  
17 make some additional money there, we ought to go ahead  
18 and consider an additional lease, and we decided to do  
19 an EIR and then everything was copacetic, why would we  
20 negotiate with Mr. Elkins? Why wouldn't we just go to  
21 bid?

22 MR. ELKINS: To go where, ma'am?

23 EXECUTIVE OFFICER DEDRICK: To bid.

24 COMMISSIONER MORGAN: To bid.

25 MR. ELKINS: Can't hear.

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1 COMMISSIONER MORGAN: To bid.

2 MR. ELKINS: I don't think there would be many  
3 people who would be interested in it.

4 CHAIRPERSON CORY: Would Chevron be interested  
5 in bidding on this?

6 MR. HARRIS: Chevron would be interested in taking  
7 a look at the bid package. I can't tell you right now  
8 whether we would be interested in bidding, but we're always  
9 very interested in lands that have not heretofore been  
10 explored.

11 MR. ELKINS: Could I add to your question?

12 An awful lot of times major companies take leases  
13 and they keep them for long, long periods of time and they  
14 don't end up drilling the wells on them. They don't develop  
15 them and they come in and they want this changed and that  
16 changed and the other thing changed. If I was going to  
17 take it, it would be for a shorter period than the ten  
18 years and there would be some type of performance situation  
19 in there by which the State would be able to have a chance  
20 at receiving additional income far quicker than doing it  
21 with a major.

22 COMMISSIONER MORGAN: Mr. Elkins, I understand  
23 your interest. You're the one who came up with the idea  
24 and you sure would like to get the business. But from  
25 my point of view if there's something there to be gained

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1 and it's publicly owned, then we would do a disservice  
2 to the people that told us to come up here and vote on  
3 this if we didn't offer it to all potential bidders.

4 MR. ELKINS: I don't necessarily agree with you.

5 COMMISSIONER MORGAN: I'd be surprised if you  
6 did.

7 MR. ELKINS: But also your obligation is to get  
8 as much money for the State as you can.

9 COMMISSIONER MORGAN: No.

10 MR. ELKINS: Oh, it's not?

11 COMMISSIONER MORGAN: Not necessarily.

12 MR. ELKINS: I was under that impression that  
13 it would be to get as much money as you could and to try  
14 to get it developed as quickly as possible for the coffers  
15 of the State that need the money.

16 COMMISSIONER MORGAN: That's one of the things  
17 that distinguishes public business from private business.

18 MR. ELKINS: I don't understand that.

19 CHAIRPERSON CORY: Well, we could environmentally  
20 decide that we just didn't want to have that impact on  
21 the environment that close to the sanctuary. That could  
22 be the conclusion. But I would guess where we are at this  
23 point, Alan, how long would it take you to render your  
24 views to a formal opinion as to whether we can or we cannot  
25 proceed?

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1 MR. HAGER: Are you talking about my opinion  
2 or an opinion of the AG's office? That's a different  
3 organization.

4 COMMISSIONER MORGAN: How about an informal opinion.

5 CHAIRPERSON CORY: Well, it seems to me that  
6 it's a question that is in dispute as to what the law is  
7 and to resolve it you probably need the strength of the  
8 AG's opinion. I mean, no offense, Alan.

9 MR. HAGER: The answer would have been different  
10 depending on what you wanted.

11 CHAIRPERSON CORY: I know you've given us your  
12 opinion now. This is your personal opinion looking at  
13 it already. That's fair. But the formal AG's opinion  
14 where that gets argued within your shop at great length  
15 and has a quasi-judicial standing, how long would that  
16 take?

17 MR. HIGHT: A minimum of 60 days.

18 MR. HAGER: I was going to say 90 days. I can't  
19 guarantee because that is another unit of the office that  
20 does that.

21 CHAIRPERSON CORY: Okay. Given what you have  
22 said and that there is another body of legal opinion that  
23 Mr. Elkins could send a copy of that to Mr. Hight who  
24 will then get it over there, I think the best way out of  
25 this rather than belaboring it with further detail at this

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1 point is to go ahead and try to get that, show them your  
2 work sheets, Mr. Elkins' attorney's position, and see where  
3 it is. If it comes down that it's the shade of gray and  
4 they can maybe defend us, maybe not, and if it's yes, we  
5 can, no, we can't, then we'll know what we can do. Then  
6 the next question after that is if Chevron could make a  
7 decision whether or not they want to bid against Mr. Elkins,  
8 or they don't think it's worth the time and trouble and  
9 effort. If nobody else is interested, then maybe we're  
10 in a position to negotiate. I'm sort of surprised that  
11 we haven't heard various environmental concerns on the  
12 other two items that were before us that nobody was here  
13 to discuss that.

14 MR. ELKINS: There's no environmental problem  
15 at all because what we're going to do is make everybody  
16 in Santa Barbara happy.

17 [Laughter.]

18 MR. ELKINS: That's right.

19 Miss Morgan looked at me quite incredulously.

20 CHAIRPERSON CORY: If you do that, we'll put  
21 you on full time.

22 [Laughter.]

23 MR. ELKINS: And the EIR on the lease thing,  
24 we'll just wait until we get that other thing done.

25 CHAIRPERSON CORY: I think we need to get that

1 to see whether or not we can proceed. We need to get your  
2 legal attorney's opinion.

3 MR. ELKINS: But would you have to issue, would  
4 I have to get a report like that concerning I couldn't  
5 drill without one? Would I have to have that prior to  
6 the leasing of the land or could I get it afterwards  
7 because the lease is no good?

8 EXECUTIVE OFFICER DEDRICK: The Commission cannot  
9 lease without ~~going~~ an environmental impact report first.

10 MR. ELKINS: But it's already been done for Hilda.

11 CHAIRPERSON CORY: No. It would be different.

12 EXECUTIVE OFFICER DEDRICK: No, Hilda probably  
13 predates.

14 CHAIRPERSON CORY: The nature and the extent  
15 of the report would depend on whether or not you were going  
16 to cut a deal with Chevron and drill off of Hilda and whether  
17 or not that might even take a report because you're --

18 MR. HIGHT: Drilling into a different zone from  
19 an area.

20 CHAIRPERSON CORY: So you have a less expensive,  
21 I would guess, EIR if you were drilling off of Hilda than  
22 if you were drilling --

23 MR. ELKINS: Could the EIR, could the lease be  
24 issued to me subject to that report?

25 MR. HIGHT: No.

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1 CHAIRPERSON CORY: No. "The law requires that  
2 we have to have considered all of the environmental  
3 consequences before we take the act. It's like going and  
4 talking to the priest before you get married. You got  
5 to know all the consequences of what you're going to do.  
6 Okay?

7 MR. ELKINS: Okay.

8 CHAIRPERSON CORY: You will get your copy of  
9 your legal stuff to Mr. Hight and he can pipe it into the  
10 system.

11 MR. ELKINS: Do you have a card, Mr. Hight?

12 CHAIRPERSON CORY: What is the wish of the  
13 Commissioners? I have a meeting that I'm a half-hour late  
14 to.

15 COMMISSIONER MORGAN: I'd be prepared to do the  
16 balance of the agenda unless there are some people here  
17 who need to make presentations.

18 CHAIRPERSON CORY: You want to see how quickly  
19 we can get through it. All right.

20 MR. TROUT: Mr. Chairman, from the staff standpoint,  
21 it would appear this item is a little up in the air.

22 CHAIRPERSON CORY: What item?

23 MR. TROUT: The Commission did not approve the  
24 recommendation --

25 MR. ELKINS: Thank you very much.

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1 MR. TROUT: -- but instead is directing staff  
2 to request a formal Attorney General's opinion on the  
3 question of whether Mr. Elkins' suggestions --

4 CHAIRPERSON CORY: Yes.

5 Okay. Item 23 is off calendar. Item 24 is  
6 approval of Bank of America as the secured party lender.  
7 Is there anybody in the audience on Item 24?

8 Questions from Commissioners?

9 Without objection, Item 24 is approved as  
10 presented.

11 Item 25. This is the termination of a permit.  
12 Anybody in the audience on this item?

13 Questions from Commissioners?

14 Without objection, Item 25 is -- approve the  
15 termination of General Permit.

16 MR. TROUT: An authorization to --

17 CHAIRPERSON CORY: An authorization to issue  
18 a Public Agency Permit to the District.

19 MR. TROUT: The only critical factor here is  
20 they have requested waiver of the filing fees. Staff  
21 recommends against it. If you adopt the staff recommendation,  
22 you will not be waiving the fees.

23 COMMISSIONER MORGAN: That's tough.

24 CHAIRPERSON CORY: We're tough. We need it.

25 COMMISSIONER MORGAN: It's for \$450.

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1 CHAIRPERSON CORY: All right.

2 COMMISSIONER ACKERMAN: The filing fee I would  
3 have waived, but I thought it was the processing fee we  
4 were waiving.

5 EXECUTIVE OFFICER DEDRICK: The copy is correct.

6 CHAIRPERSON CORY: Okay. Without objection,  
7 Item 25 is approved.

8 Item 26, approval of management plans and  
9 authorization for, Division of Forestry, on two parcels  
10 of land in Shasta and Lake Counties. Anybody in the  
11 audience on this item?

12 Questions from Commissioners?

13 Item 26, approved as presented.

14 Item 27, approval of proposed parcels for  
15 deannexation in Napa from the Napa County Resource  
16 Conservation District -- Pardon me -- Colano County.

17 Anybody in the audience on this item?

18 Questions from Commissioners?

19 Without objection, Item 27 approved as presented.

20 Item 28, approval of certification of negative  
21 declaration for Cedar Gulch timber sale in Siskiyou County.

22 Anybody in the audience on this item?

23 Questions from Commissioners?

24 Without objection, Item 28 approved as presented.

25 Item 29 is consideration of amendment to Exxon

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1 lease. Did you wish to testify on this, Exxon, or are  
2 you satisfied with the proposed staff recommendation?

3 FROM THE AUDIENCE: Yes, sir.

4 CHAIRPERSON CORY: Anybody else in the audience  
5 on this item?

6 Without objection, -- these are all -- lots of  
7 people from Exxon, but you're all happy with the proposed  
8 staff recommendation. All right.

9 Commissioners happy?

10 Without objection, Item 29 is approved as  
11 presented.

12 Item 30, we're being informed that a dredging  
13 permit extension was authorized by the Executive Officer  
14 for Mason's Marina, Inc.

15 Anybody in the audience on this item? Questions  
16 from Commissioners?

17 Without objection, Item 30 is approved as  
18 presented.

19 Item 31, Waldo Giacomini, another dredging permit  
20 authorized by old softie. Anybody in the audience on this  
21 item?

22 [Laughter.]

23 CHAIRPERSON CORY: Questions from Commissioners?

24 Without objection, Item 31 is approved as  
25 presented.

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1 Item 33 is a request to defer drilling requirements  
2 on PRC 3133, 3150, 4000. This is because of some permitting  
3 requirements.

4 Is there anybody in the audience on this item?

5 Questions from Commissioners?

6 Without objection, Item 33 is approved as  
7 presented.

8 Item 34, request --

9 Wait. We skipped 32.

10 All right. Item 32, we have a deferment of  
11 drilling requirements for Union on PRC 2879.

12 Anybody in the audience on this item?

13 Questions from Commissioners?

14 Without objection, Item 32 is approved as  
15 presented.

16 Did the attorney from Chevron wish to speak on  
17 33? Did I preclude him?

18 MR. HIGHT: No, I think he's happy.

19 FROM THE AUDIENCE: We're satisfied with the  
20 staff recommendation.

21 CHAIRPERSON CORY: We have disposed of 33.

22 MR. HIGHT: Yes.

23 CHAIRPERSON CORY: Out of order, but disposed  
24 of.

25 COMMISSIONER MORGAN: So much for Chevron.

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1 CHAIRPERSON CORY: Item 34, this is a request  
2 for exemption from competitive lease requirements on a  
3 land-locked parcel that the Los Angeles County Flood Control  
4 District has.

5 Is there anybody in the audience on this item?

6 Questions from Commissioners?

7 Without objection, 34 will be approved as  
8 presented.

9 Item 35, approval of proposed new well sites  
10 on geothermal wells.

11 Anybody in the audience on this item?

12 Questions from Commissioners?

13 Without objection, Item 35 is approved as  
14 presented.

15 Item 36, rescission of Commission authorization  
16 to issue a prospecting permit to Getty in Randsburg, San  
17 Bernardino County, for a subgeothermal permit.

18 Anybody in the audience on this item?

19 Questions from Commissioners?

20 Without objection, Item 36 will be approved as  
21 presented.

22 Item 37, acceptance of a quitclaim lease from  
23 Conoco.

24 Anybody in the audience on this item?

25 Questions?

1 Without objection, 37 is approved as presented.

2 Item 38 is off calendar.

3 MR. RIGHT: Correct.

4 CHAIRPERSON CORY: Item 39, Long Beach is going  
5 to spend \$70,000 on resurfacing a parking lot.

6 Anybody in the audience on this?

7 Questions from Commissioners?

8 COMMISSIONER MORGAN: That's fine.

9 CHAIRPERSON CORY: Item 39 approved as presented.

10 Item 40 is the approval of the third modification  
11 of the plan of development.

12 Is there any questions from Commissioners on this  
13 item?

14 Without objection, Item 40 approved as presented.

15 Item 41, final report and closing statement for  
16 81-'82. Moose wants to tell us that he brought everything  
17 in according to budget with the exception of taxes and  
18 the Haskins and Sells audit which were unbudgeted things  
19 we just forced it upon you.

20 COMMISSIONER MORGAN: What are the final revenues?

21 CHAIRPERSON CORY: Final revenues, not enough.

22 Do you have a number?

23 MR. THOMPSON: No, because it gets mixed with  
24 all Long Beach revenues as reported.

25 COMMISSIONER MORGAN: Okay. I'll get you later.

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1 CHAIRPERSON CORY: Anybody in the audience on  
2 this item?

3 Questions from Commissioners?

4 Without objection, 41 will be approved as  
5 presented.

6 Item 42, we're going to have some information.

7 MR. TAYLOR: Mr. Chairman, this item is on for  
8 informational purposes only, and it is the position of counsel  
9 that you may not reconsider this item -

10 MR. HIGHT: Stop.

11 MR. FABER: My name is Bob Faber. I'm staff  
12 counsel for the Commission.

13 Mr. Brady who was going to speak on this item  
14 left on the idea that you might be breaking for lunch,  
15 and I just spoke with him a second ago. He will try to  
16 get back as quickly as possible, but he understands that  
17 you're going on through the Commission meeting.

18 COMMISSIONER MORGAN: Let's put the item over  
19 to the next meeting.

20 MR. HIGHT: Certainly.

21 CHAIRPERSON CORY: Put it over to the next meeting.

22 Item 43, authorization to file a disclaimer  
23 regarding 212-1/4 acres, more or less, in Inyo County.  
24 Anybody in the audience on this item?

25 Questions from Commissioners?

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1 Item 43 is approved as presented.

2 Item 45.

3 COMMISSIONER ACKERMAN: Move approval.

4 CHAIRPERSON CORY: Item 44, this is just an  
5 outrageous ripoff by TI in the AG's Office, stealing land  
6 from the people of the State of California. Is that what  
7 this is?

