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REGULAR MEETING
STATE LANDS COMMISSION
STATE OF CALIFORNIA

ROOM 447
STATE CAPITOL
SACRAMENTO, CALIFORNIA

WEDNESDAY, SEPTEMBER 23, 1987

11:08 A.M.

Nadine J. Parks
Shorthand Reporter

ORIGINAL

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MEMBERS PRESENT

1
2 Leo T. McCarthy, Lieutenant Governor, Chairman
3 Jim Tucker, representing Gray Davis, State Controller,
4 Commissioner, and Peter Pelkofer
5 LaFenus Stancell, representing Jesse R. Huff,
6 Director of Finance, Commissioner
7

STAFF PRESENT

8
9 Claire T. Dedrick, Executive Officer
10 James Trout, Assistant Executive Officer
11 Robert Hight, Chief Counsel
12 Jan Stevens, Deputy Attorney General
13 Wilbur "Moose" Thompson
14 Sue Breece, Secretary
15 Dwight Sanders
16 Allen Willard
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P R O C E E D I N G S

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3 CHAIRMAN MC CARTHY: I want to thank you all,
4 all the members of this audience who have patiently waited
5 here for this commission meeting to get started.

6 I first want to mention that Items 25, 37, and
7 42 -- 25, 37, and 42 are off calendar, if there any
8 people in the audience who are here on those items. Are
9 there more chairs outside that we might bring in? Let's
10 see. Do we have a sergeant-at-arms? We used to have those
11 in the Legislature. Do we have anything like that anymore?

12 MS. REECE: Let me see what I can do.

13 CHAIRMAN MC CARTHY: If we could get some
14 folding chairs for the folks who are standing in the back.
15 Yeah, there's some over here.

16 EXECUTIVE OFFICER DEDRICK: I think your
17 Enforcement Officer is the closest we get to a sergeant-at-
18 arms, Mr. Chairman.

19 CHAIRMAN MC CARTHY: I see. Okay.

20 EXECUTIVE OFFICER DEDRICK: The lady in the
21 purple dress.

22 CHAIRMAN MC CARTHY: Some of these experiences are
23 character building.

24 (Laughter.)

25 CHAIRMAN MC CARTHY: I'd like to propose, for the

1 convenience of the audience, if I may, that -- first of
2 all, I wanted to welcome all of you, as I said before, and
3 I want to welcome Assemblyman Jack O'Connell, who's here
4 representing his constituents in Santa Barbara.

5 We will get to the item in which the Assemblyman
6 and so many of you are concerned and here today about,
7 Item 27. But there are -- there are people who have given
8 us slips indicating that they may wish to testify on two
9 other items. And what I want to do is to get to the major
10 item as promptly as we can. I don't think there is a
11 dispute on the other two items. I'm going to put all the
12 other items on the calendar in abeyance, and the Commission
13 can take care of those after, because no members of the
14 public apparently are asking to testify on all the other
15 items in the calendar.

16 So, let me first announce that the consent
17 calendar -- minutes of the last meeting. Any objection
18 to their approval? Hearing none, they are approved.

19 Consent calendar is 1 through 22. Any questions
20 about the consent calendar? Consent calendar is approved.

21 Now, we have two items. One is 23 and one is
22 36, before we get to the --

23 EXECUTIVE OFFICER DEDRICK: 36 is --

24 CHAIRMAN MC CARTHY: -- main event of the day.

25 EXECUTIVE OFFICER DEDRICK: Excuse me, sir. 23

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1 is the marina study. 36 is a noncontroversial item. And
2 I believe Mr. Bowles is here for -- in case you need
3 information.

4 CHAIRMAN MC CARTHY: Give us a quick staff report
5 on 36.

6 EXECUTIVE OFFICER DEDRICK: On 36, is a geophysical
7 on -- primarily on-land study with explosives approved by
8 the Department of Fish & Game, which is their authority
9 to do some gas exploration in the Delta.

10 CHAIRMAN MC CARTHY: Any questions by the members
11 of the Commission? Any questions by members of the public?

12 If not, the request is granted -- I'm sorry,
13 step forward, sir, please.

14 Is this Mr. Larry Bowles?

15 EXECUTIVE OFFICER DEDRICK: Yes.

16 CHAIRMAN MC CARTHY: Government Affairs Manager,
17 GSI.

18 MR. BOWLES: Mr. Chairman, just for my own
19 edification, I request to know under what permit program
20 the permit would be granted as CG/S? It was my understand-
21 ing that there was only one program -- permit program that
22 would allow the Commission to issue permits on submerged
23 and tidelands. And those are the permits in which about
24 23 companies are represented here today.

25 EXECUTIVE OFFICER DEDRICK: The program that you

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1 are hearing as Item 27, Mr. Chairman, is an offshore
2 program.

3 The program under which this CGG permit is being
4 issued is not for the offshore, but is, in fact, for inland
5 waterways. If Mr. Hight can clarify that --

6 MR. HIGHT: It's an onshore permit, and the
7 Commission has the authority to issue these permits on a
8 case-by-case basis. It would be a special permit.

9 CHAIRMAN MC CARTHY: Mr. Bowles, do you have any
10 other -- all right.

11 MR. BOWLES: Thank you.

12 CHAIRMAN MC CARTHY: Fine. Unanimous by the
13 Commission.

14 All right. Item 23 and 43 are the only two other
15 items where there may be witness interest.

16 Let's take up 23.

17 EXECUTIVE OFFICER DEDRICK: All right. Item 23
18 is the implementation program of the -- for the marinas
19 on the Sacramento River, Mr. Chairman. To make this a
20 brief statement, the staff recommends that the moratorium
21 be lifted, and that the Commission authorize the staff to go
22 forward with an expanded application/information form and
23 an expanded CEQA information form.

24 The purpose of this -- these two expansions is
25 to allow the Commission staff to obtain the kind of

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1 information that will allow them to give you guidance as
2 to how the proposed application would affect the conditions
3 that have been described by the extensive marina study
4 the Commission has just conducted.

5 We also are asking or urging -- or urging other
6 local -- the other governments involved -- we've got a lot
7 of entities here. And we'd like your authorization to go
8 forward in working out cooperative arrangements with the
9 other government agencies so that we work toward a
10 coordinated program on the river.

11 This item does not approve any of the five
12 applications that are now before the Commission, although
13 it has been -- those five applications have been used to
14 test the validity of the questions staff has developed.
15 And it is from those five items that these questions have
16 been refined.

17 We have also, as part of the calendar item for
18 your information, resolved the long-standing question that
19 we have had with the City of Sacramento as to how to have
20 a working notice situation with them.

21 We have developed a letter of permission from
22 the State Lands Commission which is acceptable to the City
23 of Sacramento, which can be sent to the city in each case
24 of a proposed marina lease so the city will authorize
25 their people to go forward with an EIR on proposed marinas

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1 within the city limits.

2 CHAIRMAN MC CARTHY: All right.

3 EXECUTIVE OFFICER DEDRICK: That's the short
4 version, and we can give you a longer version if you'd
5 like.

6 CHAIRMAN MC CARTHY: There were three people who
7 submitted potential witness slips. I wonder if I might
8 ask them collectively -- Mr. Walt Harvey, welcome; Mr. Tom
9 Freeman, Mr. Thomas Westley, given the statement of the
10 staff, do you wish to make any comments at this time? Any
11 of you three gentlemen?

12 All right. Thank you. Any questions by members
13 of the Commission?

14 Is the action of the Commission unanimous? The
15 action of the Commission is unanimous. All right. A
16 final item before we get to the main event.

17 EXECUTIVE OFFICER DEDRICK: Mr. Harvey --

18 CHAIRMAN MC CARTHY: I'm sorry.

19 EXECUTIVE OFFICER DEDRICK: -- has indicated --

20 EXECUTIVE OFFICER MC CARTHY: Your name, sir?

21 MR. HARVEY: Walt Harvey. I had a statement that
22 I wanted to make. And I'm not certain that this is the
23 appropriate place to do it. But I wanted to request of the
24 Commission that they consider extending what is known in
25 your report as Reach 4 to the Bright Bend Bridge, which is

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1 upward of the existing Reach 4 boundary line about a half
2 a mile or so, because there are other marinas planned at
3 those locations and they would be -- they would fall under
4 that Reach 4 policy.

5 EXECUTIVE OFFICER DEDRICK: I apparently didn't
6 make clear what the staff's recommendation is here.

7 The staff's recommendation would lift the
8 moratorium for the entire river. Reach 4 is no longer
9 relevant.

10 MR. HARVEY: Oh, okay. Fine.

11 CHAIRMAN MC CARTHY: Okay?

12 MR. HARVEY: We didn't receive notification of
13 that.

14 EXECUTIVE OFFICER DEDRICK: Well, we haven't
15 released the report, because we were coming right up to the
16 wire today. But it is available now, and we will make sure
17 that everyone receives it.

18 CHAIRMAN MC CARTHY: We'll get you a copy.

19 MR. HARVEY: Thank you.

20 CHAIRMAN MC CARTHY: All right. The action of
21 the Commission is unanimous.

22 Now, Item 43.

23 EXECUTIVE OFFICER DEDRICK: Item 43, Mr. Chairman,
24 is the staff's request for an authorization for a refund
25 to the Union Oil Company for overpayments in the amount of

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1 a little over a half a million dollars, and direction to
2 the Union Oil Company that they should file a Board of
3 Control claim for the amount that has been -- that we're
4 talking about here, which is about 523 million (sic) I
5 think.

6 CHAIRMAN MC CARTHY: All right. Mr. Phil
7 Harrington, did you wish to give any testimony on this,
8 or the action being recommended by Commission staff -- is
9 Mr. Harrington here?

10 MR. HARRINGTON: Mr. Chairman.

11 CHAIRMAN MC CARTHY: Yes, sir, did you hear the
12 staff's recommendation? Did you wish to make any comment?

13 MR. HARRINGTON: I have no further comments, sir.

14 CHAIRMAN MC CARTHY: All right. Thank you.
15 All right. Commission unanimously acts, then, on the
16 recommendation of Item 43.

17 All right. Now we'll put off all other items and
18 move to Item 57 at this time. May I ask --

19 EXECUTIVE OFFICER DEDRICK: 27.

20 CHAIRMAN MC CARTHY: I'm sorry. Item 27 at this
21 time.

22 Staff, do you want to make a very brief opening
23 remark? I'd like to call on Assemblyman O'Connell to make
24 his remarks.

25 EXECUTIVE OFFICER DEDRICK: Yes. Briefly --

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1 CHAIRMAN MC CARTHY: Want to set it in context?

2 EXECUTIVE OFFICER DEDRICK: Excuse me, sir.

3 CHAIRMAN MC CARTHY: All right. Go ahead.

4 EXECUTIVE OFFICER DEDRICK: Briefly, this is a
5 long-standing program of the State Lands Commission to
6 authorize -- or to permit and, therefore, control to some
7 degree geophysical operations in the State waters offshore
8 California.

9 The program was initially developed under a
10 categorical exemption for scientific investigation for
11 a three-year period three years ago. The extension of the
12 program was reauthorized under that categorical exemption
13 with the Commission authorizing and promoting some
14 scientific studies which have been ongoing in the
15 subsequent three years.

16 During that period, the staff developed a
17 negative declaration for the extension of this program,
18 which -- that program terminated in May. At that time, the
19 information available from the studies had not been
20 received. Just prior to the expiration of the program
21 in May, we received information that these studies would
22 be completed during the summer.

23 On those grounds, the Commission extended the
24 program for another 120 days. The studies have since been
25 released. The results of the studies are inconclusive.

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1 There has been a great deal of public interest.
2 A lot of information has been generated. And a lot of it
3 really needs clarifying.

4 The staff recommends to the Commission the
5 following action: That the major program of high-energy
6 exploration, because of the degree of uncertainty of
7 information that is currently available to the Commission,
8 should be subject to an environmental impact report.

9 The low-energy operations of two-tenths of a
10 kilojoule -- two kilojoule or less, there is no evidence
11 nor any public controversy as to this being -- these
12 various operations, which are quite benign, to be of any
13 damage.

14 So, we recommend that that program go forward.
15 But in the interim -- since the staff report has not been
16 available to the public, the staff recommends that the
17 Commission put out that staff report for public review
18 today, and that we hold a special hearing in the relatively
19 near future, within notice, at which the Commission can
20 make a final decision.

21 We have one further problem, and that is that there
22 are some permits that are -- are or will be -- the 884 will
23 have run, and we recommend that the Commission terminate --
24 what do you say --

25 MR. HIGHT: Deny.

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1 EXECUTIVE OFFICER DEDRICK: -- deny those permits
2 during the -- for the interim period without prejudice.

3 Mr. Hight may have other comments. I'm not sure.

4 MR. HIGHT: The only comment, Mr. Chairman, would
5 be that the denial would be without prejudice and the
6 applicants would naturally be reconsidered at the next
7 Commission meeting, given their desire to do so.

8 CHAIRMAN MC CARTHY: All right. Assemblyman,
9 would you please give some testimony.

10 ASSEMBLYMAN O'CONNELL: Thank you very much,
11 Mr. Commissioner, members of the Commission. Thank you
12 for taking me out of order.

13 I appreciate the opportunity to be able to make
14 a few comments. I have communicated correspondence that
15 both Senator Gary Hart and I have sent to each of you in
16 a letter dated August 19th.

17 And I really want to reiterate my concern. It
18 has been a long-standing issue, and particularly in the
19 Santa Barbara Channel, as Miss Dedrick accurately pointed
20 out. And my testimony represents that also of Senator
21 Hart and the County of Santa Barbara, and our opposition
22 to the State Lands Commission's current seismic testing
23 program until an environmental impact report is completed.

24 The State Lands Commission did grant its last
25 extension of the seismic testing permit, in part, because

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1 no data were available to show significant environmental
2 impacts. And as Miss Dedrick pointed out, that now is not
3 the case.

4 A study completed by the Minerals Management
5 Service found that fish harvests can be cut by as much as
6 50 percent in some areas where seismic testing is, in fact,
7 taking place.

8 In view of this, we would like to request --
9 Senator Hart, the County, and myself -- that you suspend
10 the seismic permits, as is being recommended by your
11 staff, until all of the data is available for public
12 review, and the environmental impact report is completed
13 and all potential impacts are adequately addressed through
14 the CEQA process.

15 The seismic testing industry has been given the
16 benefit of the doubt for many years now, again, as Miss
17 Dedrick pointed out, despite indications that it should
18 have previously triggered the CEQA process.

19 Under these circumstances, I believe that you
20 will agree to the protection of the environment -- should
21 now be given that same benefit. Your decisions, as you know,
22 certainly uniquely affect Santa Barbara County and our
23 entire coast, and we greatly appreciate your strong
24 support for protecting our coastal resources, and hope
25 that we can continue to count on this Commission for

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1 support of the matter of seismic testing in State waters.

2 I thank you for the chance to be with you here
3 again today. I certainly look forward to reading your
4 report and sharing it with those interested parties in
5 Santa Barbara County tomorrow.

6 CHAIRMAN MC CARTHY: Thank you very much,
7 Assemblyman. Any questions of Assemblyman O'Connell by
8 members of the Commission?

9 All right. Thank you for your testimony.

10 ASSEMBLYMAN O'CONNELL: Thank you.

11 CHAIRMAN MC CARTHY: And we have yours and
12 Senator Hart's letter, and we'll make that a part of our
13 record.

14 ASSEMBLYMAN O'CONNELL: Thank you, Mr. Chairman.

15 CHAIRMAN MC CARTHY: Thank you. In addition,
16 other members of the Legislature are represented here.
17 Mr. Jim Rote, representing --

18 MR. ROTE: Senator Keene.

19 EXECUTIVE OFFICER DEDRICK: Senator Keene, sir.

20 CHAIRMAN MC CARTHY: Senator Keene.

21 MR. ROTE: Thank you, Mr. Chairman, Commissioners.
22 My name is Jim Rote. I'm the principal consultant to the
23 Joint Committee on Fisheries and Aquaculture, which is
24 chaired by Senator Barry Keene.

25 Senator Keene is attending the Western

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1 Legislative Conference meeting this week, and asked me to
2 present his views today.

3 Senator Keene does represent the 2nd Senate
4 District, which covers the entire North Coast from the
5 Oregon border to Marin County, and so he's vitally
6 interested in this issue as well as other offshore issues
7 that might impact marine resources.

8 We were encouraged by the recent action that
9 this Commission took to enter the lawsuit over the
10 adequacy of the Federal Five-Year OCS Leasing Program.
11 And in keeping with that action, we would urge the
12 Commission today to adopt strict criteria for permitting
13 geophysical operations in State waters.

14 In the interest of time, with all the other
15 witnesses and in light of the staff recommendation, I'll
16 just shorten my comments, and say we do concur with the
17 requirement for a full environmental impact report before
18 any new permits are allowed.

19 We do contend that insufficient information
20 exists on the impacts of these seismic surveys on marine
21 resources. We've had many calls from concerned fishermen,
22 the trollers from Eureka concerned with conflicts between
23 their vessels and seismic vessels off the Humboldt County
24 area, calls from salmon fishermen concerned with conflicts
25 in the timing of the salmon fishery season, calls from

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1 sea urchin divers, processors, the impacts that the
2 seismic activities may have on the urchin divers and the
3 resource.

4 So, I think it is very important that you take
5 this action to do a full EIR. And I think I'll just leave
6 it at that, unless there are any questions.

7 CHAIRMAN MC CARTHY: Thank you. Are there any
8 questions by Commission members?

9 MR. ROTE: I'll leave some copies of the full
10 statement if it would help.

11 CHAIRMAN MC CARTHY: We'd appreciate that very
12 much.

13 Thank you. It's good to see you. It's been a
14 while.

15 MR. ROTE: Thank you.

16 CHAIRMAN MC CARTHY: Mr. Luke Breit now, who's
17 the chief of staff to Assemblyman Dan Hauser. Welcome,
18 Mr. Breit. Please give us your testimony.

19 MR. BREIT: Thank you, Mr. Chairman. I am
20 Luke Breit, and I am here representing Assemblyman Hauser,
21 who has just returned from Canada where he's Vice Chair of
22 the Pacific Fisheries Legislative Task Force.

23 He is in the building today, but he's wearing
24 jeans and a T-shirt, and didn't want to appear before you,
25 so he sent me.

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1 (Laughter.)

2 MR. ROTE: You do have a letter, I believe,
3 Mr. Chairman, that Mr. Hauser has sent to you. And he
4 would like to have it read into the record. So, with
5 your permission, I will do so.

6 "Dear Chairman McCarthy and members of
7 the Commission:

8 "I'm writing today to once again
9 to express my unequivocal opposition
10 to seismic testing off the Mendocino
11 and Humboldt Coasts and to urge the
12 Commission to adopt the full environ-
13 mental impact statement procedure for
14 any future permit applications for
15 seismic testing anywhere in California."

16 I'd like to interrupt just for a second to say that
17 I hope you will listen carefully to testimony you will
18 later hear today from Norman DuVall, who's Chairman of the
19 Mendocino County Board of Supervisors, who has some
20 interesting data on the sound repercussions in the marine
21 environment.

22 Back to the letter:

23 "In my opinion, the State Lands
24 Commission has been a generally positive
25 force in the ongoing attempt to curb the

1 Department of the Interior's voracious
2 appetite for the California coastline
3 and its willingness to sell off our
4 most valuable resource to the highest
5 bidder wrapped in the patriotic cloak
6 of national security, that new catchall
7 phrase for any activity that cannot be
8 otherwise defended.

9 "However, it's terribly important
10 to those people on the front lines of
11 this battle against the oil giants and
12 their operatives in Washington that
13 the Commission takes a consistent position
14 as regards the offshore oil controversy,
15 one that can be counted on by those
16 thousands of people who look to your
17 leadership.

18 "I believe there are sound scientific
19 reasons to call for the full environmental
20 impact statements on seismic testing. The
21 impacts on the vital North Coast fisheries,
22 such as salmon and the lesser understood
23 sea urchin responsible for millions of
24 dollars into the local economies makes
25 such studies not only reasonable, but

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1 mandatory. But I will not shy away
2 from the central issue, and I hope
3 that the Commission won't shy away
4 from it either.

5 "The central issue is that seismic
6 testing is a precursor to offshore oil
7 development, and offshore oil develop-
8 ment is something that the people of
9 California have stated unequivocally
10 that they do not want. I call on the
11 Commission today to live up to the
12 hope that thousands of Californians
13 have placed in you.

14 "While there may be little that
15 can legally be done to halt present
16 testing, I would hope that you would
17 acknowledge that the Commission made a
18 mistake in the earlier case, and ensure
19 that it does not repeat that mistake
20 when present and future applications are
21 considered.

22 "I hope you will join with me, with
23 members of the Legislature and of
24 Congress, with representatives of local
25 government, and with the people of the

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1 State who have taken the only responsible
2 position there is: Protect the coast,
3 preserve our great heritage."

4 And, Mr. Chairman, Mr. Hauser also wanted me to
5 add that he hopes you will take another look at
6 Assembly Bill 284, which would add Humboldt to Mendocino
7 Count's -- the State waters therein -- to the moratorium
8 on offshore oil drilling within those waters, which is a
9 two-year bill. It will be up again in January in the
10 Senate.

11 So, thank you very much for your time. Be happy
12 to answer any questions if anybody has any.

13 CHAIRMAN MC CARTHY: Thank you very much, Mr. Rote.
14 Any questions? No. Thank you very much.

15 MR. BREIT: Thank you.

16 CHAIRMAN MC CARTHY: Appreciate your testimony.

17 Now, I have a number of witnesses representing
18 the geophysical companies. And I didn't know if you had
19 internally discussed any particular order among yourselves
20 as to how you wanted to set about doing this.

21 Are there three key spokespersons for the
22 industry that you wanted to bring forward? Would you help
23 us on that?

24 MR. FABER: Governor, my name is Robert Faber.
25 I'm here on behalf of the International Association of

1 Geophysical Contractors.

2 I would like to take a moment to give the
3 Executive Officer and to each of the members of the
4 Commission a folder which summarizes or more fully sets
5 forth some of the testimony that we would like to give.

6 CHAIRMAN MC CARTHY: Does your walking to that
7 table with such confidence indicate that this discussion
8 has taken place, and that you are speaking for the
9 industry at this time? Or are there other witnesses? Just
10 to give us an idea.

11 MR. FABER: Yes, that is just what I was ready to
12 address, which is to say that we have a number of people
13 that have come from a great distance to participate in this
14 process. We have about seven that would like -- well, we
15 have four or five that would like to speak as part of the
16 geophysical industry directly. And then I'm aware that
17 there are two or three others that would also like to make
18 a presentation.

19 We certainly are conscious of the time
20 constraints and would try --

21 CHAIRMAN MC CARTHY: We are also conscious of a
22 number of Californians coming a good distance, and the
23 inconvenience that's a part of that.

24 May I suggest this? We, as a Commission, are
25 going to meet on this issue in the very near future. And

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1 I'm going to suggest to staff that they consider October
2 7th, not October 6th. October 7th --

3 EXECUTIVE OFFICER DEDRICK: Certainly --

4 CHAIRMAN MC CARTHY: -- as the date --

5 EXECUTIVE OFFICER DEDRICK: -- Mr. Chairman.

6 CHAIRMAN MC CARTHY: -- so that we all have a
7 date certain on which final action will occur on the issue
8 that staff framed at the outset if that is the decision
9 at this meeting of the Commission; that it would occur
10 on October 7th.

11 And having said that, what I was going to suggest
12 was that those witnesses that have come a good distance
13 perhaps we might give preference to today. It might be
14 more difficult for them to return the second day, a great
15 distance. Those that are in the Sacramento region, of
16 course, they can testify today if they have come, but
17 perhaps they wouldn't mind deferring their testimony
18 until October 7th.

19 Now, if that doesn't make a shambles of how you
20 want to present your case, you might think of that kind
21 of division as you go along.

22 Why don't you proceed.

23 MR. FABER: My only response is that --

24 CHAIRMAN MC CARTHY: We'll leave the discretion in
25 your hands. This is not some iron formula here. We will

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1 give you the opportunity to present your case as you wish.

2 MR. FABER: Thank you very much, Governor.

3 I would just say that virtually all of the people
4 that we have that are here are not from the Sacramento
5 area either. And so, I think they could return at a later
6 date to provide further information. But if we're going
7 to limit the whole thing, we could select a few.

