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MEETING  
STATE LANDS COMMISSION  
STATE OF CALIFORNIA

ORIGINAL

SACRAMENTO MARINA  
2710 RAMP WAY  
SACRAMENTO, CALIFORNIA

WEDNESDAY, APRIL 28, 1993

11:00 A.M.

Nadine J. Parks  
Shorthand Reporter

**PETERS SHORTHAND REPORTING CORPORATION**

3336 BRADSHAW ROAD, SUITE 240  
SACRAMENTO, CALIFORNIA 95827  
TELEPHONE (916) 362-2345

MEMBERS PRESENT

1  
2  
3 Leo T. McCarthy, Lieutenant Governor, Chairman

4 Gray Davis, State Controller, Commissioner

5 Susanne Burton for Thomas W. Hayes,  
6 Director of Finance, Commissioner

7  
8  
9 Staff:

10 Charles Warren, Executive Officer

11 James Trout, Assistant Executive Officer

12 Robert Hight, Chief Counsel

13 Also Present:

14 Jan Stevens, Deputy Attorney General  
15 Alan Hager, Deputy Attorney General

16 Mark Meier  
17 Mike Valentine  
18 Dwight Sanders  
19 Dan Gorfain  
20  
21  
22  
23  
24  
25

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P R O C E E D I N G S

--oOo--

1  
2  
3 CHAIRMAN MC CARTHY: Good morning, ladies and  
4 gentlemen. At this time, I want to apologize for these  
5 crowded conditions for those of you who are outside;  
6 and at the same time, express my envy that you're in the  
7 sun and we're in here.

8 And there's a lot of testimony, so maybe it'll  
9 get a little warmer in this room than outside. We looked  
10 at every possible place for a larger hearing room in  
11 Sacramento -- I don't know what's happening today. But  
12 we went to the Convention Center. We went to hotels  
13 around town; every State meeting room is taken in some  
14 way. So, I am sorry for the crowded condition here today.

15 At the outset, let me indicate that, without  
16 objection, the minutes of the previous Commission meeting  
17 are approved. On the consent calendar, we would like to  
18 add Consent Calendar Items 40, 41 -- pardon me. I should  
19 have started with 29. 29, 40, 41, and 43. 41's already  
20 on the list. We deleted -- there are witnesses here on  
21 28 and 42.

22 EXECUTIVE OFFICER WARREN: Mr. Chairman, we'll  
23 remove Consent Calendar Item 28 from the Consent  
24 Calendar and put that on the regular calendar.

25 CHAIRMAN MC CARTHY: It's not on the Consent

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1 Calendar yet, so I'm not placing it on there, because I  
2 didn't mention it. So, it remains on the regular  
3 calendar. It's now on the Consent Calendar now?

4 EXECUTIVE OFFICER WARREN: It's now on there.

5 CHAIRMAN MC CARTHY: All right. We're going to  
6 remove Consent Calendar 28 and it is now on the regular  
7 calendar. And we're removing from the Consent Calendar  
8 Items 20, 34, and 41. 41 wasn't on the Consent Calendar.  
9 We're removing removing 20 and 34 from the Consent  
10 Calendar.

11 EXECUTIVE OFFICER WARREN: From the calendar  
12 completely.

13 CHAIRMAN MC CARTHY: From the calendar completely.

14 EXECUTIVE OFFICER WARREN: Let me walk you  
15 through, if I may, Mr. Chairman.

16 CHAIRMAN MC CARTHY: Why don't you? Slowly.

17 (Laughter.)

18 EXECUTIVE OFFICER WARREN: Remove from the  
19 calendar entirely, not to be considered --

20 CHAIRMAN MC CARTHY: Not to be considered.  
21 Category 1.

22 EXECUTIVE OFFICER WARREN: Yes. -- Consent  
23 Calendar Items --

24 CHAIRMAN MC CARTHY: Out of our sight.

25 EXECUTIVE OFFICER WARREN: -- 20 and 34.

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1           CHAIRMAN MC CARTHY: 20 and 34, not on any  
2 calendar today.

3           (Laughter.)

4           EXECUTIVE OFFICER WARREN: Right.

5           CHAIRMAN MC CARTHY: Category 2.

6           EXECUTIVE OFFICER WARREN: Regular Calendar  
7 Item 41 is to be removed from today's calendar.

8           CHAIRMAN MC CARTHY: Regular Calendar Item 41  
9 is to be removed from today's calendar.

10          EXECUTIVE OFFICER WARREN: To be removed from  
11 the Consent Calendar and placed on the Regular Calendar is  
12 Item 28.

13          CHAIRMAN MC CARTHY: 28.

14          EXECUTIVE OFFICER WARREN: That will be  
15 considered by you today.

16          CHAIRMAN MC CARTHY: That is to be seen today,  
17 but on the Regular Calendar.

18          EXECUTIVE OFFICER WARREN: Regular Calendar.

19          CHAIRMAN MC CARTHY: I'm getting the hang of this.  
20 On Category -- 14.

21          (Laughter.)

22          EXECUTIVE OFFICER WARREN: On the Regular  
23 Calendar, transfer Items 40 and 43 to the Consent  
24 Calendar.

25          CHAIRMAN MC CARTHY: All right. 40 and 43 that

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1 were on the Regular Calendar -- if any of you watch the  
2 NFL draft on Sunday, you'll get the sense of what we're  
3 doing here. 40 and 43 are going on the Consent  
4 Calendar from the Regular Calendar. Any other  
5 categories here?

6 How about 29?

7 EXECUTIVE OFFICER WARREN: 29 remains on --  
8 Mr. Chairman, not seeing any -- would the Chair inquire  
9 if there's any person in the audience who wishes --

10 CHAIRMAN MC CARTHY: Does anyone here wish to  
11 speak on 29? If not, 29 remains on the Consent Calendar.

12 EXECUTIVE OFFICER WARREN: Yes, that's exactly  
13 so.

14 CHAIRMAN MC CARTHY: Now, that's all I have,  
15 Mr. Warren. Do you by any chance have any other?

16 EXECUTIVE OFFICER WARREN: That's all I have,  
17 Mr. Chairman. My apologies.

18 CHAIRMAN MC CARTHY: Oh, that's all right.

19 All right. Without objection, the Consent  
20 Calendar, as amended, is adopted.

21 COMMISSIONER BURTON: That's fine.

22 CHAIRMAN MC CARTHY: Now I'd like to move to the  
23 Regular Calendar. And we're going to start with --

24 EXECUTIVE OFFICER WARREN: Item 28.

25 CHAIRMAN MC CARTHY: What about No. 9, which was

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1 on the Consent Calendar? Oh, it's not. That's only if  
2 needed. Item 28. Would you step forward, sir, --

3 MR. CARPENTER: I beg your pardon. I haven't  
4 had an opportunity to fill this out (speaking of speaker's  
5 slip).

6 CHAIRMAN MC CARTHY: Supervisor, is this on 28?

7 MR. CARPENTER: Yes.

8 CHAIRMAN MC CARTHY: All right.

9 MR. CARPENTER: Where do I go?

10 CHAIRMAN MC CARTHY: The podium is fine. If  
11 you'll wait just a second; Mr. Warren, who would you like  
12 to address this issue from the staff?

13 EXECUTIVE OFFICER WARREN: Mr. Trout.

14 CHAIRMAN MC CARTHY: Mr. Trout.

15 ASSISTANT EXECUTIVE OFFICER TROUT: Mr. Chairman,  
16 I think I'm going to take that issue. Item 28 is the  
17 consideration of a request by Sonoma County to install in  
18 the Russian River four bridge crossings for summer access  
19 to facilities on one side of the river.

20 The application before you is a one-year permit  
21 at four locations. There has been considerable interest on  
22 the part of the Federal Government, environmental agencies,  
23 the National Marine Fisheries Service, U.S. Fish & Wildlife  
24 Service, and the State Department of Fish & Game with  
25 regard to the long-term impact of these bridges. They have

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1       been installed for several years across the river.

2               This year, we have a little different thing:  
3       With the additional water available in the river,  
4       portions of the river bed that formerly were dry by  
5       summertime may, in fact, be wet.

6               We have appreciated the assistance of Sonoma  
7       County in working on this item. They've cooperated with  
8       us wonderfully. We think we've worked out a solution  
9       that would take care of this summer so that they can get  
10      the bridges in by May 15th, which is their interest, to  
11      beat the Memorial Day weekend.

12              Staff remains concerned about the long-term  
13      impacts, and we have suggested that the County look to a  
14      long-term permit rather than a year-by-year permit. And  
15      we would like to continue to work with the County.