8 MR. TAYLOR: It's a good deal.

9 CHAIRPERSON CORY: It's a good deal.

10 [Laughter.]

11 COMMISSIONER ACKERMAN: Doesn't the attorney  
12 want his name on this?

13 MR. TAYLOR: Poor lady wants to close escrow  
14 and it's hard enough to close an escrow these days.

15 COMMISSIONER ACKERMAN: Greg, where is this?

16 MR. TAYLOR: It's on the Island of Naples in  
17 Alamitos Bay, my favorite area.

18 CHAIRPERSON CORY: Your favorite area. Roll over  
19 and play dead for another title company, huh, Greg? You  
20 always sell out to them. What can I say?

21 Anybody in the audience on this item?

22 I would like to amend the proposed authorization.  
23 We used to do this in the legislature. It's called tombstoning.  
24 I think we should call this Item 44 the Greg Taylor  
25 Memorial item.

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With that stipulation, we will approve Item 44  
as recommended.

Any other items to come before us?

[Whereupon the State Lands Commission  
Meeting was adjourned at 12:30 p.m.]

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CERTIFICATE OF SHORTHAND REPORTER

1  
2  
3 I, CATHLEEN SLOCUM, a Certified Shorthand  
4 Reporter of the State of California, do hereby certify:

5 That I am a disinterested person herein; that  
6 the foregoing State Lands Commission Meeting was reported  
7 in shorthand by me, Cathleen Slocum, and thereafter  
8 transcribed into typewriting.

9 I further certify that I am not of counsel or  
10 attorney for any of the parties to said meeting, nor in  
11 any way interested in the outcome of said meeting.

12 IN WITNESS WHEREOF, I have hereunto set my hand  
13 this 14 day of September, 1982.

14  
15  
16 *Cathleen Slocum*  
17 CATHLEEN SLOCUM  
18 Certified Shorthand Reporter  
19 License No. 2822  
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MEETING  
STATE OF CALIFORNIA  
STATE LANDS COMMISSION

STATE CAPITOL  
ROOM 447  
SACRAMENTO, CALIFORNIA

ORIGINAL  
EXCERPT

THURSDAY, SEPTEMBER 23, 1982  
10:00 A.M.

Cathleen Slocum, C.S.R.  
License No. 2822

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MEMBERS PRESENT

- Kenneth Cory, State Controller, Chairperson
- Susanne Morgan, Representing Mary Ann Graves,  
Director of Finance
- David Ackerman, Representing Mike Curb,  
Lt. Governor

MEMBERS ABSENT

NONE

STAFF PRESENT

- Claire Dedrick, Executive Officer
- Robert Trout, Assistant Executive Officer
- Robert Hight, Esq., Commission Counsel
- Greg Taylor, Assistant Attorney General
- Jack Rump
- Diane Jones
- Dwight Sanders
- Jane Smith, Secretary



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P R O C E E D I N G S

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CHAIRPERSON CORY: Next item is consideration and certification of the Final EIR on the Leasing, Exploration and Development from Point Conception to Point Arguello. We have people who wish to speak.

Dr. Ruthann Corwin.

EXECUTIVE OFFICER DEDRICK: Excuse me, Mr. Cory. Would you like Dwight Sanders to first explain to you how the process works, and why we're where we're at, or would you rather take public witnesses first?

CHAIRPERSON CORY: I'd kind of prefer to get the witnesses and then we'll have the staff --

EXECUTIVE OFFICER DEDRICK: Fine.

CHAIRPERSON CORY: -- deal with their comments as well to the extent they can is what I was thinking.

EXECUTIVE OFFICER DEDRICK: Good.

DR. CORWIN: I'm Dr. Ruthann Corwin, and I'm here today representing the Marin County Planning Department. I thank you for the opportunity of commenting on the certification of this program document.

I also understand that the next item is consideration of the areas that are actually going to be scheduled for the leasing. So I'll be addressing both items 20 and 21 with these comments.

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1            Since last October I've been consulting with the  
2 County of Marin regarding their concerns with offshore oil  
3 and gas lease sales as a coastal activity, and they have  
4 asked me to review any proposals outside our immediate area  
5 that may set precedent for this development.

6            I'd like to mention for those of you who are not  
7 familiar with my work, that I have been analyzing impacts of  
8 offshore oil and gas development for the last seven years  
9 and I think it's important in terms of the technical  
10 expertise that has gone into the preparation of these  
11 documents that you hear from some individuals who have spent  
12 a great deal of time looking at the methodologies as well  
13 as the actual areas that are under consideration here.

14            CHAIRPERSON CORY: Did you present any testimony  
15 into the hearings on the EIR?

16            DR. CORWIN: We submitted a letter that's in your  
17 Finalizing Addendum. I think that's page 3, 193 of the  
18 Finalizing Addendum is from the County of Marin. I worked  
19 with Marjorie Macris, the Department Chair, in preparation of  
20 that letter. I will be addressing some of those comments  
21 and also the amount of response to those comments that was  
22 presented in the Finalizing Addendum.

23            My Ph.D. is in Environmental Planning and  
24 Decisionmaking from the University of California at  
25 Berkeley. In 1975, I directed the research on the Office

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1 of Planning and Research's Assessment of Lease Sale Number  
2 35 Offshore Southern California. I also contributed  
3 subsequently to their study of offshore oil and gas  
4 development in Southern California, worked on a volume for  
5 the National Fish and Wildlife Service on environmental  
6 planning for offshore oil and gas, and have done a number of  
7 different reviews, particularly in the Santa Barbara County  
8 area.

9 I prepared, for example, a three-volume management  
10 study which looked at information in the Santa Barbara  
11 Channel and that region --

12 CHAIRPERSON CORY: Dr. Corwin, we will stipulate  
13 that you're an expert. Would you tell us what you want to  
14 tell us about the subject at hand?

15 DR. CORWIN: Okay. The reason I decided to go  
16 into some detail on that, and I can just put together these  
17 written notes and turn them into you, is that I have major  
18 concerns over the quantification of impacts and the use of  
19 this Environmental Impact Report as a model of the kinds of  
20 things that we would like to see done by the State of  
21 California in presenting information to the public on the  
22 kinds of impacts that are going to occur in this region.

23 I do not believe that the document you have  
24 before you here today is adequate to give you the information  
25 to decide where you should go ahead and lease in terms of

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1 being able to say that you will have the minimum impact on  
2 the resources that are out in that region.

3 I think that you'll find that in the type of  
4 procedure where you go ahead and attempt to make decisions  
5 without having the results of, for example, the biological  
6 studies that are suggested in the Finalizing Addendum, that  
7 you're opening yourself up to the same kinds of problems  
8 we have found in the Federal leases of making decisions with-  
9 out adequate information. You will hear some remarks later  
10 on from Local Government Coordinator for Northern California,  
11 Richard Charter, who will speak to this. We are in complete  
12 agreement with his remarks.

13 I'm sorry that your staff and the consultants did  
14 not take the opportunity in review of the Draft EIR to  
15 actually address the technical points that were raised by your  
16 reviewers including the ones in our letter and from a number  
17 of the other agencies. Primarily that response to the  
18 Draft EIR was of the nature of saying: Well, we said  
19 something about that here. There was not a serious effort  
20 made to incorporate the responses, to incorporate responses  
21 that would answer the questions of the reviewers. As a  
22 consequence, you have scattered references in your document  
23 to such things as areas of the proposed sale that might be  
24 affected by drilling mud.

25 Some of these are very serious impacts to which

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1 I hope you will give a great deal of attention in making  
2 your decision. For example, a very minimal estimate that  
3 was made of the effect of drilling muds in that area mentions  
4 that ten percent of the 40,000 acres could be directly  
5 affected. This is loss of marine biota. This is loss of  
6 organisms which contribute to the food chain and which the  
7 fisheries in this region depend. But you do not have the  
8 information in any of these four rather weighty volumes  
9 that will tell you where are the areas that are sensitive  
10 and what areas you should avoid leasing.

11 These eight circles of possible project areas  
12 are not coordinated with the information about the biology,  
13 about the deep water ocean currents that will affect the  
14 distribution of drilling mud, about the surface current  
15 and the plankton organisms that affect the entire  
16 productivity of the region and what might be the result of  
17 an accidental spill in this area.

18 There's been a great deal more work that has been  
19 done, and in our letter we made reference to the fact that  
20 we would offer citations to your staff and information about  
21 this kind of literature. This offer was not responded to.  
22 There's no mention, for example, in the study of the drilling  
23 mud work that was done by the BLM in Cook Inlet or the  
24 Georges Bank which showed that you can do some rough  
25 calculations of the loss of biomass and what that will

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1 translate to in terms of loss of fisheries. There is no  
2 looking at the kinds of models which can estimate from oil  
3 spills that might occur in this area, the kinds of things  
4 that will happen to the planktonic organisms, the kinds of  
5 things that will happen to the marine productivity and that  
6 will affect the fisheries in this region. There's no  
7 calculations. There's no specific tract type or tract level  
8 information that will allow you to make any choices where  
9 you will rationally be able to say this is an area where  
10 we should go ahead and lease. You don't have that data  
11 in hand yet.

12 The key thing that I think the certification of  
13 this EIR should be decided on is the fact that there is a  
14 biological study that's in the beginning of this Finalizing  
15 Addendum that is suggested, but it's not been carried out.  
16 This is very similar to the actions of the Federal Government  
17 which has recently led to discovery of 11 new species on a  
18 tract that was already leased. This kind of information  
19 should be available to the State before the leasing is made  
20 so you can make the decision not about where on this tract  
21 to place a rig, but on whether that particular tract should  
22 have a rig placed on it or not, depending upon what the  
23 impacts on biota are likely to be.

24 We know, for example, that when drilling muds and  
25 cuttings are deposited on the ocean floor you're going to

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1 have a loss of life. That loss of life could spread from  
2 anywhere from the minimal estimate that's in the document  
3 now of 800 meters out as far as two kilometers, and there's  
4 evidence out to 12 kilometers from work that was done in  
5 the Gulf of Mexico. This is toxic material. It's barite  
6 that can contain barium. It has chromium and cadmium and  
7 mercury and other heavy metals in it. There are additives  
8 in the drilling muds that are not even mentioned in this  
9 document. There is some reference to earlier work of the  
10 State Lands Commission, which I've not yet seen on the  
11 subject of drilling muds and the toxicity that is not  
12 adequately dealt with in this EIR.

13 There's new information available. There's a  
14 National Academy of Sciences panel now on drilling muds that's  
15 pulling this information together. A great deal more is  
16 available to give you a much better image of what the impacts  
17 are going to be.

18 This region is unique. I won't speak to it.  
19 There's a fair amount of information that's in the document  
20 that talks about its value as a transition zone. There's  
21 nothing that really brings out the point that we brought  
22 out in our letter of this as a region that has relic species,  
23 species that are left from the changes in the sea level from  
24 the Pleistocene era. This is unique. There's nowhere else  
25 on the coast where you have this kind of geological and

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1 oceanographic factors coming into play. This is why 11  
 2 new species were found, for example, in the deeper waters  
 3 offshore. Nothing has been done to look at the deeper waters  
 4 in this region. Only the coastal zone has been looked at.  
 5 You have a bit of a biological survey that was done. It was  
 6 only in the intertidal areas. There is literally no  
 7 information in the deeper areas except for the one study  
 8 that was done immediately offshore of this region which was  
 9 done by Nekton for ARCO as part of the stipulations the  
 10 Marine Management Service laid upon them.

11 I took a very close look at the results of that  
 12 study. I asked Barry Roth at the Academy of Sciences to  
 13 review it and we have memos to that effect which we would  
 14 be happy to see your staff and consultants use in giving you  
 15 better information for making decisions about what ought to  
 16 be studied out there so that you could then take the next  
 17 step and say where should we lease and where should we not  
 18 lease.

19 Fundamentally, my testimony is that you don't  
 20 have this information at this time. There are other aspects  
 21 of the Environmental Impact Statement that I think are in-  
 22 adequate, particularly the discussion on alternatives and  
 23 because of your interest I think particularly in the critical  
 24 financial and energy woes of the state, information, for  
 25 example, in the California Biennial Report of the Energy

1 Commission that shows that conservation savings in this  
2 state in 1985 from state programs will be in the orders  
3 of billions of dollars. Things that are comparable to the  
4 kind of revenues that you're talking about offshore of this  
5 region. All right. These alternatives, the conservation  
6 alternatives in terms of the substitutes for oil and gas  
7 and also alternatives that deal with sustained use of the  
8 marine resources of this region, that hasn't even been  
9 mentioned. There's nowhere in the Draft EIR, not even in  
10 the lip service of a single statement that was made regarding  
11 conservation in the four-page section Alternatives in the  
12 original document.

13 So this discussion, the discussion of alternatives  
14 is inadequate. If you proceed now in haste to make a  
15 decision on it, you will not necessarily pick the best  
16 course of action for the State in terms of the wisest use of  
17 this area and the need for oil and gas and other kinds of  
18 energy sources and supplies in this state.

19 In the quantification of the impacts particularly  
20 one of the things that is missing are realistic estimates  
21 of the long and short term cost to fisheries. Carrying  
22 these things out to a dollars and cents level are not  
23 impossible. They can be done with existing techniques in  
24 a reasonable period of time. Then you can compare the  
25 numbers with similar estimates of the cost and benefits of

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1 alternative energy policies or alternative resource  
2 management strategy for this area. This shouldn't be most  
3 carefully done at the programming EIR level. There's no  
4 point in saying that you're going to do this at the project  
5 level. Those decisions can't be made at the project level  
6 and it doesn't make sense to require them from the lessees  
7 at that time. They should be made before these areas are  
8 leased so we don't get into the embarrassing position of  
9 saying that some areas that we leased found things that  
10 were located there that were unique or unusual or important  
11 to the State and now we are stuck with having already gone  
12 down the line and having this thing out to lease and making  
13 decisions based upon not whether or not a particular location  
14 should be leased but where on this thing do you put a rig  
15 to minimize the damage.

16 That's the level of information I think you need  
17 at the programming hour.

18 CHAIRPERSON CORY: Mr. Ackerman, you have a  
19 question?

20 COMMISSIONER ACKERMAN: Are you suggesting that  
21 those considerations be part or conditional terms of the  
22 lease?

23 DR. CORWIN: No. I think those considerations  
24 have to be taken into account in making the kinds of decisions  
25 that you have scheduled today. One is obviously the

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1 certification of the EIR and its adequacy. The second is  
2 in making the choices of the tract or areas in which you are  
3 actually going to put up for sale. But before you have made  
4 those decisions, you need to have in hand the information  
5 about what is out there to know whether there are some areas  
6 that you don't wish to lease or in terms of calculating the  
7 total effect of this project on the productivity of the  
8 region.

9 This is one of the areas that we have been  
10 particularly trying to get the Federal Bureau of Land  
11 Management or Mineral Management Service now environmental  
12 studies to look at. It's the cumulative impacts not just  
13 of this project with the Federal projects which, of course,  
14 is a larger question, but of the number of actual wells and  
15 rigs that are going to be laid in this area and the effects  
16 over time on the biota.