8 My request might be, though, that if you want to
9 have the others that you were referring to give their
10 presentation first, we can make a quick caucus and try and
11 sort out, you know, three or so that could present our
12 side.

13 CHAIRMAN MC CARTHY: All right. Why don't you
14 open up on your testimony first, and then you can have that
15 caucus.

16 MR. FABER: Thank you very much.

17 Again, I represent the International Association
18 of Geophysical Contractors. And I wanted to take a
19 moment to identify who geophysical contractors are. There
20 I can see there's a lot of discussion here with regard to
21 oil industry and oil development. And I think there should
22 be a clear distinction made between the geophysical
23 industry and the oil industry.

24 The geophysical research companies are companies
25 that do not have an interest in subsequent oil

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1 development. Their project -- their responsibilities are
2 to determine what the subsurface of the Earth looks like,
3 what the shape of it is. And they, as a matter of
4 professional responsibility, do not have a monetary interest
5 in the subsequent development as it would arguably color
6 the results of the objective information that they're
7 trying to present.

8 The -- again, the study of geophysics is the study
9 of what the subsurface of the Earth looks like. It is
10 not a determination whether oil is down there or some other
11 such thing. It is the science to find out what the shape
12 of the Earth is, be it earthquake faults or otherwise,
13 and then to turn that information over to those that can
14 interpret that information and use it.

15 There are three purposes that immediately come to
16 mind as to what geophysical research is done for. One of
17 them -- the largest commercial consumer of this type of
18 data -- is for petroleum exploration. And again, it's not
19 a matter of being able to see whether there is or is not
20 oil down there. You find out what the Earth looks like.

21 A second is for oil development. That is to say,
22 on those leases that the Commission has already issued,
23 the purpose of geophysical operations is to maximize the
24 revenue to the State by determining where those pockets
25 of oil are by what the shape of the Earth is and, therefore,

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1 maximize the revenues, the tideland revenues, which you
2 folks bring in on those existing leases, say, in Huntington
3 Beach or Long Beach, or in the Santa Barbara Channel.

4 And they also are a key environmental defense.
5 The point is that without good geophysical data as you're
6 developing those leases and managing those leases, it's
7 much harder to -- it's virtually impossible to determine
8 where casing ought to be set. The staff is involved in
9 regulating how the drilling programs take place. And
10 geophysical data is the data on which you have to rely
11 to make a lot of critical decisions to make sure that you
12 don't have an accident; that there isn't a problem.

13 Also, you are well aware of the Federal
14 development on existing leases, which are in Southern
15 California, where there is very probably going to be drainage
16 of State oil revenues .

17 Geophysical data is the data that you would use
18 on the onshore to determine what your fair share of 8(g)
19 funding is. And, therefore, that is another purpose for
20 which this geophysical data is used.

21 But equally important, there is a whole host of
22 nonoil uses for this data, and we will have some people
23 that will talk just briefly about what those are and why
24 we do that kind of work. But it shouldn't lose sight of
25 that there are -- are these other things. And you use the

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1 same processes to find out this information.

2 A key example is: Without geo -- offshore
3 geophysical data, we would not have known about the
4 earthquake faults for Diablo Canyon. And therefore, this
5 type of information is very important in protecting the
6 environment.

7 I just want to take a minute, Governor, to the
8 fact that three years ago, we had this discussion. And
9 the question, you know, what have we done with the time
10 that you have -- that you challenged us to do scientific
11 studies to try and get information to deal with the
12 issues before us.

13 And in that regard, we have participated in a
14 number of those studies. We have participated in the
15 pilot fish dispersal study down in Santa Barbara. We have
16 participated in what is called the eggs and larvae study,
17 which was to determine the effects of this type of
18 activity on the eggs and larvae stage of anchovies,
19 selected because it was representative of that type of
20 fish.

21 We have participated in reviewing information
22 for the Minerals Management Service study that was
23 referred to. And we have somebody that can make -- give
24 a little further description on that. It is known as the
25 dispersal study, but I think as we get into it, I think it

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1 best -- would be better called a nondispersal study, since
2 it showed there was not dispersal.

3 And most recently, within the last 120-day
4 extension, there has been a diver demonstration test,
5 because the divers off the North Coast of California hadn't
6 been aware of this type of activity before, and they wanted
7 to know more information. And so, we performed a test to
8 show that type of information.

9 We have participated in the ongoing joint
10 committee meetings down in the tri-county areas around
11 Santa Barbara. We have rescheduled operations to
12 accommodate fishing concerns. Several companies lost in
13 excess of a million dollars last year in order to
14 accommodate fishing schedules. And we think this is no
15 insignificant amount, because these are small companies.
16 These are not major oil companies.

17 We made an application for these permits over a
18 year ago with the idea that we knew that it is -- it's a
19 long process that we need to deal with. And our concern
20 is that we find ourselves potentially in a situation where
21 operations are going to have to cease while some new and
22 additional studies are done.

23 We have participated regularly in this process.
24 We have responded to their request, Governor, that you asked
25 three years ago, that we be involved in a broad spectrum

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1 of things.

2 And what our story is here is we think that if
3 additional study work needs to be done, we will participate
4 in that process as fully as we have and even more, but
5 we think we ought to be able to continue to operate.

6 That pretty much summarizes what I'm going to
7 say. And if we have a couple of minutes, I think we can
8 sort out two or three others.

9 CHAIRMAN MC CARTHY: All right. Let me first
10 ask if there are any other elected officials in the
11 audience besides Supervisor DuVall? Where is Supervisor
12 DuVall? All right, Mr. Supervisor.

13 Are there any other elected officials who are
14 here to testify today?

15 Let me suggest that we'll break for 15 minutes. You
16 can have your discussion. And why don't you figure out
17 which five people will speak first. And then we'll -- the
18 other, the opposition to your point of view is more
19 varied and widespread. Perhaps some of them might have a
20 discussion, too. But what I will do, in selecting opposition,
21 is to go first to elected officials who are here, then to
22 people like Mr. Grader, who represent significant
23 associations of many members who have a direct interest.

24 And we'll try to be as fair as we can in arranging
25 the testimony. All right. With that, we can probably get

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1 a room for you, if you want one, across the hall. All
2 right?

3 MR. FABER: That's all right. We can take care
4 of it.

5 CHAIRMAN MC CARTHY: We'll break for 15 minutes.
6 Thank you.

7 (Thereupon, a recess was taken.)

8 CHAIRMAN MC CARTHY: Mr. Faber, if we could have
9 your attention, please. Do I understand that there are
10 10 or 12 people in your ranks who want to speak a minute
11 each?

12 MR. FABER: Yes.

13 (Laughter.)

14 EXECUTIVE OFFICER DEDRICK: No. That's
15 Assemblyman Hauser's people from Mendocino.

16 CHAIRMAN MC CARTHY: That's Assemblyman Hauser's
17 people. I'm sorry.

18 MR. FABER: Yes.

19 CHAIRMAN MC CARTHY: That is not a suggestion.

20 MR. FABER: We truncated things, but not quite
21 that far.

22 CHAIRMAN MC CARTHY: Okay. Why should I ask of
23 you what no one else in this building ever succeeds?

24 (Laughter.)

25 CHAIRMAN MC CARTHY: What is your preference in

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1 how we proceed at this point?

2 MR. FABER: What we included in that gray
3 folder that we sent you, the first page is a list of
4 folks that we specifically have as part of our presenta-
5 tion.

6 I would like to substitute one name on the
7 bottom of the list, and make the further suggestion that,
8 in fact, we do have a number of people -- more than five
9 and from a substantial distance, as many of the others
10 are. And our suggestion would be that we would put on
11 our five. And if, in fact, the other side is going to have
12 a lot more people, we'd like to have an opportunity to
13 come back.

14 CHAIRMAN MC CARTHY: Fine. Let me first --
15 Supervisor DuVall, are you under any time constraints?
16 We'd certainly welcome your testimony now if you are.
17 Otherwise, if it meets your personal time requirements,
18 we can hear from these five witnesses and then call upon
19 you.

20 SUPERVISOR DU VALL: Thank you, Mr. McCarthy.
21 On this issue, I'll be here as long as necessary.

22 CHAIRMAN MC CARTHY: Okay. All right. Mr. Faber,
23 why don't you start.

24 MR. FABER: I will just -- for the sake of the
25 record and the audience, introduce that we will have five

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1 people at this point, and then if there's additional
2 time and we take more testimony, there will be some others
3 that can introduce themselves.

4 Mr. Larry Bowles, who you heard from a few
5 minutes ago, will come back and address the issues dealing
6 principally with the oil development aspects of it.

7 Randy Ashley will be up to talk about the nonoil
8 development aspects of this type of research.

9 Dr. D. Chamberlain, who represents our group
10 but is from Arco, and has done a lot of work on these
11 studies, will make a presentation.

12 Mr. Phil Ruttolph from Humboldt State University
13 will make a presentation that deals with this diving
14 question and the test that he participated in.

15 And then we'll have B. J. Kerwan, who is
16 counsel for the real parties in interest in the lawsuit
17 that you are involved in with the Santa Barbara fishermen,
18 make a presentation instead of Gary Bartlett. Gary, along
19 that is, instead of Gary Bartlett, who is the last person
20 on the list.

21 As I said, if we have additional opportunity
22 afterwards, Gary and several others would very much like
23 to participate.

24 CHAIRMAN MC CARTHY: Do you have an estimate of
25 how much time these six witnesses together will take?

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1 MR. FABER: I would anticipate between five and
2 ten minutes each. And we'll try and keep it as short as
3 possible.

4 CHAIRMAN MC CARTHY: All right. Let's start.

5 MR. FABER: Thank you very much, Governor.

6 CHAIRMAN MC CARTHY: Mr. Bowles.

7 MR. BOWLES: Thank you, Mr. Chairman.

8 CHAIRMAN MC CARTHY: Sounds like the introduction
9 of an old vaudeville show.

10 (Laughter.)

11 CHAIRMAN MC CARTHY: Let's hope this is more
12 serious.

13 MR. BOWLES: I appreciate the opportunity to
14 appear before you here, especially since -- I'm rather
15 honored. We have enough people to field three basketball
16 teams, and I'm on the first team.

17 We do have two other teams that we can field if it
18 becomes necessary in the interest of equity as the
19 Chairman pointed out.

20 I also -- like to insert that that, although I
21 didn't know the staff recommendation to date, from the
22 standpoint of the company specifically I'm employed by --
23 Geophysical Service, Inc. -- I would like the record to
24 show that we continue to feel that the comments we made
25 on April 25th, 1984, are valid, even with today's staff

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1 recommendations. I'd like that reentered into the record.

2 Mr. Chairman, my name is Larry Bowles. I'm an
3 employee of Geophysical Service, Inc. I'll abbreviate
4 GSI from this point.

5 I'm also here today, though, on behalf of the
6 International Association of Geophysical Contractors. I
7 serve as Chairman of the IAGC Government Affairs Committee,
8 and have represented my industry on ad hoc and standing
9 committees with fishermen and representatives of the State
10 of California and Federal agencies for over four years.

11 IAGC members do virtually all of the geophysical
12 research for petroleum exploration offshore the U.S. and
13 85 percent of geophysical research on and offshore through-
14 out the world.

15 I hope everything I say will be in complete
16 sentences, but I have edited considerably, so I appreciate
17 your bearing with me on it.

18 One item I want to mention -- that, as compared
19 to 1984, when we appeared on a rather interesting social
20 experiment with the fishermen and under these permit
21 conditions -- I believe we made the estimate -- well, I
22 know we made the estimate that there was between seven and
23 nine vessels that we would anticipate to operate during the
24 terms of the permit.

25 I'm sorry to say on my industry's behalf, that

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1 that -- now we're talking about in terms of only four
2 vessels that are operating offshore California.

3 And that reflects, admittedly mostly, the
4 economic health of the industry in general. On the issue
5 of permitting, our vessels operate in accordance with
6 numerous State, Federal, and international laws. And we
7 are required to obtain permits from California State
8 Lands Commission, as you well know, the U.S. Department of
9 Interior's Minerals Management Service.

10 Those permits are contingent on disclosure of a
11 considerable amount of information. In fact, I -- I can
12 speak with authority, that nowhere else in the world do
13 we disclose as much information to the public and the
14 specific entities within the public about our plans as we
15 do offshore California.

16 And where we operate -- excuse me -- about how,
17 when and where we operate and dissemination of that
18 information to a broad list of ocean users and managers.

19 Excuse me. And as in stark contrast to the
20 flexibility and freedom from information disclosure
21 enjoyed by fishermen.

22 I want to mention something about technology in our
23 industry. Since the late 1960s, the most prevalent
24 energy source in the world geophysical fleet -- in
25 fact, 95 percent from a survey done in 1984, is the

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1 pneumatic device involving controlled release of
2 compressed air from chambers suspended aft of the vessel
3 below the surface of the ocean.

4 This type of acoustic pulse generator was
5 developed partly in response to concerns about having
6 control of the frequency of generating acoustic energy
7 and control of the repeatability of the parameters of
8 energy generated so as to create good seismic record (sic).

9 The development was equally responsive to concerns
10 about the potential for adverse effects of high velocity
11 explosives on the natural environment. We have also made
12 advances in the hydrophone streamer that result, however,
13 in a very sizable investment, represented in each streamer
14 of one and a half million dollars or more.

15 A given survey -- excuse me -- because of -- okay --
16 a given survey just occupies space for a short amount of
17 time. And because of that relatively short duration
18 and because of the nonintrusive methodologies used,
19 geophysical research for petroleum exploration has little
20 or no lasting impact on fish or fishing.

21 Finding petroleum resources is not an exact
22 science. It involves the application of a number of
23 sciences and technologies, geophysical research just being
24 one of them, along with the training and experience of
25 explorationists and risk capital.

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1 And as I'm sure you can appreciate, one man's
2 dry hole might be another man's wildcat recov-- discovery.
3 Proprietary technology as applied by one service company --
4 and, in fact, the competitive market situation is a
5 considerable part of the factor that there has been
6 an advance in technology that there has beer.

7 I want to talk about a timing of our role in
8 relation to offshore petroleum activities. Geophysical
9 research can precede the offering of leases, as most of you
10 know; serve the leaser -- the minerals manager, in this
11 case, the State Lands Commission, for resource and bid
12 evaluation, and the lessee for evaluating prospects
13 and determining levels of bid before drilling.

14 The data we provide also assists in proper and
15 safe exploration drilling and then development in the
16 event of a commercial viable discovery. In fact, in the
17 last two years in the United States, offshore and onshore,
18 70 percent of the amount of expenditures in the petroleum
19 industry for geophysics has been in the application of
20 geophysics to development, safe -- and resource
21 conservation and cost-controlled use of geophysical
22 data (sic).

23 It has been a busy and productive journey,
24 Mr. Chairman, since this Commission issued permits to my
25 industry in May of 1984. In fact, at that time, you,

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1 Governor McCarthy, expressed the belief that cooperation
2 and communication among my industry and other ocean users
3 would continue to progress.

4 And I'm pleased to say progress has continued,
5 as is chronicled in the attached document, which is part
6 of your materials that are in the folders that Bob Faber
7 gave you, a list that looks like this (exhibiting document).

8 Let me point out that it just so happened -- we
9 didn't do it deliberately -- but it just so happens the
10 items on the first page lead up to the May, 1984 issue
11 of permits. And the next two pages are items that have
12 occurred since then.

13 As Bob said, we have been very busy. We've
14 been working with the fellow ocean users, especially
15 focusing on the commercial fishermen. Communications was
16 the key ingredient and key to negotiating and selection
17 of spokesmen that truly represented the interest of each
18 parties (sic). The IAGC designated a representative. In
19 fact, I was that representative until about a year ago,
20 at which time Gary Bartlett took my place.

21 And the petroleum companies operating in the
22 area designated their representatives. From that step,
23 there was formed a formal negotiating group, called the
24 joint committee, composed of five representatives of five
25 different commercial fisheries, four representatives of

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1 petroleum companies, and one representative of the geo-
2 physical research community.

3 I won't go into detail about the dynamics of that
4 community (sic), but I am sharing with you in the folder
5 an article that was produced that describes the dynamic
6 process, and indeed, making the point that is a very
7 unique social experiment that has -- has had considerable
8 advantages, but admittedly, there have been some problems
9 in working with such a large group over such a diversity
10 of issues.

11 Additionally, the joint committee agreed to
12 establish a liaison office, staffed with a professional
13 who has experience in fisheries to facilitate communications,
14 recommend measures to avoid and minimize conflicts and
15 facilitate education and improved understanding among
16 all parties involved.

17 One tool for accomplishing that goal was the
18 development of an operational manual (exhibiting manual),
19 which describes not only our operations, but fishing
20 operations, so that our people can be as educated about
21 the different kinds of activities that commercial
22 fishermen carry out, as we would like them to be educated
23 about our operations, so we have a better understanding of
24 how we operate and the constraints that we operate under.

25 The joint committee has -- has negotiated several

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1 things. Among them, was -- resulted in the joint committee
2 recommending to this Commission in -- prior to the issuance
3 of permits in May of 1984 -- that there be a system of
4 notification, and that the -- the permits continue under
5 those -- those kinds of considerations. And they have been.

6 I'm pleased to say that no less than a worthy --
7 I won't say opponent -- but another person that's going
8 to speak today -- Mr. Zeke Grader has testified before the
9 U. S. Congress that the present notification process in
10 California appears to be working satisfactorily.

11 The joint committee even requested that the
12 notification process -- apologize -- as I said, I'm not
13 good at editing within a very short time. I've said that
14 before.

15 But I do want to point out that there has been
16 a continued interest on the part of the joint committee
17 to proceed in a spirit so that the main parties of concern--
18 and that is two economic or business entities that are
19 having space use conflicts -- can proceed in a manner
20 that -- bilaterally negotiate. And because of that
21 reason, they have submitted a letter to the Commission,
22 which I believe a copy is in your folder, recommending
23 that the G and G permits be issued under the existing
24 permit conditions.

25 In addition to the communication between the

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fishermen, IAGC members have helped finance the Marine
2 Advisory Newsletter. And in that newsletter is not only
3 information about activities of geophysical research, but
4 activities about laying pipelines, platforms, fishermen's
5 marketing techniques, fishermen's fishing techniques,
6 and general information about public policy that affects
7 not only minerals resources, but fishery resources.

8 And I understand it is a very valuable tool for
9 many people. We've jointly financed that in the past, and
10 I assume we'll continue that.

11 Next issue is the -- are we having an effect
12 on fish and fisheries? The preponderance of the
13 breadth of literature, which Dr. Chamberlain will talk
14 more about from the standpoint of his scholarly
15 background, is these issues show no significant harm
16 resulting from the use of compressed air type of acoustic
17 pulse generator.

18 I brought only a few here. (Exhibiting documents)
19 And I will point out that I'm not putting anything on this
20 table that's not before the staff. The exceptions are
21 in your folders.

22 One researcher, Les Trasky of the Alaska
23 Department of Fish & Game, in a report on environmental
24 impacts of seismic exploration, stated that the type of
25 energy produced by the so-called air guns has been

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1 demonstrated to be relatively harmless to fish and other
2 aquatic organisms, while producing good seismic record (sic).

3 Mr. Trasky went on to say, quote, "The use of
4 a source of this nature would guarantee that fish kills
5 would not occur under any circumstances and would
6 eliminate the necessity for excluding certain areas from
7 all seismic exploration."

8 IAGC members agree that our operations do not
9 adversely affect our environment. We also desire to
10 operate in the spirit of community with the fishermen.
11 For that reason, our industry entered into an extraordinary
12 social experiment to resolve disputes that involve
13 nonpartisan experts, consultation, scientific investigation,
14 and objective appraisal of the facts followed by
15 consensual resolution of the issues.

16 One study dealing with a claim about affecting
17 fish and shellfish distribution -- that is, dispersal --
18 has been conducted with the joint financial support from
19 all parties involved. The study showed none of the
20 assertions of dramatic gross behavioral changes by the
21 species were a fact, and there was not a clear causal
22 relationship between the seismic research acoustic energy
23 source and fish behavior.

24 The so-called pilot study, as I say, is in
25 possession of the staff. That study was cofunded. There

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1 were fishermen -- commercial fishermen who worked with
2 the study. And so, there was in-kind support on their
3 part, and approximately \$450,000 on the part of my
4 industry.

5 Another concern was potential harm to eggs and
6 larval life stages. It is presently under investigation
7 through the same consensual approach described above.

8 And there was a public statement released about --
9 well, I'm sorry, I don't have the date -- anyway,
10 announcing that the group was going to go through a
11 consensual process and do this study.

12 It has been done. There is a press release
13 presently being negotiated to be released. The study will
14 be made available imminently.

15 Let me point out who -- who is in this
16 consensual negotiations of these scientific inquiries.
17 It involves commercial fishermen -- there are two
18 representatives. It involves -- in fact, Mr. Zeke Grader
19 is one of them. It involves myself, representing the
20 International Association of Geophysical Contractors,
21 and Mr. D. Chamberlain, who represents the Western Oil &
22 Gas Association.

23 And, Mr. McCarthy, I know this isn't something
24 that you necessarily remember, but you were the one that --
25 that helped draft us for that position three years ago.

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1 And I want you to know that we're continuing in service
2 and, hopefully, we'll retire with full benefits.

3 The American Petroleum Institute and the
4 California State Lands Commission have already funded one
5 phase of the complex steps required to adequately address
6 this issue. In fact, I think, to the tune of about
7 \$200,000 combined. And efforts are progressing to study --
8 for additional studies. That one was dealing with
9 vertebrate fish. And next, we're going to focus on
10 invertebrate, the dungeness crab.

11 The next phase of studies, by the way, are being
12 funded by, I believe, 8(g) settlement funds.

13 On this issue, I've had the pleasure of working
14 with Dr. Joyce Bradley of your staff. And I want to say
15 that she has done a fine job of helping us understand the
16 Lands Commission's interest and finding resources for
17 support of our science investigation.

18 Besides the people I've mentioned, there's also
19 a representative of the State Fish & Game Department, the
20 National Marine Fisheries Service, and the Minerals Manage-
21 ment Service. And negotiations are facilitated by
22 Mediation Institute, and then we also have the liaison
23 officer that I mentioned earlier as a technical adviser,
24 as well as the marine adviser, Mr. Richards.

25 On this -- our continuing commitment to scientific

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1 investigations and the space use accommodations are a part
2 of an important relationship between two ocean users,
3 business entities who must continue to nurture that
4 relationship through, through times of bliss and times of
5 stress, so that each can continue to serve their roles in
6 our society.

7 The trade association I represent is proud to have
8 been a part of these noble social experiments and to share
9 our successes with the fishermen and regulatory agencies
10 involved.

11 We want to continue to progress in our
12 relationships with our fellow mariners. We also appreciate
13 the recognition by the State Lands Commission that
14 avoidance of conflicts between the offshore geophysical
15 research community and fishermen requires all parties to
16 work at using the notification procedures, following
17 navigational rules and, above all, communicating.

18 We -- we continue our commitments. Besides
19 continued participation in consensual science investigations,
20 participation with the joint committee, and communication/
21 education measures, and the measures described in the
22 State Lands Commission and Federal permits, is the formation
23 of an industrywide petroleum industry/fisheries task force.

24 That task force, among other things, has produced
25 a video, which we use as part of our educational program.

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1 And this video was produced in cooperation with some of
2 the commercial fishermen that operate in the Santa Barbara
3 Channel.

4 In addition to that, we have participated in the
5 major commercial fishermen's trade show, called "Fish Expo".
6 We have participated on both coasts. They alternate
7 coasts. And we have participated in both coasts. And have
8 also had the pleasure, quote, of participating in panels --
9 panel discussions with all different vested interested
10 groups involved. And, again, among those people that I
11 participated with is Mr. Zeke Grader.

12 This video (exhibiting video cassette), by the
13 way, was at the cost of the industry of about \$52,000.

14 With regards to marine mammals, we conform to the
15 law and additionally participate in research to assure
16 our evolving technology and operations procedures do not
17 adversely impact marine mammals.

18 Of particular interest to offshore California
19 are the gray whale and the California sea otter. Our
20 industry -- in fact, my company, has furnished a
21 geophysical vessel some years to participate in government-
22 sponsored research of those two species at a cost of about
23 \$15,000.