16              However, staff recommends approval of the  
17      calendar item as submitted.

18              CHAIRMAN MC CARTHY: All right. Any further  
19      testimony for our side? Supervisor Carpenter.

20              MR. CARPENTER: Yes, Mr. Lieutenant Governor,  
21      thank you. First, we agree with the permit conditions  
22      for this year, and we've come up the freeway simply to  
23      address a grievance on the part of Sonoma County. And  
24      while we have enjoyed our brief relationship with the State  
25      Lands Commission's staff, we haven't enjoyed it that much.

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1 (Laughter.)

2 MR. CARPENTER: And really, when they say a  
3 short period of year, one bridge has been in for a  
4 hundred plus. We can document that two others have been  
5 in for fifty-plus years, and the third a mere -- or  
6 fourth, a mere 28 years.

7 And the Russian River is artificially controlled  
8 as far as releases go. We've had to educate your staff.  
9 And we've come to an agreement. We'll agree to it for one  
10 year, and we're going to continue to raise some opposition,  
11 and we'll have a friendly back and forth.

12 The reason we came up the freeway today to speak  
13 to you is that we paid \$1,750 for a permit, and then  
14 negotiating through conditions -- which simply can't work  
15 on the Russian River, because people who are involved with  
16 this did not know how the Russian River worked, and we had  
17 to educate them -- they're charging us another 2,250 bucks  
18 for somewhere around the neighborhood of 4,000. My  
19 question is is, is there a nexus to these charges?

20 We've been in this condition for 50, 100 years  
21 with these summer crossings. They do not impede fish  
22 flow; they do not impede canoe traffic, or any other  
23 traffic that could go up and down the river. The Army  
24 Corps of Engineers has given us a five-year individual  
25 permit. We should get some credit for that. That's not

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1           The National Marine Fisheries, Fish & Game, and  
2 Water Quality Control Board have all signed off. The only  
3 people who have a problem at this point is the State  
4 Lands Commission. And frankly, we don't quite understand  
5 it. We're going to continue to work with you. We protest  
6 the fees. We want to see a nexus study. The Attorney  
7 General requires the counties to do that. But simply  
8 because we negotiate over the telephone and have our  
9 legislators involved, they're charging us for this. So,  
10 I just don't get it. That's why I'm here.

11           CHAIRMAN MC CARTHY: Okay. Well, I understand  
12 your plea. I don't think we're going to resolve this  
13 problem today, and I don't think you expected us to. But  
14 I would like the staff to diligently pursue this  
15 conversation with Supervisor Carpenter, his colleagues,  
16 and his staff in Sonoma County, and let's see if we can  
17 find a way to simplify this process.

18           MR. CARPENTER: Might I raise one issue? They  
19 say they won't write the permit until we pay them \$4,000.  
20 So, I just --

21           CHAIRMAN MC CARTHY: At this time?

22           MR. CARPENTER: That's the latest communication  
23 by fax. They didn't previously warn us of that. They  
24 simply sent us a fax saying it's going to cost us four  
25 grand. I have to go to my Board of Supervisors to get an

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1 authorization. If we could -- well, what's the 1750 for?  
2 If we could pay that and get our permit, and then  
3 negotiate costs and see a nexus, we might pay it. We may  
4 I don't know. I hate to present you with this quandary.

5 CHAIRMAN MC CARTHY: I don't know the answer  
6 to that.

7 MR. TROUT: Well, Mr. Chairman, the fees are  
8 based on a schedule which was derived from the actual hours  
9 required to process a permit. There's some upfront  
10 fees that are required for the processing, and there are  
11 post-fees that are required. We'd be happy to work with  
12 the Supervisor. However, to be consistent with the  
13 Governor and Legislature's request that agencies become  
14 self-supporting as much as possible, we have, with the  
15 Commission's agreement, established these funds.

16 We'd like to work with the Supervisor and see what  
17 we can come up with. We will demonstrate the connection.

18 CHAIRMAN MC CARTHY: Do a good job. All right.  
19 We won't give you satisfaction on that today, Ernie, but --

20 MR. CARPENTER: A final comment?

21 CHAIRMAN MC CARTHY: -- we're sensitive to the  
22 issue you raised.

23 MR. CARPENTER: Okay. Should I sit down or make  
24 a final comment?

25 CHAIRMAN MC CARTHY: No, you can make a final

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1 comment.

2 MR. CARPENTER: Well, if you'd get the conditions  
3 right, you wouldn't have to charge us, because then we  
4 could work with this, and not here on the stand.

5 CHAIRMAN MC CARTHY: Thank you for your  
6 clarity. All right.

7 (Laughter.)

8 CHAIRMAN MC CARTHY: All right, without  
9 objection, the recommendation is adopted.

10 MR. CARPENTER: Thank you.

11 CHAIRMAN MC CARTHY: Next item on the  
12 Regular Calendar.

13 EXECUTIVE OFFICER WARREN: That's Item 42,  
14 Mr. Chairman. This is an informational calendar item  
15 concerning the matter which you directed the staff to  
16 provide you with information. The information is  
17 contained in the staff report. And Mr. Robert Faber  
18 wishes to address the Commission on the item.

19 CHAIRMAN MC CARTHY: Mr. Faber?

20 MR. FABER: Governor, members of the Commission,  
21 generally speaking, working with the staff, since you met  
22 with us -- or we met with you in December -- has been  
23 satisfactory. There are a couple of points in the calendar  
24 item which are, we believe, need correction. There is a  
25 statement on the second page that certain information has

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1 not been provided. That information has been provided  
2 since, apparently, the calendar item was drafted. There  
3 is a statement in there indicating that the application  
4 is complete as of the date, sometime in the last three  
5 weeks. I don't want to belabor it, but simply want to  
6 make the point that we do not concur with their  
7 determination of when the application was complete. Based  
8 on the circumstances surrounding this, we believe the  
9 application was complete earlier than that.

10 But, as long as we continue to be working in a  
11 productive fashion, there's no need to belabor that.

12 The final issue is that the administrative  
13 draft of the environmental impact report is complete at  
14 this stage. Mr. Kaveney is responsible for the payment  
15 of that document. And what we have is, he has a payment  
16 due at the end of the administrative draft stage, a  
17 payment due when the draft is released, and a payment  
18 when the final is released. And we are faced with the  
19 difficulty that between the stage when the administrative  
20 draft is completed and when the draft document goes out  
21 when the next financial responsibility falls on him, we  
22 have no access to the draft. We have no way of knowing  
23 whether it's been adequately or appropriately completed.

24 Now, we have been working with staff and we're  
25 trying to resolve this issue. I spoke with Dwight Sanders

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1 this morning, and we will continue to try and resolve  
2 that issue. But I simply wanted to bring it to the  
3 Commission's attention. And if we can't resolve  
4 something, we'll have to get back to you.

5 CHAIRMAN MC CARTHY: Thank you, Mr. Faber.  
6 Thank you for the information.

7 Staff, next regular item on the calendar, please.

8 EXECUTIVE OFFICER WARREN: The next items, three  
9 in number, can be taken up together.

10 CHAIRMAN MC CARTHY: 44, 45, 46, without  
11 objection, we'll do it that way.

12 EXECUTIVE OFFICER WARREN: Mr. Trout.

13 MR. TROUT: Mr. Chairman, at the request of  
14 the sand and gravel industry, three parcels of State  
15 land were offered for extraction lease, and these three  
16 calendar items will provide for the leasing of those  
17 three sites. One of the sites is in the Carquinez  
18 Straits, two of the sites are in San Francisco Bay. We  
19 drafted the lease, submitted it to the industry for  
20 comment, advertised for bids, opened the bids, and after  
21 review, have selected the high bidders.

22 For Item 44, it is MOE Sand Company. For  
23 Items 45 and 46, it is Bell Marine. The contracts were  
24 awarded on the basis of a multiplier to a specific  
25 formula for royalty.

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1           The specific formula provides a percentage  
2 not less than .65 cents per yard, and based on material  
3 actually sold by -- out of the yard by the dredger.

4           I think that we're prepared -- the staff does  
5 recommend the approval of these items. And I understand  
6 there may be someone here to speak on one of them. But  
7 this has been a very open and public process, and we  
8 recommend your approval.

9           CHAIRMAN MC CARTHY: I have a request from  
10 Mr. Olin Jones to address this item. Mr. Jones, you're  
11 welcome, sir.

12           MR. JONES: I'd like to thank the Commission  
13 for the opportunity to speak.

14           CHAIRMAN MC CARTHY: Would you pull that down  
15 just a little bit (speaking of microphone).

16           MR. JONES: Point it down like that? Better?

17           CHAIRMAN MC CARTHY: So it's pointed right at  
18 you. Thanks very much.

19           MR. JONES: Sure. It's my position that the bids  
20 should be rejected at this time because the staff and the  
21 Commission does not know and cannot know what royalty the  
22 State will receive from each bidder. The bid multiplier  
23 is a multiplier that is to be multiplied times the cost of  
24 production. And the cost of production cannot be determined  
25 or was not given in the bid package.