17 If you don't make those decisions at this point,  
18 you won't be able to say later on when you're dealing with  
19 one particular tract what the cumulative effect of putting  
20 that particular well or that set of wells in that area will  
21 be. You have to make that at the program level to say that,  
22 well, we're going to be looking at an impact to our fishery  
23 resources just from losing this unique region, say, of a  
24 cut of ten percent or 20 percent. This is just from looking  
25 at the drilling mud figures, for example, in the productivity

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1 of the region.

2 What does that translate to in terms of the  
3 productivity of the fisheries? Do you want to lower the  
4 potential productivity of this region by that amount? Once  
5 you've looked at that from a regional perspective, from a  
6 salewide perspective, then you can ask the question: Should  
7 this tract be leased versus this tract or are there some  
8 areas where we want to say let's only lease 20 percent of  
9 it at this time and leave the remaining 80 percent for  
10 later and see what happens. Those kinds of decisions can't  
11 be made at the individual lease-sale level. They have to  
12 be made at the program EIR level.

13 Does that answer your question?

14 COMMISSIONER ACKERMAN: Uh-huh.

15 DR. CORWIN: I think I've covered the main points  
16 that I have in my testimony. If there are any additional  
17 questions -- I would like to give the Commission, but I  
18 don't think this is the appropriate time and place,  
19 specific details about the kinds of techniques that we ran  
20 across, for example, when I worked at MIT building the  
21 computer model of oil spill damages and the various  
22 methodologies that are in use for translating these kind  
23 of things into dollars and cents terms so that you can make  
24 the kind of cost benefit analysis of whether or not it's  
25 worth it to go ahead with a project of this magnitude at

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1 this time. Those kinds of things need to be done before  
2 you make a decision to certify an EIR. The EIR as it stands  
3 now is not adequate to give you the information you need  
4 either from the economic perspective or from the biological  
5 perspective of what's out there.

6 I'll let that conclude my remarks.

7 CHAIRPERSON CORY: Thank you very much.

8 Mr. Gladish.

9 Welcome Mr. Gladish back. He's the former  
10 Executive Officer that's gone straight.

11 (Laughter.)

12 MR. GLADISH: Thank you. It's been some seven  
13 years. I appreciate the opportunity to appear before you  
14 today.

15 I'm here in the capacity of a representative of  
16 the Western Oil and Gas Association. I'd like to take a  
17 few minutes of your time and talk about the lease  
18 stipulations which are now included in the programmatic  
19 EIR. In addition, from another group in the Western Oil  
20 and Gas Association, there is a Bruce Beyaert here to speak  
21 relative to some air pollution concerns and with your  
22 concurrence he will follow me in that regard.

23 CHAIRPERSON CORY: Okay.

24 MR. GLADISH: I have limited my comments to those  
25 nine lease stipulations that are included in Volume 1, and

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1 within that framework I'd like to give you a couple of  
2 suggestions and comments and point out some implications  
3 relative to three or four of those particular stipulations.

4 The stipulations as noted in the volume are  
5 pretty much in concert with what's standard practice by  
6 the United States Government, the Mineral Management  
7 Service, and in the past history of this Commission and  
8 the rules and regulations implemented by the staff.

9 I might say at the outset the first concern we  
10 have is related to this matter of subsea completion. As  
11 you're generally aware, subsea completions were in a sense  
12 pioneered on state leases in California as a program that  
13 has been successful. However, I want to point out subsea  
14 completions from our standpoint are not necessarily the  
15 panacea for all the problems that one may perceive in terms  
16 of esthetics.

17 We have a few suggestions related to the proposed  
18 stipulation language. I would point out that the explanation  
19 of the stipulation related to subsea completions does  
20 indicate that consideration of subsea completions would be  
21 required and we certainly support that in total. However,  
22 the actual stipulation as written does for the most part  
23 imply a fairly unilateral decision on behalf of this  
24 Commission relative to the type of production methods to be  
25 employed. I would respectfully request your consideration

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1 of some additional language which would broaden the  
2 stipulation to include some consultation with the lessee,  
3 some added emphasis to compatibility with the commercial  
4 fishing operations and, above all, emphasis of the priority  
5 on safety.

6 I have to submit to you some modified language  
7 in that regard.

8 EXECUTIVE OFFICER DEDRICK: We'll put that in the  
9 record.

10 MR. GLADISH: I don't know that it's necessary to  
11 point out as we've done in the written testimony --

12 CHAIRPERSON CORY: Are you talking about that as  
13 being a part of the program EIR or would it be a part of  
14 the actual proposed lease document?

15 MR. GLADISH: Well, that would actually in fact  
16 be a stipulation that we would see of the actual lease.  
17 However, it is included as a stipulation in Volume 1 and  
18 it was not as I recollect a part of the earlier hearing  
19 process. So it may --

20 EXECUTIVE OFFICER DEDRICK: I don't think that's  
21 correct. Excuse me. Subsea completions were addressed in  
22 the hearing process.

23 MR. GLADISH: But not in the detail of the actual  
24 proposed stipulation for the lease.

25 EXECUTIVE OFFICER DEDRICK: That is correct.

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1 MR. GLADISH: These lease stipulations may well  
2 be the point of subsequent discussion or hearing or whatever.  
3 However, I would at this time like to point out our concern  
4 in the sense of broadening the criteria for the use of  
5 stipulations and the request for consideration for  
6 consultation. I have a number of arguments that I could  
7 make in that regard. But, if that is in fact to be subject  
8 of another discussion, why, I could defer that.

9 CHAIRPERSON CORY: I was asking a question because  
10 if it is not essential, it is more a legal lease question,  
11 that may be in terms of where we're going to end up.

12 EXECUTIVE OFFICER DEDRICK: Mr. Cory, what I was  
13 whispering to counsel over there about was whether or not  
14 this is binding at this point. That I think is Mr. Gladish's  
15 concern.

16 MR. GLADISH: Right.

17 EXECUTIVE OFFICER DEDRICK: Counsel.

18 MR. TAYLOR: You are going to have a further  
19 hearing on the form of the lease in Santa Barbara on the  
20 4th of October, as I understand it. You are going to be  
21 adopting this today. However, you are going to have a  
22 subsequent hearing before any definitive action is taken  
23 and if there is a chance for, if there is any reconsideration  
24 of what is adopted by the Commission as a result of what  
25 comes up at the October 4th hearing, that would be an

1 amendment to what is done today at the meeting in October  
2 or November when the final action is taken.

3 EXECUTIVE OFFICER DEDRICK: This would also apply  
4 to Dr. Corwin's concerns.

5 MR. HIGHT: Correct.

6 MR. TAYLOR: Yes.

7 MR. GLADISH: Mr. Chairman, I would like to point  
8 out, we are not proposing elimination or additional  
9 stipulations in that sense. It's merely within the framework  
10 of which the stipulations are constructed.

11 CHAIRPERSON CORY: Okay. I'm sort of inclined to  
12 think that trying to take this so there is not any great  
13 haste, so we're taking some normal steps. If it can be taken  
14 care of there, I'm sort of inclined to refer some of this  
15 back to staff to continue further hearings and to tidy up  
16 those kind of lease technical details where the lease is,  
17 that kind of question.

18 MR. GLADISH: Sure.

19 CHAIRPERSON CORY: It's that everybody legally is  
20 happy and the Commissioners are sort of inclined that way,  
21 then I don't think we need to go into that detail. We're  
22 aware of your concerns at this point.

23 MR. GLADISH: I might just summarize in about two  
24 sentences the rest of our general concern for the record.

25 There is a second stipulation dealing with pipeline

1 feasibility. Again, we're asking that some consideration be  
2 given to the lessee and the builder and operator of the  
3 pipeline in the decision process. As it's now constructed  
4 it appears to ignore the lessee.

5 I would point out for the staff's consideration  
6 that there are two stipulations dealing with geo-hazards,  
7 shallow gas hazards that perhaps could be consolidated into  
8 one stipulation. They appear to be redundant to us. There  
9 may be arguments and things.

10 Lastly, we had a concern relative to the  
11 biological surveys in the sense that they seem to be  
12 required for almost every activity. We perceive the  
13 exploration phase of whatever leases are let to be relatively  
14 short term and of minimum duration. In essence, we ask for  
15 your consideration relative to those permanent facilities  
16 would require appropriate biological surveys and not  
17 exploration.

18 That in effect was the essence of our concerns.  
19 Again, we are not opposing the concept of any of the  
20 stipulations, but it's a matter of their appropriate language.

21 CHAIRPERSON CORY: Questions from Commissioners?

22 COMMISSIONER MORGAN: No. I think their suggestions  
23 are valid.

24 CHAIRPERSON CORY: Then you want Bruce --

25 MR. GLADISH: Beyaert.

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1 CHAIRPERSON CORY: -- Beyaert, and Mr. Paul --

2 MR. GUTFREUND: Gutfreund.

3 CHAIRPERSON CORY: Gutfreund.

4 MR. GLADISH: Thank you very much.

5 MR. BEYAERT: Mr. Chairman, members of the  
6 Commission, my name is Bruce Beyaert. I'm Chairman of the  
7 Environmental Conservation Committee of the Western Oil and  
8 Gas Association. With me today is Paul Gutfreund, who is  
9 principal meteorologist of Systems Applications,  
10 Incorporated.

11 Our joint presentation today on behalf of WOGA  
12 will focus on the air quality aspects of the Finalizing  
13 Addendum to the program EIR.

14 The Addendum accepts without disagreement most of  
15 the factual information that Paul and I presented during your  
16 May 15th hearing in Santa Barbara. However, the predicted  
17 hydrocarbon emissions and ozone effects were not adjusted  
18 accordingly. The result is that the EIR substantially  
19 overstates the emissions and air quality effects that are  
20 likely to occur. This conflicts with CEQA's requirements  
21 that an EIR is to contain "detailed information about the  
22 effect which a proposed project is likely to have on the  
23 environment."

24 On May 15, I pointed out that 95 percent control  
25 of surge tank hydrocarbon emissions is achievable and is,

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1 in fact, required by some regulatory agencies. Yet, the  
2 EIR still assumes only 90 percent control which overstates  
3 the emissions by a factor of two. I also provided a copy  
4 of the authoritative Rockwell Corporation report and  
5 methodology for estimating hydrocarbon emissions from valves,  
6 pumps and flanges. While not disagreeing with either of these  
7 recommendations, your contractor chose not to adjust the  
8 hydrocarbon emissions presented in the EIR. Hence, the  
9 reactive hydrocarbon emissions rate stated on pages 1-18  
10 and 3-566 of the Addendum, are about twice as high as they  
11 should be.

12 In other words, we can do a lot better than that  
13 and are prepared to.

14 The greatest overstatement of air quality impact  
15 in the Finalizing Addendum is in the ozone modeling  
16 calculation for hypothetical Trajectory 4. This trajectory  
17 assumes movement of polluted air from Los Angeles offshore,  
18 northwest up the coast through the lease area and hooking  
19 around Point Arguello and coming back into the Santa Ynez  
20 Valley.

21 On May 15, Paul Gutfreund told about six major  
22 problems with this trajectory and the ozone modeling  
23 assumptions that were used. The Finalizing Addendum does not  
24 dispute the validity of four very important points, namely:  
25 It has not been documented that this assumed trajectory does

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1 in fact occur; the assumed initial hydrocarbon concentration  
2 is far too high; the linkage of this trajectory to post-  
3 Santa Ana conditions is "nonrigorous"; and the assumed  
4 background and inversion layer concentrations of ozone account  
5 for 80 percent of the concentrations predicted during  
6 so-called model validation run.

7 Despite the serious problems, no changes were made  
8 in the Trajectory 4 prediction that the hourly average ozone  
9 concentration would increase by six parts per hundred  
10 million above the base line level of ten parts per hundred  
11 million. In fact, the Finalizing Addendum actually states  
12 that this very large impact is "very likely" and even that  
13 it "will be considered understated." We believe quite  
14 firmly that these statements are without support and that  
15 the anomalous Trajectory 4 ozone predictions are at least  
16 ten times too high.

17 I want to emphasize that we are not objecting to  
18 consideration of Trajectory 4 as long as it is made clear  
19 that it is a hypothetical example of a worst-case  
20 meteorological situation that might occur. The major  
21 problem lies in the assumptions used to predict the air  
22 quality effect associated with this worst-case meteorology.

23 Systems Applications, Incorporated, has prepared  
24 a detailed critique of the Trajectory 4 assumptions and  
25 statements presented in the Finalizing Addendum. We will

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1 leave this with you today, but we don't want to get too  
2 technical in our oral statements.

3 Paul will therefore cover only three points with  
4 you. First, that the ozone impact for Trajectory 4 is  
5 completely anomalous; second, the calculated ozone impacts  
6 can't be considered valid unless a realistic initial  
7 concentration of hydrocarbons is assumed; and, third, it is  
8 incorrect to use a predicted instantaneous ozone  
9 concentration at a given location as a measure of the hourly  
10 average concentration because the winds change direction  
11 over the course of any hour.

12 With that I'd like to introduce Paul. He's the  
13 principal meteorologist and manager of the Air Quality  
14 Assessments Services Group at Systems Applications, Inc.  
15 He's a certified consulting meteorologist with 18 years of  
16 experience. He has three degrees from three universities  
17 in mathematics, meteorological --

18 CHAIRPERSON CORY: We will likewise stipulate he's  
19 an expert.

20 MR. BEYAERT: Fine.

21 CHAIRPERSON CORY: Out of total morbid curiosity,  
22 who certifies consulting meteorologists?

23 MR. GUTFREUND: Certified consulting meteorologists  
24 are certified by the American Meteorological Society.

25 CHAIRPERSON CORY: Wonderful. Go ahead.

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1 MR. GUTFREUND: I had planned to use some overheads  
2 to illustrate my talk. In the absence of that capability,  
3 I have prepared some handouts that I'll refer to.

4 So let me take this opportunity to hand them out.  
5 I have five copies.

6 I'll attempt to stick to the most fundamental  
7 points that we raise in our analysis of the ozone impact  
8 calculations that were presented in the EIR.

9 As Bruce noted, we made detailed comments on six  
10 aspects of the calculation previously. The EIR authors  
11 agreed with most of those comments. Yet, ultimately, the  
12 ozone impact estimates were not modified in any way.

13 To begin with, let me refer you to figure 1 which  
14 is I think the third page of the handout just by way of  
15 explanation of what Trajectory 4 is. If you note the -- if  
16 you could look up for a moment -- the Trajectory 4 is the  
17 trajectory which is connected by the solid circles. So it  
18 originates out here in the channel, easterly flows observed.  
19 It passes around Point Conception and Arguello. Moves north  
20 and then the sea breeze moves the material inland to Santa  
21 Ynez. The idea for simulating this trajectory was that aged  
22 urban air mass from Los Angeles would pass out over Santa  
23 Monica Bay, find its way to the channel and then pass over  
24 the project area in training NOx nitrogen oxides emissions,  
25 from the project. Those emissions then would produce a

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1 change in ozone at Santa Ynez. So that's the trajectory  
2 that we're talking about.

3 Our analysis of the comments indicates that the  
4 technical basis for the predicted ozone impact of six parts  
5 per hundred million is still not present. The modeling  
6 results presented in the EIR that the injection of 200 pounds  
7 per hour of NOx from the project can produce an ozone impact  
8 of six parts per hundred million at a distance of 100  
9 kilometers is not only inconsistent with Systems Applications  
10 modeling experience, it's also incompatible with the other  
11 results presented in the EIR that were obtained both by the  
12 EKMA model and by the other three trajectories.