24 I have a copy of one of those reports (exhibiting
25 document). And, again, the staff has a copy of this. In

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1 addition, there was another one on sea otters. This one's
2 on the gray whale.

3 I want to point out that -- that in -- and there's
4 nothing to contradict this statement in either one of
5 those reports -- it is important to note that the
6 geophysical research community has been conducting
7 operations offshore California regularly since the early
8 fifties.

9 And during that time, the gray whale has
10 continued to increase in population to an estimate of --
11 in excess of 15,000 dollars (sic). That's based on the
12 national agency that's responsible for that.

13 California sea otters were the subject of this
14 research involving a fully operational vessel, the GSI
15 vessel I mentioned. The scientists directed the vessel
16 to within about a half a mile of the otters, which were
17 observed to continue feeding, playing, and mating,
18 apparently unconcerned.

19 Federal and State minerals and State managers (sic)
20 benefit considerably from our industry's activities.
21 Without the data shared with them at nominal expense, it
22 would have cost several millions of revenue dollars to --
23 for vessel, equipment, and people to collect the same
24 data.

25 The adverse effects of denying geophysical and

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1 geological permits on State waters, in my view, a de facto
2 moratorium, are loss of jobs, jeopardy of millions of
3 dollars invested in faith that our elected and appointed
4 officials would effect the purposes and goals of mineral
5 resource acts, revenue, and projects for the public good.

6 Specifically, the things that we are concerned
7 about -- we hope don't happen -- are loss of jobs in
8 California and other States. A jeopardy of expenditures
9 of three to five million dollars by our crews in support
10 of our crews to California vendors. A loss of remaining
11 capacity of offshore geophysical research for the U.S.
12 West Coast due to the rationalization of the fleet (sic)
13 resulting in continued deployment -- remember, I said we --
14 we were at nine and now we're down to four -- outside the
15 USA or mothballing, or even, or even dismantling. And
16 those things have occurred.

17 We have even had companies just flat go out of
18 business out here.

19 There would be a cessation of data for minerals
20 resource management by the State Lands Commission. Bob
21 Faber mentioned some of this, regards 8(g) tracts and
22 safe production in existing leases.

23 And a loss, depending on how long the moratorium
24 might last, of up to \$40 million in future contract sales
25 to our industry.

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1 In summation, there are numerous benefits to
2 local, State, and Federal Governments, a large variety
3 of small and mid-sized companies in California and
4 throughout the U.S., petroleum companies, yes, and
5 fishermen, and to the general public resulting from
6 offshore geophysical research activities.

7 There are significant adverse effects to those
8 entities when safe, environmentally sound offshore
9 petroleum activities are aborted because of denying
10 operational permits.

11 Our industry does not adversely affect our
12 environment. And with respect to being good neighbors,
13 we have made significant progress with commercial
14 fishermen to resolve their real and perceived concerns
15 about the interactivities of our business endeavors.

16 We are committed to continue our efforts, and
17 hope to do so within the context of government policies
18 that engender a spirit of opportunities for bilateral
19 and multilateral conflict resolution, rather than
20 inequitable application of public policy.

21 Mr. Chairman, I would like to say something I've
22 been holding back for some time. Mineral Management
23 Services has issued a report. Dr. Chamberlain will be
24 reviewing this somewhat. But I'm going to be reviewing it
25 from the standpoint of a man who works for a geophysical

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1 company.

2 And I read a lot of reports. I want to point out,
3 first of all, that this report -- although it doesn't
4 state such -- is actually in two volumes. And part of
5 the misunderstanding about what's in this report is
6 that it does not -- when someone asks for a copy of it,
7 they don't get the second volume, which describes the
8 acoustic physics of the situation.

9 But -- and staff does have this report, and has
10 had it as long as I have, to have reviewed it. Let me
11 make my comments. And I'll try to be brief. But this is
12 a, I think, a key issue. It's been mentioned already.

13 The title of the report is, "Effects of Sounds
14 from a Geophysical Survey Device on Fishing Success."
15 The word dispersal is not even in the title. It's not
16 even in the preface.

17 There's some general comments. What it is, it's
18 an observation of fish behavior associated with a catch
19 success and reaction to and during the use of an acoustic
20 pulse generator in a contrived and unrealistic manner.

21 What it is not: It is not a report of effects of
22 acoustic pulse generators operated in a manner used by the
23 seismic exploration research fleet and those who have
24 come before you with an application.

25 It is not an environmental effects report. It is

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1 not a sufficient report on the phenomenon of fish behavior
2 that affect catch success, nor the environmental variables
3 that affect them. It is not a report on the usual
4 practices of the commercial fisheries.

5 That's stated in the report. It is not a report
6 on the effects on catch success or the reported manner
7 of operating acoustic pulse generator (sic).

8 Now, I'll say what it is not. And after making
9 those general comments, some of you may -- may feel like
10 that it sounds like we're about to enter into Lewis
11 Carroll's Wonderland through Alice's Looking Glass, and
12 perhaps we are.

13 But if you'll bear with me, maybe we'll find
14 out the Cheshire Cat has some wisdom for us. First of all,
15 was the APG presented -- acoustic pulse generator presented
16 in an unrealistic manner? It was. In fact, what they did
17 was -- and I have determined through a careful, considerate
18 survey to find out nobody conducts geophysical research
19 like this.

20 They found a fish plume. They steamed over it.
21 They used the pulse generator, and steamed around it for
22 85 minutes. I found no one that operates geophysical
23 research in that manner.

24 Let's compare some characteristics that result
25 from that. They used 10-second pulse frequencies. We use

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1 12. That's about the same.

2 They steamed at one knot. We steam in five knots.
3 That means right there that they're going to have more
4 pulses in a given space than we would under operational
5 conditions.

6 Translate that over 85 minutes, and you get
7 510 pulses impacting on the fish; whereas, we would
8 probably have 10 or maybe as many as 30 if we were doing
9 a concentrated detail survey called 3-D.

10 In my opinion, basing a permit or effects
11 judgment on such a situation as analogous to judging a
12 small landscaping reflection pond should not be built,
13 because a pond 25 to 50 times the size might have an
14 environmental effect.

15 Some incidental observations of environmental
16 effects out of the study, though, are, for example: Even
17 though they steamed around as I described, and there were three
18 different set lines or fishing periods, there was no fish
19 mortality, there was no damage to the fish, and the
20 fish did not disperse.

21 There is an issue about the variability -- I
22 mentioned the variability of the -- of the fish being
23 the phenomenon called on or off the bite. There was --
24 there is day-to-day variability. That's in the basic
25 literature. And, in fact, it's in the data in the report.

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1 In fact, there's data -- there's variability
2 from line set to line set. And these kinds of variabilities
3 justify that there should be what's called paired data, at
4 least emissions or tests where the acoustic pulse
5 generator paired on the same day with a control test.
6 That wasn't done much. And that's a problem.

7 There was no time variable analysis. They didn't
8 set antecedent catch conditions. They only fished while
9 either the controlled situation, where the pulse
10 generator was not being used or when it was being used,
11 and they did not fish subsequent to that use to determine
12 if the fish returned to the bite in some time frame after-
13 wards. They stopped fishing when they stopped pounding
14 on them.

15 The real situation of fishing methods. The
16 authors expressed concern that the 80 hooks -- that the
17 80 hooks they used were not sufficient to sample the
18 plume study during the trials.

19 The authors also state that the contrived
20 situation was not reflective of the real practice of
21 fishermen in terms of fishing efficiency. Now, let's
22 reflect on this. The acoustic pulse generator was not
23 presented in a realistic manner. In fact, it was presented
24 in a surrealistic manner.

25 The fishing was not done in a realistic manner.

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1 Okay. We have entered Alice's Looking Glass. I admit it.

2 But let's see what, if any, there is some wisdom
3 in this. Besides the acoustic pulse generator, the data
4 presented express a variability of catch among the three
5 set lines deployed during the trials. Now, there, in
6 itself, is a stimulus to the fish. The data showed that
7 the diminished catch success between the first set line
8 and the second set line for all but two species was more
9 substantial within the controls than the difference between
10 the emission and controls.

11 And rather than read this whole thing -- in
12 other words, the most effective stimulus for diminishing
13 the catch was the appearance of the fishermen's line.

14 This was not given sufficient test, and it was
15 not given sufficient reporting, nor was there reporting
16 on the implications to the result and conclusions of that
17 particular phenomenon.

18 Now, let's look at day-to-day catch variability.
19 When date paired trials were done -- and I said there
20 weren't many -- emissions and controls on the same day --
21 30 percent of the time, the main catch during emissions
22 while they were pulsing exceeded that during controls.

23 Other dates showed little difference. Large
24 differences did result in some days, but there were
25 significant differences in the depths to bottom of those

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1 emissions versus controls.

2 Within days when there were more than one trial
3 conducted (sic), there was diminished catch over the day,
4 even within the controls. This suggests, as I say, in
5 the report itself, that there are variabilities in this
6 on or off the bite phenomenon that were not tested.

7 There were some depth preference of some species.
8 The authors reported on the depth preference apparent in
9 their species specific data, and even the flaring, arising
10 towards the surface of one species called chili pepper.

11 They did not report, though there is data in
12 the report that supports this -- they did not report how
13 that reality could affect the results and conclusions,
14 considering the paucity of depth pairing of emissions and
15 controls trials.

16 Chili pepper, which accounted for 63 percent of
17 the total catch -- which accounted for 63 percent of the
18 total catch from control trials and Bocaccio, which
19 accounted for another 11 percent of the total catch from
20 control trials, was more abundant in catches in trials
21 conducted at depths to bottom greater than 60 fathoms.

22 In fact, chili pepper at depths around 70 fathoms.
23 On those dates, where those depths -- and -- depths and
24 day trials were done -- emissions and controls on the
25 same depths and days, there were only two. It turns out

1 that on those two, the mean catch of emissions exceeded
2 that of the mean catch of controls.

3 The authors did not report the effect on results
4 and conclusions of this phenomenon in the data, nor do
5 they report that this suggests the study was fatally
6 flawed.

7 Now, as we return to reality through Alice's
8 Looking Glass, I take exception to the staff recommendation
9 for delineating a division among geophysical research on
10 the basis, I quote, "low energy acoustical c - passive data
11 collection equipment should be allowed to proceed insofar
12 as staff has been presented no evidence such activity has
13 an adverse effect on the environment," end quote.

14 Since the staff is in possession of information
15 that shows geophysical research, kilojoules or whatever,
16 has no adverse effect on the environment.

17 Thank you.

18 CHAIRMAN MC CARTHY: Thank you, Mr. Bowles.

19 Any questions by members of the Commission of
20 Mr. Bowles?

21 Thank you very much.

22 Mr. Faber, let me indicate, my thought was --
23 and I think the other two Commissioners agree -- that we
24 were going to let your side testify for an hour first,
25 and then, in fairness, we were going to turn to the other

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1 side.

2 So far, your side has taken about 40 minutes.
3 So, whatever witnesses you wish to present at this point,
4 we'll give another 20 minutes. Then we'll hear an hour
5 from the other side. And then we can go back to any
6 additional witnesses you may have.

7 MR. FABER: That will be fine, Governor.

8 CHAIRMAN MC CARTEY: All right. Now, is Dr.
9 Chamberlain up next? Or Mr. Ashley?

10 MR. FABER: Mr. Ashley is going to be next.

11 CHAIRMAN MC CARTHY: Or Mr. Buttolph?

12 MR. ASHLEY: Mr. Chairman, my name is Randy
13 Ashley.

14 CHAIRMAN MC CARTHY: Mr. Ashley.

15 MR. ASHLEY: I will make this very, very brief,
16 as opposed to Mr. Bowles, who had much more information
17 to put on the table than I do.

18 I represent and work for a company in San Diego.
19 It's a California corporation called Palagos. We are
20 a small business by every definition of the word, and we
21 have been located there for about ten years.

22 The specific point that I'd like to make right
23 now, very briefly and very generally, is that the work
24 performed by about half of the people that are applying
25 for these permits, a significant amount of work that they

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1 perform is for nonoil related activities.

2 A lot of the work is, granted, going to be
3 covered by the low power systems that have -- by staff --
4 suggested to be exempt from or being issued under a new
5 permit.

6 However, there is a fair amount of the work that
7 is going to be required of systems above the two kilojoule
8 range that they talk about. Two main items are power plant
9 type studies. Mr. Faber discussed the seismicity or
10 earthquake studies around conventional and nuclear power
11 plants.

12 And the other and more significant one is the
13 requirements for engineering design around sewer outfalls.
14 Right now, EPA is requiring, as you probably know, all
15 up and down the California coast an upgrading of all sewer
16 outfalls. Some of them have been completed. Some of them
17 are just now in the initial stages. All of these sewer
18 outfalls require systems above two kilojoules to
19 adequately design these facilities.

20 Without the permits to run systems above the two
21 kilojoules, it's going to be an interesting conflict as to
22 how local municipalities are going to be able to comply
23 with EPA requirements without being able to design the
24 actual outfall facilities.

25 CHAIRMAN MC CARTHY: I'm going to ask the staff

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1 to respond to these specific things that are being raised
2 now. So --

3 EXECUTIVE OFFICER DEDRICK: Yes, Mr. Chairman.

4 CHAIRMAN MC CARTHY: All right. Go ahead,
5 Mr. Ashley.

6 MR. ASHLEY: There are a lot of other
7 activities. However, I won't go into them specifically,
8 because very few times do they require the systems above
9 the two kilojoule range. Some of these just -- that may
10 would be any design besides the sewer outfalls. For
11 instance, jetties, piers, all of these things do require
12 subbottom information of these systems.

13 CHAIRMAN MC CARTHY: Commissioner Tucker has
14 a question.

15 COMMISSIONER TUCKER: Can you very briefly describe
16 what the process is that you go through to conduct that
17 kind of study, where you do it in relation to the outfall
18 or jetty, marina, et cetera?

19 MR. ASHLEY: In the instance of a sewer outfall,
20 usually there's a location that has been selected based
21 on oceanographic parameters; that is, the circulation of
22 the water for dispersing the effluent, the temperature --
23 of being able to keep this stuff at levels below the
24 actual ocean surface.

25 Once the general location is determined, a company

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1 like Palagos will be hired to run first a fairly regional
2 study to see where major hazards, such as faults or
3 whatever, may occur which would prevent the location of
4 the outfall at that location.

5 Once the preliminary location has been designed
6 or been selected, then a more detailed design study is
7 performed along that specific route. So, let's say, for
8 instance, in San Diego right now there is a proposed outfall
9 that'll run from the beach just north of the border out
10 to approximately four and a half miles offshore right
11 into the Federal waters. And that's based on basic
12 oceanographic and bathometric conditions.

13 There's going to have to be about a 30-square
14 mile area that is surveyed to look for just the regional
15 type geologic conditions before they can actually site
16 the specific route that that outfall will take.

17 COMMISSIONER TUCKER: That involves the same kind
18 of instrumentation -- same kind of instrumentation as
19 studies you would do to determine where oil is located?

20 MR. ASHLEY: It'll require the same instrumentation
21 to a point. The oil is based looking at where -- through
22 some very large regional studies up front, using a much
23 more powerful system. They decide what may be target
24 depths. Once those target depths are found -- for
25 instance, we've just done a more recent study for oil

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1 exploration where they've targeted it at maybe some
2 shallower depths than what they would normally. Those
3 same tools that would be used -- that we used in that case
4 for oil exploration would be the exact same tools that are
5 going to be required to locate the sewer outfall.

6 COMMISSIONER TUCKER: Are there any of these
7 projects that are now going on and, if not, when is the
8 next one -- or when is one planned?

9 MR. ASHLEY: The one in San Diego is ongoing.
10 The oceanographic studies have been conducted or being
11 conducted right now, and they've been in place for over
12 a year. The actual geophysical survey has been postponed
13 three times waiting for the outcome of the oceanographic
14 study. So, to say that it's going to be done next month
15 versus six months from now, I don't think that's been
16 actually decided.

17 There are more studies that are being planned
18 up near the Monterey Coast, and I'm not sure what the
19 time scale is on those.

20 COMMISSIONER TUCKER: Thank you.

21 CHAIRMAN MC CARTHY: I have a question. What tests
22 are being performed in connection with any of the
23 existing nuclear power plants along the coast?

24 MR. ASHLEY: There -- PG & E has just performed a
25 test at Diablo Canyon looking for the regional -- in this

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1 case, the major plate boundaries in the Earth and how they
2 may affect the actual seismicity at that place.

3 San Onofre has also done that, and is feasibly
4 going to do that again in the next couple of years, related,
5 again, to nuclear safety, and whether or not the plant
6 should be reissued their permits to continue operating
7 and whether or not they meet the criteria under which they
8 were built -- actually will be reevaluated to see if the
9 potential for earthquake is larger than what they were
10 actually built --

11 CHAIRMAN MC CARTHY: Are those tests performed
12 under requirement of the Federal Government?

13 MR. ASHLEY: The -- that's right. I'm not quite
14 sure about the nuclear power plants. The nuclear power
15 plants --

16 CHAIRMAN MC CARTHY: The nuclear power plants is
17 what I'm asking about.

18 MR. ASHLEY: On the nuclear power plant they have
19 to show that -- they are being reevaluated for the seismic
20 conditions under which they were designed and then built.
21 Specifically in California, we're talking Diablo Canyon
22 and San Onofre. If, through those evaluations, it is
23 decided that they do not meet the -- the potential for an
24 earthquake there, say, is 7.5. I'm using this as just a
25 relative term. I'm not sure it is or it isn't.

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1 And they were designed for a 6.5, then they would
2 have to upgrade that facility to meet what is the current
3 interpretation of the major earthquake that occur (sic)
4 in their vicinity.

5 And those are all based upon reevaluating and
6 collecting new seismic data as the state of the art
7 improves.

8 CHAIRMAN MC CARTHY: Is your company involved in
9 doing those tests for the nuclear power plants?

10 MR. ASHLEY: No, we are not. But I said there
11 was not --

12 CHAIRMAN MC CARTHY: Are there any companies here
13 who are?

14 MR. ASHLEY: I don't -- I don't believe so. The
15 one that was done for Pacific Gas & Electric was done
16 about six months ago, and I don't believe there's anybody
17 here --

18 CHAIRMAN MC CARTHY: I think we have to take a
19 very careful look at that and find out whether or not
20 those tests are required by Federal law or what the policy
21 reasons are for the tests being undertaken. Moose, do you
22 have some information on this?

23 MR. THOMPSON: I believe Mr. Willard can comment.
24 I think PG & E has requested some seismic data from us
25 recently.

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1 MR. WILLARD: Yes. PG & E has contacted us
2 and asked --

3 CHAIRMAN MC CARTHY: The other one (speaking of
4 microphone).

5 MR. WILLARD: Oh. Here we go. PG & E has
6 contacted our office in Long Beach and asked to review and
7 share some of the public information that we have available
8 that's been collected within the three-mile zone there.
9 And we are making that available to PG & E. That's
10 existing data.

11 CHAIRMAN MC CARTHY: This testing would occur
12 immediately adjacent to nuclear power plants mentioned,
13 or for a good stretch of the coast?

14 MR. THOMPSON: It could be both, because they're
15 trying to evaluate a regional trend, and the recent
16 faulting activities in the area.

17 CHAIRMAN MC CARTHY: What does the regional
18 trend mean? What distance are we talking about? How much
19 of the coast?

20 MR. ASHLEY: I think on something -- I'm not
21 sure about the exact distance. Somewhere like --

22 CHAIRMAN MC CARTHY: Roughly.

23 MR. ASHLEY: -- Diablo Canyon, where you're
24 dealing with a major fault, like the San Andreas type
25 faults --

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1 CHAIRMAN MC CARTHY: The fault could go all the
2 up to the Oregon border.

3 MR. ASHLEY: You've got to look along the
4 trend of that fault, which may run offshore there -- maybe
5 Allen knows a little better -- at least along a 15 or 20-
6 mile stretch of that coast. And you've got to look at
7 movement that has occurred within that time, both
8 historically and particularly for recent.

9 CHAIRMAN MC CARTHY: All right. Well, we need
10 some information on this.

11 EXECUTIVE OFFICER DEDRICK: Yes, Mr. Chairman.

12 CHAIRMAN MC CARTHY: Now, what about the other
13 piece that Commissioner Tucker was asking about? Does
14 staff have any comment on that?

15 EXECUTIVE OFFICER DEDRICK: Yes, if I may, I'll --

16 MR. THOMPSON: I would also like to get into
17 this for this environmental assessment issue. We have
18 made an arbitrary cutoff that we thought was reasonable.

19 You have indicated that you need a higher energy
20 level. Could you get into a little more depth on that?
21 And are you looking for -- how many feet of penetration,
22 some specifics like that.

23 MR. ASHLEY: That, as you know, is a function --
24 how much power you need is really a function of the
25 geology in that location, someplace where -- you're dealing

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1 in kilojoules. The industry very seldom deals in that.

2 You're dealing with actually the pressure waves,
3 so we call them bar.meters (pronouncing). The equivalent
4 of a couple kilojoules that you're talking about is less
5 than one barmeter. In some cases, we need to go up to 10 to
6 maybe 20 barmeters of pressure, which is well within the
7 range of some of the deep exploration programs that -- that
8 are being discussed here.

9 It further depends on what level that you really
10 are trying to target, the geology that you're looking at
11 for potential crustal movement. If you're looking at
12 someplace like Diablo Canyon where you're looking at a
13 large transform fault maybe down 20,000 feet below the
14 surface, you're going to need a fair amount of power.

15 Some places, other, you're looking for recent
16 stuff, and granted, a 2 kilojoule system may -- may be
17 adequate.

18 MR. THOMPSON: Could we separate this into two -- two
19 issues? The environmental assessment for something like
20 a sewer outfall, is that the two joule -- kilojoule
21 realistic for that?

22 MR. ASHLEY: Not necessarily. Again, that depends
23 on the geology -- for instance, I was saying, in San Diego,
24 the two kilojoule system I don't feel would be adequate.
25 Talking joules again, you'd have to talk the equivalent of

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1 10 to 20,000 joules to get the type of geology and
2 geologic information that's going to be necessary there for
3 design.

4 MR. THOMPSON: Again, is this only when you
5 relate it to try and find the active fault systems versus
6 a shallow description of the beds?

7 MR. ASHLEY: Primarily. There's other information
8 that needs to be got at depth. But for things like a
9 sewer outfall, they are not as critical as it would be for
10 a nuclear power plant.

11 MR. THOMPSON: So, there would be a possibility
12 to find more specifically where these higher energy levels
13 would be necessary?

14 MR. ASHLEY: I think it could be if you were to
15 look at it on a location-by-location basis. You could
16 define them for each location. I don't think you could do
17 it generically for the entire State.

18 MR. THOMPSON: But more location by location
19 than -- thank you.

20 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, I think
21 that the issue is one that we can pursue best by some
22 meetings with these people on these specific issues. Al
23 Willard has a good deal of information here. And I wanted
24 to ask, Al, can you respond directly to Commissioner
25 Tucker's question more directly, that is to say, than these

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1 discussions have already elicited, or -- pardon?

2 MR. WILLARD: I think we need to get together
3 with --

4 EXECUTIVE OFFICER DEDRICK: May I suggest that we
5 do that in the period between meetings?

6 CHAIRMAN MC CARTHY: Fine. The questions that
7 have come up this moment are the variety of applications
8 of these testing -- nuclear power plant safety, oil,
9 sewage outfalls -- any others?

10 We need to know whether there are any other
11 laws -- Federal or State -- that require this testing,
12 or whether we have wide discretion, what conflicts there
13 may be with any legal requirement that an EIR is required
14 for high energy testing, however we define that. And we
15 should also know if there are such situations, where they
16 geographically coincide with heavy commercial fishing
17 interests along the coast, so we can try to sensibly and
18 fairly address these issues.

19 EXECUTIVE OFFICER DEDRICK: We will do that,
20 Mr. Chairman.

21 CHAIRMAN MC CARTHY: All right. Any other
22 questions of this -- do you have some more testimony?

23 MR. ASHLEY: Just briefly. I'd like to state I
24 know that -- in quickly looking at the staff report,
25 recommendation of exempting the less than two kilojoule

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1 definition here of systems. There are a lot of
2 applications also under that. If the two kilojoule exemp-
3 tion were not considered to be valid, the list gets very
4 long in things that are required of the low-power systems.
5 And this gets down into things like pipeline inspections.
6 The list can go on forever. I won't enumerate it right
7 now. But I'm sure that was one of the reasons why trying
8 to -- to actually put a cap on that -- but without -- if
9 it were to be a total exemption of all geophysical activity,
10 there would be a lot of conflict with like dredging
11 studies with the Corps of Engineers. The list goes on and
12 on.