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1           This is a flawed process. It is similar to  
2 asking a contractor to bid on the remodeling of your  
3 kitchen and asking for a multiplier times his cost. And  
4 you pick the multiplier that is lowest, but you have no  
5 idea what his cost is going to be.

6           There was only one bidder who submitted a cost  
7 per cubic yard that he would pay the State. The other  
8 bidders did not submit that. Okay?

9           The questions that I have of the staff are: Is  
10 there a better offer in writing than 70 cents per yard  
11 and, if so, is it in writing (sic)? And number two, would  
12 the bidders object to multiple leases on these sites?

13           I'd also like to ask, you know, if there could  
14 be multiple leases on these sites, giving everyone equal  
15 access to the public resources -- creating the fastest  
16 maximum cash flow to the State? That's all I have to  
17 say. Are there any questions?

18           CHAIRMAN MC CARTHY: Just a moment, please.  
19 The bottom line is, how do the taxpayers get the most  
20 money from this competitive bidding process. Now, you've  
21 just heard what Mr. Jones has said. Where are we? If we  
22 did it his way, would the taxpayers get more money from  
23 this competitive bidding process?

24           MR. TROUT: We don't see so, because the formula  
25 that we've established is based on the actual sales price

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1 times the number of yards that are actually sold, and  
2 then multiplied by a factor greater than one.

3 The bid factor was this multiplier. The higher  
4 bidder, for example, Bell Marine, on one of the leases  
5 had a 2.3 multiplier. If we assume \$7.00 a yard is the  
6 price and the multiplier is 2.3, that comes out to a total  
7 on the yardage of 1.61, a dollar sixty-one per cubic yard.

8 Mr. Jones bid a bid factor of 1.3. In order to  
9 get the same \$1.61, Mr. Jones would have to sell the  
10 sand for \$12.30 as opposed to \$7.00. The other thing  
11 I'd like to point out is that we sent these leases and  
12 this proposed formula out to the industry. We mailed out  
13 over 25 bid package -- draft bid packages for industry  
14 to comment on. And after receiving comments from  
15 industry, we felt that, with the exception of Mr. Jones,  
16 that the formula basically was understandable and okay  
17 with industry.

18 CHAIRMAN MC CARTHY: Do you have any comment on  
19 that, Mr. Jones?

20 MR. JONES: I have two comments. Number one,  
21 each bidder has a different wholesale price. No one  
22 knows what that wholesale price is, because it wasn't  
23 requested in the bid documents. In other words, I could  
24 have had a bid factor of 5 and made my wholesale price a  
25 dollar. So, you cannot tell what the royalty to the State

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1 is, unless what you're saying is that Bell Marine has  
2 agreed to a dollar six-one per cubic yard. I don't believe  
3 that's true.

4 I have reason to believe that other bidders  
5 did not approve of the process.

6 MR. TROUT: Well, the gross sales price -- and  
7 it's an auditable price -- is the actual price that they  
8 get for the material, for the raw product. And this is a  
9 price which fluctuates with the market. If sand is  
10 more valuable, the price is higher. The bidders are all  
11 bidding on the same sand, the same quality, and all of  
12 them would be selling on the market the same sand, and  
13 the market would then drive the actual gross sales price.

14 So, while we can't determine what it is, we  
15 certainly can't imagine Mr. Jones selling the sand for  
16 a dollar just to keep the State royalty down.

17 CHAIRMAN MC CARTHY: Mr. Jones has made the point  
18 that some others in the industry tend to agree with his  
19 point of view that this method doesn't necessarily give  
20 the best yield for the taxpayers of the State. Did I  
21 understand you correctly, Mr. Jones?

22 MR. JONES: That's correct.

23 CHAIRMAN MC CARTHY: Did you hear from any other  
24 people in the industry -- ideas about how the bid could  
25 be reformulated to maximize the return to the taxpayers?

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1 MR. TROUT: Yes, we did. One other potential  
2 bidder, which was Tidewater, which did not actually bid  
3 on the leases, but which is in partnership with another  
4 company, their concern was that -- that the -- it's set  
5 up on a basis of both a minimum and a maximum, and they  
6 argued that the bid factor could be lower and that an  
7 applicant or lessee extract more sand and ultimately pay  
8 a higher amount. But so could the -- the high bidder  
9 could also extract that same amount of sand. It's just  
10 a question of how much they can sell in the marketplace.  
11 So, while anyone who sold -- dredged and sold more sand  
12 would have a higher volume, that's nowhere guaranteed in  
13 the lease.

14 We set a minimum, we set a maximum to provide  
15 a range in which the operator could function.

16 CHAIRMAN MC CARTHY: All right. I think we're  
17 going to have to make a decision on what's before us,  
18 Mr. Jones.

19 Thanks for your testimony.

20 MR. JONES: Thank you.

21 COMMISSIONER BURTON: I have a question.

22 CHAIRMAN MC CARTHY: Yes, Commissioner Burton.

23 COMMISSIONER BURTON: A couple of questions of  
24 staff. How many bids did you receive for these items?

25 MR. TROUT: We received three bids on one -- let's

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1 see, one lease, I believe, and two on the other two.

2 COMMISSIONER BURTON: Okay.

3 MR. TROUT: Out of some 25 operators who were  
4 advised of this initially.

5 COMMISSIONER BURTON: Why weren't there more  
6 bids? Is this not profitable? What's going on?

7 MR. TROUT: Well, we really don't know. These  
8 are the bidders that have been involved in the past with  
9 State Lands, and that may have something to do with it.

10 The bidders were Olin Jones, Jones Sand; MOE  
11 Sand & Gravel, and Bell Marine. And they bid in  
12 different numbers in different leases, but those were  
13 the three bidders we got.

14 COMMISSIONER BURTON: Okay. And you only had  
15 two expressions of concern about the bid packages and the  
16 process?

17 MR. TROUT: Right.

18 COMMISSIONER BURTON: Okay.

19 EXECUTIVE OFFICER WARREN: I would like to point  
20 out -- and I think, correct me, Mr. Chairman and  
21 Commissioners -- that the new bid structure should result  
22 in an increased revenue to the State on a cubic-yard  
23 basis by a factor of perhaps as much as three or four.

24 So, compared to what we've been getting in the  
25 past, this new bid package should result in considerably

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1 more revenue to the State.

2 CHAIRMAN MC CARTHY: Why don't you tell us when  
3 you have evidence of that? Just give us the information.  
4 I think we have no choice but to go ahead on the matter  
5 that's before us today. But I think, as soon as you  
6 start getting the return in, when this is awarded in  
7 these three separate contracts, that you let us know what  
8 the return is, because I think there should be some  
9 discussion in the industry about what the appropriate  
10 formula is for the bid to see whether we could do an  
11 increase.

12 But let us know what it is when the return is in.

13 EXECUTIVE OFFICER WARREN: All right.

14 MR. JONES: Thank you.

15 CHAIRMAN MC CARTHY: Thank you, Mr. Jones.

16 Any other questions? All right. The matter's before us.  
17 Without objection, approve the recommendation.

18 The next item on the Regular Calendar.

19 EXECUTIVE OFFICER WARREN: The next item on the  
20 calendar is the last item on the calendar, and that's  
21 Item 47. We have a number of --

22 CHAIRMAN MC CARTHY: Anybody here interested in  
23 Item 47?

24 (Laughter.)

25 CHAIRMAN MC CARTHY: All right. I see that

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1 Assemblyman Jack O'Connell of Santa Barbara is with us.

2 Do you have a couple of minutes so that we could  
3 hear the staff presentation, or would you like to go on  
4 now? Whatever your schedule is.

5 ASSEMBLYMAN O'CONNELL: I'll be happy to listen  
6 to the staff presentation.

7 CHAIRMAN MC CARTHY: All right. Mr. Warren or  
8 whoever you're going to have make this presentation.

9 EXECUTIVE OFFICER WARREN: Mr. Chairman, I'll  
10 try to be brief in the presentation of this long-standing  
11 controversial and complex issue.

12 The staff report is, I think you you will find,  
13 lengthy, perhaps unusually so. It has been distributed  
14 to all interested parties previously, who have had an  
15 opportunity to review and comment on it.

16 In your package, also, is correspondence from  
17 all interested parties concerning the issue and concerning  
18 the staff report.