13 The first handout provides a table of the other  
14 impact estimates presented in the EIR. To note, Trajectory  
15 4 which is the result presented at the bottom -- this I  
16 believe is the first page of the handout. It's a table  
17 entitled, "Maximum Ozone Impacts..."

18 You will note that the Trajectory 4 results differ  
19 by a factor of 10 to 15 or more from the other estimates.

20 In the effort to provide a justification for  
21 better understanding of these results, we reviewed a set of  
22 calculations that we performed with the Systems Applications  
23 Airshed Model. The difference in the results from  
24 Trajectories 1, 2 and 3 was explained in the EIR on the  
25 basis that Trajectory 4 involves the injection of NOx into

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1 aged urban airmass latent with hydrocarbons. Therefore,  
 2 we wanted to investigate the effect of changes in NOx  
 3 emissions in Los Angeles on downwind ozone levels under  
 4 worst-case conditions. We had available a multi-day  
 5 simulation of an historical worst-case ozone episode in  
 6 Los Angeles, a period during which historically high ozone  
 7 values were observed. We exercised the Airshed Model and  
 8 validated it on that day at 25 stations basinwide. The  
 9 reason why I mention that is that this provided convincing  
 10 evidence that the Airshed Model was accurately simulating  
 11 all the relevant physical and chemical processes in the  
 12 formation of ozone.

13 We then perturbed the model in the sense that we  
 14 changed the NOx emissions by 8,000 pounds per hour and we  
 15 looked at the effect in Los Angeles of a change of 8,000  
 16 pounds per hour of NOx injected into reactive Los Angeles  
 17 air. The results of that analysis was the maximum effect  
 18 over a 36-hour period at any location basinwide was three  
 19 parts per hundred million. Now, I've prepared a bar graph  
 20 that depicts these results.

21 It is Figure 4 on the handout. Can I refer you  
 22 to Figure 4 in the handout? This shows the difference between  
 23 the Airshed Model results and the results presented for  
 24 Trajectory 4 in the AIR. The Airshed Model showed 8,000  
 25 pounds per hour of NOx produced in effect of three parts per

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1 million in Los Angeles reactive air, whereas the EIR  
2 predicts that 200 pounds per hour will result in an impact  
3 of six parts per hundred million. This is a difference in  
4 impact by a factor of 80. This difference is so great that  
5 we undertook further analysis of the TRACE Trajectory 4  
6 simulation and we discussed those in detail in our comments.

7 I want to mention that the Airshed Model has  
8 undergone extensive model validation in many cities both in  
9 this country and Europe and is recommended and used by the  
10 Environmental Protection Agency, EPA, as the most  
11 sophisticated modeling tool available. I say that only to  
12 lend credibility to its results.

13 CHAIRPERSON CORY: What you're saying is that  
14 by using the model it is just orders of magnitude different  
15 than what the report --

16 EXECUTIVE OFFICER DEDRICK: Assumed.

17 MR. GUTFREUND: Then what the report concluded  
18 with a different set of modeling calculations. This led us  
19 to believe that there were some possible problems in the  
20 way that the calculations were carried out in the EIR.  
21 So we analyzed that particular Trajectory 4 and we identified  
22 several areas that we thought problems existed in.

23 In the responses to our comments, the EIR authors  
24 agreed with most of them.

25 CHAIRPERSON CORY: You had a question?

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1 COMMISSIONER MORGAN: No.

2 MR. GUTREUND: Now, I want to discuss only two  
3 of those points. I don't want to discuss all six. I want  
4 to discuss briefly the two most important ones.

5 In effect, the two points are the initial reactive  
6 hydrocarbon concentration that was assumed in the EIR  
7 calculation and the conversion to one-hour average  
8 concentration. First, the initial reactive hydrocarbon  
9 concentration for Trajectory 4.

10 In our previous testimony we calculated that the  
11 quantity of reactive hydrocarbons corresponding to the  
12 assumed initial conditions in the EIR calculation of one  
13 part per million carbon amounted to eight times the hourly  
14 hydrocarbon emission rate of all sources combined in the  
15 Los Angeles Air Basin. That's kind of shown in Figure 4 --  
16 I'm sorry, Figure 5. In Figure 5, is shown the area of the  
17 Los Angeles Air Basin and the area of the TRACE cell.

18 The assumption of initial reactive hydrocarbons  
19 in Trajectory 4 is tantamount to assuming that eight times  
20 the emissions from this area find their way into this area.  
21 This area is only three percent the size of this area. The  
22 importance of this assumption is as follows: ultimate ozone  
23 production from NOx injection into a hydrocarbon-rich  
24 atmosphere is strongly dependent on the initial hydrocarbon  
25 concentration. So that we suggest that this assumption of

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1 high initial reactive hydrocarbons led to a large over-  
2 estimate of ozone impact.

3 I want to briefly summarize the comments. Basically  
4 the comment to our observation was that, indeed, and I quote:  
5 "SAI correctly points out the apparent discrepancy  
6 between the assumed reactive hydrocarbon load in a TRACE  
7 parcel in an hour's worth of emissions from the Los Angeles  
8 Basin." The response also notes that the high reactive  
9 hydrocarbon concentration that was "inadvertently specified"  
10 for the uppermost TRACE cell affects the calculation of  
11 ground based ozone to a limited degree.

12 It also notes that although the one part per  
13 million carbon for dirty Los Angeles air is appropriate for  
14 studies in the Los Angeles Basin, it's recommended that this  
15 value should be reduced to one-third to one-half of that  
16 value for air parcels that have been transported and  
17 collected over the Santa Barbara Channel.

18 The point of the response is that it is conceded  
19 that an erroneously high value was assumed initially. That  
20 in the lower part of the TRACE cell which is the model which  
21 was used, it was high by a factor of two to three and in the  
22 upper part probably high by a factor of 20. It goes on to  
23 say that in effect this won't make any difference in the  
24 calculation. We take issue with that view.

25 Let me briefly indicate why. First of all, in our

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1 own studies of hydrocarbon concentrations in rural and urban  
2 areas, we find that the factor of two to three which is  
3 indicated should be greater. In other words, the hydro-  
4 carbons are overestimated by more like a factor of ten in  
5 the lower cell and a factor of 20 in the upper cell. Okay.

6 Second we note that the view offered that the  
7 result of this error in assumed reactive hydrocarbon  
8 concentration may only slightly affect the maximum ozone  
9 impact -- that's what the response says -- is purely  
10 speculative. No quantitative basis was provided for that  
11 position and we don't understand really why the calculation  
12 was not performed with the correct hydrocarbon concentration  
13 as we recommended.

14 Moreover, there's strong evidence in the EIR  
15 itself that in fact there will be a significant difference  
16 from this error in the assumed reactive hydrocarbon  
17 concentration. One finds this evidence by comparing the  
18 results of Trajectory 3 with those of Trajectory 4, and that's  
19 the second table in the handout. I think it's page 2.

20 You'll note that the result, for Trajectory 3, the  
21 initial reactive hydrocarbon concentration was shown to be  
22 .1 and the maximum instantaneous ozone impact was shown to  
23 be 0.4 and for Trajectory 4, the corresponding values are  
24 .75 and 6. The point of this comparison is the following.

25 Note that Trajectory 4 has a reactive hydrocarbon

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1 concentration assumed 7.5 times that of Trajectory 3, .75  
 2 versus .1. Yet, the impact calculated for Trajectory 4 is  
 3 15 times this great. In other words, the reactive  
 4 hydrocarbons are only 7.5 times as high and, yet, the impact  
 5 was 15 times as high. That shows that in fact that over-  
 6 estimate, the results of the calculation must in fact be  
 7 sensitive to that overestimate. In fact, they're nonlinear  
 8 as this table shows. It also suggests the importance of  
 9 either qualifying the result or recalculating the result.

10 I want to very briefly now summarize the reactive  
 11 hydrocarbon points that I've just made. Number one, the EIR  
 12 response concedes that the one part per million assumed value  
 13 was too high by a factor of two to three; two, we believe  
 14 that it's too high by a factor of probably five to seven.  
 15 The response speculates but presents no calculations in  
 16 support of the view that these errors "should only slightly  
 17 affect calculated ozone."

18 Four, a comparison of the Trajectory 3 and  
 19 Trajectory 4 results in the EIR indicate this RHC error  
 20 will strongly affect the calculated ozone. The response  
 21 concedes that the RHC is overestimated by a factor of 20  
 22 in the upper part of the cell and that it may have some  
 23 influence on the calculated ozone.

24 We agree with the final part of the response to  
 25 our comments in which it is stated: "These considerations

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1 indicate the TRACE results may be considered conservatively  
2 high ozone values. The difficulty that we have with this  
3 statement is that one does not know if they are high by a  
4 factor of two, a factor of ten, or a factor of a hundred.  
5 Unless the effects of the conceded errors in initial RHC  
6 are quantified, there can be no value in presenting the  
7 results in an erroneous calculation and qualifying merely  
8 by noting that it's conservative.

9 I have one other point that I want to make and  
10 that deals with the conversion of instantaneous to one-hour  
11 concentrations. I appreciate that many of the things that  
12 I'm saying are perhaps obtuse, and I'll try to present  
13 them in lay terms.

14 The calculations that were done in the EIR were  
15 done with a model that calculated instantaneous concentrations,  
16 not one-hour concentrations. There was not a conversion from  
17 instantaneous to one hour. The difficulty is that with  
18 Trajectory 4 which is the curve trajectory that passes  
19 around the two points, there will be a great difference in  
20 times between material released, say, at 9:00 a.m., and  
21 material released at 9:30, material released at 8:30. Let  
22 me explain that by reference to the first figure again.

23 The line connecting the solid circle is the  
24 trajectory that was assumed. That passed through the  
25 project area at 9:00 a.m. In order to calculate a one-hour

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1 ozone impact at a location like Santa Ynez which is what  
2 was done, it's necessary to consider the effects and the  
3 path of emissions that occurred over a full one-hour period.  
4 So in order to investigate the displacement, the dispersion  
5 of trajectories that would occur over an hour, we plotted  
6 the, using the same winds in the EIR, where material that  
7 passed at 8:30 will go and where material that passed the  
8 project area at 9:30 will go. That's what's depicted in  
9 this figure. The upper path is the 8:30 release. The  
10 center path is the 9:00 o'clock release, and the lower  
11 path is the 9:30 release.

12 The calculation presented or the assumption that  
13 instantaneous equals one hour which was done in the EIR  
14 basically was tantamount to saying that all the trajectories  
15 pass over the center location which is not the case with the  
16 assumed change of winds. Winds change a hundred and eighty  
17 degrees in six hours. So they're changing quite rapidly  
18 over this assumed but not observed trajectory.

19 This effect wasn't considered in converting from  
20 instantaneous to one hour.

21 There are several ways of taking this effect into  
22 account. One way is to calculate these individual  
23 trajectories with the model that was used and in that way  
24 convert. For example, one could have four releases in an  
25 hour or six releases. That wasn't done. Another way was

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1 to assume, is to evaluate the displacement, the horizontal  
2 displacement as shown in this figure. This distance is  
3 roughly 10 to 15 kilometers, the displacement of the hour's  
4 worth of emissions. All the other trajectories presumably  
5 would pass within this boundary.

6 In the EIR there is presented a calculation of  
7 the cell average concentration which is a cell average over  
8 ten kilometers. So that the use of that calculation would  
9 be a reasonable and albeit approximate way of converting  
10 from instantaneous to one-hour averages. That would be one  
11 way of doing it.

12 Another way, as we suggest, would be to calculate  
13 the individual trajectories.

14 We raised several other points and I don't want to  
15 get into them because they're even more esoteric than the  
16 ones I've discussed. But let me make my recommendations now.

17 COMMISSIONER MORGAN: Let me ask a question. I  
18 don't get the significance of the last point.

19 CHAIRPERSON CORY: I think what he's trying to say  
20 is that there is an assumption that over a one-hour period  
21 of time at this point over here a given quantity of material  
22 is released, but because factors are changing over here with  
23 the wind, that all of that doesn't come to the middle point.  
24 It's spread.

25 MR. GUTFREUND: That is correct, over an hour.

1 CHAIRPERSON CORY: Over the hour period of time.  
2 So the concentration of the reactive hydrocarbons is what  
3 we're questioning all doesn't occur right at that point.  
4 It's spread out and it's like putting ink into water, it  
5 dilutes it --

6 COMMISSIONER ACKERMAN: You're basically saying --  
7 CHAIRPERSON CORY: -- is the theory of what you're  
8 telling us.

9 MR. GUTFREUND: Yes. Let me illustrate by  
10 reference to Figure 6 here. Note Figure 6 which is third  
11 from the last figure. It's the box.

12 The six parts per hundred million that was  
13 presented is the value in that center very narrow box.

14 COMMISSIONER MORGAN: Okay. Thanks.

15 MR. GUTFREUND: So it's assumed that that very  
16 narrow box passes over Santa Ynez where in fact this box is  
17 moving all over the place. So a way of taking that into  
18 account is by taking a cell average or by simulating  
19 individual trajectories. But this wasn't done.

20 COMMISSIONER ACKERMAN: You're basically saying  
21 the EIR assumed a much higher concentration than it  
22 actually happens out there.

23 MR. GUTFREUND: Than could be expected for these  
24 conditions, yes.

25 COMMISSIONER ACKERMAN: But what factor?

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1 MR. GUTFREUND: For this -- Pardon me.

2 EXECUTIVE OFFICER DEDRICK: Nothing. Go ahead.

3 I was going to say that's arguable.

4 MR. GUTFREUND: It certainly is. It is.

5 EXECUTIVE OFFICER DEDRICK: Various people have  
6 different opinions on how --

7 COMMISSIONER ACKERMAN: This is not a finite  
8 science.

9 EXECUTIVE OFFICER DEDRICK: That is correct,  
10 Commissioner.

11 MR. GUTFREUND: But it's very clear that the  
12 failure to take this effect into account leads to a  
13 substantial overestimate.

14 COMMISSIONER ACKERMAN: We don't know by what  
15 degree.

16 MR. GUTFREUND: That's correct. But we don't even  
17 know if this trajectory occurs, let alone what the dispersion  
18 under that trajectory might be.

19 CHAIRPERSON CORY: I think seven angels is all that  
20 can be --

21 (Laughter.)

22 COMMISSIONER ACKERMAN: Does the difference in  
23 degree have a measurable health impact?

24 EXECUTIVE OFFICER DEDRICK: It has a very strong  
25 regulatory impact.

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1 COMMISSIONER ACKERMAN: Now, I have two questions.

2 CHAIRPERSON CORY: Tell me, former Commissioner,  
3 what were you trying to tell us?

4 (Laughter.)

5 EXECUTIVE OFFICER DEDRICK: If you like, I'd really  
6 like to comment on this. Bruce and I have met many times  
7 on the subject.