13 For the sake of time, I will take leave now, and
14 not have any more to say about that.

15 I would like to in turn introduce the next speaker.
16 As probably a lot of you know, we have recently -- were
17 involved in a survey up in Northern California where there
18 was some concerns raised by divers, and the effect of seismic
19 activity on divers.

20 A very quick research of existing literature and
21 studies by ourselves and our clients led us to believe
22 that with the output of power that we were having in our
23 specific instance now, that we would have minimal effect
24 on the divers.

25 During our meetings, we have agreed to conducting

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1 what -- I want to make it very clear -- were diver
2 demonstrations. They were not rigorously planned testing.
3 They were to show that we could come within a reasonable
4 distance of divers, where on one end people were talking
5 that you'd have to stay several tens of miles away, and
6 other people saying that you didn't have to stay at all.

7 And so, there was a -- we felt -- a realistic
8 distance that we could -- for that specific instance --
9 operate within a certain distance of divers. And that
10 distance was to be determined by these demonstrations.

11 We set up --

12 CHAIRMAN MC CARTHY: Let me indicate at this
13 point that this will be the last witness for this side of
14 the argument in this segment, and then we're going to
15 start to call upon witnesses from the other side.

16 MR. ASHLEY: You're saying the next fellow up?

17 CHAIRMAN MC CARTHY: Pardon?

18 MR. ASHLEY: The person I'm going to introduce --

19 CHAIRMAN MC CARTHY: You can call up the witness.

20 I just want to indicate the witness you're about to name
21 will be the last witness in this segment on your side of it.
22 All right. Go ahead, please, Mr. Ashley.

23 MR. ASHLEY: Okay. And with -- very briefly, we
24 set up a program where we invited the -- in this case, the
25 urchin divers to have somebody in the water and also to have

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1 a neutral diver in the water.

2 In short, it came down to two divers were in the
3 water. One was actually a Palagos employee. We do -- we're
4 involved in a fair amount of diving activity. And the
5 neutral diver was the diving safety officer from Humboldt
6 State University.

7 Phil Buttolph -- excuse me, Phil, for mispro-
8 nouncing your name. But Phil is here to not represent our
9 point of view, but to just relay to you his observations
10 from being an independent neutral party in this. Phil?

11 CHAIRMAN MC CARTHY: Is it Mr. Buttolph or
12 Mr. Buttolph (pronouncing)?

13 MR. BUTTOLPH: You pronounced it correctly first,
14 Governor, Buttolph.

15 CHAIRMAN MC CARTHY: Buttolph.

16 MR. BUTTOLPH: Yes, sir.

17 CHAIRMAN MC CARTHY: Thank you.

18 MR. BUTTOLPH: Well, Buttolph. But that's close
19 enough. Buttolph. I'll answer to Phil.

20 CHAIRMAN MC CARTHY: All right.

21 MR. BUTTOLPH: Okay.

22 (Laughter.)

23 CHAIRMAN MC CARTHY: Go ahead, please.

24 MR. BUTTOLPH: Governor, members of the
25 Commission, I'd like to make one thing clear on the onset.

1 As stated, I am not a proponent or an advocate for any
2 position. In fact, throughout the original demonstration
3 and at this hearing, I am donating my time. They have
4 provided transportation for me to attend the hearings. But
5 my time is my time, and it's not on State time, as I
6 happen to be one of your employees also.

7 As diving safety officer at Humboldt State
8 University, I have dove in that area where they conducted
9 the demonstration since 19 -- not as diving safety officer,
10 but as a diver since 1964.

11 I've been diving -- just to qualify myself -- for
12 33 years. I've been diving safety officer at that
13 university for eight years, conducted various research
14 projects in that area, and have first-hand knowledge of
15 the area that's utilized by the urchin divers.

16 On August the 27th, I was approached by the
17 Department of Fish & Game employee, Pete Calvis, and then
18 by Mike Bell of Palagos, asking me if I would substitute
19 at a last minute -- the dive was to go off on the 28th,
20 which is Saturday morning -- for a diver who could not
21 make it, and be an independent observer of an underwater
22 demonstration of a sound source that was brought into us
23 on the bottom.

24 We went in the water at about 7:22. And for
25 approximately seven minutes -- excuse me -- 70 minutes we

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1 were on the bottom while the vessel -- I believe it was
2 the Tampa Seahorse -- was brought, according to Department
3 of Fish & Game report, within two-tenths of a mile of our
4 position.

5 At that time -- and at another point, it also
6 approached within a quarter of a mile. The only time that
7 I could perceive or hear of any sound at all underwater,
8 other than the background and ambient noise, was, I believe,
9 at 8:10 or 8:09, after we had gone down at 7:22, and just
10 before the conclusion of the test.

11 And at that level, at the only time that I could
12 perceive it, it was such a faint source that I had to
13 actually remove the regulator from my mouth, which was
14 partially malfunctioning, and hold my breath, and listen
15 very intently for a very faint, far away metallic pinging
16 sound, and which was cycling approximately every ten
17 seconds.

18 I might add -- and just it hasn't already been
19 offered (sic) -- that the lead diver was from Palagos,
20 and his name was Al Bruton. I was there, again, just to
21 collaborate or corroborate, I should say, his observations.

22 We concluded the dive after 70 minutes, and
23 surfaced, and recorded our observations. And I also sent
24 them a report. And I'd be glad to answer any questions
25 as to my subjective opinion of the situation (sic).

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1 CHAIRMAN MC CARTHY: Yes, Commissioner.

2 COMMISSIONER STANCELL: Do you know what level
3 they were using when you were under?

4 MR. BUTTOLPH: Well, sir, prior to saying I would
5 go on this, I qualified it by checking what the power of
6 the source would be. And I was told that the source was,
7 in their terms, approximately 200 cubic inches, which was
8 purportedly a very small -- a small sound-generating
9 source.

10 Pete Calvis, the Fish & Game employee on board
11 the vessel, was to substantiate that, in fact, they were
12 sustaining that power output as they moved in on us, plus
13 also the positioning.

14 I might add that Al Bruton had constructed,
15 albeit, a quantitative scale of a rather subjective
16 analysis. Obviously, we were just listening for this. And
17 it was on a scale of one to ten. Ten being we had to get
18 out of the water, because it was impinging on our safety.
19 And number one was the first audible indication of a
20 signal. It never went over, in my estimation, a 1.5 or a
21 2. It was -- just had to listen like the devil to hear it
22 at all.

23 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, if I
24 may, I think -- are you looking, Mr. Stancell, for a kind of
25 a number to relate to the two kilojoules versus 20?

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1 Mark Meier has just indicated to me that the number was
2 in the range of 30 to 40 kilojoules; is that correct?

3 MR. ASHLEY: Yeah.

4 MR. MEIER: Mr. Ashley will probably have --

5 EXECUTIVE OFFICER DEDRICK: Okay. I'm sorry.

6 MR. ASHLEY: Okay. That's correct. The system --
7 like I said in my testimony, we discussed things in terms
8 of barmeters, which is the amount of pressure at one meter
9 away from the source.

10 This source varies between four and seven
11 barmeters, where roughly a barmeter is equivalent to 10
12 kilojoules. So, we're talking in the 40 to 70,000 joule
13 range that we were using for this program, which, as I
14 also stated, was -- was targeted for oil exploration.
15 There is a fair amount of oil exploration done in that --
16 in that power range.

17 Granted, there's a lot done at a lot higher power,
18 but this is a typical power there, too.

19 MR. BUTTOLPH: I might also add that I made two
20 recommendations, which your staff has access to, on the
21 conclusion of the study. And if you have any other
22 questions, I'd be glad to answer them.

23 CHAIRMAN MC CARTHY: Any questions? No. Thank
24 you very much, Mr. Buttolph.

25 MR. BUTTOLPH: Thank you, sir.

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1 CHAIRMAN MC CARTHY: Supervisor Norman DeVall.
2 And then I'm going to call upon Mr. Richard
3 Charter, and then I'm going to call upon Mr. Zeke Grader.

4 SUPERVISOR DE VALL: Mr. Chairman, my name is
5 Norman DeVall, and this year I'm the Chairman of the
6 Mendocino County Board of Supervisors.

7 On a 5-0 vote yesterday, they send you the
8 following letter, copies of which I will leave with your
9 staff and for the record.

10 "Dear Mr. Chairman and members:

11 "The Mendocino County Board of
12 Supervisors wishes to extend its concern
13 regarding the environmental impact of
14 seismic survey activity off the Mendocino
15 County coast, and requests that an
16 environmental impact report be required
17 before any -- underlined -- i.e. low level
18 or high level testing general permit
19 authority is issued by your Commission.

20 "Numerous complaints and statements
21 of concern have been received during the
22 last two months while seismic surveys
23 were conducted off the coast. Reported
24 scarcity of fish in known productive
25 areas, and a total and complete abandonment

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1 of sea lions on haul out rocks off of
2 Mendocino and Elk have been noted. We
3 further request that local governments
4 be a part of the planning process and
5 that all relative staff reports be
6 made available in a timely manner to
7 local governments for their review and
8 input.

9 "We are chagrined to note that as
10 of September 21st, Monday of this week,
11 in the A.M., that the staff report was
12 not yet public."

13 In fact, it was not made public until the
14 beginning of this meeting at about eleven o'clock this
15 morning.

16 "Lastly, we request that an EIR
17 consider the impacts of seismic survey
18 activity on sea urchins throughout
19 their life span and on sea urchin divers.
20 Your favorable response to this request
21 would be much appreciated."

22 And that is the action and minute order of the
23 Board of Supervisors. And I'll make copies available.

24 On a personal note, I would like to extend my
25 concern to the Commission on what we're talking about. The

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1 last speakers have been focusing on the differences between
2 the impacts -- the sound impacts of cubic inches, barmeters,
3 and what is called a kilojoule.

4 James Prescott Joule lived from 1810 to 1890. He
5 was an interesting individual. And a joule can be
6 expressed as a unit of energy. At best, if you want to
7 relate it to sound, one watt, at best, will equal about
8 120 decibels -- plus or minus -- per second.

9 2,000 watts of energy equal about 153 decibels.
10 A jet aircraft taking off at the end of the runway will
11 generate about 160 decibels of sound.

12 In their report prepared in June of 1987, by
13 Bottell Marine Resource Laboratory and BBN Laboratories --
14 and an abstract of that report has been noted in your
15 record already this morning by the Assemblyman. They use
16 a unit of sound energy called decibels in reference to a
17 level of one micropascal. I submit that whatever standard
18 we will use, that, one, it be a logical one; two, it be
19 available to the public; and, three, that it be well known.

20 To find the definition of a kilojoule in the
21 encyclopedic -- in the Scientific Encyclopedia, the
22 Nostrands, does not exist. And in the Encyclopaedia
23 Britannica, any relationship to joule being used as a level
24 of sound does not exist.

25 I would like to ask that we use micropascals or

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1 that we have a decibel equivalent of barmeters or cubic
2 inches.

3 What is said to be so many cubic inches on a
4 scale of 1 to 10 is not sufficient. I don't believe that
5 what will meet the requirements of the California
6 Environmental Quality Act.

7 A couple of other points I'd like to make. The
8 industry has spoken of jobs, of four to nine vessels.
9 Please be reminded that Fort Bragg is home port for over
10 300 fishing vessels. When we're talking of jobs, let's not
11 just talk about the high cost of putting a vessel in the
12 water, but the real impacts of what, if we make a mistake,
13 can be detrimental in an area where we have indeed a very
14 delicate economy at best.

15 In one, in fact, that the Governor has supported
16 the Rural Renaissance Bill for up to \$20 million to help
17 out rural counties. Mendocino County has 18 percent of
18 its population signed with the Social Services Department,
19 not something any of us can be proud of.

20 What is at risk is significant. Forbes Magazine
21 has stated that 20 percent of the world's protein
22 fishery resources are on the U.S. 200-mile escarpment.
23 It is no small wonder that the Germans, the Russians, the
24 Poles, as well as the Americans want to fish extensively
25 off the Mendocino and Humboldt coasts. It is well-known

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1 for its upwelling of currents and, indeed, very rich
2 fishery resources. We must know what we're doing.

3 At this time, I contend if we're counting what
4 we don't know too much in kilojoules, we should know a lot
5 more before any testing goes on with these vessels in the
6 future off this coast.

7 Lastly, or almost lastly, I ask that any meetings
8 for negotiations between the various industries involved
9 involve local government, our planning departments, the
10 impacts, that we can also make contribution (sic). And
11 lastly, similar to the request made by Luke Breit from
12 Assemblyman Hauser's office, I, too, would ask, on behalf of
13 our Board of Supervisors, that this Commission reconsider
14 its position regarding AB 284.

15 Thank you.

16 (Applause.)

17 SUPERVISOR DE VALL: I'd like to leave with your
18 staff --

19 CHAIRMAN MC CARTHY: Why don't you give us that
20 letter, and we'll put it in the record.

21 SUPERVISOR DE VALL: -- and also the micropascal
22 definition used by the Mineral Management Service.

23 CHAIRMAN MC CARTHY: I want to indicate that --
24 because I don't think I did this earlier -- we also have
25 a letter from Assemblyman Dan Hauser that we're putting

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1 into the record in addition to Mr. Breit's testimony.

2 SUPERVISOR DE VALL: Mr. Chairman, it's very
3 difficult to find -- I don't find it -- of course, I've
4 only had the staff report for the last hour -- there's any
5 definition whatsoever that gives you any information
6 whatsoever of the definition of a kilojoule.

7 And to go from that point today to a hearing on
8 this matter on October 7th means that a lot of us are
9 going to be very busy. And I would hope that local
10 governments are involved.

11 Thank you.

12 CHAIRMAN MC CARTHY: Thank you very much.

13 Richard Charter. Mr. Charter? Where's the
14 bodyguard I saw in the elevator with you?

15 (Laughter.)

16 MR. CHARTER: My name is Richard Charter. I have
17 spent the last seven years functioning as a coordinator
18 for local governments along the coast who have some very
19 intensive concerns about OCS-related activities. They
20 also have some very intensive concerns about the health
21 of their fishing industry.

22 And I think we all realize we're seeing today
23 what has been a growing controversy over the last several
24 years, which has escalated concerns in the arena of
25 geophysical survey impacts to those concerns emerging as
quantifiable impacts that are now showing up in scientific

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1 studies conducted by such prestigious institutions as
2 the Minerals Management Service.

3 And I think as those concerns emerge into
4 quantifiable impacts, it's important that we don't make
5 any precipitous decisions about things like thresholds of
6 acoustical energy without gathering the full technical
7 information that's going to be necessary to make
8 appropriate decisions about things like thresholds of
9 acoustical energy. And particularly, I think, we should be
10 talking the same terms of acoustical energy. If the
11 geophysical survey operators use barmeters, I think we
12 should all be talking barmeters instead of things like
13 kilojoules. We're trying to compare eggs and bananas
14 here.

15 I have also noticed that the acoustic signature
16 threshold, which is what we're talking about here, has
17 some other questions associated with it beyond just how
18 much energy's released in the water column by a sparker
19 or an air gun.

20 And I'd like to cite a couple of things that I
21 can just pull -- I have a habit of not reading things from
22 documents into the record, and I'm sure you can appreciate
23 that. I'm going to read about three sentences from the
24 document, "Effects of Sound from a Geophysical Survey
25 Device on Fishing Success," OCS study, MMS 87-0020.

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1 Just to highlight some questions that I've
2 developed about this idea of setting a threshold for which
3 a negative declaration would apply below that threshold
4 theoretically, and above that threshold you'd not issue
5 further permits until you have an EIR.

6 There's more to look at here than just the energy
7 released by the air gun or the sparker. There are a range
8 of things that affect how that impulse is going to
9 affect biological systems in the marine environment.

10 And I have been assured in your staff report and
11 by conversations with staff that, well, gee, these low-
12 intensity seismic activities are really not much more
13 in the line of impact than the fish bathometers used by
14 fishermen. And that statement really is what brought me
15 to the point of realizing that we need to look at more
16 than two -- than just whether we're talking two kilojoules
17 or three kilojoules here.

18 And I'd like to read three sentences from this
19 MMS study.

20 "Whether a fish detects a sound
21 depends on a series of factors intrinsic
22 to the fish, the sound source, the
23 transmission path between the fish and
24 the sound source, and the immediate
25 environment of the fish, characteristics

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1 over which the fish can hear, the acuity
2 or sensitivity for sound at each
3 frequency of the range -- "

4 In other words, what I'm saying is there are
5 factors like frequency, water density, salinity,
6 distance -- obviously -- the configuration of the sea
7 floor affects this. Important characteristics of the
8 sound source include the sound level at the source, which
9 is really what you're looking at when you talk two
10 kilojoules, but also its frequency spectrum and its
11 duration.

12 It happens also that fish are more sensitive
13 to pulse sound, which happens to be what we're talking
14 about here.

15 One more sentence from another page in the same
16 document:

17 "The frequency spectra of the
18 seismic devices cover the range of
19 frequencies detected by fish."

20 Okay. That should be self-evident. Now we're
21 talking about things that fish can pick up on. And in
22 response to the assurance that I was given that, gee,
23 fishermen use echo sounders that don't seem to hurt the
24 fish -- first, the frequencies of echo sound or signals
25 most utilized by fishermen, 38 to 120 kilohertz, are well

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1 beyond the frequency range of hearing in fish, up to
2 3 kilohertz in marine fish (Platt and Popp 1981; Hawkins,
3 1981).

4 So, what I'm saying is there's a number of
5 other things that ought to be looked at here. And as this
6 thing gets more complicated, I think where you are is
7 you're on the right track looking at an EIR, and that EIR
8 may give you, may give you the information to help you
9 decide what the threshold should be at which you issue a
10 negative declaration.

11 And I think until you have that EIR in your
12 hand, you probably are not in a situation where you can
13 arbitrarily set a two kilojoule threshold as a cutoff for
14 a negative declaration.

15 I think the EIR is exactly the document you need
16 to do to get that piece of information, because it sounds
17 to me -- listening here today and the dialogue between the
18 geophysical industry and the staff -- that you don't
19 know a lot of things. And I think those are things that
20 are going to pop up in the EIR process.

21 There are three primary kinds of impacts from
22 this type of activity that have emerged as controversial.
23 The first is obviously the dispersal question. Do sound
24 waves in the water column scare fish away?

25 And I think this study and its companion

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1 document from the Minerals Management Service are beginning
2 to answer that question, and I'm afraid the answer looks
3 like it's yes. Sound waves in the water column do, in
4 fact, scare fish away. And this documents certain fish
5 species of 50 percent -- roughly 50 percent decrease
6 in catch per unit effort.

7 I think that's a pretty significant piece of
8 information. The other biological concern, of course, has
9 to do with impact on eggs and larvae of various species.
10 And I think we all realize that there are free-floating
11 organisms in the water column in the ocean that are very
12 fragile at various stages in their life form, and that
13 there is a study coming out of MMS that probably is going
14 to give us better information about eggs and larvae
15 impacts.

16 CHAIRMAN MC CARTHY: When is that study due?

17 MR. CHARTER: I am not sure exactly -- it's one
18 of those things where they have to keep having meetings
19 to see what they can release. You heard earlier --

20 CHAIRMAN MC CARTHY: The Freedom of Information
21 Act?

22 MR. CHARTER: Yeah. You heard some -- you heard
23 some discussion this morning about having a conference
24 to decide what could be discussed at a press conference?
25 I think it's that sort of a study. And, of course, we all

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1 heard the seismic industry criticize this study quite
2 roundly this morning, even though some of their own members
3 participated in it.

4 The third item that seems to be generic to both
5 the low and high energy activity is the space use
6 conflict. The fact is that whether you're talking high
7 energy sound source or low energy sound source, you're
8 talking about a vessel on the water. You're talking about
9 a vessel towing a cable. The low energy seems to be
10 30 to a thousand feet, compared to two and a half miles,
11 but it's still a cable. And I think the vessel conflicts --
12 the space use conflicts -- are probably the ones that are
13 going to be most easily addressed, but I'm cautioning that
14 they're not -- they don't appear to be being addressed
15 appropriately now.

16 Space use conflicts, I think you need a formal
17 consultation process, not some sort of ad hoc negotiation
18 between the industry and the fishermen, but some kind of
19 formal comment procedure. I've had a number of complaints
20 that local government has not been informed, particularly
21 about -- specifically about some of these recent
22 geosurveys on the north coast. In terms of vessel
23 conflicts, I think you can also look at things like
24 seasonal closures as appropriate.

25 I've heard recommendations of a spring meeting

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1 before the weather window opens up for this activity each
2 year where the geophysical industry and the fishermen would
3 sit down and kind of look at their calendars.

4 Obviously, these geophysical surveys don't pull
5 a calendar out of a hat. They've got somebody's
6 exploration budget on the deck there when they go out.
7 It seems to me that if salmon season's going to be less
8 than six weeks, and that's going to be limited by the
9 Management Council that there ought not to be seismic
10 activity occurring in a six-week salmon season as we've
11 apparently seen recently. I mean, there are logical ways
12 to solve the space use conflict question.

13 But basically, I'm here today to support your
14 staff recommendation to require an EIR prior to the high
15 energy testing permit, but I caution you not to take
16 one step forward in doing that, and then take one step
17 back by setting some sort of arbitrarily arrived at
18 energy threshold below which you would then allow a
19 negative declaration to intervene.

20 I think that if you're going to do an EIR, you're
21 going to get into this situation in some detail -- an EIR,
22 for instance, would allow you to convert your kilojoules
23 to the barmeters that the industry seems to use as their
24 measurement, and to really find out what is the threshold
25 below which the impacts are minimal. Because I don't think
we know that today.

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1 I certainly concur with your EIR plans for high
2 energy testing. And I'd like you -- to see you extend
3 that to -- also to the lower energy activity in order to
4 establish this threshold.

5 I don't think we have a problem with things like
6 subbottom profilers, side-scan sonar, and some of the
7 passive research that goes on out there. And some of
8 that's important for things like finding the sunken half
9 of the tanker Puerto Rican when it's belching oil. Those
10 are essentially nonintrusive technologies.

11 But I think as soon as you put a sparker in the
12 water, you need to recognize that a sparker can actually
13 generate as much acoustical energy as an air gun under
14 certain conditions, under certain -- air guns and certain
15 sparkers are that powerful.

16 So, I'd like to thank you for your time and
17 entertain any questions you might have.

18 CHAIRMAN MC CARTHY: Let me ask the staff to
19 respond first to the issue of what -- what is the appropriate
20 measurement, acoustical measurement?

21 MR. WILLARD: Well, we selected the two kilojoules
22 cut-off point primarily as --

23 CHAIRMAN MC CARTHY: I'm not asking the level
24 now. I'm asking what is the appropriate measurement?

25 EXECUTIVE DEDRICK: The unit.

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1 CHAIRMAN MC CARTHY: We've just heard --

2 MR. WILLARD: Right, the kilojoule --

3 CHAIRMAN MC CARTHY: -- criticized as
4 inappropriate. Now, what is our -- what's our Commission
5 staff rationale for what measurement should be?

6 MR. WILLARD: Selecting the joules -- joules as
7 a measurement of energy, and that is what is utilized
8 in the -- this equipment, is the generation of energy
9 to penetrate the ocean floor.

10 CHAIRMAN MC CARTHY: Is it the commonly used
11 measurement of energy that is used in the industry and
12 among people who would have the need to discuss these
13 issues?

14 MR. WILLARD: As I indicated earlier, commonly
15 used in the geophysical industry is this barmeter. Well,
16 the barmeter is a much higher amount of joules. And so,
17 therefore, they've selected another one that they can --
18 that relates to it as 10 -- 10 barmeters -- excuse me.
19 10 kilojoules is equal to 1 barmeter.

20 So, when you get way down in the low ranges, you
21 need to have something -- rather than saying a "point, zit
22 zit" something of a barmeter, they switched over, and
23 they've switched into the measurement in joules.