19 Item 47, briefly, concerns an application for  
20 an industrial lease by the Gaviota Terminal Company for  
21 the operation and maintenance of an existing marine  
22 terminal located offshore Santa Barbara for loading of  
23 tankers for shipment to the Los Angeles area. The term  
24 of the lease is two years and eight months, beginning May  
25 1, 1993, and ending January 1, 1996, or sooner, as provided

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1 by certain provisions of the lease.

2 The consideration for the lease is a rental in  
3 the amount as we've been receiving since the issuance of  
4 the first lease, \$230,000 per year.

5 Consideration of this item today brings to a  
6 near close one phase of a long-standing and complex  
7 controversy over the terms and conditions governing the  
8 development and transportation of oil from federal leases  
9 offshore Santa Barbara County. This phase of the  
10 controversy involves the means and manner of transporting  
11 oil produced from an offshore field known as the  
12 Point Arguello Field by a constortium of companies known  
13 as the Point Arguello Producers, which is represented  
14 generally by the Chevron Oil Company.

15 The producers, the Point Arguello Producers,  
16 have received a shipping permit issued by the California  
17 Coastal Commission subject to a number of conditions.

18 CHAIRMAN MC CARTHY: Excuse me. You cannot hear  
19 in the back? All right. Why don't you move that  
20 microphone a little bit closer to you?

21 CHIEF EXECUTIVE OFFICER WARREN: I'm sorry. The  
22 producers have received a shipping permit issued by the  
23 California Coastal Commission subject to a number of  
24 conditions. The Coastal Commission issued the permit  
25 after rejecting certain conditions to a permit issued by

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1 the County of Santa Barbara.

2 The point of difference between the County and the  
3 Coastal Commission concerns how best to accomplish the  
4 commonly held policy objective of exclusive transportation  
5 of oil by pipeline.

6 The County's approach was to prohibit tankering  
7 until such time as the producers signed a throughput and  
8 deficiency agreement with one of three groups of competing  
9 pipeline proponents. Such an agreement -- that is a  
10 throughput and deficiency agreement -- assures financing  
11 for the construction of the favored pipeline proposal.

12 None of the three proposed pipelines have had  
13 nor have necessary permit approvals at this time. The  
14 Coastal Commission set aside the County's shipping  
15 permit and established a set of way points designed to  
16 achieve the construction of the desired pipeline by  
17 January 1, 1996.

18 Among those conditions -- the major conditions  
19 are the following: First, the Coastal Commission permit  
20 allows tankering to begin from the terminal as soon as the  
21 operators of the terminal have a lease from us to do so,  
22 which is the issue before us today.

23 The Coastal Commission shipping permit also  
24 sets a limit on the amount of oil to be tankered to no  
25 more than 50,000 barrels per day on a quarterly average,

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1 provided that at least 40,000 barrels per day are shipped  
2 by existing pipelines to various destinations with at  
3 least 25,000 barrels per day shipped via an existing  
4 pipeline to Los Angeles, known as Line 63.

5 On this point, it should be noted that production  
6 of the Point Arguello Field is being presently increased --  
7 or as they say in the industry, "ramped up" -- and is  
8 expected to peak at 85 -- and some say perhaps as much  
9 as 90,000 barrels per day.

10 Presently, production, I understand, is around  
11 55 to 60,000 barrels per day level.

12 Now, the Coastal Commission permit also requires  
13 that the producers execute a throughput and deficiency  
14 agreement for the construction of a pipeline to Los Angeles  
15 by February 1, 1994, 10 months from now; or, if not, to  
16 cease tankering at that time.

17 If a throughput and deficiency agreement is  
18 timely executed, then tankering may continue beyond  
19 February 1, 1994, until January 1, 1996, when it must  
20 terminate. In the event a pipeline is, in fact,  
21 constructed and becomes operable before that date, then  
22 the tankering would cease at the time of the pipeline's  
23 availability.

24 It is assumed by the Coastal Commission permit  
25 that by such time -- that is, January 1, 1996 -- the

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1 throughput and deficiency favored pipeline will have been  
2 constructed and will have the capacity to transport all  
3 of Point Arguello's production.

4 All that now remains is the issuance of the  
5 lease sought by the application before you. The applicant  
6 is the Gaviota Marine Terminal Company, again, which is  
7 composed of a number of oil companies, but is headed  
8 nominally and in fact, and represented by the Texaco  
9 Oil Company.

10 Now, there are a number of subsidiary, but  
11 significant, factors which you should consider. There has  
12 been a petition filed with the Coastal Commission to  
13 revoke its shipping permit because of certain specified  
14 reasons.

15 The Coastal Commission will not consider the  
16 matter until its next meeting, presently scheduled, I  
17 believe, for May 12, 1993.

18 Secondly, the second subsidiary factor which you  
19 should have in mind, is that the Point Arguello Producers  
20 have not as yet elected to pick up the Coastal Commission  
21 permit and, in fact, has filed a legal action challenging  
22 the Commission's authority to condition the permit.

23 The producers have indicated to your staff,  
24 however, that upon the issuance of an acceptable lease,  
25 they will, in fact, pick up the permit and dismiss the

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1 legal action. I think that it would be worthwhile to  
2 have that representation confirmed on the record.

3 Staff has concluded that there are four  
4 options available to the Commission. Each of the options  
5 has its adherents and its opponents. The first of these  
6 options is to deny the application. This option or its  
7 refinement is proposed by a number of groups, such as the  
8 American Oceans Alliance, the Environmental Defense  
9 Center, Get Oil Out, and by a number of elected officials  
10 and private individuals.

11 Although they are here today to describe their  
12 views, I think generally they contend that, first, that  
13 existing pipelines are adequate for the transportation of  
14 Point Arguello production and, secondly, if the existing  
15 lines are not, in no event should tankering be permitted  
16 until such time as a throughput and deficiency agreement  
17 is, in fact, executed.

18 The second option is to delay action on the  
19 application before you until such time as the Coastal  
20 Commission has acted upon the revocation petition. As I  
21 said, that will not be until May 12th. However, I must  
22 say that none of the interested parties in their written  
23 comments to us on the issues involved in this matter seem  
24 to be urging this course.

25 The third option before you is to approve the

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1 lease, but limit the use of the terminal to shippers who  
2 hold a shipper's permit issued by the Coastal Commission,  
3 but subject to the same conditions imposed by the  
4 Commission on the permit holder.

5 COMMISSIONER DAVIS: Coastal Commission.

6 EXECUTIVE OFFICER WARREN: Yes.

7 This view is supported by the producers, by the  
8 terminal operators, by the Coastal Commission, by the  
9 Wilson Administration, and certain other private groups  
10 and individuals. It is opposed by the anti-oil group,  
11 the composition of which has been heretofore described.

12 The County of Santa Barbara has responded to the  
13 staff analysis by a letter received today, but does not  
14 indicate a position one way or the other.

15 The fourth option available to you is to approve  
16 the lease, but limit the use of the terminal to shippers  
17 who hold a shipper's permit from the Coastal Commission,  
18 as provided by the preceding option that I've just  
19 described, but who agree further to transport on a  
20 quarterly basis through Line 63 to Los Angeles that amount  
21 of oil determined sufficient to fully utilize the  
22 existing pipeline capacity.

23 This option was developed by your staff in order  
24 to deal with the issue of the extent to which pipeline  
25 capacity presently exists. Presumably, this option would

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1 be supported by the existing pipeline companies and, to a  
2 limited extent, by those who are otherwise opposed to the  
3 Coastal Commission's shipping permit issuance.

4 The applicant, the producers, and others, however,  
5 strongly object to the refinement of the Coastal Commission  
6 permit.

7 As I indicated at the outset, a detailed staff  
8 report on this matter has been provided you and all  
9 interested parties. You will today from all of the  
10 groups mentioned. Copies of their correspondence have  
11 been provided you.

12 We have a number of requests to speak. I have  
13 attempted to sort out the requests into groups who are  
14 for the lease, subject only to the Coastal Commission  
15 permit terms, and there are others who wish to speak to  
16 the alternative options.

17 It would be my recommendation, Mr. Chairman, that  
18 we first hear from the applicant, and then from the  
19 producers and others who support Option 3.

20 CHAIRMAN MC CARTHY: After we call on  
21 Assemblyman O'Connell, here's what I would like to  
22 recommend to my colleagues on the Commission and to all  
23 of you in the audience here to testify: That each side --  
24 and that's a rough categorization, since we have several  
25 options in front of us -- but we've roughly grouped them

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1 into those that we think are here to support adoption of  
2 the application and those who will have total or qualified  
3 opposition to that action, or may like some aspects  
4 of one or the other options; that we give 45 minutes to  
5 each side, and then if you could be thinking about this --  
6 and I appreciate this is sometimes hard to do -- but if  
7 each side could think of the one, or two, or three people  
8 that they want; then, once a motion is made and is before  
9 the Commission for consideration, one, or two, or three  
10 people from each side can rebut or argue further at that  
11 point to ask clarification or to challenge assertions that  
12 have been made so that the Commissioners can get fully  
13 rounded testimony on this issue.