8 I think that straight-line trajectories are easy  
9 too, right? So you've got three trajectories there nobody  
10 is arguing about. It is known that the winds do that  
11 changing, that the stuff swings around that point and goes  
12 over Santa Ynez. Now, nobody has ever tested that  
13 trajectory, put markers in the air and followed them around.  
14 So to that extent, it's a theoretical trajectory. Bruce  
15 says and he's right. The EIR admits it. Nobody is  
16 trying to pull any fast ones. But the point is that it is  
17 an important trajectory to be studied and all of Bruce's  
18 points are sound points. He's done some good work.

19 CHAIRPERSON CORY: You're Paul and you're Bruce.

20 EXECUTIVE OFFICER DEDRICK: I'm sorry. I've been  
21 doing that for a solid year. But my point is --

22 CHAIRPERSON CORY: You frequently come as a set?

23 (Laughter.)

24 EXECUTIVE OFFICER DEDRICK: Frequently.

25 CHAIRPERSON CORY: Okay.

1 EXECUTIVE OFFICER DEDRICK: "I'm sorry, Commissioners.

2 At any rate, models are in a constantly changing,  
3 developing, moving and wonderful way to get argument state.  
4 So what I would suggest here, and I think is a reasonable  
5 recommendation, the EIR is intended to address the worst-  
6 case situation. It is not intended to cast that worst-case  
7 in concrete. In this particular instance, there is no  
8 question that Trajectory 4 is very high, very conservative  
9 worst case. The Addendum to the EIR states that. What will  
10 happen and what probably should happen is that, okay, we've  
11 got this new trajectory. It has not really been studied.  
12 We don't have the numbers in the right place. But as leases  
13 go on and site-specific EIR's are done, the local air  
14 pollution control district will certainly require refinement  
15 of those numbers and I think it has no bad impact in the  
16 way it's handled in the EIR. I think it's a good red flag  
17 for the air pollution people to look at in the future and  
18 it's a worst case. It's an awful worst case. But it's, you  
19 know, just a worst case. There's a lot more work to be done  
20 before you know what it really means.

21 COMMISSIONER ACKERMAN: "Is this worst-case example  
22 then determined by the local air pollution control district  
23 what extent the scrubbers have to be --

24 EXECUTIVE OFFICER DEDRICK: "No, not as it relates  
25 to this particular EIR.

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1 COMMISSIONER ACKERMAN: This is where you get to the  
2 regulatory aspect where it actually translates into dollars  
3 and cents and cost benefits.

4 EXECUTIVE OFFICER DEDRICK: I think the important  
5 thing here, Commissioner, is that this is a program EIR and  
6 all of the comments that we see from our other two  
7 witnesses so far are addressed to those broad effects. When  
8 the dollars and cents come in, when an actual site-specific  
9 EIR is done and an actual air pollution control district  
10 permit is gained, this trajectory will not of itself impact  
11 that decision by the local air district. There are too many  
12 other factors that will have to be studied. So it doesn't  
13 have a long-term effect.

14 COMMISSIONER ACKERMAN: The EIR in the selection  
15 of this particular trajectory only raises a flag that it's  
16 something to be considered, but it's not conclusive as to the  
17 evidence and the data that it presents?

18 EXECUTIVE OFFICER DEDRICK: That is correct in my  
19 judgment.

20 COMMISSIONER ACKERMAN: That will be refined when  
21 the air pollution control district actually issues a permit?

22 EXECUTIVE OFFICER DEDRICK: That's right.

23 MR. BEYAERT: The problem is that the words in the  
24 Addendum are contradictory in various places. In one place  
25 it says it's conservative, not how conservative. Another

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1 place it says it's very likely to occur and might even be  
2 understated.

3 EXECUTIVE OFFICER DEDRICK: I think all of those  
4 debatable points are the ones I heard for a solid year on  
5 the Air Resources Board. I never heard a definitive  
6 conclusion.

7 COMMISSIONER ACKERMAN: Doesn't there come a time  
8 to actually draw the bottom line somewhere, though?

9 EXECUTIVE OFFICER DEDRICK: When they apply for  
10 their permit.

11 COMMISSIONER ACKERMAN: How much weight is given  
12 to the EIR and the data presented in it? Does that  
13 prejudice an argument?

14 EXECUTIVE OFFICER DEDRICK: I do not believe that  
15 that's true. Not when it's so clearly stated that this  
16 particular calculation is a model calculation that has not  
17 been verified. It would take verification.

18 MR. BEYAERT: The problem here, the potential  
19 problem is that this trajectory suggests that the activities  
20 ensuing from the lease sale might result in a violation of  
21 the national ambient air quality standard for ozone, and we  
22 believe it's quite apparent that the assumed initial  
23 hydrocarbon concentration is far too high and it does have  
24 a major effect in reducing the predicted ozone concentration.

25 COMMISSIONER ACKERMAN: Does that mean if you

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1 exceeded that standard, that would result in a denial of  
2 a permit?

3 EXECUTIVE OFFICER DEDRICK: It could. Santa  
4 Barbara is already in violation of the national standard.  
5 That's the reason for the great concern about air pollution.  
6 The trip that we went on the other day, that offsets will have  
7 to be found for every oil project in the channel because of  
8 the fact that already they are in violation. I do not think  
9 that this thing will in any way change that situation.

10 CHAIRPERSON CORY: Is there any place in the world  
11 that doesn't exceed the EPA standard?

12 EXECUTIVE OFFICER DEDRICK: I don't know. I was  
13 on Mono Pass the other day. There's a lot of ozone, but I  
14 think it was generated by ultraviolet.

15 MR. BEYAERT: What we'd like to suggest, because  
16 of the clearly inappropriate assumption that just doesn't make  
17 sense on the initial hydrocarbon and the evidence that it  
18 strongly affects ozone concentrations and also the  
19 inappropriate assumption that the instantaneous maximum  
20 ozone concentration is the same as the hourly average which  
21 is the basis for the national air quality standard, yet we'd  
22 like to respectfully request that you do two things.

23 First, you adopt a table that's in the Draft EIR.  
24 It's Table 4.6-37, as a conservative estimate -- it's the  
25 last page in your handout and this is from the Draft EIR.

1 It suggests that you adopt this as a conservative estimate  
2 of the worst-case hourly ozone impact associated with  
3 Trajectory 4. This represents the cell average. The box  
4 that Paul had and the other thing would approximate the  
5 movement of the winds over a period of an hour from one side  
6 of the cell to another. So one simple and straightforward  
7 way to clarify this difficulty, this overestimate, would be  
8 to adopt this table as a reasonable proximation. It would  
9 still be a worst case because it's still based on the  
10 erroneously high reactive hydrocarbon concentration.

11 EXECUTIVE OFFICER DEDRICK: Just a moment. I  
12 realize we're not doing this in the order you started, but  
13 this is a sufficiently esoteric subject that I don't think  
14 you want to take it in pieces. Dwight I'm sure has a  
15 comment.

16 MR. SANDERS: I think Bruce could conclude.

17 EXECUTIVE OFFICER DEDRICK: Oh, I'm sorry. I  
18 thought he had.

19 MR. BEYAERT: Well, there's a second point. At  
20 the outset I described that we could do better at controlling  
21 hydrocarbon emissions. We could control at half the rate  
22 that's assumed. The Finalizing Addendum doesn't recognize  
23 that. So we would like to ask secondly that it be clarified  
24 that the hydrocarbon emission rates are very likely to be  
25 about half of the value contained in the Draft EIR.

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1 CHAIRPERSON CORY: Are you suggesting that that  
2 would be a requirement you could live with for the term of  
3 the lease?

4 MR. BEYAERT: Yes. We're already doing that in  
5 the South Coast Air Basin and we're doing it in Kern County.  
6 This is the 95 percent control on the well vent.

7 CHAIRPERSON CORY: But you think, as WOGA, you're  
8 saying you think you could accept that as a requirement of  
9 the lease if we made that change for you? Can you live up  
10 to it for the duration of the lease?

11 MR. BEYAERT: Santa Barbara County Air District  
12 will have the authority to stipulate the emissions control.  
13 But if we can do it -- we are doing it. We're confident  
14 knowing Santa Barbara County --

15 CHAIRPERSON CORY: I'm just trying to make sure  
16 that you were prepared to live with that specifically.

17 MR. BEYAERT: We're not suggesting it as a  
18 stipulation, but we can live with it because we have to  
19 offset the hydrocarbon emissions.

20 CHAIRPERSON CORY: You said enough. We can hang him  
21 with that.

22 MR. BEYAERT: So, there are two straightforward  
23 changes we're suggesting --

24 COMMISSIONER ACKERMAN: Always leave the door  
25 open a little bit.

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1 MR. BEYAERT: -- and with those we think the  
2 Final EIR would present a credible estimate of the  
3 emissions and air quality effects with still a substantial  
4 degree of conservatism.

5 CHAIRPERSON CORY: Before we go on to the other  
6 points, just in terms of esoteria, I recall somewhere in my  
7 background, I think it was -- I can't remember which class --  
8 a chemistry class in which we ended up doing some  
9 calculations on length of time it took for things to go into  
10 solution. Now, that's a liquid. But there's certain  
11 similarities in my mind between liquids and gases. Is the  
12 science that you deal in with all the computers we have where  
13 you are able to take those kinds of formulas and deal  
14 with them or are there just too many variables to cover?

15 MR. GUTFREUND: They're certainly dealt with  
16 explicitly, yes. In fact, that bears directly on the  
17 question of the effect of the very high initial reactive  
18 hydrocarbons. The response to our comment noted that this  
19 could result, this would result in a delay in the timing of  
20 the ozone ( $O_3$ ). That is in fact correct. What actually  
21 occurs, if you recall the trajectory, by the time it gets  
22 to Santa Ynez, it's about 4:00 o'clock in the afternoon.  
23 It's because the initial reactive hydrocarbon concentration  
24 is, if it's way too high, then the reactions will proceed  
25 far too rapidly. If the correct value had been used, not

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1 "only would the impact be less, but it would occur much later.  
2 If it occurred later, there wouldn't be any sun left to  
3 provide photochemistry. So that's really an important part  
4 of the effect of the initial reactive hydrocarbons also.

5 CHAIRPERSON CORY: Aren't you assuming that that's  
6 a continuing, that if it doesn't start at 9:00 it would have  
7 started at 4:00 a.m.?

8 MR. GUTFREUND: No. Because the sun's radiation,  
9 is essential to these reactions that produce ozone. It  
10 won't produce ozone at night or in the late afternoon at  
11 all.

12 CHAIRPERSON CORY: So it's a combination of the  
13 two?

14 MR. GUTFREUND: Uh-huh.

15 EXECUTIVE OFFICER DEDRICK: Three things.  
16 Hydrocarbons, oxides of nitrogen and ultraviolet produce  
17 ozone, but they produce them in a very unusual way. That  
18 is, if you plot the oxides of nitrogen concentration this  
19 way and the hydrocarbon concentration that way and then you  
20 plot ozone, you will get something that looks like a contour  
21 map of Mendocino County. That's in the laboratory. When  
22 you then take that complex reaction and stick it out in  
23 nature where the winds are doing funny things and the  
24 mountains are here and the hills are there and the radiation  
25 is different all over the place, you get something that is

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1 extremely difficult to follow. I think that in regards to  
 2 this particular trajectory, the sensible thing to do is to  
 3 red flag it because I think it is adequately red flagged  
 4 both in the EIR and through the record of this hearing.  
 5 But it will never be used per se as a decision-making point  
 6 by an air pollution control district because it is clearly  
 7 fuzzy and just getting started.

8 CHAIRPERSON CORY: Have you concluded the points  
 9 you wished to make?

10 MR. BEYAERT: Yes, I think so. If it's clear  
 11 that it won't be used in decision-making by an air district  
 12 or by this Commission, then that's --

13 EXECUTIVE OFFICER DEDRICK: I think that the  
 14 conclusion of the results from these calculations where you  
 15 have raised substantive concerns, those substantive  
 16 concerns are acknowledged in the EIR and your whole case is  
 17 on record here. The Commission isn't going to give you an  
 18 air pollution control permit and the air pollution control  
 19 district is extremely sophisticated.

20 MR. BEYAERT: Yes.

21 I think this concludes our presentation unless  
 22 you have any further questions.

23 CHAIRPERSON CORY: Hang around, we may have some,  
 24 but we may be able to get them resolved from the staff.

25 The next person is Carol Fulton, Friends of the

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1 Sea Otter, Coalition on OCS Lease Sale Number 53.

2 MS. FULTON: Good morning. I'm testifying on  
3 behalf of the Coalition on OCS Lease Sale 53, a group of  
4 environmental organizations with a keen interest in ensuring  
5 safe and sane development of California's offshore oil and  
6 gas resources only in areas where the benefits outweigh the  
7 risks to both the environment and the economy. Among the  
8 organizations participating in the Coalition are the Sierra  
9 Club, Friends of the Earth, the Natural Resources Defense  
10 Council, the Oceanic Society, the Whale Center, and Friends  
11 of the Sea Otter, of which I am the Executive Director.

12 We are not here today in an adversary position.  
13 We have worked closely with the State in the development  
14 of its position on OCS oil and gas development in federal  
15 waters. We have commented on OCS Lease Sales 53, 68, 73,  
16 the reoffering sale as well as the Secretary of Interior  
17 Watt's five-year plan. We have joined with the State in  
18 suing the Department of Interior when it sought to lease  
19 inappropriate areas for offshore oil development in the  
20 Northern Santa Maria Basin, immediately offshore the  
21 established range of the threatened California sea otter  
22 which is threatened precisely because of its vulnerability  
23 to oil.

24 We are grateful to the State for the strong role  
25 it has played in protecting our coastal resources from

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1 imprudent offshore oil development, and look forward to  
2 continuing to work with the State in watchdogging, and where  
3 necessary, opposing appropriate offshore oil development.

4 We understand that the State Lands Commission  
5 feels itself compelled to offer the State tidelands between  
6 Point Arguello and Point Conception for oil and gas leasing  
7 to avoid drainage of shared reservoirs by federal lessees  
8 drilling on the OCS just beyond the State's three-mile limit.  
9 We agree that the State should not lose revenues on its own  
10 oil resources. However, we disagree about the best way to  
11 obtain those revenues.

12 We propose that the State pursue revenue-sharing  
13 agreements with federal lessees drilling on the OCS, and  
14 investigate the feasibility of permitting slant drilling into  
15 the State waters from rigs already located just beyond the  
16 three-mile limit. No rigs need be placed in these waters,  
17 and the only areas which need be considered for leasing are  
18 those where there is concern about drainage from federal  
19 tracts.

20 We realize the State is currently in litigation  
21 to obtain acceptable revenue-sharing agreements. Until the  
22 State and Federal Governments reach an acceptable  
23 understanding on this issue, the funds could be placed in an  
24 escrow account. The State would not lose the revenues.

25 We also are aware of the State's current immediate

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1 need for funds. However, it is our understanding that under  
2 the system you would use, no revenues would be generated  
3 to the State until after production is under way. So either  
4 way there will be considerable delay before the State  
5 actually obtains any funds from the sale.

6 We do not agree with the premise that it is  
7 inconsistent for the State to oppose drilling within its  
8 own waters because it has already agreed to drill just  
9 beyond this area in federal waters. The EIR adequately  
10 demonstrates that the nearshore waters are biologically  
11 unique, pristine and fragile. It is within the three-mile  
12 limit where most of the marine mammals and the seabird  
13 rookeries are found.