24 So you have two kilojoules, is much less than
25 1 barmeter. A barmeter, being 10 kilojoules.

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1 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, also
2 these -- with respect to Mr. Charter -- these intercon-
3 versions are not substantially difficult things to do.
4 You can do them -- as one of the earlier people
5 demonstrated -- in your head, or you can do them with a
6 calculator. I mean, you know, picking a unit is picking
7 a unit, whether you're -- any unit that is picked should
8 be, I think, in a report that relates to this kind of thing,
9 you could certainly attach an appendix that shows the
10 conversion factors for any number of units.

11 If you operate in the British system where you --
12 which the United States uses, then you use the British
13 system. If you operate on the metric system, you use the
14 metric system. But there are conversion factors existing
15 in normal publications, such as the Chem and Physics
16 Handbook, which are commonly used by people in the
17 engineering profession which make these conversions.

18 I mean, this isn't -- this is not an arcane
19 field is what I'm trying to say.

20 CHAIRMAN MC CARTHY: Well, Supervisor DeVall
21 indicated it was hard to get a definition of what a
22 kilojoule was. Mr. Charter --

23 EXECUTIVE OFFICER DEDRICK: Perhaps Supervisor
24 DeVall has not seen the Chem and Physics Handbook, sir.
25 I don't know. It's not that unusual a measurement.

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1 CHAIRMAN MC CARTHY: Okay. Mr. Charter, do you
2 see any difficulty? These are separate issues now.

3 MR. CHARTER: You know, my --

4 CHAIRMAN MC CARTHY: Are those proper terms to
5 use to --

6 MR. CHARTER: Right.

7 CHAIRMAN MC CARTHY: -- use to measure the --

8 MR. CHARTER: Well, I have a document from MMS
9 that quantifies these types of acoustical signatures as
10 decibel related. The geophysical industry this morning
11 seemed to be using barmeters. I wouldn't want you to
12 miss my original question, which is to the degree that
13 there are other factors, including the frequency of
14 energy spectra and what we know about how those
15 different frequencies affect different marine organisms --
16 I guess what I'm saying is that it's not only intensity.

17 And you can express intensities any way you want,
18 and we'll find a Chem-Physics Handbook and translate it.
19 There are other factors that I don't see at all in the
20 staff report. Now, there may be drawers of file folders
21 that have some of that. I'd like to see those drawers
22 of file folders wind up in an EIR so we can all
23 participate in a logical process here that doesn't sort
24 of jump around and say, "Oh, let's draw a line at two
25 kilojoules," and not consider any of these other

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1 ramifications of what might be still potentially
2 destructive sound sources in the marine environment. I sat--

3 CHAIRMAN MC CARTHY: Are there any -- are there
4 any levels we could draw without completely shutting down --

5 MR. CHARTER: Well, I mentioned --

6 CHAIRMAN MC CARTHY: -- testing? What we're
7 talking about here is probably a period of at least 10
8 months.

9 MR. CHARTER: Yeah, I think --

10 CHAIRMAN MC CARTHY: Probably talking about a
11 three-month search for an independent contractor to do
12 an EIR, and then maybe another six or seven months --

13 MR. CHARTER: Right.

14 CHAIRMAN MC CARTHY: -- to complete an EIR. Now,
15 short of shutting down all forms of testing --

16 MR. CHARTER: Right. I mentioned --

17 CHAIRMAN MC CARTHY: -- is there any level that --

18 MR. CHARTER: I mentioned subbottom profilers,
19 side-scan sonar, other types of passive activities, which
20 I don't think anybody has a problem with. I do know that
21 seven years ago, I sat as an alternate on the Pacific
22 States Regional Technical Working Group on behalf of the
23 Department of Interior trying to direct, as it were, the
24 budget for their environmental studies program, to make
25 recommendations to the Secretary of Interior as to what

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1 should be studied.

2 One of the things that I heard seven years ago
3 in those meetings was the fishing industry saying again,
4 and again, and again, "Direct some studies dollars to the
5 issue of fish dispersal, eggs and larvae," those kinds of
6 questions.

7 And just now, seven years later, we're beginning
8 to get some of those answers. And those answers have
9 other factors beyond just the intensity of the sound.
10 They have sound signatures. They have frequency spectra.
11 And I just -- at some point, maybe it's possible to do.
12 And I qualify that maybe. Maybe it's possible to bring
13 some of those factors to the table now and October 7th.
14 But I don't see them on the table now.

15 And I'm hearing reassurances about, "Gee, this
16 is really a lot like a fishermen's Fathometer." And I'm
17 sorry, but it's not.

18 It's just not. And I haven't heard anyone this
19 morning or this afternoon speak with authority that
20 could say, "Gee, below two kilojoules we're all right."
21 And tell me. What's all right? Are the crabs all right?
22 Are the fish going to leave the area? I think we ought to
23 be able to say that with some substantial knowledge before
24 we draw that threshold. And that's all I'm saying.

25 CHAIRMAN MC CARTHY: Does staff feel we can say

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1 that?

2 EXECUTIVE OFFICER DEDRICK: I think, Mr. Chairman,
3 that if we do an EIR, that the necessary scientific work
4 will be done. Yes, I mean, I think that this discussion,
5 as it relates to the importance of a single scientific --
6 single unit used for convenience's purposes in scientific
7 measurement really doesn't have a lot to do with the issue.

8 CHAIRMAN MC CARTHY: We're past that now.

9 EXECUTIVE OFFICER DEDRICK: That's right. The --

10 CHAIRMAN MC CARTHY: I'm now addressing the
11 last points raised by Mr. Charter.

12 EXECUTIVE OFFICER DEDRICK: Certainly the purpose
13 of doing the research studies, which were partly funded
14 by the State of California, and the purpose of our
15 recommendations for an EIR to address the actual physical
16 effects, there certainly is no way in which you could
17 limit that to only an energy level. I think the answer
18 to your question is yes, sir.

19 CHAIRMAN MC CARTHY: I think the point being
20 made by this witness is that we have not yet made the
21 case. That allowing testing to two kilojoules is it will
22 not have a seriously adverse effect to different forms of
23 marine life. All I'm asking -- I don't know the answer
24 either way. What I'm asking is: Does the basic research --
25 what limited amount has been done -- does our examination of

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1 that basic research give us confidence that we could --
2 should we go forward requesting an EIR and set that as
3 the cut-off point?

4 EXECUTIVE OFFICER DEDRICK: I would say so. Al, would
5 you speak to that point? Very little basic research has
6 been done, you understnad, Mr. Chairman. But also there
7 is very little evidence of damage. So, it's kind of like
8 it was three years ago when we -- when you ordered the
9 initial studies. Al, could you speak to the point?

10 MR. WILLARD: For example, it's been noted to
11 us that a typical diesel-powered fishing vessel or a
12 commercial recreational boat is in the range of two to
13 five kilojoules. So, you know, you're -- we're talking
14 about very low energy acoustic levels here. And there's
15 been no conflicts or comments -- adverse comments made
16 with respect to these type of activities that employ
17 devices that generate energy levels of two kilojoules or
18 less.

19 MR. CHARTER: And again, I point out, with all
20 due respect to staff, that a fishing vessel just may not be
21 a valid comparison, because of what this study says about
22 the periodicity, the periodic impulse being something
23 that activates the startle response in the fish, the fact
24 that a fishing vessel may have a completely different
25 acoustic property in the water column. It's a constant

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1 sound, yes. These sparkers are a periodic sound. And
2 this seems to be indicating in this study that the
3 periodic sound is what's spooking the fish, causing them
4 to go to the bottom and hide out. And, you know, when I
5 talk about impacts on the marine life, I include in the
6 marine life I include the marine life the fishing industry.

7 Because if the fishing industry is going to experience
8 a 50 percent loss economically because a seismic ship has
9 been in the area, whatever seismic ship, then I think
10 that's an economic impact on the communities along the
11 coast that really ought to wind up in your equation.

12 CHAIRMAN MC CARTHY: How well-defined -- how
13 well have we defined all of the various activities for
14 different purposes that would be covered by this cut-off
15 point?

16 EXECUTIVE OFFICER DEDRICK: I'd like Dwight to
17 speak to that.

18 MR. SANDERS: Mr. Chairman, to answer your question
19 specifically, the equipment that would fall under that
20 threshold are the types of equipment that Mr. Charter
21 indicated that he would have no exception to; in other
22 words, side-scan sonar, bottom profilers, Fathometers,
23 bathometric devices, and so forth. So those type of
24 activities would be below that threshold.

25 The types of energy levels that were used -- we

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1 started off looking at the types of energy and the
2 levels of energy used in the MMS studies and so forth.

3 These are in the hundreds of thousands of kilo-
4 joules of energy. They are varying devices that go all the
5 way down the spectrum, all the way down to the two
6 kilojoule level. So, staff was being very conservative
7 in establishing the level of two kilojoules as a point
8 below which activities could proceed without any evidence
9 on the record given to us that there would be a substantial
10 effect on the environment.

11 There are some moderate forms of energy that are
12 in a gray area. But we included them in the levels of
13 energy above which an EIR would be performed. So, I think
14 we have -- perhaps our major flaw here is not equating
15 apples to oranges. We're dealing with common terms, but
16 we are dealing with different expressions of those terms.
17 As Al has indicated, some are aggregations of joules and
18 they're expressed as bars of pressure. If you get into
19 decibels, that is a different measure of sound pressure
20 than energy level.

21 So we perhaps should try to standardize that --
22 those types of figures, but the levels of energy that we
23 have indicated here have been formed on the basis of a
24 fairly thorough evaluation of the literature that is
25 available to us, and the studies that have been done, and

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1 we have shot literally below the level that we know that
2 there is -- or even there is a perception of an effect.

3 MR. THOMPSON: Can I comment on one issue on this?

4 CHAIRMAN MC CARTHY: Yes.

5 MR. THOMPSON: We looked up from the bottom side
6 up trying to look at environmental assessment. We've
7 already talked about multiple use of the ocean. We also
8 have multiple use among the people who want to investigate
9 environmental impacts.

10 So, we have -- we're looking from the bottom
11 side of the tools that will be available to look at
12 environmental impacts. He's looking at the environmental
13 impact for the fishermen. Someone else might want us to
14 look at the environmental impact of an outfall, or
15 dredging, or many other things. So, we were looking
16 strictly from the bottom side coming up.

17 CHAIRMAN MC CARTHY: All right. Thank you.

18 MR. CHARTER: And I think part of the point that
19 I was making is that if you're going to have multiple use
20 of the resource and the salmon fishery opens for a six-week
21 window, multiple use with a 52-week year ought to dictate
22 the seismic activity doesn't necessarily have to happen
23 during that six-week opening.

24 COMMISSIONER STANCELL: Excuse me.

25 CHAIRMAN MC CARTHY: Commissioner?

1 COMMISSIONER STANCELL: I just have one question.
2 I just want some clarification on a point that you made.

3 MR. CHARTER: Sure.

4 COMMISSIONER STANCELL: I know we're beyond the
5 point the measurement, trying to decide which is
6 appropriate or valid.

7 But you did say something about the frequency.

8 MR. CHARTER: Right.

9 COMMISSIONER STANCELL: You're saying the
10 suddenness of a sound would have an adverse effect on the
11 fish, even though the commercial fishing -- I mean the
12 commercial fishing vessels or recreational vessels may
13 have the same level of sound. You're saying that because
14 of the sudden intrusion in that environment, it would have
15 an adverse effect on fish as opposed to this ongoing
16 level that the fish has grown accustomed to out in that --

17 MR. CHARTER: That's correct. The MMS study,
18 which I cited, what it seems to indicate is that one sound
19 level constantly, a fish acclimates to that, gets used to
20 it, and goes on about its normal day-to-day swimming
21 around.

22 The same sound level introduced suddenly (snapping
23 fingers), periodically (tapping fingers on witness table)
24 ten times a minute, may cause that fish to (a) leave the
25 area, (b) go to the bottom and stay there, (d) dart all

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1 over the place, or sort of not bits.

2 And so, there are -- the level of the threshold
3 is not the only factor. And before we -- just in closing,
4 I don't want to go too far. We've been "Through the Looking
5 Glass" this morning, and I don't want to take you "Through
6 the Looking Glass" again.

7 I sat on a panel in Washington State this summer
8 with some members of the coastal community up there that
9 had had an experience in recent years with seismic
10 activities and with space use conflicts specifically.

11 And I just want to say that this is the sort of
12 thing that could happen, either from the low intensity
13 or high intensity activity. They had a crab fishery with
14 crab pots in place with floats identifying, as you know, the
15 location of the crab pots, so you can go back and grab
16 it when it's full of crabs. And they had approximately a
17 three to four hundred thousand dollar loss of crab pots
18 as the seismic cable cut loose the floats along the coast
19 of Washington State.

20 And what they said to me is that they lost about
21 10 percent of their dungeness crab catch there in
22 Washington State. Now, that is something that is germane
23 to any vessel that carries a cable. And I think -- I just
24 leave you with that as a reminder that there are impacts
25 that can be significant and can have very serious

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1 economic implications. Thank you.

2 CHAIRMAN MC CARTHY: Commissioner Tucker.

3 COMMISSIONER TUCKER: Mr. Charter, I'm interested
4 in your role as a coordinator of local government concerns.
5 We've heard expressed today the need for this kind of test-
6 ing in order to determine sewage outfalls, their location,
7 et cetera.

8 MR. CHARTER: Right.

9 COMMISSIONER TUCKER: And there's been discussion
10 about nuclear power plants. Is it your position that --
11 and let's say there is some impact of testing. Let's say
12 we do an EIR and we find that it does have some impact on
13 eggs or larvae or whatever.

14 Would it be your position that such testing should
15 not occur?

16 MR. CHARTER: Well, I think we heard in opening
17 this morning, some discussion that if you have a specific
18 project -- the example I believe that was given was the
19 San Diego sewer outfall. And the response was about
20 30 square miles, I believe, would need to be surveyed
21 preparatory to construction of that outfall. I think what
22 you can see in that is perhaps an option where a site-
23 specific permit similar -- you know, MMS gives fairly
24 specific permits for specific activities in Federal waters,
25 what they call their G & G permits, geological and

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1 geophysical survey permits. And they are for a given
2 activity during a given time frame at a certain place
3 for the most part. They're not like --

4 COMMISSIONER TUCKER: Your position is that
5 testing should be allowed under certain circumstances?

6 MR. CHARTER: I don't think I'd want to see
7 somebody build a nuclear power plant without checking to
8 see if there was an earthquake fault immediately under
9 the seawater intake.

10 And I think there's ways to accommodate those types
11 of information needs.

12 COMMISSIONER TUCKER: How about things like the
13 safe location of a marina or the appropriate -- as to
14 whether or not a channel should be dredged?

15 MR. CHARTER: Those are a lot more site-specific
16 types of information needs than, for instance, seismic
17 activities that have been going on in the last month off
18 the entire coast of Mendocino County and most of Humboldt
19 County, which are obviously going back and forth from
20 Federal waters to State waters gathering deep seismic
21 information in many cases, which becomes part of
22 proprietary data which is sold to the oil industry for the
23 purpose of locating tracts that they might want to bid on
24 in Lease Sale 91, which is coming up, as you know, in
25 1989.

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1 The question becomes that data -- at what point
2 does that data suddenly become oil data and stop being
3 a pipeline corridor?

4 And I think if you look at specific industrial
5 projects like that sewer outfall, you'd find that you don't
6 need to cover the entire offshore of a county nor
7 necessarily step over the fishing grounds two or three
8 times as we're seeing happen.

9 We have an Exxon activity that's just been -- just
10 now finishing up on the Mendocino Coast. Our understanding
11 is that Mobil is about ready to utilize the same vessel
12 to start over on the same set of tract lines.

13 So, you get repeated activity from a seismic
14 operator working on behalf of different companies.
15 Certainly you aren't going to see something like that
16 doing shallow seismic for a sewer outfall. You're going to
17 do one survey. You're going to do it in a small location.

18 CHAIRMAN MC CARTHY: Thank you very much.

19 Mr. Zeke Grader? And then we're going to ask for
20 Lily Jones and Wayne Scott.

21 Mr. Grader, excuse me, our steno needs to change
22 tape.

23 (Thereupon the reporter replenished
24 her stenographic paper supply.)

25 MR. GRADER: Thank you, Governor, members of the

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1 Commission. I note that the tape is now in.

2 My name is Zero Grader. I'm the Executive
3 Director for the Pacific Coast Federation of Fishermen's
4 Associations.

5 I will be brief here today, because there are
6 a number of other fishermen in the audience that I think
7 can perhaps share with you their experiences in and about
8 or in and around seismic vessels. And what I'd like to do
9 is just simply present you -- present you with a short
10 overview of this issue.

11 Pacific Coast Federation of Fishermen's
12 Associations, for those of you who do not know, represents
13 24 commercial fishermen's organizations along the Pacific
14 Coast. We are an umbrella organization of many local
15 associations.

16 Since the 1984 issuance or reissuance of permits
17 by the Lands Commission -- I do want to acknowledge what
18 has been said here this morning, that there has been an
19 improvement in communications between the commercial
20 fishing industry and the seismic operators-- and Mr. Bowles
21 elaborated on that -- as there has been cooperation on
22 studies jointly conducted by the two private groups
23 together with public agencies, such as the Commission and
24 its staff.

25 And we're certainly not here to dispute the value

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1 of seismic surveys. We're not here for that at all.

2 But we are here arising out of an ongoing concern
3 with the impacts that those surveys are having, both on
4 our fishery resources and on fishing activities.

5 I might add that we've heard discussions earlier
6 regarding seismic surveys for the siting of nuclear power
7 plants or for the siting of sewage outfalls. I might add
8 that those surveys really have not been the problem the
9 commercial fishing industry has faced.

10 The problem we're facing is the ongoing numerous
11 and continuous surveys that are being done on behalf of
12 oil exploration up and down the whole of the California
13 Coast, not specific locations off San Onofre or San Diego,
14 but I mean the whole of the California Coast.

15 And this is just ongoing virtually all the time,
16 and it seems as if they almost pick the best prime fishing
17 seasons to decide this is when they want to conduct these
18 surveys.

19 I might also add, too, I don't think commercial
20 fishermen are just up here because they're perceiving or
21 they think there's a problem. There is an ongoing problem,
22 otherwise you would not be -- see them here at meetings,
23 such as this one today or ones in the past.

24 And I think certainly since May of this year, when
25 you decided to reissue for a four-month period on a

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1 temporary basis the existing permits, there have been two
2 studies that have come out that I think give credence to
3 what the fishermen have been saying.

4 The first was the eggs and larvae study. And I've
5 served on the eggs and larvae committee, and though I would
6 argue that it's probably inconclusive, it does nevertheless
7 show that there were some impacts on anchovy. I think what
8 we have to do now, however, is go on beyond the concern
9 over the anchovy and look at other organisms, specifically
10 dungeness crab. And I think it's very important that we
11 do get the money from the State Legislature to proceed with
12 the study now on the dungeness crab and perhaps, beyond
13 that, begin looking at rock fish. Because I think we do
14 need to know what the impacts are on these resources.
15 And certainly, as inconclusive as it might have been, the
16 eggs and larvae study done on anchovies, which is now out,
17 does show that there were impacts.

18 Secondly, I think the fish dispersal study that
19 was done by the Minerals Management Service indicates fairly
20 clearly that fish dispersal does occur, as fishermen have been
21 telling people for years, when seismic vessels are in an
22 area.

23 I think the statement that came out of the -- this
24 report -- one sentence was, "The rock fish catch was
25 substantially reduced under sound emission. In these tests,

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1 the total catch declined by 52.4 percent."

2 That's substantial. And I would add that while
3 there are those in the seismic industry that have problems
4 with this test, this test done by Bottell, or this study,
5 was done on behalf of the Minerals Management Service,
6 which I think we all know is hardly pro fisheries. It
7 is indeed the leasing end of the Federal Government that
8 has been and continues to be -- push lease sales off the
9 California Coast.

10 I don't think they're going to develop a study
11 that is going to in any way impact on their ability to lease
12 the Federal OCS.

13 I think for these reasons, particularly the two
14 studies that have come out, therefore, that it is
15 important that this Commission go ahead and conduct a full
16 environmental impact report at this time on the impacts
17 of seismic testing prior to the reissuance of any new
18 permits.

19 It's a little difficult for us to comment on your
20 staff recommendation, because we have not had the
21 opportunity to examine the two kilojoules. And I'm not
22 sure that we ever will be. But, nevertheless, I think the
23 we certainly agree with your staff on the need for studies
24 at least on those impacts above. Whether or not we need to
25 look at the impacts below two kilojoules, I cannot comment

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1 at this time, and I would hope to be able to comment more
2 fully at your 7 October meeting.

3 Beyond the environmental impact report, however,
4 or perhaps as part of it, I would urge that the Commission
5 also look at supporting the phase two of the eggs and
6 larvae report that is going on into -- and assisting
7 the eggs and larvae committee get the necessary funding
8 to begin looking at the impacts on dungeness crab.

9 Second, to address the problem of physical
10 conflicts. And this is particularly troublesome to those
11 fishermen who have fixed gear and have lost it, whether
12 this fixed gear be crab traps off the North Coast used
13 for take of dungeness crab or for lobster in the Santa
14 Barbara Channel, or perhaps even gill nets.

15 In any event, when these seismic vessels come
16 through with their cables and they're in an area where there's
17 fixed gear, this can result in a loss of that gear. And
18 in the case of certain types of gear, can be damaging to
19 the resource, because that gear could continue fishing
20 and is no longer retrievable with its buoys cut off.

21 Third, I think, is develop some mitigation measures.
22 Part of the mitigation measures, I would say, would be to
23 avoid the conflicts to begin with. Perhaps part of this
24 should be to reduce the number of permits allowed. Some
25 people have compared the -- having the total number of

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1 seismic operators out there and each company attempting to
2 go out and get their own information as being sort of in
3 a competitive mode, comparing it to Darwinism or good
4 old-fashioned capitalism. I would, however, compare it
5 more to the tragedy of the Commons (sic). I think we
6 simply have too many seismic vessels out there for the
7 type of information that's being gleaned.

8 I'd also mention in the mitigation aspect that
9 I think measures have to be done -- developed, particularly
10 standards to -- where there are unavoidable conflicts, to
11 provide for some sort of just compensation for fishery
12 resources; that is, working with the Department of Fish &
13 Game, the same as we do when a hydroelectric project is
14 put in, and also with the affected parties.

15 And, fourth, I think it's time that perhaps State
16 Lands, particularly if it decides to go ahead with its
17 staff recommendation or variation of that on conducting
18 a full EIR, that it recommend to the Minerals Management
19 Service in the strongest possible terms that that
20 Federal agency -- it's time now for them to conduct an
21 environmental impact statement under the Federal guidelines
22 on this very same thing, on the seismic impacts.

23 Thank you. And, Governor, I'd be happy to answer
24 any questions and work with your staff in the interim period
25 before the next hearing.

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1 CHAIRMAN MC CARTHY: Thank you very much. Any
2 questions by either Commissioner? Thanks for being here.

3 Lily Jones, please.

4 MS. JONES: I'm not much one for going to meetings.
5 This is the first time I've ever appeared to you.
6 Politics is not my forte. I'm an art dealer. I have a
7 large gallery in Mendocino. I'm an active member of the
8 Chamber of Commerce, and my daily contact with artists
9 and locals visiting my gallery and many, many, many
10 tourists, including from out of State and from out of the
11 country has given me access to a great deal of public
12 feedback and opinion, which I would like to share with
13 you.

14 And much of Mendocino's economy is based on
15 tourism. We not only have a very active artistic community,
16 but many inns, State Parks, restaurants, service related
17 to tourism, shopkeepers, artists, crafts people, and
18 numerous small cottage industries and businesses, many of
19 which are dependent on tourism.

20 Tourism is a clean industry and a growth industry.
21 It is directly opposed to the presence of big oil. We
22 adamantly do not believe that oil and tourism are compatible.
23 In spite of how passive these seismic tests are purported
24 to be, it misses the point. The populace of this coast
25 does not want this mapping sponsored by big oil to take

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1 place in the first place.

2 We are not fooled by the seismic surveys' stated
3 multiple use of their findings. Seismic testing indicates
4 intent to drill. Our ecologically fragile coastline,
5 its esthetic assets, and its attractiveness to people from
6 around the world is our valuable resource.