14 Now, if that's an acceptable approach on this  
15 issue, I'd like to proceed on that. Does anyone have any  
16 serious objections to that?

17 COMMISSIONER BURTON: I just need at some point,  
18 before 1:30, a chance to make a phone call to rearrange my  
19 schedule. It sounds like the 45 plus 45 puts us past  
20 1:30.

21 CHAIRMAN MC CARTHY: We'll take a 90-second recess.

22 COMMISSIONER BURTON: That'll be fine.

23 CHAIRMAN MC CARTHY: All right. Then, may I first  
24 have the pleasure of inviting up to testify Assemblyman  
25 Jack O'Connell, who represents Santa Barbara County.

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1 ASSEMBLYMAN O'CONNELL: Thank you very much,  
2 Mr. Chairman and members of the Commission. I appreciate  
3 the time that you've put in on this already; the focus  
4 that you've given this is very gratifying for all of us  
5 that live in the area. And also to your staff; your  
6 staff's practically been living in the area trying to work  
7 on the four options that Mr. Warren so eloquently that's  
8 before us.

9 UNIDENTIFIED SPEAKER IN AUDIENCE: Turn the mike  
10 up, please.

11 ASSEMBLYMAN O'CONNELL: I'm speaking on behalf  
12 of both myself and Senator Gary Hart. We have submitted  
13 written testimony, and I'd like to just briefly summarize  
14 our testimony.

15 As you know, the oil development and the  
16 transportation issues in our area have been long-standing  
17 concerns. And we believe that the Commissioners should  
18 first deny the Lease Option 1, which Mr. Warren stated,  
19 on the following grounds: That insufficient environmental  
20 information has been accumulated thus far; notwithstanding  
21 the staff findings, we believe that the EIR submitted for  
22 approval on the Point Arguello tankering permit is not  
23 sufficient for the questions that continue to arise as  
24 a result of the application. Also, the inadequacy of the  
25 data about the production levels, the varying degrees of

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1       interpretations of the capacity levels and the availability  
2       therein. And to date, we're not convinced that there is  
3       inadequate capacity to currently carry the Point Arguello  
4       crude through the existing pipelines from this area.

5               We're also concerned with the lack of a signed  
6       throughput and deficiency agreement, also which Mr. Warren  
7       stated. And, as the Commissioners, oil producers made a  
8       commitment a decade ago to transport this crude from  
9       Point Arguello by pipeline. Since then, they have expended  
10      considerable capital in attempting to try to circumvent  
11      that earlier commitment. And the incompatibility with  
12      Santa Barbara County's local coastal plan is also a  
13      concern for many of us in the community.

14             And in 1987, the County of Santa Barbara approved,  
15      as the sole consolidated marine terminal, Exxon's Las  
16      Flores Canyon Marine Terminal, and that designation remains  
17      current to this day.

18             As an added note, we're also concerned with the  
19      level of inaccurate information that has, unfortunately,  
20      been circulated during this process and throughout the  
21      earlier Coastal Commission process where Senator Hart and  
22      I also provided testimony. And for that reason alone,  
23      we would urge the Commissioners to, at minimum, exercise  
24      extreme caution in considering this lease.

25             In an absence of an outright denial of the lease,

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1 we request that the Commissioners delay a decision until  
2 you have had an opportunity to further deliberate the  
3 outcome of the forthcoming Coastal Commission meeting,  
4 which Mr. Warren also referenced.

5 The action on that could affect the potential  
6 revocation of the permit to tanker oil in the Santa Barbara  
7 Channel.

8 In any case, the lease that could be granted  
9 should contain the following conditions, which we believe  
10 to be not only necessary, but also extremely reasonable,  
11 to ensure the health and safety of the people of this  
12 community be preserved.

13 Line 63, which was mentioned, does have the  
14 capacity to be fully utilized before any tankering can  
15 occur, and a limit of the 50,000 barrels per day should  
16 be placed on the terminal capacity.

17 We also believe that the users of the terminal  
18 should be required to complete and sign the unconditional  
19 throughput and deficiency agreements, which have yet to be  
20 forthcoming, for the pipeline construction prior to any  
21 tankering. And also the users of the terminal should know  
22 with certainty that the permit will not continue past  
23 January 1st, 1996, regardless of any real or imagined  
24 extenuating circumstances.

25 I hope that the Commissioners will seriously

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1 consider our request and those similar requests that'll  
2 be forthcoming before you here this afternoon. I know  
3 that the issue is very complex. And, again, I appreciate  
4 the time that not only the Commissioners have put in on  
5 this issue by the thorough understanding, but also that  
6 of your staff. And in behalf of Senator Hart and  
7 myself, thank you for your time.

8 CHAIRMAN MC CARTHY: Thank very much,  
9 Mr. Assemblyman. Any questions of the Assemblyman?

10 ASSEMBLYMAN O'CONNELL: Thank you very much,  
11 Lieutenant Governor. Thank you.

12 CHAIRMAN MC CARTHY: We've identified the  
13 proponent's side of the matter before us, and we have  
14 arranged the witnesses that turned in these requests  
15 to testify in the following order:

16 Mr. Jim Shamas, President of Texaco; Mr. Dan  
17 Mihalik, Manager of the Gaviota Terminal Company;  
18 Mr. Andy Moynagh of the Building Trades and Colab Council;  
19 and Mr. Richard Kasa, President of the Essence Engineering,  
20 Inc., representing the California Energy Service &  
21 Supply Association; Mr. Angelo Castagnola of the Gaviota  
22 Interim Marine Terminal; Mr. Cliff Monyama, representing  
23 the California Chamber of Commerce, Mr. Daniel Kramer,  
24 the Acting Executive Director of the California  
25 Independent Petroleum Association; Mr. Frank Marin of the

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1 Coalition of Labor, Agriculture & Business of Ventura  
2 County; Mr. Robert Foote, Vice President of Finance for  
3 H & H Oil Tool Company, Inc. Forty-five minutes for that  
4 group. My apologies if some of you get squeezed if  
5 you're towards the end of that list. And we would like  
6 to start now at the hour of noon with Mr. Shamas.

7 MR. SHAMAS: Thank you, Mr. Chairman and  
8 Commissioners. We will try to hold our presentation to  
9 30 minutes in the interest of time, or shorter, if we  
10 can do that.

11 My name is Jim Shamus. I'm currently President  
12 of Texaco Trading & Transportation, which is the  
13 subsidiary of Texaco that has constructed a new state-of-  
14 the-art terminal at Gaviota. I'd like to trace a little  
15 bit about the history of that terminal.

16 I've been associated with it since 1977, when I  
17 was Manager of Transportation for Getty Oil Company.  
18 Getty Oil was merged into Texaco in 1984. In 1983, I  
19 presented to the Getty executive committee a \$15 million  
20 brand new terminal to be constructed at the site of the  
21 Gaviota Terminal.

22 Gaviota Terminal has been located where it is,  
23 26 miles west of the City of Santa Barbara, since 1896.  
24 In 1896, Tidewater Oil Company shipped asphalt crude to  
25 China. We've gone back through the records; since 1896,

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1 we can't find a recorded spill, accident, or  
2 environmental incident at Gaviota Terminal.

3 In 1953, we modernized that terminal. We put in  
4 the first vapor recovery system in the County of  
5 Santa Barbara. We also invented a new color called  
6 Gaviota Green, which we painted all the tanks to match  
7 the surroundings and try to blend in.

8 When we appeared before the Santa Barbara  
9 Planning Commission with our new terminal idea, a lot of  
10 people didn't know that the terminal was out there. It  
11 had been operating since 1896, and not many people knew  
12 of its existence.

13 We donated three acres of land, along with the  
14 Hollister Ranch, to support a school, a ten-acre school  
15 across the highway from our terminal. That terminal is  
16 now -- that school has now been moved and a brand new  
17 modern school has been provided by the industry.

18 So, what I want to address today is a little bit  
19 about good faith, a little bit about what we've learned.  
20 We shut down that terminal in 1985. It was then loading  
21 from one to two tankers a month. We've spent more than  
22 \$60 million on a brand new terminal. The vapor recovery  
23 and balancing system designed by Exxon that's been  
24 employed at this terminal is duplicated nowhere else in  
25 the world. It's the best state-of-the-art vapor recovery.

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1 And we've checked every terminal that we can find; it's  
2 the best there is.