14 What is known about this area demonstrates that  
15 it is most inappropriate for offshore oil development, in  
16 fact, it might be more appropriate for a marine sanctuary.  
17 What is not known about this area is substantial. To quote  
18 from the EIR's description of the "Characterization of  
19 marine biota between Point Arguello and Point Conception:  
20 The survey is designed to fill an identified data gap, the  
21 lack of information on the marine communities between Point  
22 Arguello and Point Conception. The survey places particular  
23 emphasis on the biota at depths below 100 feet because, with  
24 the exception of a few grab samples taken by the Allan  
25 Hancock Foundation 20 years ago, the marine life at deeper

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1 depths in this area is totally unknown. This survey will  
2 provide a characterization of the biota in this area to  
3 supply additional biological information with which to make  
4 leasing decisions."

5 We are very pleased that the State is undertaking  
6 these studies and we ask that the results of the recent  
7 BLM deep water work be reviewed to establish the best  
8 sampling procedures. We also ask that this Commission  
9 postpone certifying the Final EIR until the studies, which  
10 I believe are designed to take 60 days, have been completed  
11 and assessed. California has asked that of the Federal  
12 Government, we can do no less in our own State waters.

13 We are generally pleased with the various  
14 stipulations contained in the Final EIR to improve safety  
15 requirements for OCS operations. However, two glaring  
16 omissions must be addressed.

17 In the Governor's December, 1980, response to the  
18 proposed notice of sale for OCS Lease Sale 53, stipulation  
19 number 11 required that prior to approval of exploration  
20 plans, the lessees shall reach agreement with the U. S. Fish  
21 and Wildlife Service -- that's the Federal Fish and Wildlife  
22 Service -- to fund measures necessary to ensure the survival  
23 of the southern sea otter is not jeopardized by OCS  
24 development.

25 Stipulation number 12 was a seasonal drilling

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1 requirement that required no drilling or workover operations  
2 would occur in tracts bordering the State Lands project area  
3 during the period from December 1 through April 1, to avoid  
4 undue risk to sea otter populations and gray whales and  
5 calves which migrate north during the winter.

6       During the winter a spill in the project area, this  
7 project area, could move directly north to the established  
8 sea otter range at the very time when we have the largest  
9 numbers of otters in the region.

10       As there is growing concern that the small sea  
11 otter population may not have grown at all in size since  
12 1973, and as the past two years have brought dramatic  
13 increases in recorded sea otter mortality, the additional  
14 risk from opening the southern border of their range to  
15 oil development in nearshore waters could be catastrophic.  
16 We urge you to immediately include the proposed stipulations  
17 11 and 12 in the Final EIR.

18       Again, California asked it of the Federal  
19 Government. We expect no less of California.

20       We are also very pleased with stipulation number  
21 5 which calls for mandatory biological surveys. However,  
22 we have several suggestions which we believe are necessary  
23 to adequately strengthen the stipulation and after hearing  
24 the earlier comments of the gentleman from WOGA, I would  
25 emphasize that the surveys must take place prior to

1 exploration as proposed by your staff. We would strongly  
2 oppose any weakening of this stipulation.

3 The specific concerns we have on the stipulations,  
4 the way it's written now, is studies would be conducted to  
5 determine if the tract or site contained areas of special  
6 biological significance that may be adversely affected.

7 As worded, the stipulation does not require a  
8 determination whether areas of biological significance  
9 outside the tract or site would be adversely affected by  
10 operations at the site. For example, it is possible that  
11 operations could impact the sea otter range or pinned  
12 haul-outs which might not be contained in a site or tract.

13 We therefore recommend rewording the paragraph to read:

14 "The lessee shall conduct site-specific biological surveys  
15 ...to determine if any lease operations on the tract or site  
16 may adversely affect areas of special biological  
17 significance."

18 Also, "The biological survey should include a  
19 characterization of the area within a one kilometer radius  
20 of the development site..." according to the EIR. We feel  
21 a one kilometer radius does not accurately reflect the area  
22 that is likely to be affected by drilling or construction  
23 activity.

24 Obviously, downcurrent areas will be affected to  
25 a greater distance than upcurrent areas. There's a 1981

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1 BLM study which concluded that drilling muds and cuttings  
2 could accumulate three kilometers downcurrent, suggesting that  
3 the area to be characterized should be redefined, taking  
4 into account the effect of currents.

5 The final comment on the stipulation, "A remote  
6 camera survey (video and/or film) may suffice in soft  
7 bottom areas. These observations should be accompanied by  
8 photo documentation and the taking of samples." We  
9 recommend that this section be reworded to require the  
10 taking of samples in addition to camera surveys. The  
11 California Academy of Sciences stated that, "Only the  
12 largest and best-known forms can be identified by inspection  
13 of photographs or videotape, unless samples are collected  
14 in addition."

15 We would also remind the Commission that in  
16 commenting on OCS Lease Sale 53, the California Department  
17 of Fish and Game recommended a 12-mile buffer from Point  
18 Purissima to Point Conception, an area which includes the  
19 entire State tidelands project area. Further, in reviewing  
20 the Draft EIR on the State tidelands sale, Fish and Game  
21 commented there was no new information which would make them  
22 change their original position.

23 We reiterate our belief that this area is  
24 inappropriate for offshore oil development, and that it  
25 poses a critical threat to the California sea otter

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1 population, whose entire established range has been proposed  
2 for offshore oil leasing by Secretary of Interior James  
3 Watt, a gentleman who's responsible for protecting the sea  
4 otter.

5 We do not feel this sale should proceed further  
6 until cumulative impacts from federal leasing in the  
7 Santa Barbara area have been assessed and mitigated.

8 At the very least, today, we again urge you not to  
9 certify the Final EIR until your own studies have been  
10 conducted and assessed. For how can you possibly know what  
11 the environmental impacts are when you don't even know what's  
12 out there?

13 Finally, we call upon you to ensure that any  
14 leasing of State tidelands is consistent with the State's  
15 federally-approved Coastal Plan. California has demanded  
16 of the Federal Government presale consistency on size,  
17 timing and location. We expect no less of California and  
18 there is much at stake.

19 Thank you.

20 COMMISSIONER ACKERMAN: When you testified on  
21 Secretary Watt's five-year plan, did you recommend that in  
22 areas where California had parcels leased against unleased  
23 Federal parcels that the Federal Government exercise  
24 agreement for slant drilling off State platforms into the  
25 Federal OCS?

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1 MS. FULTON: No, I don't think I did.

2 CHAIRPERSON CORY: Okay.

3 Kirk Neuner.

4 MR. TROUT: Neuner.

5 EXECUTIVE OFFICER DEDRICK: He was here earlier.

6 CHAIRPERSON CORY: Well, that's the last of the  
7 people. Would the staff like to --

8 MR. CHARTER: I submitted a request to participate.

9 CHAIRPERSON CORY: Come forth. Identify yourself  
10 for the record. I'm sorry; somewhere we lost the sheet.

11 MR. CHARTER: I understand.

12 My name is Richard Charter. I serve as  
13 Coordinator for Local Governments along the Central and  
14 Northern California Coast and in that capacity over the last  
15 three and a half years, I have provided under a program  
16 staff support and coordination for counties from Del Norte  
17 Santa Barbara and about 30 cities. This has dealt  
18 primarily with the Lease Sale 53 proposal.

19 I would like to remind you --

20 COMMISSIONER MORGAN: You're representing how many  
21 counties and cities?

22 MR. CHARTER: Eleven counties and 30 cities, and  
23 I would point out that local governments throughout this  
24 process on the State tidelands sale I think you will find  
25 in your Final Addendum testimony from a number of individuals

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1 including Supervisor Bill Wallace of Santa Barbara County.

2 I am here in the hopes of helping you make the  
3 best possible decision about this sale. That may be a  
4 decision that involves more information than you have at the  
5 current moment. In bringing this point to light, I would  
6 like to cover three major points. The relation of this  
7 decision to the decision-making process on the federal lease  
8 sales, primarily Lease Sale 53.

9 The second point I'd like to bring to light is  
10 the unique biological situation in the Point Conception,  
11 Point Arguello area, and the third thing that nobody seems  
12 to have pointed out is that there are some very severe  
13 economic implications of making a mistake at this point.  
14 I don't think that it should be any surprise to anyone in  
15 this room that Point Conception to Point Arguello is a very  
16 unique biological area. There has been an interest among  
17 the community of marine scientists in fact in studying the  
18 transition zone where the warm southern waters meet the  
19 cold northern waters and create very unusual conditions which  
20 create very unusual biological circumstances, and that  
21 interest goes back probably 25 or 30 years. The problem is  
22 that nobody has ever really taken the trouble to study this  
23 area.

24 The sensitivity of Point Conception has been  
25 recognized all through the decision process on Lease Sale

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1 53. There is a kind of consensus in the State of California  
2 that while, as the decision went forward in Lease Sale 53,  
3 a balance was achieved and the places that really counted  
4 were left out of that sale. In other words, the Mendocino's  
5 and the Sonoma's and the Santa Cruz areas that were  
6 ultimately deleted in the decision.

7 I would like to point out that the decision to go  
8 forward with the Southern Santa Maria Basin of Lease Sale  
9 53, and I think it relates because it's apparently the  
10 decision that triggered the State tidelands sale, the  
11 drainage sale. Actually, through the whole process agencies  
12 of the State of California had been raising concerns about  
13 the proximity of those tracts to Point Conception. Carol  
14 mentioned that Cal Fish and Game in responding to the  
15 original proposed notice of sale, the Andrus proposed notice  
16 of sale on Sale 53, asked for a 12-mile buffer zone around  
17 Point Conception. That was originally a 12-mile buffer  
18 zone which became in the Governor's response to the Secretary  
19 of Interior on that sale a request for a seasonal drilling  
20 stipulation to protect the sea otter range basically the  
21 range of the sea otter which will be in this area during  
22 the life of this sale.

23 Neither of those things were given to the State  
24 of California by the feds when they held Lease Sale 53.  
25 They leased right up to the three-mile State tidelands and

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1 the three-mile State tidelands then became the buffer between  
2 the federal leasing and these sensitive intertidal areas.  
3 So I don't think that I'm out of line in pointing out that  
4 you are leasing the buffer zone and that in so doing there  
5 is no spill response time. You are on top of the sensitive  
6 resource.

7 So I think it's important not to use the  
8 justification that while leasing has occurred on federal  
9 OCS, we must lease this. Because, in fact, this is the  
10 buffer zone.

11 The thing about the Point Conception area is that  
12 there is hardly anything known about the biological  
13 communities there. We know that there's a sensitivity.  
14 We know that there's a lot going on. We have found out  
15 some things about the leasing in Sale 53 as a result of  
16 biological site surveys that took place prior to drilling.  
17 We have about six drill ships in the Santa Maria Basin right  
18 now. Prior to that activity there were biological site  
19 surveys which discovered topographical tides, islands under  
20 the ocean, one of which contained 11 species that nobody  
21 had ever seen before. This is on the federal OCS.

22 It's important not to underestimate the importance  
23 of these shallow or inshore areas to the total biology of  
24 the ocean and the fact that this inshore marine fringe has  
25 a distinct zonation of environmental conditions which provide

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1 one of the most diverse habitats for life on earth basically.  
2 Now, your staff in your Final Addendum has apparently  
3 recognized that there is a lack of information about this  
4 area and in your Final Addendum has proposed a 60-day  
5 biological characterization study which we and our  
6 consultants have reviewed in some detail. It looks like  
7 a pretty good study. It's a high resolution study. It  
8 involves sampling on a grid spacing which probably would  
9 identify biological hot spots. What I mean to say, people  
10 have a habit of looking at the ocean, and because they  
11 cannot see below the surface other than reflections, they  
12 visualize that there's fish sort of equally distributed out  
13 there and there are critters on the bottom sort of evenly  
14 spread out. That is not the way it is.

15 There are concentrations of communities that you  
16 cannot find any other way than by the type of study you're  
17 talking about. It looks like a pretty good study. Our  
18 concern is -- and I say "our concern," because this is  
19 setting a precedent that other counties are watching in the  
20 event that drainage sales follow federal sales of the  
21 California coast.

22 There have been numerous comments to the Bureau  
23 of Land Management, now Mineral Management Service, that  
24 the results of studies should be obtained prior to the  
25 decision and used in the decision. We have said that

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1 probably four or five hundred times in the last four years.  
2 I'm afraid that we have to say it to the State Lands  
3 Commission. There has been a need for this study accepted  
4 by your agency. You've funded it. You're going forward with  
5 it. It's my understanding that the results of the study  
6 will not be available prior to the proposed notice of sale  
7 for this sale.

8 I think that you should know that there's a  
9 precedence for this in the State of Alaska. There have been  
10 mistakes made with State tidelands sales and they have been  
11 very, very expensive to states. I happened to be in Homer,  
12 Alaska on Ketchimec (ph) Bay in the mid-1970's when Shell Oil  
13 Company got a jack-up rig stuck in the glacial silt in the  
14 bottom of Ketchimec Bay. This was a State tidelands sale  
15 and a sensitive area. Everybody recognized that. It's  
16 like a giant version of Tomales Bay, a long, narrow bay fed  
17 by glacial-fed rivers. The Fox River has an extremely large  
18 intertidal tide flat area with a lot of birds on it, has an  
19 extremely productive trout fishery and everybody said: You  
20 better watch out because you're going to have trouble with  
21 glacial silt at the bottom of Ketchimec Bay. Alaska went  
22 ahead and leased it. Shell came in with a jack-up, got it  
23 stuck, spent -- it was very prominent in the news media down  
24 here that summer. You may even recall it -- spent the better  
25 part of that summer trying to extricate that rig with

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1 ocean-going tugs, explosives, divers, you name it. Finally  
2 got it loose. The problem was that the rig was stuck right  
3 in front of the only town in Ketchimec Bay and it created  
4 a public backlash that was so strong in the State of Alaska  
5 that they were forced to buy back the state leases in  
6 Ketchimec Bay.

7 Now, I was in a meeting in Alaska this June and  
8 the topic of that sale came up and the people who administer  
9 state tidelands leases in the State of Alaska said to me:  
10 God, please don't talk about that. You would not believe  
11 how expensive that was for the State of Alaska.

12 So what I'm asking you to do, what my recommendation  
13 is, is that you not certify this EIR today, that you provide  
14 a 60-day period for the completion of your own study that  
15 you recognize the need for, a period of time for the  
16 information from that study to be digested, subjected to  
17 peer review in the scientific community, maybe another  
18 30 days. We're not talking about a big hurry on this  
19 lease sale where 90 days would make that much difference.  
20 I think the goal of such study of the results of your  
21 biological characterization survey, would provide information  
22 of sufficient resolution that you could identify biological  
23 hot spots in the Point Conception-Point Arguello area and  
24 perhaps make some windows in your sale, but you're not going  
25 to know where those windows are until you have the results

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1 of the study that you have in motion. Now, I see on the  
2 agenda an item determining just how the sale is going to  
3 proceed, what areas will be leased first and I heard rumors  
4 to the effect that, well, the whole thing may be leased.  
5 There may be two circles first and then two circles. Well,  
6 just suppose that the first two circles are the wrong two  
7 circles and that they're on top of hard rock outcrops that  
8 happen to be the biologically sensitive areas. That's not  
9 the way to find out where the biologically sensitive areas  
10 are to lease them. The way to find out is to conduct the  
11 study that you funded and decided to proceed with, get the  
12 results of it, use that information in a full disclosure  
13 document. We're supposed to be creating a model here for  
14 how to do this for the feds, and we're making the same  
15 error.