7 One oil spill could ruin all of this. We will
8 not take second place to an oil interest which is a one-
9 shot deal: drill, despoil, and depart for an estimated
10 two weeks' worth of our nation's energy needs.

11 I urge the government to adopt the position of
12 energy conservation and to leave our unspoiled coastline
13 as a national treasure for both its inhabitants and its
14 numerous visitors.

15 In the 18th Century, America was founded by a
16 grassroots movement which rebelled against economic exploitation
17 by an imperialist mother country. The result is our
18 nation's proud heritage.

19 Other interests -- other instances in history
20 also offer lessons which point to the power of grassroots'
21 opposition to invading forces. 19th Century, 1812,
22 Napoleon invades Russia. Rather than see their resources
23 fall into enemy hands, peasants burned their fields and Moscow
24 itself as French troops advanced. Napoleon's army was
25 broken.

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1 Tables turned for France in the 20th Century.
2 A greedy Hitler, for five years, conquered France's land,
3 but not its spirit, 1940 through '45.

4 The heroism of the French underground resistance
5 movement is still legendary. Today, we are not directly
6 threatened by an imperial empire or fascist ruler. Instead,
7 this threat has transmuted into multinational corporations
8 still bent on economic exploitation of our national
9 natural resources.

10 Humans have changed the course of history, but
11 history has not changed human nature. The grassroots
12 populace of our coastline is radically and determinedly
13 opposed to the sacrifice of our local economy for a
14 corporate empire's profits.

15 Thank you for allowing me the American privilege
16 of allowing me to speak my mind.

17 ACTING CHAIRMAN TUCKER: Thank you. Any
18 questions? Wayne Scott?

19 (Applause.)

20 MR. SCOTT: Good afternoon. Mr. Chairman, my
21 name is Wayne Scott. I'm president of the Salmon Trollers
22 Marketing Association of Fort Bragg. I represent 350
23 commercial fishermen, each of whom owns his own business.

24 Fort Bragg this year, pretty close to --
25 Mendocino County, I should say, pretty close to 400,000

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1 salmon have been landed in Mendocino County.

2 Somewhere near 8 million pounds of sea urchins
3 have been landed in Fort Bragg. Hundreds of thousands of
4 pounds of shrimp have been landed in Fort Bragg.

5 This is not the worst year for us. We have had
6 a very fortunate year for our entire economy. My testimony
7 is -- with the needs of concerns of salmon and crab
8 fishery of Mendocino County, there are two aspects of the
9 permit process which I'd like to discuss: Sharing the
10 ocean and governmental agencies and the public trust.

11 There are seismic vessels and some fisheries
12 that can share the ocean. Seismic vessels, salmon trollers,
13 and crab gear cannot. There are too many possibilities
14 for conflicts between one or two miles of cable trailing
15 behind the seismic vessels, and the salmon trollers, and
16 the crab pots.

17 The resolution of this impasse is to use the
18 ocean at different times of the year. I suggest the
19 five months -- September 15th to November 31st and
20 February 15th to April 31st. This will result in almost
21 no conflict between the seismic vessels and salmon and
22 crab fishermen.

23 Currently, the seismic vessel operated by the
24 Geophysical Survey, Incorporated has created no physical
25 conflict between their actions and the fishing. The current

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1 permit allows seismic testing outside of six miles
2 during daylight hours and inside six miles at night.
3 This precludes any possibility of seismic effects on
4 sea urchin divers which operate in the shallows.

5 Each of us believe or has believed that since a
6 government agency has a responsibility to the public, that
7 somehow the public is somehow protected. How naive.
8 Too often it has been easier for an agency to grant a
9 permit rather than to generate the information and data
10 needed to protect the public interest as required by the
11 public trust doctrine.

12 Nowhere is this more obvious than the permitting
13 of the seismic survey vessels and the oil drilling ships
14 in State and Federal waters. Information developed so far
15 has not been incorporated into the permit process, or it
16 does not exist. No data relative to seismic blast on
17 the larvae stage of fish and crab (sic).

18 Now I think you've heard that there is some data
19 being generated. I probably should say no meaningful
20 data, because data that can be argued back and forth as to
21 whether it's valid or not certainly is not going to be very
22 useful in developing a permit process based upon it.

23 Obviously, our beliefs as to the damage has not
24 been completely proven. Certainly, the seismic operators
25 believe that the damage, if it does exist at all, is very

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1 minimal.

2 So, the data that you so far have generated is not
3 going to really help in the permit process as it goes on.
4 No data on the effects of fish dispersion due to seismic
5 blasting and fishery losses due to this dispersion (sic).

6 No mitigation requirements for the fishery
7 losses to sport or commercial fisheries. No effort to
8 compare the economic benefits of fisheries which last
9 forever and the short-term value of the oil recovered.

10 I've limited my remarks to seismic exploration.
11 Oil drilling and its attendant needs are geometrically --
12 compound our concerns (sic).

13 One, we're asking that the seismic survey be
14 limited to the five months suggested; that further, that
15 no permits be issued until the environmental, biologic,
16 and economic concerns are addressed. This would require
17 an impact statement.

18 It is unfair to the permittee and to those to
19 whom there may be conflict for these permits to be issued
20 in the dark. Let's have the permits issued in the light of
21 facts so that legitimate concerns and needs of all ocean
22 users can be met.

23 Now, that's in a sense the end of my comments
24 relating to the salmon trollers. Each of us naturally
25 has his own personal feeling. I would like to add a couple

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1 of things here.

2 We heard about sound and noise and such as that.
3 In 1975, there was a sea grant study conducted in Fort
4 Bragg where they did compare the effects of the actual
5 noise generated by the boats and compared it to their
6 fishery, how well they could catch -- in this case, it was
7 albacore salmon. And the simple test was taken this way.

8 They took known successful vessels and ran it by
9 a microphone, underwater microphone, and made a graph of
10 the sounds that vessel generated. Then they ran other
11 vessels by that had not had successful fishing in the same
12 area. And they found there was distinctive differences.

13 Sometimes these were caused by a bent propeller
14 or some other reason. It might be a bearing in the back
15 that was pounding. But whatever it was, there was
16 significant difference. And sound does disperse fish.
17 And on fishing vessels we make every effort to make our
18 vessel as quiet as possible.

19 I noted that gentleman said there are only four
20 or five survey vessels now working. In 1982, in
21 Mendocino County, there were 19 vessels that worked
22 there from a period varying from three days to five weeks.

23 Everybody should have an opportunity as an
24 American -- as this young lady said -- to express
25 themselves, so I will.

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1 Today, we have been made aware of AIDS, a disease
2 spread by a dirty needle of one kind or another, which
3 results in the slow, ever so slow killing of its host.
4 Now, I ask you to visualize a dirty needle thousands of
5 feet long infecting Mendocino County. Visualize a slow
6 death of a pristine coast with lesions on its belly and
7 black sores on its face.

8 Visualize a slow death of the fisheries, the loss
9 of hundreds of jobs and tons of fish feeding thousands.
10 Visualize a slow death of a grandfather's joy finding a
11 fighting salmon for his grandson.

12 The Surgeon General has advised as a nation we
13 must practice safe oil exploration. We must protect our
14 future and the Mendocino Coast with a condom of fact.
15 Thank you.

16 (Applause.)

17 ACTING CHAIRMAN TUCKER: Any questions? Sir,
18 excuse me. We have a question here from one of the
19 Commissioners.

20 COMMISSIONER STANCELL: Just one quick question,
21 Mr. Scott.

22 You set aside the prospect of oil drilling. Did
23 I hear you correctly in saying that the seismic activity
24 and the fishing industry could coexist if you had a
25 schedule?

1 MR. SCOTT: I said a schedule so that it would
2 minimize the conflict. Nowhere in that statement
3 conflict between you and I walking across the hall and
4 occasionally bumping into each other, did I suggest that
5 by stamping our feet we weren't doing some harm to the
6 concrete floor. So, I'm suggesting here that we can
7 work together.

8 And that if -- and that's all I'm saying, that
9 the physical conflicts are possible to avoid, and that
10 we should make -- in the seismic -- I mean the permits
11 should try to develop that aspect.

12 And also I want to mention this. I'm only
13 speaking for salmon trollers and for crab fishermen, and
14 those are the dates that we could deal with. The sea urchin
15 guys work year-round, but they're very close to shore. So,
16 maybe seismic studies on the sound will -- you'll know what
17 the range should be.

18 Certainly, the stuff done by Palagos could not be
19 considered a hundred percent related, because that sound
20 was not a very loud sound compared to other seismic
21 studies.

22 And, in fact, in 1982, in Santa Barbara, I brought
23 down 22 exhibits relating to seismic noise generated by
24 these vessels. And they were of such severity that a
25 mile and a half, people complained that they lost packing

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1 out of the sides of boats and stuff like that. So, it
2 was very, very loud. It was nothing to what's happening
3 right now. I don't know what kind of effects they were
4 using. But it was not the same.

5 COMMISSIONER TUCKER: Okay. Thank you. Helen
6 Barrington? And we have ten minutes left to go for the
7 persons that are speaking against continuation of the
8 renewal of the permits.

9 MS. BARRINGTON: My name is Helen Barrington,
10 and I represent the Ocean Protection Coalition of
11 Mendocino County. And as a representative of a citizen's
12 group, I wanted to relate to you the confusion that I
13 have and give you an idea of what the public perception
14 is of the State Lands Commission.

15 I myself have been trying to understand the
16 policy of the State Lands Commission relative to offshore
17 oil. And when I look at some of the recent positions
18 the Commission has taken, I'm wondering if you can give me
19 an idea of where the consistency lies.

20 I want to commend you on entering into the
21 lawsuit with Attorney General Van de Kamp opposing the
22 five-year lease plan offshore California. That's a very
23 positive move.

24 But then I look at the position that you've taken
25 on Assemblyman Hauser's Bill 284, which would put

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1 Mendocino and Humboldt Counties into --

2 ACTING CHAIRMAN TUCKER: Let me just clarify --

3 MS. BARRINGTON: Sure.

4 ACTING CHAIRMAN TUCKER: The Commission's never
5 taken a position on that bill. So --

6 MS. BARRINGTON: Which? 284?

7 ACTING CHAIRMAN TUCKER: Yes.

8 MS. BARRINGTON: Okay. Right. That was my
9 point. That was my point, that the Commission hasn't
10 taken a position. That is what I was getting to. And
11 then further, looking at the fact that seismic vessels are
12 permitted to do the work they need to do in our State
13 waters. And the information from those surveys will be
14 used for the Federal Lease Sale 91, which is upcoming for
15 the Mendocino and Humboldt Coasts.

16 So, it makes us wonder, frankly, whose interests
17 the State Lands Commission is serving. And I'm not trying
18 to be accusatory. I'm trying to understand more than
19 anything else.

20 It seems to me the first step that needs to be
21 taken is for a consistent position relative to offshore
22 oil must be developed for both Federal and State waters,
23 and continued recognition that seismic testing is the
24 precursor to offshore exploration and development.

25 I do have a statement from the Ocean Protection

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1 Coalition, which I would like to distribute to all of
2 you.

3 And I'd like to briefly read it into the record.
4 And you'll be getting it as I'm reading.

5 "The Ocean Protection Coalition
6 opposes all seismic testing, both in
7 State and Federal waters. Seismic
8 testing is always a precursor to offshore
9 oil and gas exploration and development.
10 Offshore activities disturb the marine
11 environment and jeopardize the livelihoods
12 of coastal residents.

13 "Before the State Lands Commission
14 issues any more permits for seismic
15 testing, several conditions must be met.
16 A complete environmental impact report
17 must be done on the effects of seismic
18 testing on marine life. Public hearings
19 must be held in the county where seismic
20 tests are proposed, and three in the
21 first section (sic) -- the hearings must
22 take place in a major coastal location
23 within the county; for example, Fort Bragg
24 in Mendocino County.

25 "Further, the environmental impact

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1 report must demonstrate the following:

2 That seismic testing does not disrupt
3 or damage marine life; that seismic
4 testing does not disrupt or impair
5 commercial harvesting businesses,
6 including the sea urchin industry; and
7 finally, that seismic testing does not
8 disrupt or adversely impact the
9 economies of coastal communities."

10 And as a final point, finally, for seismic testing
11 to proceed in any capacity, it must not be opposed by
12 any of the concerned parties, industries that are impacted,
13 or by the general public.

14 The program should be suspended at least until the
15 lawsuit filed against the State Lands Commission has been
16 settled.

17 I just wanted to relay that there has been, as
18 you've heard in this room today, a great deal of outrage
19 relative to our nonparticipation in the process of
20 permitting. And I'd just like to finish by suggesting
21 that you may reconsider your position on Assemblyman
22 Hauser's bill and support it.

23 Thank you.

24 ACTING CHAIRMAN TUCKER: Thank you. Eleanor
25 Lewallen?

1 MS. LEWALLEN: Well, good afternoon. I'm here
2 representing the Mendocino Sea Vegetable Company, a
3 business of which I'm a co-owner, and the Mendocino
4 North Coast Coast Greens. I'm also including with my
5 testimony the two resolutions from the National Women's
6 Political Caucus, which supports the California ocean
7 sanctuary and opposes offshore drilling, and the Sierra
8 Club resolution, which supports the California ocean
9 sanctuary.

10 And so I'd like to hand you my testimony. I
11 think the thing we need to be most aware of is that the
12 seismic survey testing we are talking about and opposing
13 is that which is the precursor to offshore oil development.
14 That's what we are opposing. I don't know if legally the
15 State Lands Commission can make a difference -- can make
16 a judgment as to what its -- what the seismic survey
17 testings are used for.

18 But we are making a clear distinction. We're
19 opposing offshore drilling. I think it's really important
20 to understand the mysteries and the wonder of how the
21 Earth is formed, what it is like under the oceans for
22 both practical purposes of sewer outfalls and piers and
23 things like that, as well as understanding life. But
24 when it's used -- but I think that these tests shouldn't
25 even happen at the expense of the damaging of sea life.

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1 But when it is to be a precursor for offshore
2 oil drilling, it becomes something else. The geophysical
3 survey people say, "Well, that's not my responsibility.
4 I'm just generating the data."

5 And I think we have to take responsibility for
6 what we're doing. And so, when they say they're not
7 responsible, they're one link in the chain. They're one
8 of the first steps. And while they were off our coast,
9 as I understand it, the fishermen were bullied. The
10 fishermen -- the oil company people said, "You have to
11 cooperate with us. You have to have some kind of consensus
12 with us."

13 Well, the fishing industry doesn't want offshore
14 drilling, and does not want their fish dispersed, doesn't
15 want the livelihood hampered. And the public, whenever
16 any fish are caught and brought in through the harbor,
17 there's a multiplier of over \$3.00 effect on the public.

18 So, the public also wants to have some kind of
19 say. It doesn't just affect the fishermen. When I
20 learned about the seismic survey testing, I learned that
21 the sea urchin companies weren't informed about the coming
22 of the seismic survey tests and when -- and when they were
23 going to be there.

24 The people who take people out in kayaks weren't
25 informed. The people for the sports fishing weren't

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1 informed. So, I think we have a situation where they
2 weren't informed, and the individual fishermen were
3 approached. And they said, "You have to -- you have to
4 play ball with us or we're going to just do what we want."
5 And that's coercion.

6 So when the seismic survey companies talk about
7 communication, I don't think they've heard what the
8 population is saying on the North Coast. The population
9 and the fishing industry is saying, "We don't want oil
10 development."

11 That means we don't want seismic survey testing.
12 I think that's clear. Hasn't that been clear today?
13 It's been clear. We don't want it. So, what do you do
14 when you have a population that doesn't want their
15 environment degraded? We know that the environment is
16 fragile. We know that it's rich. And we know that offshore
17 oil development will destroy it.

18 We know that the Santa Barbara -- the fishing
19 industry is being changed. One member -- one fishermen
20 down there, Allen Hurr (phonetic) was quoted as saying that
21 when his son said, "Will I be able to become a fishermen,
22 Daddy?" He said, "I'm afraid not, son, because in the next
23 five to ten years, our fishing industry in Santa Barbara
24 is going to change so it's not even recognizable anymore."

25 And yet you hear often from the oil industry

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1 "They're doing fine in Santa Barbara with fishing and
2 tourism."

3 So what do the fishermen say? "It's being
4 transported. They're being crowded out."

5 So, on the North Coast, we say we don't want it.
6 We want to protect what we have. We've learned the
7 lessons of Santa Barbara, of Louisiana. So, we're asking
8 you of the State Lands Commission to please help
9 represent us. Please help protect this national treasure
10 that is part of California's heritage. It's part of the
11 national heritage that visitors come to forever -- or
12 rather they come to continually. And you see a number of
13 us here representing public organizations. We're
14 actually representing millions of people. We're
15 representing the people from our communities who weren't
16 able to come. We're representing the visitors who come
17 regularly. And we're representing the generations of
18 children that aren't yet born that want to have a healthy
19 coast.

20 Another thing I want to add is we've had
21 tremendous forest fires in the California. And I notice
22 it's still real smoky here. We need the fresh ocean
23 breezes. We really need that. And if we have oil rigs
24 out there, we're not going to get fresh air dispersal.
25 We're going to just get pollution continually. And I know

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1 the time is short, and I could -- I could go on, but I'm
2 going to stop here and just tell you -- oh, the last point
3 is: This a major -- this is the major environmental issue
4 of the 1988 elections. Clearly, whether we're going to
5 have a California ocean sanctuary or have our coast
6 degraded is the number one issue. And people are concerned.

7 We're asking you of the State Lands Commission
8 to please help with your regulations to protect our coast.
9 I keep thinking I'm done. And I could go on. I've lost
10 sleep over this. I've been sick over this.

11 We're really distressed on the coast. We're just terribly
12 distressed. And now is the turning point. If we have
13 such disregard from the industry of our concerns now
14 before there's even rigs, before there's even drilling,
15 I'm afraid we're going to be totally disregarded.

16 We're going to have our culture destroyed. We're
17 going to have our environment destroyed. I'd like to leave
18 with you this reprint from the Wall Street Journal of
19 what happened in Louisiana. And I urge you all to read it.
20 It's very long. It talks about what happened when big
21 oil came in, buy-out of politicians, acceleration of
22 cancer rates. It's just the biggest issue we face.

23 One more thing. I'll just end with this. East
24 West Journal, which is the Journal of Natural Health, has
25 just awarded our sea vegetables as the best line of sea

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1 vegetables in the nation. I'm down at the ocean probably
2 eight days of the year (sic) for half of the year harvesting
3 sea vegetables. I'm very bonded to the ocean. I'm
4 bonded to the sea life. I'm here as the protector of the
5 sea life.

6 And we're not going to be able to continue to
7 feed people high quality protein-- I'm referring to both
8 the fish and the sea vegetables -- when our oils -- our
9 waters are despoiled by oil. And you can't -- you can't
10 separate seismic survey for oil development and oil
11 development. They're -- they're related. So, please,
12 maybe what you can do is take not only location-by-location
13 consideration and whether it's for the purpose of whether
14 it's for a dump, or whether it's for evaluating a nuclear
15 power plant, but look at what's going to come out of
16 the seismic survey testing that the oil companies, and
17 please tell them, no. And the way you can is by using
18 the tools we've given you. Extensive EIRs. Having public
19 input. Make sure you have public hearings in our area,
20 because we public want to stand by the fishermen. We don't
21 want them to be singled out as individuals where they don't
22 feel strong.

23 The public is one hundred percent behind the
24 fishermen. Thank you very much.

25 ACTING CHAIRMAN TUCKER: Thank you.

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1 (Applause.)

2 ACTING CHAIRMAN TUCKER: Okay. We've now -- the
3 Commission has heard from both sides for an hour. We do
4 have the remainder of the calendar that we have to get
5 through. And in light of the fact that we are going to
6 be meeting on October the 7th to take the staff
7 recommendation --

8 VOICE FROM THE AUDIENCE: Excuse me. I want --

9 ACTING CHAIRMAN TUCKER: Would you let me finish,
10 please?

11 (Thereupon the reporter requested
12 the speaker to identify himself.)

13 MR. MELLEN: I want to formally object.

14 ACTING CHAIRMAN TUCKER: Would you --

15 EXECUTIVE OFFICER DEDRICK: What's your name,
16 please?

17 MR. MELLEN: I want to formally object. Chase
18 Mellen.

19 ACTING CHAIRMAN TUCKER: You want to sit down
20 and wait for a minute, please?

21 I was about to say if there's anyone else who
22 needs to be heard today because they cannot be heard
23 on the 7th, we will be happy to hear them at this time.
24 However, keep in mind that it's the Commission's recommenda-
25 tion -- or I believe it will be the Commission's

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1 recommendation today that until the 7th, the permits be
2 denied and, therefore, you know, if there's any comment
3 given the Commission's position at this time, or what will
4 be the Commission's position, then we're happy to hear it.

5 Mr. Mellen?

6 MR. MELLEN: The reason I feel that some of the
7 people who are here with me should be heard is because
8 they are working fishermen, eight of them, who took the
9 time to come today. They are probably not going to be
10 able to afford to come again.

11 ACTING CHAIRMAN TUCKER: Well, that's what I was
12 asking --

13 MR. MELLEN: I understand.

14 ACTING CHAIRMAN TUCKER: -- before you interrupted
15 me. And I was about to ask that, Mr. Mellen.

16 MR. MELLEN: Okay.

17 ACTING CHAIRMAN TUCKER: Well, do you want to
18 bring them up?

19 MR. MELLEN: Sure. Let me just get started with
20 that. As you guess you now know, my name is Chase Mellen,
21 and I'm an attorney in Santa Barbara. I'm representing a
22 number of commercial fishermen here today. Those
23 fishermen who came are Steve Reburk, Travis Evans, Ed
24 Powers, Barbara Klein, Phil Schenck, Steve Dunn, and
25 Dick Williams.

1 They are from almost all the fisheries that are
2 representative of the Santa Barbara portion of this
3 problem. Before -- we tried to condense their testimony
4 so it can be rapidly presented to you and the heart of
5 what they have to say given to you.

6 But I would like to say a few things before I
7 start. First of all, I did submit a letter and a package
8 of information to staff beforehand, which I would want
9 made part of the record.

10 ACTING CHAIRMAN TUCKER: Fine.

11 MR. MELLEN: And that letter, I believe that's
12 already probably been submitted.

13 That letter references an earlier comment, which
14 contained a number of exhibits, that I would also like
15 incorporated by reference. There are a number of scoping
16 recommendations in that letter. I will not review those
17 now with you. That can be -- I can certainly do that on
18 October 7th.

19 But I do want to just make a couple -- give you
20 a couple of thoughts that have come to me while trying
21 to go through the -- the staff recommendation. And some
22 of those will be addressed by the fishermen.

23 We are generally I think in accord with respect
24 to the two joule -- two kilojoules measure. I think we
25 would be very distressed to find that slipping away into

1 this and that for this and that purpose, and pretty soon
2 we're sort of back into the same mess we were before and
3 we don't know what's really going on at all.

4 I would only ask that if there is any determina-
5 tion -- staff determination as to any of the requests by
6 the seismic operators that we heard in testimony earlier,
7 that we would be afforded a little more notice with
8 respect to those kinds of matters than we did get on the
9 staff report today so we could get into them before the
10 October 7th hearing.

11 Also, with respect to the EIR process, the CEQA
12 process, you will hear testimony from Steve Dunn today,
13 personal testimony as to problems that he had with his
14 gear -- He's a trap and gill net fisherman -- with respect
15 to his crab gear from a thousand-foot cable, a low energy
16 cable run that he and Allen Hurr -- another fisherman's
17 name you've heard today -- had, and for which they
18 received damages from the seismic operator.

19 We would like to make certain that the issuer
20 of mitigation and co-use provisions -- even though the EIR
21 will only refer to above two kilojoules, it would also
22 involve those kinds of activities of low energy, and so
23 that that would be incorporated.

24 I think, also, this is -- I would like to just
25 point out to you something that may -- I think the

1 Commission's not aware of or has not historically been
2 aware of.

3 And that is that although -- particularly in the
4 Santa Barbara area, there has not been a wide showing
5 historically of the damage to the fishing industry because
6 of seismic testing. That, in fact, certain fishing
7 industries -- certain fisheries in Santa Barbara have
8 virtually been eliminated by seismic testing, specifically
9 the hook and line fishery between the Points Conception
10 and Arguello. These people are just simply out of
11 business.