3 We're very concerned about the environment and  
4 about discharges into the atmosphere. And so, we've  
5 done tanker modeling studies. All of the studies show  
6 that we are far below the emissions which were allowed by  
7 the County; even though we haven't been allowed to load  
8 one barrel since we completed the terminal in 1989, we've  
9 bought more than \$2 million worth of air quality permits  
10 so that we can improve the quality of the County.

11 We've also paid close to a million dollars in  
12 fees to State Lands, even though we weren't allowed  
13 to load one barrel of oil.

14 I want to address a little bit about the pipeline.  
15 We in Texaco operate more than 20,000 miles of pipeline.  
16 We have made two attempts -- one in 1982, with Chevron,  
17 Getty, Arco, and Shell -- to build a pipeline from Emidio  
18 to Los Angeles. We spent more than two years and a  
19 million dollars trying to find permitting in viable  
20 routes. We folded up that effort. We couldn't find a  
21 pipeline route to Los Angeles.

22 In 1984, when we started looking at the Gaviota  
23 development, Texaco, Chevron, and Arco spent more than  
24 \$6 million trying to find a pipeline route and a viable  
25 way to get a pipeline into the City of Los Angeles.

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1           Again, it came down to, after three years of  
2 study and multimillion dollars, we couldn't find a way  
3 to get a pipeline there.

4           As you know from the staff's report, there are  
5 now three proposals. We're not against pipelines. Since  
6 we operate more than 20,000 miles of them, we're certainly  
7 for pipelines. The problem is, after our attempts, we're  
8 not convinced the pipelines can be built into the  
9 Los Angeles area; therefore, we're hesitant to back any.

10          As terminal partner and operator, we feel that  
11 this is an issue that's already been addressed in front  
12 of the Coastal Commission and is not proper.

13          What we're suggesting and wanting now is a  
14 terminal permit to follow through with what we were  
15 granted in 1985, before we spent the \$60 million, and to be  
16 able to load at what I consider to be the most  
17 environmentally safe and state-of-the-art terminal in  
18 the world.

19          Thank you.

20          CHAIRMAN MC CARTHY: Any questions of Mr. Shamas?  
21 All right. Thank you, Mr. Shamas.

22          Mr. Mihalik?

23          MR. MIHALIK: Thank you very much, Mr. Chairman  
24 and Commissioners. My name is Dan Mihalik, Manager of the  
25 Gaviota Terminal Company project for Texaco Trading and

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1 Transportation, the operator.

2 This terminal was built to satisfy the oil  
3 storage and marine transportation requirements of OCS  
4 production. Our project was approved by the County of  
5 Santa Barbara for the express purpose of primary  
6 transportation services, both pipeline and marine  
7 terminal, for production as it comes on line at  
8 Point Arguello.

9 I hope you become convinced today, if you're not  
10 convinced already, that we have done everything possible  
11 to provide the utmost in safety. As you know, the  
12 facility will only use relatively small, 250,000 barrel  
13 double-hulled tankers. Also, presently, in Southern  
14 California, we feel the system that exists to respond to  
15 oil spills is the best available.

16 The facility has been built using a safety  
17 inspection, maintenance, and quality assurance plan  
18 agreed upon by the various agencies, including the State  
19 Lands Commission and Santa Barbara County. It's also  
20 important to note that a tanker can only enter the Gaviota  
21 Terminal under very restrictive, relatively mild weather  
22 conditions.

23 On another subject, there were 283 permit  
24 conditions on the original interim marine terminal project  
25 in 1987. These were decided on after a very extensive

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1 environmental impact report was completed.

2 In 1990, the County added 14 more conditions  
3 after a marine emergency management study was completed.

4 In 1992, a supplemental EIR was completed. It  
5 cost in excess of \$1 million. And at that time, the  
6 County added 30 more conditions. This was this past  
7 summer. Your State Lands Commission staff was very  
8 involved as part of the joint review panel in deciding  
9 on these various conditions.

10 In addition to this, GTC has committed to an  
11 extensive list of various plans which have the force and  
12 effect of permit conditions. We literally have bookshelves  
13 full of plans that have the force and effect of permit  
14 conditions.

15 Your staff today is recommending that you  
16 approve more conditions. And I'm fairly certain, after  
17 being involved in this process for quite a long time, that  
18 every issue imaginable having to do with marine safety,  
19 having to do with pipelines has been studied as part of  
20 this process.

21 We ask you to not cause further delays in the  
22 startup of the Gaviota Terminal. If you do so, it will  
23 jeopardize the significant compromise that occurred with  
24 the Point Arguello Producers. As you know, the compromise  
25 with the producers was based on the assumption that the

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1 Gaviota Terminal would be allowed to start up relatively  
2 soon, hopefully in June.

3 We ask you to support the basic lease option  
4 presented in the staff report. But we also urge you to  
5 delete two proposed requirements in the basic lease  
6 option. They appear on page 22 of the staff report.

7 CHAIRMAN MC CARTHY: Do you want to refer to them  
8 specifically?

9 MR. MIHALIK: Yes, sir. First of all, paragraph  
10 H(1), this paragraph talks about the State Lands  
11 Commission reviewing and approving a throughput and  
12 deficiency agreement. And this would seek to interpose  
13 the State Lands Commission's judgment on the adequacy  
14 of the T & D agreement being signed by the shipper. This  
15 approval process is already part of the Coastal Commission  
16 permit.

17 And then in Paragraph H(2) --

18 CHAIRMAN MC CARTHY: Well, before you leave that --

19 MR. MIHALIK: Yes.

20 CHAIRMAN MC CARTHY: How does this requirement  
21 differ from what the Coastal Commission has already  
22 imposed as a condition?

23 MR. MIHALIK: I think the wording is virtually  
24 identical, Mr. Chairman. The only difference is it adds  
25 the State Lands Commission as a reviewing agency in

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1 addition to the Coastal Commission.

2 Presently, the Coastal Commission's Executive  
3 Director, I believe, reviews the adequacy of that  
4 throughout and deficiency agreement.

5 CHAIRMAN MC CARTHY: Well, I might as well  
6 introduce this statement as this point, just so witnesses  
7 can address it if they wish. And I speak only as one  
8 member of this Commission. If you want us to, in  
9 balancing the equities in everything that will come  
10 before us here, to consider what the Coastal Commission  
11 has done, we will not give you a blank check. We will  
12 not say, if the Coastal Commission decides to materially  
13 alter the deadlines they have imposed -- I'll retract  
14 the "we," I'll use "I." We will not simply say,  
15 "Whatever the Coastal Commission does, we will endorse."

16 So, we don't know what's going to happen. I  
17 don't know what's going to happen at the next Coastal  
18 Commission meeting.

19 They have imposed three time lines here that  
20 everyone is telling me on your side of the picture that  
21 they're quite serious about meeting and will meet. Now,  
22 that's very critical to me on how I decide on how I  
23 decide on this issue. So, the way this is worded, we  
24 don't require another meeting of the State Lands  
25 Commission if the Coastal Commission is not going to

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1 materially revise their deadlines. So, you don't --  
2 Mr. Warren, help me on this one now. We don't necessarily  
3 have to have a Commission meeting, but we have the option  
4 of having a Commission meeting if the California Coastal  
5 Commission materially revises its first requirements.

6 EXECUTIVE OFFICER WARREN: That is correct,  
7 Mr. Chairman.

8 CHAIRMAN MC CARTHY: Go ahead, sir.

9 MR. MIHALIK: Thank you very much.

10 The other item on page 22 I'd like to point your  
11 attention to -- it's paragraph H(2). This also deals with  
12 throughput and deficiency agreement, and it deals with  
13 other shippers, shippers other than Point Arguello. And  
14 this would require any shipper in the future who received  
15 a shipper's permit from the County or the Coastal  
16 Commission after February of '94 to first sign a T & D  
17 agreement. And there is no shipper that has gone through  
18 the environmental review that has had the hearings, other  
19 than the Point Arguello shippers. So, this applies to  
20 another shipper. And I think it also is something that  
21 would be most appropriate to delete. A slightly different  
22 matter but, again, our position is to delete.

23 And let me just kind of give you our general  
24 feeling on both of these. Both of these matters are  
25 shippers' matters. One, paragraph H(1), deals with the

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1 Point Arguello shippers. H(2) deals with other shippers,  
2 certainly Exxon has applications possibly in the works.  
3 But these are shippers' matters.

4 Inclusion in our lease would be fundamentally  
5 at odds with the respective roles of the Coastal Commission  
6 and the State Lands Commission. These are not terminal  
7 matters, the marine terminal that's in front of you for a  
8 lease today.

9 We believe that such matters are the province  
10 of the County and the Coastal Commission and are beyond  
11 the proper scope of the State Lands Commission's action  
12 on the GTC lease. And we believe there is no legitimate  
13 concern that the other agencies -- County and Coastal  
14 Commission -- will not discharge their obligations as  
15 they should.