16 I'd like to close by saying that I conclude that a  
17 State tidelands lease sale should be subject to the same  
18 consistency determination that federal sales are. If  
19 anything, it has more of an effect on the land and water uses  
20 of the State's coastal zone and I would like to ask you to  
21 defer certification of the EIR until you have full  
22 disclosure of the environmental impacts of this project.

23 Thank you very much.

24 CHAIRPERSON CORY: Questions from Commissioners?

25 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, I see

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1 that Kirk Neuner is here. He just came.

2 CHAIRPERSON CORY: Kirk, do you wish --

3 EXECUTIVE OFFICER DEDRICK: Do you want to testify?

4 MR. NEUNER: No.

5 CHAIRPERSON CORY: Staff.

6 I'd like the staff to start responding to some of  
7 the points that were brought up. Who's going to lead this  
8 off, Claire, you, Dwight?

9 EXECUTIVE OFFICER DEDRICK: I'm sorry, Mr.  
10 Chairman. Dwight has been in charge of the whole process  
11 and has been meeting with everybody and I think he can  
12 respond more completely.

13 I would like to point out one thing, particularly  
14 in regard to Mr. Charter's testimony and also Carol's and  
15 our other two witnesses.

16 The biological study is ongoing currently. The  
17 EIR included studies of all rocky areas, and Dwight can  
18 elaborate on that if you choose. So that the areas that we  
19 know would be biologically sensitive are already investigated  
20 and examined in the existing document. The Commission  
21 decided to go beyond that requirement and to provide  
22 information for your leasing decisions, more information  
23 than was actually required by law, and ordered that  
24 biological study. The study is completed and is being  
25 written and it will be available to the Commission and

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1 available to the public within two weeks. I just wanted  
2 to clarify that point.

3 Dwight, can you address the other comments and  
4 elaborate on that one, if you want?

5 MR. SANDERS: Thank you, Claire.

6 Mr. Chairman, I think I would like to emphasize,  
7 I think it's been borne out in a couple of the comments made  
8 today, that the EIR as presently written does consider the  
9 biological sensitivity of the intertidal areas which would  
10 be the ones most sensitive to oil spill impacts.

11 I think I would also like to elaborate on Claire's  
12 comment that the biological characterization, the scientific  
13 biological characterization, that will assist you in your  
14 lease decision will be available the first part of October  
15 and will be made available to the recipients of the  
16 Environmental Impact Report so that they might review its  
17 contents. It will be a public document in that sense and  
18 we'll welcome that review.

19 I do not think, however, that the question  
20 prevents the certification of the existing document.

21 Let me go back, I guess, and touch on a couple  
22 of perhaps major points. The drainage agreement mentioned  
23 by Carol Fulton is under negotiation currently between the  
24 State and the Federal Government. That will compensate  
25 the State as stated for any drainage that may occur where

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1 common pools are involved. Unfortunately, to use a term of  
2 another commenter, that is not a panacea in that if resources  
3 exist on State lands and if the decision is made to develop  
4 them to their fullest extent, slant drilling from federal  
5 parcels will not accomplish that goal. They will  
6 accomplish a portion of the development, but not the major  
7 goal of eliminating the need for development in the State  
8 waters.

9 The stipulations that are proposed in the  
10 document are proposed mitigations in recognition of the  
11 impacts discussed in the document. As such, they, plus any  
12 other mitigation measure or stipulation measure that has  
13 been suggested today, will be under consideration for you  
14 when you make your leasing decision and we will be happy to  
15 evaluate the end point and stipulations that have been  
16 suggested.

17 I think without getting into the morass of the  
18 air quality situation, it has been shown that it is a very  
19 technical field. It is a very unmeasurable field in certain  
20 circumstances and that the document does recognize that it  
21 is a conservative estimate of air quality impacts which is  
22 a worst-case situation that comes under the purview of CEQA.

23 Two other points I'd like to make on that.  
24 Before the air quality analysis was initiated, we consulted  
25 with the State Air Resources Board and Santa Barbara County

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1 Air Pollution Control District on the scenarios to be  
2 analyzed and the emissions inventories to be used. So  
3 before analysis we did try to validate the concerns of those  
4 particular agencies and I must state that those agencies  
5 did not raise the same concerns as were raised here today  
6 by the gentleman who testified before you.

7 Another issue that has been mentioned is muds and  
8 cuttings. I think the Commission has -- I choose that as an  
9 example because I think it is indicative of some of the  
10 impacts that may result. The Commission has many options  
11 to choose in later decisions as to how those muds and cuttings  
12 will be disposed, whether they will be disposed onsite or  
13 where impacts will be of a certain nature or if  
14 disposed onshore where impacts will be of another nature.  
15 So it is, again, it is a generic discussion of the impacts  
16 that could occur from leasing in this particular area and  
17 mitigation measures of both types, both for onshore and  
18 offshore, are indicated as well as for all other impacts  
19 within the project area.

20 I think with that I would like to respond to  
21 whatever questions the Commission might have.

22 CHAIRPERSON CORY: Do you have specific questions?

23 COMMISSIONER MORGAN: I think he covered most of  
24 them.

25 CHAIRPERSON CORY: I had one. There was a

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1 discussion about, in Lease Sale 53, two items, a Fish and  
2 Game or Wildlife Service agreement and a calendar moratorium.

3 MR. SANDERS: Drilling ban within a certain period  
4 of time, yes, sir.

5 CHAIRPERSON CORY: What is the significance of  
6 those and whether those are -- I mean, are those the kind of  
7 things that should be part of the lease sale itself or are  
8 they part of the EIR things or are there questions implicit  
9 in those conditions dealt with in --

10 MR. SANDERS: The impacts to the otter community  
11 and other biological communities I think are addressed and  
12 recognized within the Final Environmental Impact Report.  
13 The items that Mrs. Fulton is suggesting are as recommended  
14 to the Federal Government as federal lease sale stipulations.  
15 As such, they are a trailer to the lease decision as I  
16 stated. The stipulations that are included within the final  
17 document are proposed mitigation for impacts noted. The  
18 stipulations that are suggested here would serve the same  
19 purpose, and we are free and able to evaluate their  
20 effectiveness in making the decision to lease and under what  
21 circumstances.

22 COMMISSIONER MORGAN: Well, a couple of the  
23 speakers made reference to the BLM or some other agency's  
24 deep water work. What exactly is that and how does that  
25 relate to what we're considering today?

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1 MR. SANDERS: Well, it is a measure of scientific  
2 studies and studies that are ongoing. We have tried to,  
3 within the availability of studies, to consider within the  
4 document all existing validated information. We will  
5 continue to do so as the process goes forward. But the  
6 documents and the studies and so forth used in the draft of  
7 our final Environmental Impact Report were those of the  
8 former category that I mentioned, ready, available to us,  
9 validated and so forth. To the greatest extent possible,  
10 all the results or information from ongoing studies were  
11 used in the document also.

12 CHAIRPERSON CORY: Claire, you look like you  
13 wanted to say something.

14 EXECUTIVE OFFICER DEDRICK: I just wanted to say  
15 that you have to operate on the information that's available  
16 at any given point in time and there are a lot of studies  
17 going on. The NAS drilling study, for example. What I  
18 think the substantive result of all that is that as each  
19 site-specific EIR is done, all of the new information that's  
20 happened since this program EIR to the time their site-specific  
21 EIR gets incorporated. I think that the marine biological  
22 study that has been referred to is really a very good study  
23 and I'm very glad that people are recognizing that, and the  
24 data from that will be of great assistance to you, I think,  
25 in making a leasing decision and is a real base line for the

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1 first time in those waters for making further decisions on  
2 EIR's and site-specific cases.

3 COMMISSIONER ACKERMAN: Claire, is that study  
4 being incorporated as part of the EIR?

5 EXECUTIVE OFFICER DEDRICK: No. It's not necessary  
6 that it be incorporated as part of the EIR. I think you're  
7 going to want legal counsel's opinion on that. It will be  
8 available to you prior to the October meeting. As I said,  
9 within two weeks, the early part of October. We can  
10 utilize that data at an appropriate time.

11 If you would like, Greg, maybe you better comment  
12 on that. It is not necessary to wait for that study to  
13 certify the EIR, but I would like Greg to make that point  
14 clearly.

15 MR. TAYLOR: It's our opinion that you have  
16 adequately covered the issue at this stage of the  
17 proceedings and that you may go ahead and consider this  
18 report at this meeting. One of the reasons for having this  
19 before you preceding an actual decision on a final decision  
20 is so that appropriate agencies may be in a position to have  
21 an EIR before them to make whatever comments they feel  
22 appropriate before that decision is made. It's also necessary  
23 to get this process going so that you may hold your last  
24 hearing which I understand will be announced for Santa  
25 Barbara in October. So this will all be part of that process.

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1 The primary reason for the certification today is to have  
2 an EIR out for other agencies who may want to do some things  
3 to be able to have something that they can use as a basis  
4 of any decisions they want to make.

5 EXECUTIVE OFFICER DEDRICK: I think the basic  
6 point that people don't understand is that certification  
7 of the EIR is not a decision to lease. It is a preliminary  
8 to your consideration of a decision to lease. So what  
9 actually does is free up everybody to say what they want to  
10 say and think about the things they want to think about and  
11 give you the kind of input that you will need in order to  
12 make a decision.

13 COMMISSIONER MORGAN: I think this is for Dwight.  
14 Can you distinguish between EIR stipulations and lease  
15 requirements?

16 MR. SANDERS: As I mentioned, I think I would  
17 classify stipulations as well as other topics within the  
18 Environmental Impact Report that are called mitigation.  
19 In other words, an impact is recognized, evaluated, analyzed  
20 and quantified and mitigation is developed to render that  
21 impact insignificant. Those factors are included within  
22 the Final EIR. The stipulations are avenues or means of  
23 mitigation to the Commission in making a leasing decision  
24 and under what circumstances that these will be, how that  
25 lease will be conducted. If you will, each accomplish the

1 same purpose through different avenues. Mitigation measures  
2 are often, as far as this Commission is concerned, mitigation  
3 measures have been made a part of specific leases. So that  
4 the conduct of the lease is determined by an influence by  
5 the mitigation that is adopted by the Commission.

6 EXECUTIVE OFFICER DEDRICK: Commissioner Morgan,  
7 the choice of using the term "stipulation" and the format  
8 of stipulation was in direct response to the request of  
9 several agencies who felt they would like to know what the  
10 language would look like that would be later used in the  
11 lease. That, of course, can also be strengthened or changed  
12 in the course of the process that will begin after you've  
13 certified the EIR.

14 MR. SANDERS: Those stipulations might also result  
15 in additional mitigation. For example, the biological  
16 stipulation.

17 (Thereupon a brief recess was taken.)

18 CHAIRPERSON CORY: Okay.

19 MR. SANDERS: Specific mitigations for subsequent  
20 projects may indeed come out of the necessity of that  
21 biological stipulation.

22 COMMISSIONER MORGAN: Thanks.

23 CHAIRPERSON CORY: That which we have before us  
24 and the precision which is required of it in terms of the  
25 written bound document, the proceedings that occurred here



1 this morning, are they a part of that or just a part of the  
2 record?

3 EXECUTIVE OFFICER DEDRICK: May I defer to counsel?

4 COMMISSIONER MORGAN: Where are we in the process?

5 MR. HIGHT: The testimony here today is not a part  
6 of the EIR, and the EIR would be approved as it is.

7 CHAIRPERSON CORY: That's the only option before  
8 us?

9 MR. TAYLOR: You could stipulate certain items  
10 if you want.

11 CHAIRPERSON CORY: Well, need the EIR be a final  
12 end all resolution of all questions --

13 EXECUTIVE OFFICER DEDRICK: No.

14 CHAIRPERSON CORY: -- or is it a recitation of  
15 areas of concern, potential areas of concern?

16 MR. FRANK: It's the latter. It's a recitation  
17 of areas of concern. The ultimate findings you're going to  
18 have to make and what mitigation measures to adopt, that's  
19 a later decision to be made to actually make a decision to  
20 proceed with lease sales.

21 CHAIRPERSON CORY: To clarify what it is so that  
22 we need not deal with every specific point where reasonable  
23 people may differ, but it's a question, a finding of fact,  
24 that the report is adequate and has drawn to our attention  
25 great breadth and variety of areas that we need to concern

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1 ourselves with when we get to the specific leases,  
2 et cetera.

3 MR. HIGHT: Correct.

4 COMMISSIONER ACKERMAN: Some of those specifics,  
5 too, may not be decided by this Commission. For instance,  
6 the air pollution concerns will be decided by the Santa  
7 Barbara Air Pollution Control District.

8 MR. FRANK: That's the significance of this  
9 document because while the State Lands Commission is the  
10 lead agency responsible for preparing and publishing the  
11 Environmental Impact Report, it's going to be relied upon  
12 by all these other agencies who will not be preparing their  
13 own environmental impact report.

14 CHAIRPERSON CORY: But they can take this document  
15 and they are able to require additional data to be submitted  
16 to meet their particular needs?

17 MR. FRANK: Certainly.

18 COMMISSIONER ACKERMAN: Because what I'm concerned  
19 about is you can keep going on an environmental document  
20 forever seeking to add additional data or additional analysis.  
21 There comes a point where you need to draw the line and then  
22 allow the other agencies that are going to be directly  
23 involved to supplement it as much as possible. The only  
24 thing I'm concerned about is that our certification not be  
25 interpreted as being an approval that is all-inclusive.

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1 EXECUTIVE OFFICER DEDRICK: I think that's  
2 inherent.

3 COMMISSIONER ACKERMAN: Is that commonly accepted?

4 EXECUTIVE OFFICER DEDRICK: Yes. I think that's  
5 inherent in life.

6 COMMISSIONER ACKERMAN: In the testimony we  
7 received this morning there still seems to be an awful lot  
8 of discussion that has to be undertaken with different  
9 permitting agencies.

10 EXECUTIVE OFFICER DEDRICK: I think that's true,  
11 Commissioner.

12 The EIR really has addressed in a lot of detail  
13 the substantive environmental issues and the answers to those  
14 within the limits of current knowledge. That's what that  
15 document is suppose to do. Its purpose is to serve as a  
16 decision-making tool for you to give you an idea of the  
17 breadth and some of the detail of the environmental  
18 considerations. But this is a program EIR. This is an  
19 unusual thing. Not very many program EIR's have been done.  
20 It was a very wise move on the Commission's part, I think,  
21 to take a look at the broad area.

22 Then when you get down to cases, you do a far more  
23 detailed and with the new information that is constantly coming  
24 to us, an EIR on each case. Now, I agree with you and I think  
25 it is generally accepted that it's as good as it can get today

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1 and if there is a scientific breakthrough tomorrow, that  
2 has to be taken into account by normal good sense and  
3 handling of ongoing information.