12 There were 12 of them three or four years ago;
13 there are three now. You'll hear from one of those. And
14 two of the three who still fish are here today. I mean,
15 they are in desperate trouble because of it. They're in
16 desperate trouble right this week because of it. They're
17 using gear; they're losing fishing. They're out of
18 business.

19 This is primarily a Federal problem, of course,
20 but it -- you can't say we don't see the conflict. You
21 have not had reports of it, because historically the
22 fishing community in Santa Barbara and probably elsewhere
23 on the coast hasn't known how to be responsive to these
24 problems. The tests come; they leave. They lose their
25 fishery. There's no report of damage, but, in fact, they've

1 been damaged. They've been displaced.

2 The -- the -- I also think that with respect to
3 some of the claims made by the -- by the geophysical
4 operators with respect to their economic problems, to which
5 I'm sympathetic personally, I think those economic problems
6 are not because of regulation. Those economic problems
7 are because of the price of oil. And I think we should be
8 really clear on that fact.

9 Regulation is a cost allocation device.

10 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, excuse
11 me for interrupting, the Court Reporter has asked rather
12 seriously for a five-minute break. I wondered if this might
13 not be an appropriate time. I'm sorry, Mr. Mellen, I
14 didn't realize you were planning to go into testimony or
15 I would have stopped you earlier.

16 MR. MELLEN: I'm almost finished. I don't mind.

17 ACTING CHAIRMAN TUCKER: That's fine. We'll take
18 a five-minute break.

19 MR. MELLEN: I don't mind taking a break myself.

20 (Thereupon, there was a brief recess
21 taken.)

22 ACTING CHAIRMAN STANCELL: Are all the witnesses
23 here who wish to speak at this point on this issue? Well,
24 we'll begin.

25 MR. REBRUK: Thank you, Mr. Chairman, and ladies

1 and gentlemen, I'll be extremely brief today.

2 My name is Steven Rebruk. I am president of
3 the Fisheries Protection Institute in Summerland near
4 Santa Barbara. I would like to reserve my comments on the
5 staff report, since I haven't had an opportunity to share
6 this with my Board of Directors, and we will comment in
7 writing in October 7th at your next meeting.

8 I would, though, like to personally support the
9 staff's recommendation of an EIR. I think that's very
10 important. And I think the previous testimonies have
11 pointed that out very well.

12 In late 1986, I co-authored a report, which I
13 submitted to the State Lands Commission and also the
14 Minerals Management Service. This report was taken from
15 numerous interviews of fishermen in the Santa Barbara-
16 San Luis Obispo County area on their various problems with
17 seismic surveys. And I would like again for the record
18 today submit that along with two letters, one from our
19 Honorable Congressman Leon Panetta, and also one from the
20 Morro Bay Commercial Fishermen's Associations.

21 These letters and documents are from earlier this
22 year, but I think they're still relevant to this issue
23 today.

24 The report basically covers some of the problems
25 of area preclusion where fishermen are not able to work

1 traditional fishing areas, the problems of seismic vessels
2 straying outside of their defined areas of survey, the
3 effects on markets, which can lead to overfishing of some
4 areas, an example being fishermen that have to work out of
5 Morro Bay and travel long distances during the summertime --
6 when they're not able to work those summer grounds, tend
7 to work their winter grounds. The grounds then have the
8 potential of being overworked later on the year.

9 So, there's a very strong market effect on
10 coastal fishermen. Also lost gear. There's problems
11 with streamers and such entangling in set gear and dragging
12 it off. And then the environmental effects on eggs and
13 larvae which we've talked about earlier.

14 Now, one of the things that we found in our
15 survey was that there is effects on diving fishermen. We've
16 had one fisherman that has settled more than one claim.
17 I helped him work on one last year. And he indicated that
18 he had been impacted by vessels where it had actually
19 physically injured him to be in the water around these
20 seismic tests.

21 Now, I'm pointing this out for a very important
22 reason. In the region near Point Conception, just for
23 your identification purposes, there's probably a half a
24 dozen fishermen, diving fishermen that work that area.
25 They tend to specialize. And it's divers that have had a

1 lot of experience in that particular area.

2 In the Point Arena, Mendocino area, now you've
3 got probably close to a hundred and even maybe more
4 diving fishermen associated with the sea urchin fishery.

5 So, as these seismic survey activities expand
6 into the north, you going to have much more potential
7 of injuring divers. And I think this takes it out of the
8 previous problems of gear loss and area preclusion, and
9 puts it in an area where we could cause some human damage
10 here.

11 One other area that I've worked on the last year
12 has been settling claims with fishermen, sitting down
13 looking at their claims, making sure they were good, solid
14 claims. There seems to be a problem with the prompt
15 payment on these claims when a guy has lost some gear.
16 The permit process requires that payment be made promptly.
17 But in some cases, it's taken months and months to settle
18 these cases, sometimes six months or more.

19 And I think there needs to be a streamlining of
20 this portion of the permitting process that does
21 compensate fishermen for legitimate loss claim, damaged
22 gear, or lost fishing effort.

23 Thank you very much for the opportunity to speak
24 today. I'll turn it over. I think there's some fishermen
25 here that have been directly affected that you need to hear

1 from. Thank you for the time.

2 ACTING CHAIRMAN STANCELL: Next witness, please.

3 MR. EVANS: Mr. Chairman and members of the
4 staff and Commission, thank you for allowing me to speak
5 to you.

6 I am Travis Evans. I'm a commercial fisherman
7 on the San Luis Obispo Coast. I have been a fisherman
8 for 46 years, since I was 19 years old. I wish that I
9 were a good public speaker, but you're looking at a fish
10 out of water.

11 I feel as much out of place here as you would feel
12 on the high seas on some of our worst days. But I'm here
13 because I'm concerned, not for one particular phase of our
14 industry, but I am concerned about the health of our
15 ocean, which ought to concern all of us.

16 And I strongly recommend that you follow the
17 staff's report. their recommendations on the EIR. I wished
18 I had had time to review it further. There are many
19 aspects of the oil industry that is hurting our oceans.
20 And I would like to have all afternoon just to sit down and
21 tell you about them. I wish that I could show you in my
22 storage yard the tons of material that I've hauled in from
23 the ocean with my fishing gear that have been left by the
24 oil industry in our area, the Santa Maria Basin area, in
25 the last few years.

1 Part of it is even from the seismic people for --
2 they use certain hoses and wires for their hydrophones that
3 I'm familiar with. For although I was a fisherman, I also
4 am licensed by the Coast Guard as a Master Mariner and
5 sailed oil drilling vessels, supply vessels, and at one
6 time operated Pacific Salver, which was doing seismic
7 work off the California Coast.

8 So, I speak from both sides of the fence. I have
9 seen what they say sometimes in written policy and what
10 they do when they're on the grounds. And I would urge you,
11 help us protect the health of our ocean for all of our
12 benefit. Thank you.

13 (Applause.)

14 ACTING CHAIRMAN STANCELL: Our next witness?

15 MR. MELLEW: Phil, why don't you come up?

16 MR. SCHEMCK: I want to thank you for letting me
17 be here this afternoon. My name is Phil Schenck, I'm the
18 owner/operator of a hook and line rock cod boat, called
19 the LSH, and we've been fishing Point Conception-Point
20 Arguello area for more years than I care to think about.

21 And what I just gave Claire Dedrick there -- we
22 were requested by an oil company from a recent seismic
23 survey to keep track of our catch record. And so this is
24 more or less a record of the effect of fishing in the
25 vicinity of a seismic survey has on the income of one

1 particular boat. Maybe it's a coincidence. Maybe I'm a
2 terrible fisherman during this period of this survey,
3 I don't know. I don't think that's it though.

4 And I, you know, I listened to what Mr. Bowles
5 said. I want to discuss this seismic survey again here.
6 And he's talking about one gun there shooting between
7 180 and 200 DBs. You know, in reality, what we're dealing
8 with here is mostly -- I think there's 64 guns and 250 DBs.
9 So there's a substantial increase in power there, plus
10 it's a 24-hour thing, around the clock. An example of
11 this -- what I just gave Miss Dedrick here -- this survey
12 was supposed to be a 30-day survey. But due to the,
13 call it what you will, it ended up running approximately
14 90 days. So, instead of just having 30 days of abuse here,
15 we suffered 90 days of abuse.

16 And this isn't particularly uncommon at all.
17 As a matter of fact, it's more the norm, you know, to try
18 to schedule a livelihood, you know, around these programs,
19 it's really difficult, you know, as far as, you know,
20 joint usage of the area that goes on at the same time
21 The particular fishery I'm involved in, it's a year-round
22 fishery. And the method we fish, it's just totally isn't
23 compatible at all with these. So, we're left with a
24 reduced income during the period of these surveys, lost
25 fishing gear, et cetera, et cetera. And at the conclusion

1 of these surveys, new technology, 3-D survey, it seems to
2 be when we return to these areas to look for fish, we
3 have great difficulty finding fish for long periods of
4 time. These fish, they -- what I feel is each fish has
5 its individual pain threshold and he swims away after so
6 much abuse.

7 They just get tired of it and leave. And it's
8 the type of fish, the rock fish, they live on the bottom.
9 And they like rock areas, outcrops, stuff like that. And
10 these fish, they live here. I mean, they don't migrate
11 around, per se, or anything. They live so -- you know, we
12 have these locations and you keep going back to them. And
13 when there's nothing there after one of these surveys,
14 you know, there's specific places they live. So, the
15 conclusion I can draw is that they are driven away by
16 these seismic surveys.

17 And I'd like to comment also on the gentleman's
18 comments from Pallargosos (pronouncing), or whatever the
19 name of his company was there -- the last fishing trip,
20 we were approximately three-quarters of a mile away from
21 the Bathos Seal (phonetic) when he turned on his guns
22 and commenced firing. And we're above the water. It's
23 a wooden fishing vessel I own. And you feel a shock through
24 the deck like an earthquake. And there's a substantial
25 sound. I can't really describe it. But I can't picture

1 a diver being anywhere in the water in the vicinity of
2 that. So, evidently, he's talking about something
3 different than what we see. I don't know.

4 What's happening is we're getting our livelihood
5 shot off from under us right now. This is -- this has
6 been an ongoing problem. It's going to continue. And I'd
7 like to -- you know, either one way or the other, either,
8 you know, we're all mistaken about the effects of the
9 seismic or else we're not. I'd like to have this put to
10 rest. I feel that possibly your EIR would help accomplish
11 that.

12 Thank you very much for your time.

13 ACTING CHAIRMAN STANCELL: Any questions? Do you
14 have any other witnesses?

15 MR. MELLETT: Yes, a couple more. Steve?

16 MR. DUNN: Thank you, Mr. Chairman, Commissioners,
17 staff members. My name is Steve Dunn. I'm from Santa
18 Barbara. I'm a trap and gill net fisherman there.

19 And I, too, would like to concur with the intent
20 of having an EIR done on this situation. I'd like to
21 address a couple of items in the Calendar Item No. 27.
22 The first full paragraph on page 6, and the second full
23 paragraph on page 7.

24 During early late May or early June of 1986, myself
25 and one other fisherman out of Santa Barbara have had a

1 string of crab gear adjacent to the Point Conception area
2 just north of Point Conception itself. And we fish
3 regularly in depths ranging between 10 and 30 fathoms.

4 And one morning I arrived just after sunrise in
5 the area. At first, I thought I was the only boat in
6 the vicinity. Then I discovered what turned out to be the
7 research vessel, Misty Esserman (phonetic), an 85-foot
8 boat that was contracted to Chevron to do what I believe
9 was a side-scan sonar survey, a very intensive survey
10 utilizing what is described as a fish on the end of a long
11 cable.

12 I observed Misty Esserman traveling in an east-west
13 pattern repeatedly throughout half of the day, ranging
14 in depths from 9 to approximately 40 fathoms back and
15 forth, back and forth doing their work. And I got close
16 enough to observe the boat. I asked them what they were
17 doing. They told me what they were doing.

18 And I did not see at that time any reason why I
19 should stop them or whether I could stop the activity.
20 I observed at a point where they were in approximately
21 20 fathoms of depth the cable trailing from the back of
22 the boat at approximately a 45-degree angle, indicating
23 that they were towing a relatively short cable, and
24 seeing that they pulled it into approximately nine fathoms
25 to do their turnaround, I surmised it was a very short

1 cable.

2 The weather was not particularly good, but it
3 was good enough for me to find my gear. I mentioned to
4 them where the gear was and where the other fisherman's
5 gear was. Subsequently, we lost between seven and eleven
6 traps that day. We reached a fair and equitable
7 compensation agreement with the oil company, Chevron. And
8 our claims were satisfied.

9 I do not believe that those paragraphs on page
10 6 and 7 adequately address the concern of short cables.
11 Further --

12 MR. WELLEN: Why don't you specifically point out
13 the paragraphs?

14 EXECUTIVE OFFICER DEDRICK: If I may ask you,
15 Mr. Dunn, you're speaking of page 6 -- down in the bottom
16 corner, it will say 158.5, in the lower right-hand corner?

17 MR. DUNN: Yes. Near the top of page 6, the
18 first full paragraph, not the one that continued from page
19 5. And on page 7, 158.6.

20 EXECUTIVE OFFICER DEDRICK: Thank you. I just
21 wanted to clarify.

22 MR. DUNN: Yeah, thank you. Further, a couple of
23 quick points I'd like to make. The need for consistency
24 between State and Federal policy, which is not something
25 we're addressing here today, but I'd like to make a quick

1 mention of.

2 If, in fact, we, through an EIR, established that
3 there is significant impact on the environment, if we
4 modify or halt seismic exploration in State waters, we need
5 the same consistency in Federal waters.

6 We need -- I call for our State representatives
7 to help us carry the battle into Federal waters. Point Con-
8 ception- Point Arguello area exists as a unique biological
9 system. It could be described as a closed system with its
10 own upwelling. The Pack Baroness freighter that sank the
11 other day sank right on the edge of the upwelling coming
12 up into this closed system.

13 If, in fact, larvae and fish common to this area
14 are impacted significantly in either State or Federal
15 waters, we will have, I believe, a significant loss of
16 production of fish and overall environmental concerns in
17 that area.

18 I think that the staff recommendation and hopefully
19 the Commission's recommendation to hold an EIR is an
20 absolutely fantastic -- and I need to say that in the
21 scoping process, it is absolutely imperative that
22 fishermen and/or fishermen representatives be involved in
23 the scoping process.

24 In 1986, I believe the third or fourth quarter of
25 1986, we were -- I was among a group of fishermen in

1 Santa Barbara who were thrust into a very uncomfortable
2 situation with a proposed seismic survey by Exxon
3 Corporation. And this situation points out the lack of
4 mitigation/compensation formulas that we need to have come
5 out of an EIR I believe.

6 Mr. Ebert Baxter of Exxon, who I believe is here
7 today, met with a group of fishermen. And we proposed
8 a method of determining compensation on an individual
9 basis. It was in the 11th hour of the proposed test,
10 and we found that we could not agree on terms. I think
11 there were problems on both sides of the fence. The main
12 problem that there is not a function, not a formula to
13 determine what sort of program was necessary between the
14 two industries.

15 At any rate, the whole situation blew up to
16 a very uncomfortable point where the group of fishermen I
17 was involved in, including myself, were labeled
18 extortionists. I was not an extortionist. I was simply
19 trying to facilitate some sort of equitable interaction
20 between the two industries.

21 As was mentioned here earlier today by a member
22 of the geophysical industry, I don't really feel as though
23 the joint committee of the liaison office is a social
24 experiment. I believe it's a business experiment between
25 two industries.

1 In summation, I would like to say that we are
2 in the eleventh hour, perhaps closer to midnight than we
3 think. It's my understanding that in 1962, there was a
4 statement made by the petroleum industry, perhaps the
5 geophysical industry, that compensation and mitigation for
6 loss of fish, loss of shellfish, would be made by the
7 companies concerned. This has not happened.

8 I would like to suggest that there has been the
9 possibility of grave damage already incurred upon the
10 environment, and that part of the -- the process of
11 mitigating and compensating to the people of the State, as
12 well as the individual fishermen, be sought retroactively.

13 Thank you.

14 ACTING CHAIRMAN STANCELL: May we have our next
15 witness?

16 MR. POWERS: I'm Ed Powers. I'm a hook and line
17 fishermen off of Point Arguello and Point Conception. I've
18 been fishing this 40-mile area for 20 years now. And I've
19 seen the seismic boats go in and out.

20 They talked about their studies earlier. I could
21 take anybody setting on this panel here or in this room
22 and take them out on my vessel with my fish finder, and
23 we could do a quick study to show fish dispersal. All we
24 have to do is find a school of rock fish that I fish. We
25 could watch the seismic boat drag their cable by it, and

1 we could see the fish disperse, just as clear as we're
2 sitting here today. I don't know where they get their
3 information, which is -- begins to believe that half the
4 stuff they said here today in their reports, they really
5 don't know the facts.

6 I've been studying these fish for 20 years now.
7 I've been looking at this scope, which is eight inches by
8 eight inches. For 20 years it's been in front of my face.
9 And I see everything that goes on on the bottom floor that
10 concerns my fishery. () I just wanted to stress that the
11 problems that we have there -- right now, I am under
12 heavy pressures financially. We have seismic vessels
13 that have been working the Arguello area for quite a
14 number of months. We have one there, it's in a three-month
15 study right now, which is really a shame, because it's
16 destroying my livelihood for the next three months.

17 But I'm one of the fishermen that you might hear
18 from time to time in a report that, well, this guy pulled
19 a gun and did those kind of things. Well, that's what
20 they have me up against the wall. As a matter of fact,
21 when I leave this room, it's not unlikely if I go back to
22 Point Arguello to go fishing, if that research boat
23 endangers the fishing spot that I'm fishing for that day
24 to make a living, he is in -- jeopardizing his whole crew,
25 because I'm willing to go to all lengths to stop that

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1 vessel.

2 Last year, they tried to ruin my Christmas. They
3 were there the week before Christmas. Well, that
4 particular time fish were biting well, and they -- one
5 of their vessels came through the area. Well, I had to
6 physically pull up in front of that vessel with a double-
7 barreled shotgun, tell that skipper that his life is in
8 danger, to please turn the vessel back. I am going to make
9 a living for my family. And I realize that they have to
10 make a living also.

11 So, I suggested that he calls his company and
12 resolve this situation. Well, the crew decided to their
13 best interest that they move the boat and went on home for
14 Christmas. And they called me up and thanked me very
15 politely for sending them home for Christmas.

16 But that's some of the --

17 (Applause.)

18 MR. POWERS: -- some of the things that I'm
19 facing today, tomorrow when I leave this room. So, if
20 you see it in the headlines or something, seismic vessel
21 got stopped, well, it's three fishermen that are under
22 pressure. There was 14 of us. They couldn't handle the
23 financial part that they were causing us. Three of us
24 stuck it out, and three of us are fighting to the end.
25 If it means going to jail, whatever it takes, we're going

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1 to get rid of the seismic vessel that's going to be out
2 there for the next three months. And I just wanted you to
3 be aware of that that's the problem. And I'm the person
4 right here that you're going to read about if there is
5 any disturbances.

6 And that's about all I have to say. And one
7 last thing is, like I stressed, on the fish dispersal --
8 I don't know -- I hear thousands and millions of dollars
9 of studies they've done. Well, any one of you people in
10 this room can come out and see it for yourself for a mere
11 \$40 worth of diesel fuel. That's all I have to say.

12 Thank you.

13 ACTING CHAIRMAN STANCELL: Thank you. Questions?
14 Next witness?

15 MR. WILLIAMS: Thank you for continuing to listen
16 to us. My name is Richard Williams, Director of Save our
17 Shellfish, a commercial fisherman in the sea urchin
18 industry. I'm representing the sea urchin divers and
19 the sea urchin processors on the North Coast.

20 I'd like to put this oil process somewhat in a
21 perspective and let you know, if you're not already aware,
22 there's 9,000 offshore oil platforms already deployed
23 worldwide. So, there's a cumulative impact that's already
24 gone down. So, whatever studies you're coming in to study,
25 which I hope with all my heart that you do participate in

1 these studies, you're studying what's left, and what's
2 left for our future.

3 With the nine thousand platforms, there's been
4 a lot of seismic surveys done worldwide to be able to put
5 nine thousand platforms on the ocean floor.

6 They talk about the diver demonstration, and they
7 brought the gentleman from Humboldt. And I'm sure he saw
8 what he saw and heard what he saw (sic). What they didn't
9 bring is the sea urchin diver that also participated in
10 one of these tests. And he not only was not funded for
11 his travel to come here, he was not even informed that
12 the meeting was here.

13 He heard the same seismic noises two and a half
14 miles away and then again at one and a half miles away.
15 What he did was he went down to the bottom. It was very
16 rough. He went down to the bottom and hung on the bottom
17 of the bottom chain. At the day that he did the test,
18 the other diver from the oil company hung on the chain
19 midwater. Well, as the boat's going up and down, up and
20 down, the chain's going up and down. That guy was holding
21 on for his life.

22 He just didn't really know what he was doing.
23 He said he was a commercial diver. He wasn't. What
24 you're -- that test was done on the least obtrusive
25 mechanism they have. They kept telling us, oh, it's only

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1 one-tenth of what the other tests are. Well, if a diver
2 can hear it two and a half miles away, what's ten times
3 that? What does that do to the industry?

4 Sea urchin divers, they work right along the
5 beach. They work up to two miles offshore. Even though,
6 seismic surveys that are in Federal waters can affect
7 a sea urchin diver.

8 If you're under water at 50 feet for six hours,
9 you're pushing your tables, and you get down some of these
10 channels, some of -- the sounds can be channeled down
11 through the canyons under water. There's canyons under
12 water, just like up on the rocky coast. You just have to
13 envision that the same kind of rocks are down below.

14 It could intensified. The man could be very
15 fatigued. So you could get a lot of effect by what may
16 not have bothered one diver that just hopped in the
17 water and was on the surface and listened versus one diver
18 that's working on the bottom all day.

19 The sea urchins tend to spawn during earthquakes.
20 The processors-- whenever there's earthquakes, the urchin
21 roe comes in soft. Okay. There was an earthquake up in
22 Fort Bragg last week, and the processors -- all the urchins
23 that came in had soft roe. What happens is the seismic
24 surveys is also affecting the sea urchin roe.

25 The sea urchin industry is an international

1 industry. Our market is dependent upon the world market.
2 If we can't compete in the auctions in Japan, we can start
3 losing our markets.

4 If the seismic survey is causing the urchins in
5 our area to spawn, the quality goes down, we start losing
6 on the international market, and it may take weeks or
7 months to be able to regain your place in the market.

8 How do we get compensated for that loss? There
9 is no mechanism. Sea urchin divers are professionals.
10 They have air with them. They can more than likely
11 hopefully withstand some kind of a jolt, like a big blast.

12 The North Coast abalone fishery is sport diving.
13 You hold your breath to get the abalone. It's a \$10 million
14 a year industry is what they figure.

15 You get people that are on the surface. They'll
16 never hear the seismic boat coming in. And they dive
17 down, hold their breath -- I know guys that go 60, 70,
18 80 feet as free divers. They're good. What happens if
19 they get impacted down there? They get a blast, they get
20 disoriented; they can't have any air to hold onto. The
21 sport industry was not appraised (sic) of this seismic
22 survey that's being undertaken.

23 The urchin divers didn't know what was going on,
24 where they were going to be. The processors didn't know
25 when the meetings were going to be held. There is a very

1 dangerous lack of communication. You hear that they --
2 you're told that there's this communication. We in the
3 field tell you there's not that communication. We need
4 the environmental impact report. We need to know what
5 type of effect these surveys have on our fisheries today
6 and tomorrow and the future. We're hoping that California
7 will lead the way. There's been nine thousand platforms
8 put in without any environmental impact reports elsewhere
9 in the world.

10 Those fisheries are going to be impacted. If
11 they start declining, that means our fisheries here in
12 this country will be that much more valuable. Our
13 fisheries will be that much more -- their fishermen will
14 be that much more in demand on a world level. And I hope
15 they are.

16 And I hope California continues to lead the way
17 in -- if we're going to have offshore oil, let's have it
18 in such a way that it doesn't be detrimental to other
19 industries.