16 The Coastal Commission is the reviewing agency  
17 for this T & D agreement. Under paragraph H(1), you've  
18 described -- again, under paragraph H(2), we don't have  
19 any company in front of you or in front of any agency  
20 right now with, you know, with an EIR complete or with  
21 an application in front of you.

22 CHAIRMAN MC CARTHY: We'll address that when you  
23 finish your points.

24 MR. MIHALIK: All right. I'm finished,  
25 Mr. Chairman. One other just procedural matter that I'd

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1 like to bring up with you.

2           Lastly, we understand that all of our  
3 correspondence with your staff concerning this lease is  
4 part of the administrative record of these proceedings,  
5 and we'd like you or your staff to acknowledge that this  
6 is correct.

7           CHAIRMAN MC CARTHY: It is correct.

8           MR. MIHALIK: Thank you very much.

9           CHAIRMAN MC CARTHY: Mr. Warren, would you  
10 have your staff address that last point, please, on  
11 Mr. Mihalik's remarks regarding H(2).

12           MR. HIGHT: Yes. Mr. Chairman, it was the  
13 staff's thought that, if you so chose to take this  
14 option, that the same conditions that apply to the  
15 existing shippers should apply to any other shippers in  
16 the future, and that it just put everybody on the same  
17 level playing field.

18           CHAIRMAN MC CARTHY: Is that any objection to  
19 that logic, Mr. Mihalik?

20           MR. MIHALIK: Well, regarding future shippers,  
21 again, they haven't gone through the County process; they  
22 haven't gone through the EIRs. I'm not sure what sort  
23 of conditions are going to be put on them in addition to  
24 T & Ds. It's too hard to predict at this point. I think  
25 that your staff has made it clear that any other future

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1 shippers that may want to use the Gaviota Terminal will  
2 have to come to you or GTC will come to you for a lease  
3 modification. And it's certainly a matter that could be  
4 addressed at that time.

5 And I think it's most appropriate to address  
6 when we come to you for a lease modification, if that  
7 happens.

8 CHAIRMAN MC CARTHY: Is there any objection  
9 to the view that any future shippers -- and I take it  
10 we are anticipating there may be future --

11 MR. MIHALIK: Yes.

12 CHAIRMAN MC CARTHY: All right. -- other  
13 shipment of oil from -- not from Point Arguello Producers  
14 but from others. Is there any objection to the point that  
15 any such future shippers should comply with the same set  
16 of conditions materially that Point Arguello Producers  
17 are being asked to comply with?

18 MR. MIHALIK: Yeah. I can't represent those other  
19 future shippers.

20 CHAIRMAN MC CARTHY: I'm not --

21 MR. MIHALIK: But I think the point, Mr. Chairman,  
22 is this: When another shipper comes in, he's going to be  
23 faced with going through a whole process with the County,  
24 the Coastal Commission. I don't know what the conditions  
25 are going to be, but I think it's most appropriate to

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1 look at them at that point, and then the State Lands  
2 Commission, if they decide to make them consistent with  
3 the Coastal Commission, they could. But we don't have  
4 them in front of us.

5 COMMISSIONER DAVIS: Why would you want to  
6 subject any future shippers to a less reigorous standard  
7 than the existing shippers have been subjected to? Why  
8 do you want to make it easier on future shippers than  
9 we've already made it on existing shippers? What's the  
10 logic in doing that?

11 MR. MIHALIK: I don't know that it would be  
12 easier, Mr. Commissioner. I'm just not sure. I just  
13 can't predict the future and what the Coastal Commission  
14 permit is going to look like if some other shipper gets  
15 it.

16 I think we just ought to have -- or the Commission  
17 should have everything in front of them at that time and  
18 make a decision. I don't think it's a decision that  
19 the Commission needs to make now. And, you know, they  
20 don't have the environmental impact report and all the  
21 review for other shippers in front of them.

22 I don't know that I can answer whether it's  
23 easier or harder. It's certainly a complex set of  
24 circumstances and facts, and hard to predict the future.

25 COMMISSIONER DAVIS: I just would refer you to

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1 Mr. Shamas' testimony, which I thought was quite cogent;  
2 that, as time went by, partly due to developing  
3 technology and the conditions increased rather than  
4 diminished. And I would suspect, if anything, that would  
5 be likely to happen in the future.

6 UNIDENTIFIED SPEAKER IN AUDIENCE: We can't  
7 hear you.

8 COMMISSIONER DAVIS: I just challenged the  
9 wisdom of asking us to delete Item 2, because it would  
10 seem to suggest that we should treat future shippers  
11 less vigorously than we've treated existing shippers.  
12 And I noted your testimony, which I thought was quite  
13 cogent, where you've clearly indicated that, as time went  
14 by, standards and conditions increased, not diminished.

15 MR. SHAMAS: (From the audience) We don't think  
16 the problem is making the playing field level, all the  
17 conditions equal. We do have a problem -- I don't think  
18 there's six people in this room who have ever seen the  
19 20-page throughput and deficiency agreement (sic). We  
20 do have a problem with having another hurdle to go through  
21 with every T & D agreement having to be reviewed by  
22 every agency. That was our point Dan made first.

23 But, secondly, we don't have a problem with  
24 everyone having the same conditions. We think that's  
25 fair. So, we just feel like that by putting it in there

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1 in advance, you know, we don't really see the purpose of  
2 that.

3 CHAIRMAN MC CARTHY: All right. If I may also  
4 address this, I think the point of this is not to keep  
5 creating additional hoops, but the point is to try to  
6 get enough clarity on the point of whether anyone in the  
7 future will attempt oil tankering or use whatever pipeline  
8 or pipelines will ultimately be selected after an  
9 economic judgment is made by the shippers using one or  
10 two pipelines.

11 Now, I can't envision all of the circumstances.  
12 But if there are oil companies who wish to ship in the  
13 future that are not immediate parties to the matter  
14 before us, if they want to come in, we're not so much  
15 thinking about additional loopholes or trying to stop  
16 them from doing their shipping, but rather in the other  
17 direction. We're trying to maximize the use of the  
18 pipeline, and we're trying to make it clear that there  
19 won't be oil tankering.

20 MR. SHAMAS: (From the audience) You know, we  
21 believe in the date certain that's shown in our permit,  
22 that that's when the tankering will stop.

23 CHAIRMAN MC CARTHY: We're not challenging that.  
24 We're not on that point now. We can address that as they

25 MR. SHAMAS: (Interjecting) If they're going to

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1       come in, they're going to have to hurry to get in, because  
2       we're looking at two years and six months, maybe. And  
3       the thing we're worried about is if every agency reviews  
4       the T & D agreement -- and I'm an engineer, but I also have  
5       a law degree -- a lot of attorneys like to change things.  
6       And if every one of them changes a 20-page agreement,  
7       we'd never get approval of T & D agreements. So, you're  
8       right when you mentioned other hoops to go through. We'd  
9       just like to have a level playing field and one agency  
10      approve all the T & Ds.

11               CHAIRMAN MC CARTHY: Is there any difference of  
12      opinion that anybody who produces oil along this coast  
13      is going to ship through the pipeline and is not going  
14      to ship by tankers? Is there any difference of opinion  
15      on that?

16               MR. SHAMAS: Ultimately?

17               CHAIRMAN MC CARTHY: Well, by the dates we're  
18      talking about here.

19               MR. SHAMAS: Well, no. We don't have any  
20      difference of opinion with the dates that are set out  
21      in the lease.

22               CHAIRMAN MC CARTHY: All right. Now, what we want  
23      to do is make it absolutely clear in the action that we  
24      take here that that, in fact, is what we're reaching for.  
25      We're not attempting to complicate the series of

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1 governmental agencies that need to do this recurringly.  
2 But we do want to make sure that there's no misunderstand-  
3 ing here about the ultimate result of that. That by the  
4 dates we're talking about, should this be the option  
5 that's exercised -- it's the good faith that you indicated  
6 in your opening remarks, Mr. Shamas that's needed all  
7 around here -- these dates have meaning. Are they going  
8 to be taken seriously; are they going to be complied  
9 with? And will any other oil company that wants to ship  
10 through these pipelines understand that there is no  
11 oil tankering after this 1996 date?

12 MR. SHAMAS: (From the audience) Well, to my  
13 knowledge, they all understand that. They've all seen the  
14 terms and conditions. You know, Exxon is coming along at  
15 a different pace than the Point Arguello Producers. But  
16 I shouldn't speak for one of the world's largest  
17 corporations. But they understand and have lots of  
18 people who can read, too.