4 CHAIRPERSON CORY: In the process did Fish and  
5 Game make any input?

6 EXECUTIVE OFFICER DEDRICK: Yes. I'll let Dwight  
7 give you details. Fish and Game has been a very strong,  
8 responsible agency and has commented substantially. In  
9 essence, Fish and Game said we'd rather you didn't lease,  
10 but if you do, these upteem things have to be taken into  
11 account and these stipulations we like. All of those were  
12 adopted and are present in the EIR.

13 Is that a fair statement?

14 MR. SANDERS: (Nodding head.)

15 COMMISSIONER ACKERMAN: Fish and Game did not  
16 reiterate their request of a buffer zone?

17 CHAIRPERSON CORY: No. They in essence --

18 MR. SANDERS: In their original comments, as  
19 Claire said, here's one point, but if you are going to  
20 lease, then here's what we feel needs to be addressed and  
21 how it should be addressed.

22 CHAIRPERSON CORY: They have a responsibility, a  
23 single-purpose responsibility and their world would be better  
24 off if we did nothing.

25 EXECUTIVE OFFICER DEDRICK: Life would be much

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1 simpler. But they allowed that mitigation, that we adopted  
2 would compensate.

3 There's one other point I need to tell you about.  
4 The Friends of the Sea Otter, as you know, are very  
5 concerned and so is the Department of Fish and Game. The  
6 point here is that the sea otters have not yet migrated  
7 south of Point Arguello into the area we're discussing.  
8 So the reason the EIR does not address the sea otter is  
9 because the sea otter isn't in that area. In the future  
10 it is probable that the sea otter will be in that area, and  
11 that is the appropriate time to address the problems.

12 CHAIRPERSON CORY: But we have to keep in mind  
13 what we have to do when we get further into it if we make  
14 a decision to lease.

15 EXECUTIVE OFFICER DEDRICK: You may well want to  
16 put a stipulation in the lease that when the sea otters  
17 show up, you're going to have to handle them this way.

18 CHAIRPERSON CORY: Or we may have to put in things  
19 that will protect them when they get there.

20 EXECUTIVE OFFICER DEDRICK: That's correct.

21 CHAIRPERSON CORY: That's a decision we can make  
22 at a future time.

23 EXECUTIVE OFFICER DEDRICK: That's correct.

24 MS. FULTON: Excuse me. Can I come forward and be  
25 out of order? I don't know what the order is, but this is

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1 something I'd really like to address, because we do have  
2 a few sea otters in the area. Not a lot, that's true.  
3 They will probably be limited in the life of the sale.  
4 But when Fish and Game made their recommendation on the  
5 buffer zone it was knowing the otters were not there at the  
6 time. When the Governor's Office on Lease Sale 53 made their  
7 recommendations on the ban on drilling during that four-month  
8 period and on the stipulations for the studies to be sure  
9 the otter doesn't go extinct thanks to their offshore oil  
10 development, it was with full knowledge that there were no  
11 sea otters in that range and this stipulation specifically  
12 said it is in the interest of GOI and all lessees to ensure  
13 that the proposed OCS development does not jeopardize the  
14 threat to the sea otter and that the otter population  
15 increases sufficiently to be removed from the threatened  
16 list. Therefore, it's appropriate the following stipulations  
17 be included in all leases in the Santa Maria Basin.

18 Now, I provided the exact text of this to Dwight.  
19 He had it. I had the impression -- it's my mistake -- I  
20 had the impression from various people that I talked to  
21 during the week that when they realized they hadn't included  
22 the stipulations, that something was going to be done about  
23 it.

24 EXECUTIVE OFFICER DEDRICK: Carol, excuse me, I  
25 don't mean to interrupt you, but that's precisely what we're

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1 discussing is how to resolve that problem.

2 MS. FULTON: I can't understand why when you have  
3 these other stipulations in there and this has been pointed  
4 out to you and if there's one item that is critically,  
5 critically threatened by offshore oil development and which  
6 is the responsibility of the State of California to protect  
7 is the sea otter. Please include the stipulations.

8 CHAIRPERSON CORY: Let me tell you that that will  
9 be taken care of or my wife will kill me.

10 (Laughter.)

11 MS. FULTON: May I have your home phone number,  
12 please?

13 (Laughter.)

14 CHAIRPERSON CORY: It will be taken care of.  
15 But as I understand it --

16 MS. FULTON: Why can't they just say: "Okay,  
17 we'll include those stipulations? The rest of the  
18 stipulations are in. The same, exact, identical text as  
19 the State signed on Lease Sale 53.

20 CHAIRPERSON CORY: The question in my mind, quite  
21 frankly, is given the source of who made those  
22 recommendations, I'm not sure they're adequate. Not you,  
23 but if the Governor made them, there are times I disagree  
24 with the Governor. I may want to go stronger. It will be  
25 done. But I am just unwilling to at this point take it as

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1 to whether or not it really is the best solution to the  
2 problem, but it will be taken care of. I mean, it will be  
3 taken care of. You have the assurance of that.

4 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, I was  
5 going to suggest, we've made a recommendation in the next  
6 calendar item that you authorize us to go to hearing on a  
7 variety of issues that relate to leasing per se. It seems  
8 to me that that process is an appropriate place to get  
9 together with the various scientific organizations and the  
10 Friends of the Sea Otter and draft the kind of language  
11 you describe.

12 I understand what you're saying and I think that  
13 you probably have a good point there. What I'd like to  
14 be able to do is to sit down with these people and get the  
15 biological realities and then put together a recommendation  
16 of a protective stipulation for the leases.

17 CHAIRPERSON CORY: Thank you.

18 Are there any other comments from Commissioners  
19 of where we are on the report?

20 COMMISSIONER MORGAN: I was just skimming the  
21 staff report, since we had a green one and we used to have  
22 a yellow one --

23 EXECUTIVE OFFICER DEDRICK: Go back to the white  
24 one. You never got the white one.

25 COMMISSIONER MORGAN: -- under Item 21.

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1 CHAIRPERSON, CORY: The white one's are the ones  
2 I approve before you get to see them.

3 (Laughter.)

4 COMMISSIONER MORGAN: Where I am, Ken, I think  
5 we've got a lot more information that needs to be gathered  
6 before we can consider leasing and I frankly don't know if  
7 we can get enough information to convince me that we should.  
8 But I distinguish that decision from the decision that's  
9 before us on Item 20 with respect to the EIR. The staff  
10 has convinced me from the responses they've made today  
11 that the EIR is adequate and should be published and  
12 certified as such, and that it becomes a point in time a  
13 snapshot of where we are now and then that's all it is,  
14 basically. If we want to go further, I, for one, need a  
15 lot more information, probably confidential information  
16 discussing cash flow. I would like to know a little bit  
17 more about what's going on that makes it so important to  
18 drill in this area that everyone is so concerned about.

19 So, in certifying the EIR, if that's what we do,  
20 I'm not giving any signals about how I feel about leasing.  
21 I still need to know more. I think we need to deal with the  
22 questions that were raised here today plus Fish and Game's  
23 concerns and I think we need the biological report. We need  
24 it to be circulated and have responses from the community  
25 and the scientific community to that report as well.

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1 I also think we need to handle the sea otters,  
2 but we've already talked about that.

3 CHAIRPERSON CORY: Dave, do you have any comments?

4 COMMISSIONER ACKERMAN: None other than the  
5 questions that I've already asked.

6 CHAIRPERSON CORY: I'm inclined at this point to  
7 vote to approve the EIR and then on the next item I would be  
8 inclined to refer back to the staff to hold additional  
9 hearings and proceed with gathering that information. One  
10 of the things that I would like for those people who are  
11 concerned on this issue to be aware of, I share many of their  
12 concerns, but I come to an entirely different conclusion.  
13 I think that many of those concerns can probably be better  
14 dealt with greater certainty with the membership of this  
15 Lands Commission than the unknown character of what that  
16 Lands Commission may be after the first of January.

17 For that reason, I think there is a time  
18 constraint that people who are concerned about the  
19 environment should be aware of. I would prefer to have my  
20 two colleagues who are here now and aren't likely to be  
21 here in January, voting on those environmental questions.  
22 I think California would be better served by that. I think  
23 it's one that people ought to reflect upon rather than think  
24 that there are no risks to not moving.

25 It's with that in mind I would hope that people

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1 contemplate what we're doing, and I would entertain a motion  
2 to approve the EIR.

3 Do I have a motion?

4 COMMISSIONER ACKERMAN: I will second the motion.

5 COMMISSIONER MORGAN: I'll move it.

6 CHAIRPERSON CORY: Okay. I have a motion and a  
7 second.

8 All in favor signify by saying aye.

9 (Ayes.)

10 CHAIRPERSON CORY: Opposed.

11 The motion is carried.

12 Item 21.

13 I share Susie's concerns. I think Dave's got  
14 some questions as well. Some of the questions he has asked  
15 on the EIR questions, so I think it is probably appropriate  
16 for staff to go back to the drawing board and make sure we  
17 get all the input on that.

18 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, for the  
19 benefit of the audience who never saw the green version --

20 COMMISSIONER MORGAN: I understand what you're  
21 proposing is that you conduct hearings with respect to  
22 leasing some specific parcels?

23 EXECUTIVE OFFICER DEDRICK: That is correct. The  
24 staff recommends that if you number these arbitrary parcels  
25 which are not decision parcels but just discussion parcels

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1 from Point Conception to Point Arguello numbers 1 through  
2 8 -- Do we have a map?

3 MR. TROUT: Page 116-B, the last green --

4 EXECUTIVE OFFICER DEDRICK: For the benefit of the  
5 public I think it would be wise to put up the map if you  
6 don't mind a few minutes here.

7 Can the audience see that?

8 The two bottom parcels most adjacent to Point  
9 Conception has substantial potential. One of those parcels  
10 is offset by a federal parcel which has not yet been leased  
11 but has been offered for sale and rejected one time. The  
12 parcel to the east of the bottom parcel which I will call  
13 Parcel 1 is a current Union Oil lease. That particular  
14 lease is in the process or the lessee is in the process of  
15 getting permits to do some drilling on that parcel.

16 In addition to that, the other offsetting parcels  
17 that are leased are being explored. The staff recommends  
18 that because all of that information, both the federal and the  
19 state information, will be available to the Commission on  
20 the geophysical and geological characteristics, that we  
21 not go to lease on those two parcels. The information will  
22 be available and will put the State in a better bargaining  
23 position in a couple of years.

24 What we would recommend that you do today is to  
25 ask us to go out for discussion of lease on the portion

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1 north of the second parcel and to take testimony both as  
2 to the environmental effects, the problems, and also leasing  
3 conditions that people would like you to hear about before  
4 you decide whether or not to go to lease on that portion.  
5 That's our recommendation.

6 CHAIRPERSON CORY: Questions from Commissioners?

7 Dave.

8 COMMISSIONER ACKERMAN: The staff recommendation  
9 to exclude Parcels 7 and 8 --

10 EXECUTIVE OFFICER DEDRICK: It's 1 and 2.

11 COMMISSIONER ACKERMAN: It's 1 and 2.

12 EXECUTIVE OFFICER DEDRICK: Page 116 is the map,  
13 Commissioner.

14 COMMISSIONER ACKERMAN: Is that based upon sole  
15 economic criteria?

16 EXECUTIVE OFFICER DEDRICK: Yes. The staff feels  
17 very strongly that it's a wise oilman's decision not to  
18 go to lease on those two parcels when much more detailed  
19 information on adjacent areas will be available to the  
20 Commission within the next two years.

21 COMMISSIONER ACKERMAN: I guess the question for  
22 the other Commissioners is I'm kind of feeling it may be  
23 premature to limit ourselves. If we're going to have a  
24 public hearing, we're going to hear from the industry, we're  
25 going to hear from individuals specifically. We're making

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1 an economic decision prior to having any idea how the  
2 industry or others may respond to leasing any of the other  
3 tracts. I'm just wondering if rather than limiting ourselves  
4 at this time, we can make that same limitation at the next  
5 Commission meeting rather than preclude those two parcels  
6 at this time. I don't know how either of you feel. I just  
7 wonder if we kind of leave the whole thing wide open.

8 COMMISSIONER MORGAN: It seems to me the options  
9 are --

10 CHAIRPERSON CORY: You prefer to keep the options  
11 open. Just let the public beat up on the staff on all eight.

12 COMMISSIONER ACKERMAN: I'd be kind of interested  
13 in hearing maybe some of the industry's approach, too, as  
14 if maybe we can make it very clear that that's one of the  
15 options for the Commission is to exclude Parcels 1 and 2  
16 from consideration and let's see how interested the industry  
17 is on the other parcels. I don't know if we're limiting  
18 ourselves too much by making that decision right now.

19 EXECUTIVE OFFICER DEDRICK: I don't see how you  
20 would be really, Commissioner.

21 The other parcels are kind of more interesting  
22 in a way because, for instance, the most northerly one is  
23 an area where we don't have a lot of geological information.  
24 Obviously there's another, up to the San Luis Obispo County  
25 Line, of potential oil properties. If the Commission does

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1 in fact want to carry out a steady development of that  
2 resource, there is a long lead time when you're starting  
3 from zero in gaining both the geologic information and,  
4 of course, the environmental base line. So it's kind of  
5 a logical thing to go to lease and get some exploratory  
6 information. The alternative, of course, is the State  
7 has to go drilling and that doesn't seem to go over too  
8 big in the present budgetary constraint.

9 So that's the kind of thing we're thinking about  
10 is in the lower parcels we don't need to get that kind  
11 of information. It's coming to us. In the upper parcels  
12 the way to get it, I think, is probably to select some  
13 of those and get some geologic information from the leasing.

14 Is that a fair statement?

15 COMMISSIONER MORGAN: The staff had talked  
16 previously about excluding those in their recent finding.  
17 If you want additional testimony, I think we would probably  
18 get it anyway if somebody felt strongly about it because  
19 of the fact that we're asking the staff to go out and get  
20 information.

21 CHAIRPERSON CORY: I would like -- I'm sort of  
22 disinclined for the economic reasons, somebody would be  
23 hard-pressed to convince me at this point to go out on  
24 one or two, but I wouldn't want to preclude if something  
25 needed to be said about those. The economics of it seem

1 to me it probably isn't there at this point.

2 COMMISSIONER MORGAN: It seems to me an option,  
3 there still are options in this whole process including  
4 the option not to lease at all.

5 CHAIRPERSON CORY: If we in essence ask the staff  
6 to go ahead and conduct the hearings in the general area  
7 with the greater emphasis on the --

8 EXECUTIVE OFFICER DEDRICK: 3 to 8.

9 CHAIRPERSON CORY: -- 3 to 8.

10 COMMISSIONER ACKERMAN: That's fine.

11 CHAIRPERSON CORY: Okay. Without objection --

12 COMMISSIONER MORGAN: That's fine.

13 CHAIRPERSON CORY: Okay.

14 [Thereupon Agenda Items 20 and 21 before  
15 the State Lands Commission was concluded.]

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I, CATHLEEN SLOCUM, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing State Lands Commission Meeting excerpt Agenda Items 20 and 21, was reported in shorthand by me, Cathleen Slocum, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting, nor in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 29 day of September, 1982.

*Cathleen Slocum*  
CATHLEEN SLOCUM  
Certified Shorthand Reporter  
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