20 Thank you.

21 ACTING CHAIRMAN STANCELL: Any other witnesses?

22 MR. MELLEN: Okay. That's the last of the
23 fishermen. I'm just going to make a closing remark if I
24 may.

25 I have a number of technical comments, I think,

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1 that -- on this, but that can all wait. We can provide
2 those in writing.

3 What I'd like to say to you is, first of all,
4 something that none of us has perhaps said clearly enough.
5 And that is thank you very much. We're extremely elated
6 by this staff report. That may not come across, because
7 of the tremendous amount of frustration that's developed
8 over the years. But we are very excited about the fact
9 that it appears that at last these matters are going to
10 be looked at in -- with some thoroughness and in a form
11 which assures some neutrality in the findings.

12 An example of why neutrality is important, the
13 NRS dispersal study of which you've heard so much, there's
14 an administrative version of that which has been
15 severely bowdlerized. You will probably never see those
16 parts of which have been removed. There has been a
17 concerted, conscious effort by the oil and geophysical
18 industry to keep the facts away from you and away from the
19 public. We're extremely happy to know that we now
20 have a Commission and a staff that is going to help us
21 finally get to the truth of these matters.

22 And so, we thank you for that. Secondly, I
23 think it's extremely important -- it's contained in my
24 letter -- but I do just lastly want to stress that this is
25 really, when all is said and done, an environmental issue

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1 above and beyond everything else.

2 And the fishermen are early warning. They're
3 sensors. They are the only people in this room, in this
4 State, on this Earth, who can really tell you what is
5 happening out there. They need to be listened to. They
6 probably haven't been listened to. And I think that they
7 now will be. And again, we're very pleased about that. And
8 I would only ask that as you go through the EIR process
9 if, in fact, that is your decision to do one, that you
10 give some serious consideration to a manner in which -- in
11 some formal way -- a fishery advisory group, a fishermen's
12 advisory group can give you the input, the information they
13 have.

14 We talk about dispersal. There are fishermen who
15 have a sweet spot which they've gone back to for 10 or 15
16 years. After the seismic testing comes through, that
17 sweet spot is gone. Gone forever. Gone for -- now it's
18 been five years in one case of an anecdotal piece of
19 evidence I have.

20 That is information. It's not scientific
21 information, but it's a lead to the kind of scientific
22 testing and objective findings you need to make. And I
23 hope you will take advantage of the fishermen's willingness
24 to work with you on this process. Thank you very much.

25 ACTING CHAIRMAN SPANCELL: Are there any other

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1 witnesses on this issue?

2 MR. GAMBILL: My name is Lionel Gambill. I'm
3 president of Friends of the Coast. We're based in Sonoma
4 County. And I want to thank you for listening to us
5 today. I'd like to start by clarifying a couple of things.
6 It seems to me we're not talking about pure science here;
7 we're talking about oil and we're talking about money.

8 If there were not a Lease Sale 91, I don't think
9 that there would be seismic surveys going on off the
10 Mendocino and Humboldt Coasts. I also want to address one
11 thing I heard earlier today. It's an old chestnut, which
12 is the argument that the oil industry makes jobs.

13 I've heard that before, and I've looked into
14 that. And let me tell you what I found out. In 1980 --
15 and these are Department of Commerce and Bureau of Labor
16 Statistics data. In 1980, the oil industry collected 40
17 percent of all U.S. manufacturing profit. In that same
18 year, 1980, the oil industry employed six-tenths of one
19 percent of the nation's workforce.

20 I don't read that as a sign of an industry that
21 brings jobs into an area. And I could go on. I won't.
22 But I could go on into all the ways the oil industry
23 destroys jobs.

24 As long as there is any serious question whether
25 seismic testing adversely impacts any segment of the

1 fishing industry, it would be a serious error to issue a
2 carte blanche for seismic testing. And I'm pleased to see
3 that the Commission probably is not going to do that.

4 The situation raised a fundamental question that
5 lies at the heart of all the controversies over the use
6 of coastal waters by the oil -- for oil development and
7 mining activities. Namely, does any government agency
8 have the right to order an industry--the fishing industry,
9 in this case, that is operating without harm to people
10 or their environment -- to submit to the ravages of an
11 industry that is both intrusive and destructive, and to do
12 so over the opposition of the people and the communities
13 and the region affected. We believe no one has that right.

14 The fishing industry has been a good neighbor
15 to coastal residents and a boon to tourism, the other major
16 nondestructive industries on our coast. Even current
17 studies by MMS indicate that a negative declaration would
18 not be justified. We ask you not to lock yourselves into
19 a position that may soon prove untenable.

20 We believe you owe it to the people who live on
21 the coast, who work on the coast or in its waters, and who
22 visit the coast for recreation and inspiration to withhold
23 a new master permit until you have held public hearings in
24 the affected areas and until a new -- a full environmental
25 impact report has been issued, commented on, and reviewed.

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1 To do any less would be a breach of faith.

2 Thank you.

3 ACTING CHAIRMAN STANCELL: You have one more
4 witness?

5 MR. DSMIDT: My name os Warren DSMidt. I'm
6 reading for a friend of mine who's fished the coast of
7 Mendocino for a long time.

8 "I'm sorry I can't be here today
9 in person, but a friend has generously
10 offered to read this statement for me.

11 "I have lived on the Mendocino
12 Coast for almost 17 years, diving for
13 abalone and sea urchins, sport fishing
14 for salmon, and owning and operating
15 a commercial salmon troller for several
16 years.

17 "A few weeks ago, I went abalone
18 diving with a long-time diving partner.
19 The ocean looked calm and clear. As we
20 were loading our gear into my friend's
21 boat, which was docked in Albion, a sea
22 urchin diver remarked that there was a
23 strong undertow in the water and he
24 almost had his face mask ripped off.
25 It seemed odd to us, because we've never

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1 experienced undertows in that area.

2 "We motored to just south of Salmon
3 Creek and anchored in our usual spot.
4 As we were putting on our flippers and
5 masks and snorkels, we heard a loud
6 crash. When we turned shoreward, we saw
7 a large wave breaking on the cliff. We
8 looked out to sea, and the ocean still
9 looked calm and still.

10 "That was pretty strange, we thought,
11 but anchored the boat out a little further
12 just in case. The whole time we were in
13 the water diving, things seemed unusual.
14 The schools of black and blue rock fish
15 that are usually plentiful were nowhere
16 to be seen. Although the water seemed
17 calm from above, down below there was
18 lots of movement.

19 "When we returned to the boat, we
20 talked about how odd it was and I
21 thought, maybe there's been an earthquake
22 somewhere. Later that day, I read in the
23 newspaper that seismic testing had begun
24 a few days before. I also discovered that
25 the salmon, which had been around in large

1 numbers all season, had disappeared.
2 Although the oil companies felt they
3 were compromising by just testing inside
4 the three-mile limit at night or going
5 further offshore during the day,
6 unfortunately, no one told the salmon
7 of this plan.

8 "There is no way to know for sure,
9 but it wouldn't surprise me if they all
10 took off after the first test.

11 "Once again, I urge you, as I have
12 many times in the past, please do anything
13 in your power to prevent oil drilling off
14 the coast of Northern California. I, too,
15 am an energy user. But I'm aware of the
16 fact that there are alternatives to fossil
17 fuels, and I would like to see these
18 alternatives seriously researched and
19 developed instead of further degrading of the
20 ocean.

21 "Dobie Dawson, Albion, California."

22 ACTING CHAIRMAN STANCELL: Are there any other
23 witnesses on this matter?

24 MR. WILEY: Mr. Chairman, members of the
25 Committee, I'm a commercial fisherman from Port San Luis.

1 The name is Paul Wiley.

2 And I don't know numbers the way they're throwing
3 them at us out here today. I don't understand that. But
4 I understand that when you set a net down for three or
5 four hours and you get a fairly good catch, and you say,
6 "Well, that paid for the fuel."

7 Then you set it down again, and you make another
8 four-hour tow, and then you meet one of these boats; you look
9 up there, and he's coming towards you. And you have to
10 make a detour, get out of the way from him. And maybe the
11 fish is in 70 fathoms and you have to go out to a hundred
12 to get around him. Well, there's no fish out there, and
13 you don't just get around him, because they control a
14 couple miles just about in every direction where they're
15 at.

16 And you lose your catch that way. And then it
17 bothers you when you make a four-hour tow and you pull
18 something up that comes off of one of these boats. And
19 maybe it takes you two hours and up as much as five hours
20 in the last two or three months to where -- to even get
21 the net on board. And then you have to cut the net to
22 get whatever it is out of the boat.

23 And these are things that are left from where
24 they're working, where the risks are at. And just here a
25 while back, we was hung up for seven hours on an anchor that

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1 the oil people had left in that vicinity.

2 We finally, after staying a certain length of
3 time, we broke the cable and got loose. But these things
4 is all because of pollution that they're throwing into the
5 water that they will not take off of the boats when they
6 get in shore. But it's just things like that. And it's
7 very frustrating to see that these people are destroying
8 the last natural resource that we have.

9 There's nothing left when that ocean goes. Forget
10 it. You ain't got nothing left. It's gone. And there's
11 just things like that. And they never put their name on
12 nothing. The only thing they put their name on was a
13 minisubmarine that we picked up, and they really claimed
14 that. That was worth a hundred thousand dollars. They
15 claimed that right off of the bat. But anything else,
16 we've -- in the last six or eight months -- we've gotten
17 tractor tires that you could barely roll inside of this
18 building right here.

19 I'm talking about huge tractor tires that they have
20 on the side of their big boats or on the side of the
21 platforms to run their cables through to -- bumpers they
22 call them -- fenders. These things you get. And we get
23 as much as -- there for a while, when you work any area
24 where they have been, you are going -- if you make three
25 tows a day, at least tows of those you're going to get

1 things that are not natural down there.

2 You're going to get tires, barrels. We get
3 barrels of -- 50-gallon barrels of oil rags. They sweep
4 up the oil trimmings on the floor where they work. They
5 pile them in a 50-gallon barrel, pile rags on top of them,
6 and kick them off.

7 And then the commercial fisherman comes along
8 and picks them up. I don't know about what damage it's
9 doing, I don't understand that. But I do know that they
10 are polluting this ocean, and it's going to be gone before
11 long.

12 Thank you very much for your time.

13 (Applause.)

14 ACTING CHAIRMAN STANCELL: Do we have any other
15 witness on this, this issue?

16 Yes. I think we're at a point now where we can
17 entertain the recommendation of the staff, unless there's
18 another individual that -- I've been told that there may be
19 an individual that may want to address the Commission?
20 That individual has decided not to? Okay.

21 EXECUTIVE OFFICER DEDRICK: Please come up. You'll
22 have to identify yourself for the record.

23 MR. MORNEAU: My name's Tom Morneau, and I would like
24 to speak for the proposal to allow the permits. It's our
25 understanding, though, and many of our people have left,

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1 that we were adjourning hearing the information for
2 issuance of the permit until the 7th. And I just wanted
3 to confirm that before --

4 EXECUTIVE OFFICER DEDRICK: Yes. As I --
5 Mr. Stancell, Commissioners, you -- we would -- the intent
6 was to leave the record open for both written testimony and
7 oral testimony, including testimony on the 7th. That is
8 correct, is it not, Commissioner?

9 ACTING CHAIRMAN STANCELL: That is correct.
10 And that is the action which I was addressing.

11 EXECUTIVE OFFICER DEDRICK: We have one other
12 action. Mr. Hight, if you will, sir.

13 ACTING CHAIRMAN STANCELL: It's related to this
14 issue?

15 EXECUTIVE OFFICER DEDRICK: Yes.

16 ACTING CHAIRMAN STANCELL: Go ahead.

17 MR. HIGHT: I was just going to propose a motion,
18 but go ahead.

19 COMMISSIONER PELKOFER: That's what I was going to
20 ask you. Since I was not in at the beginning of this
21 matter and the motion is up to me, I'd like the staff to
22 indicate what they feel is the appropriate motion at this
23 point.

24 EXECUTIVE OFFICER DEDRICK: I'd ask Mr. Hight to
25 do that. This is kind of a legal technicality that we feel

1 needs to be dealt with.

2 MR. HIGHT: We would propose at this point that
3 the Commission deny all of the applications contained in
4 the staff report on page 158.10, Exhibit A, Part A, and
5 authorize that those applications would be considered, if
6 the companies so desire, at the next Commission meeting
7 on the 7th, and authorize that this staff report be
8 made public and hold a second hearing on the item on the
9 7th.

10 ACTING CHAIRMAN STANCELL: You heard the motion?

11 COMMISSIONER PELKOFER: I would therefore move,
12 based on the recommendation of our staff, that we deny
13 the applications presented on page 158.10, and that we --
14 as part of that same motion, reconsider the applications,
15 assuming the applicants wished them reconsidered, at the
16 next Commission meeting. And I so move.

17 ACTING CHAIRMAN STANCELL: It's been moved.
18 Second.

19 Is there a question?

20 MS. KERWAN: Excuse me. My name is B. J. Kirwan.
21 I had hoped to speak today and will in two weeks. I
22 represent a number of the oil companies and geophysical
23 companies, who are the real parties in interest in a
24 lawsuit filed by some Santa Barbara fishermen who've been
25 here today.

1 I would strongly oppose and really urge you to
2 delay any action until you've heard all the testimony
3 here today.

4 I was trying very hard to be solicitous of the
5 fact that you've graciously given another hearing time
6 to hear additional testimony. And I really strongly object
7 to taking action until you've heard that testimony.

8 We've a lot to say. And I don't want to take your
9 time now when you don't want to hear it, and you've
10 provided us with an additional time period. But I really
11 would appreciate you're not taking action till you've
12 heard it.

13 MR. PELKOFER: I understand that there's a legal
14 consequence to our not taking action to reject at this
15 point, which we're attempting to avoid, and that is why we
16 are indeed rejecting the applications today. In the same
17 motion, we're granting reconsideration of the applications
18 at the next meeting.

19 It's simply a mechanical, technical need, as
20 I understand it from our legal staff, to operate in that
21 way rather than to take no action today.

22 Mr. Hight, do you want to explain further or --

23 MR. HIGHT: Yes. Just to clarify. Under the
24 Permit Streamlining Act, there are a number of arguments
25 that could be made and this, we believe, clarifies those

1 arguments.

2 MS. KIRWAN: You're talking about things being
3 deemed granted if they aren't acted upon in a certain
4 period?

5 MR. HIGET: Yes.

6 EXECUTIVE OFFICER DEDRICK: Yes.

7 MS. KIRWAN: And you're running across that time
8 period?

9 MR. HIGHT: Yes.

10 EXECUTIVE OFFICER DEDRICK: That's correct, in
11 about five cases. So the purpose of this would be just
12 to get rid of the loose ends so that the Commission can act
13 on a clean slate on the 7th.

14 MS. KIRWAN: My concern is that many of these
15 applications have been in since March of 1986. And by
16 specifically denying these applications, you're beginning
17 a whole 12 -- new 12-month time period, which is more than
18 just wiping the slate clean. It's starting -- giving
19 yourselves another 12 months to consider these applications.

20 ACTING CHAIRMAN STANCELL: Is that correct?

21 MR. HIGHT: That's correct.

22 MS. KIRWAN: So, it's affirmative action. It's
23 not just --

24 MR. HIGHT: That is correct. It is affirmative
25 action.

1 ACTING CHAIRMAN STANCELL: But the intent is to
2 deal with the issue on the 7th of October in terms of
3 reconsideration of the request for a permit.

4 MS. KIRWAN: The problem is what you're doing is
5 more than just --

6 ACTING CHAIRMAN STANCELL: We understand.

7 MS. KIRWAN: All right. And I, for the record,
8 strongly object, because we've heard two -- over two
9 hours of testimony by the proponents of what is currently
10 the staff report and less than an hour -- and about an hour
11 from our side. And I was really trying to be gracious,
12 and I guess I regret it a little bit now, because I think
13 that there's a lot more to be heard.

14 ACTING CHAIRMAN STANCELL: Thank you.

15 MR. PELKOFER: Vote on the motion?

16 ACTING CHAIRMAN STANCELL: That's the motion.

17 MR. PELKOFER: I vote aye on the motion.

18 ACTING CHAIRMAN STANCELL: Aye.

19 That is the order.

20 EXECUTIVE OFFICER DEDRICK: All right. Are you
21 ready for the rest of the calendar, Mr. Chairman?

22 ACTING CHAIRMAN STANCELL: I think so.

23 EXECUTIVE OFFICER DEDRICK: Okay. Beginning with
24 Item 24, this is a request by staff to -- recommendation
25 by staff to rescind the authorization of a salvage permit

1 granted two years ago to the Mini Development
2 Corporation for the salvage operation off Point Arguello
3 in Santa Barbara County.

4 COMMISSIONER PELKOPER: Move the staff's
5 recommendation.

6 ACTING CHAIRMAN STANCELL: Without objection --

7 VOICE FROM AUDIENCE: I can't hear. I'm sorry.

8 ACTING CHAIRMAN STANCELL: Okay. Without
9 objection, so be the order.

10 EXECUTIVE OFFICER DEDRICK: No. 25 is off
11 calendar. No. 26 is approval of a one-year general permit-
12 public agency use for the Department of Parks and
13 Recreation --

14 ASSISTANT EXECUTIVE OFFICER TROUT: Mr. Chairman,
15 can we ask these folks that are going to vacate to do
16 so, please, so we can conduct the rest of the business?

17 ACTING CHAIRMAN STANCELL: Thank you. Those that
18 have no business remaining on this agenda and you're in the
19 process of leaving, we would ask you to leave very quietly.

20 EXECUTIVE OFFICER DEDRICK: Okay. Thank you,
21 Mr. Chairman. Item 26. This is granting a public agency
22 use permit to the Department of Parks and Recreation for
23 the purposes of doing some scientific studying and sampling
24 of artifacts on a sunken vessel off the Sacramento
25 waterfront.

1 ACTING CHAIRMAN STANCELL: Do I have a motion?

2 COMMISSIONER PELKOFER: A motion to approve the
3 staff's recommendation.

4 ACTING CHAIRMAN STANCELL: It's been moved and
5 approved.

6 EXECUTIVE OFFICER DEDRICK: Okay. Thank you.
7 And Item 28, City of Long Beach. This is approval of the
8 final report and closing statement of the 86-87 plan of
9 development and operations for the Long Beach operations.

10 Mr. Chairman, Moose Thompson would like to speak
11 to this issue.

12 MR. THOMPSON: I know we're in a hurry here. I
13 just want to point out the particular year is the year
14 where the crude oil price dropped. This is the period
15 right in here, started midyear. This is dollars per
16 barrel, and this is actually dollars per month. You can
17 see that here our revenue was getting down to the level
18 there. The oil industry was going through the same thing.

19 ACTING CHAIRMAN STANCELL: All right. Do we have
20 a motion?

21 COMMISSIONER PELKOFER: Motion.

22 ACTING CHAIRMAN STANCELL: It's been moved.

23 EXECUTIVE OFFICER DEDRICK: Okay. Item 29 is
24 again relevant to the City of Long Beach. It's the
25 seismic report, subsidence report for now. And Mr.

1 Thompson would like to speak to this issue.

2 MR. THOMPSON: Twice a year we run ground elevation
3 surveys throughout the whole portion of Long Beach.
4 We start over here (indicating on map). There's a solid
5 rock outcrop up here. And we run elevation surveys
6 throughout here (indicating).

7 This is merely a summation from May, 1965 to
8 the current time. May, '65 is significant because that
9 was before any oil was taken out of the Long Beach Unit,
10 this area right in here.

11 If there's subsidence damage in this area, the
12 Commission has to make a finding. This shows you that
13 from that period of time, this entire area is now higher
14 in elevation than it was when the first production started,
15 so there is no subsidence in that area.

16 COMMISSIONER PELKOFER: Are you sure the pumps
17 are working in the right direction?

18 MR. THOMPSON: Absolutely.

19 COMMISSIONER PELKOFER: Okay.

20 ACTING CHAIRMAN STANCELL: Do I hear a motion?

21 COMMISSIONER PELKOFER: Motion.

22 ACTING CHAIRMAN STANCELL: Moved. Next item.

23 EXECUTIVE OFFICER DEDRICK: Item 30 is award of
24 a royalty oil sales contract for a State oil sale in
25 Huntington Beach in Orange County to Golden West Refining.

1 The winning bid was 69.9 cents.

2 COMMISSIONER PELKOFER: Motion to adopt.

3 ACTING CHAIRMAN STANCELL: Moved.

4 Next item.

5 EXECUTIVE OFFICER DEDRICK: 31, City of Richmond.

6 A maintenance dredging permit to the Port of Richmond in
7 Contra Costa County.

COMMISSIONER PELKOFER: Move.

9 ACTING CHAIRMAN STANCELL: Moved.

10 EXECUTIVE OFFICER DEDRICK: Bush Oil Company,
11 Item 32, amendment of State oil and gas leases 410, 429,
12 and 1466 on the Rincon Oil Field in Ventura County.

13 COMMISSIONER PELKOFER: Move approval.

14 ACTING CHAIRMAN STANCELL: Motion carried.

15 EXECUTIVE OFFICER DEDRICK: Item 33, again the
16 Bush Oil Company. It's approval of drilling a well,
17 No. "State 410" 15 off Rincon Island in Ventura County --
18 not off Rincon Island.

19 COMMISSIONER PELKOFER: Move approval.

20 ACTING CHAIRMAN STANCELL: Motion carried.

21 EXECUTIVE OFFICER DEDRICK: Okay. 34, assignment
22 of a State oil and gas lease, 3499, Santa Barbara County.

23 COMMISSIONER PELKOFER: Move approval.

24 ACTING CHAIRMAN STANCELL: Motion carried.

25 EXECUTIVE OFFICER DEDRICK: Okay. Item 35, approval

1 of prospecting permit for minerals other than oil, gas,
2 geothermal resources, sand and gravel in Imperial County
3 to Walter Wheeler.

4 COMMISSIONER PELKOFER: Move Approval.

5 ACTING CHAIRMAN STANCELL: Motion carried.

6 EXECUTIVE OFFICER DEDRICK: And Item 36 is done.
7 Item 37 is off calendar. And Item 38, a legal item.

8 Mr. Hight, would you take the legal item?

9 MR. HIGHT: Mr. Chairman, 38 is the boundary
10 line agreement in the City of Torrance and a leaseback to
11 the city.

12 COMMISSIONER PELKOFER: And the recommendation is
13 for approval?

14 MR. HIGHT: The recommendation is for approval.

15 COMMISSIONER PELKOFER: Move approval.

16 ACTING CHAIRMAN STANCELL: Motion carried.

17 MR. HIGHT: 39, Mr. Chairman, is a very historic
18 event. At last, the Lands Commission and respective
19 parties in Batiquitos Lagoon restoration project have
20 reached an agreement which will expedite or help implement
21 the lagoon enhancement project.

22 And this is authorization to execute the
23 agreement.

24 COMMISSIONER PELKOFER: Move approval.

25 ACTING CHAIRMAN STANCELL: Motion carried.

1 Next item?

2 MR. HIGHT: 40 is the authorization to hold a
3 public hearing for concurrent jurisdiction at Moffett
4 Field.

5 COMMISSIONER PELKOFER: Move approval.

6 ACTING CHAIRMAN STANCELL: Motion carried.

7 Next item.

8 EXECUTIVE OFFICER DEDRICK: 41.

9 MR. HIGHT: 41 is the authorization to approve
10 a compromise title settlement, whereby the State will take
11 \$125,000 in lieu of the State's interest, and you will
12 also be acting as Kapiloff Land Bank trustees in this
13 authorization.

14 PELKOFER: Move approval.

15 ACTING CHAIRMAN STANCELL: Motion carried.

16 EXECUTIVE OFFICER DEDRICK: That's the end of the
17 calendar, sir.

18 ACTING CHAIRMAN STANCELL: That's the end of the
19 calendar? Then --

20 EXECUTIVE OFFICER DEDRICK: Item 43 was acted
21 on earlier.

22 ACTING CHAIRMAN STANCELL: I will entertain a
23 motion that the meeting of the State Lands Commission be
24 adjourned.

25 COMMISSIONER PELKOFER: So move, Mr. Chairman.

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ACTING CHAIRMAN STANCELL: Approved.

EXECUTIVE OFFICER DEDRICK: Thank you,
Commissioners.

(Thereupon the hearing was adjourned
at 3:05 p.m.)

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