19 COMMISSIONER DAVIS: Can I ask a related  
20 question? You said in your testimony, Mr. Shamas -- and  
21 I meant to ask you at the time, but it didn't occur to me  
22 until after you left the podium. You mentioned the  
23 difficulty you had in 1982 and in 1984 in trying to  
24 develop plans to site pipelines to Los Angeles.

25 Why do you think you'll be successful in doing

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1 that by January 1, 1996, when you were unsuccessful  
2 in '82 and '84?

3 MR. SHAMAS: Well, those conditions grew out  
4 of three or four months of negotiations. We, the industry,  
5 had tried it. We, the industry, didn't think that the  
6 All American Pipeline would ever be built. And, yet, it  
7 was constructed. So, we really can't say "can't be,"  
8 and the Southern Pacific people, the railroad -- the  
9 people that have the railroad right-of-way -- seem to have  
10 one of the things we could never overcome. We couldn't --  
11 the last part of our pipeline, after we closed our  
12 \$6 million study, went down the middle of Western Avenue  
13 for about 10 miles. And we were told by the City of  
14 Los Angeles that wasn't very practical.

15 And so, we finally gave up after three years and  
16 \$6 million. They have a different way in. The Line 90  
17 reversal is a different way in that we didn't have available  
18 to us. And the Cajon is even a third way. So, we're going  
19 to try to back something that has a real good chance of  
20 being successful.

21 But we had two attempts where we struck out both  
22 times. I didn't want the inference to be left that we  
23 didn't try to do that, because we certainly did. And I  
24 was involved. And after you keep putting more money and  
25 more money and 27 or 28 different agencies tell you you can't

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1 get into Los Angeles, then you finally give up. So, that  
2 was all I was trying to say.

3 COMMISSIONER DAVIS: So, would I be correct  
4 in deducing that there may be a pipeline constructed by  
5 January, 1996 --

6 MR. SHAMAS: There better be --

7 COMMISSIONER DAVIS: -- but there may not be.

8 MR. SHAMAS: -- because we're going to shut the  
9 terminal down.

10 CHAIRMAN MC CARTHY: Did you hear his alternative?

11 COMMISSIONER DAVIS: Yes. In other words --

12 CHAIRMAN MC CARTHY: There may or may not be.

13 MR. SHAMAS: Right.

14 CHAIRMAN MC CARTHY: Did you hear it?

15 COMMISSIONER DAVIS: No. I'm saying that I  
16 think it's important that everyone realize that these  
17 discussions, which began back in 1983, before -- at least  
18 before I was on the Lands Commission, but I had just been  
19 elected -- were all premised on the Gaviota Terminal being  
20 built and the oil being shipped by pipeline.

21 Now, you've run into a lot of hurdles, presumably  
22 not of your making. And I have some empathy for the  
23 difficulties you've faced. But this lease assumes that  
24 something will be built by January, 1996. And what I just  
25 said was that I think it's important to realize that it

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1        may be built; it may not be built.  Would you quarrel  
2        with that characterization?

3                MR. SHAMAS:  No, I think that's exactly true.  
4        I might also add that when we proposed this in 1983,  
5        we had a 30-inch pipeline that went from Gaviota over to  
6        Emedio.  When All American called us and said, "Could we  
7        use that same route," we said, "Fine.  Go ahead and use  
8        it.  We don't think we're going to be able to build it."

9                And then they built it and showed us they could  
10       get through the National Forest, and they did it.

11               So, I'm here to tell you that we believe those  
12       dates are real.  And I can't speak for the producers.  
13       They'll have to cut back production; they'll have to take  
14       whatever actions are necessary, or they will have had to  
15       have chosen a viable pipeline in time to meet the end of  
16       January, 1996.

17               COMMISSIONER DAVIS:  Just one final question.  
18       Recognizing the difficulty you faced in the eighties,  
19       why wouldn't you sign a throughput agreement conditioned  
20       on obtaining the permits?  In other words, why wouldn't  
21       you enter into --

22               MR. SHAMAS:  (Interjecting)  We could do that,  
23       but it's not meaningful.  T & D agreements are taken to  
24       the bank.  And the bank says, "All right.  We'll look at  
25       the credits you've got.  Six people have signed it.  Here's

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1 a strong one. Here's one that we think is in financial  
2 trouble. And then they take and they value that, and  
3 they'll loan you a hundred million, 200 million, whatever  
4 you're seeking.

5 If you go to them with a conditional, then  
6 they're not going to loan you any money. It's got to be  
7 ironclad.

8 And so, conditional T & D agreements don't do  
9 much good. We could give them out to each one of the  
10 three competing things, and they'd be meaningless until  
11 they got all their permits and could convince a bank that  
12 they were really going to go into construction.

13 COMMISSIONER DAVIS: So, a T & D agreement  
14 is really not appropriate until the pipelines have been  
15 permitted?

16 MR. SHAMAS: Till you know that you can build  
17 a pipeline, that's when T & D agreements are really  
18 important. Then you go to a bank for some money. Or,  
19 really, in this case, it'll be five, or six, or ten banks  
20 that come together to finance it.

21 COMMISSIONER DAVIS: But you wouldn't have any  
22 objection to signing one that -- on a conditional basis,  
23 even though I understand you to mean that no bank would  
24 lend any money based on that?

25 MR. SHAMAS: We offered that -- there's some people

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1 here in the crowd -- way back when these negotiations  
2 started, and then it was decided through the three or  
3 four months of negotiations that conditional T & D  
4 agreements really weren't worth it.

5 COMMISSIONER DAVIS: Charlie, is that your view?

6 EXECUTIVE OFFICER WARREN: It's my view that  
7 the purpose of the T & D agreement is to enable the  
8 pipeline proponent to obtain the necessary financing for  
9 construction. And that, if it's conditioned, that that  
10 financing will not be forthcoming.

11 COMMISSIONER DAVIS: But it is a demonstration  
12 of good faith if you're willing to sign that agreement.

13 EXECUTIVE OFFICER WARREN: There is the -- at one  
14 time, staff was giving consideration to the possibility  
15 of having conditional T & D agreements signed with each  
16 of the three pipeline proposals. Because of -- well, for  
17 reasons which Mr. Shamas has indicated and others, we  
18 abandoned that alternative, because we felt and were so  
19 informed that the entire arrangement would be collapsed.

20 We didn't -- consequently, we concluded that  
21 the limited value of pursuing that option was not worth  
22 the effort to be made, that seemed to be necessary to  
23 push it.

24 We favored -- we thought that, inasmuch as there  
25 were only ten months --

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1           CHAIRMAN MC CARTHY: Can you hear back there?

2           EXECUTIVE OFFICER WARREN: -- inasmuch as there  
3 were only ten months between now and February 1, and  
4 inasmuch as at least two of the proposed pipelines appeared  
5 to be on the verge of obtaining necessary permits,  
6 conceivably, we would -- a full T & D agreement could be  
7 executed months before the February 1 date. For example,  
8 we understand that Pacific Pipeline to be within four to  
9 eight weeks from receiving a PUC permit. By receiving  
10 a PUC permit, we understand that Pacific Pipeline would  
11 then be entitled to the designation of a utility, and being  
12 a utility, could push its pipeline -- it could overcome  
13 local objections, any local objections to the construction  
14 of the pipeline.

15           On the other hand, Line 90 reversal is a pipeline  
16 that already exists. It has the permits. The only  
17 thing I understand that would be necessary for Line 90  
18 is for there to be some agreement on the tariffs that it  
19 will -- it will take one to two years to put -- to install  
20 necessary pumps and stations on Line 90, but that could  
21 be done.

22           But the question is, is Line 90 the preferred  
23 pipeline? The producers make the point that within the  
24 next few months, that question will be -- could be better  
25 answered. Line 90 might not be the best way to go because

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1 of limitations on capacity and other reasons.

2 MR. SHAMAS: Mr. Chairman, you can tell from all  
3 the confusion that this is not a simple solution. And  
4 what we've asked you to do is let that be the Coastal  
5 Commission's problem. We, the terminal who are not the  
6 producers, would just like to have a straight State Lands  
7 lease. And those other things will have to work out,  
8 however they work out, in the next five or six months.

9 EXECUTIVE OFFICER WARREN: Let me speak to this  
10 one point, if I may, Mr. Chairman and members.

11 Mr. Shamas and Mr. Mihalik seem to indicate that  
12 we have no option other than to give a lease, an open  
13 lease for the operation of the terminal, and have no  
14 interest in imposing conditions; we would accept whatever  
15 conditions are imposed by some other agency. We're  
16 dealing here with a lease of State property. And we have  
17 an -- it seems to me we have the responsibility of seeing  
18 to it that known State policies are implemented by us in  
19 the execution of that lease.

20 We have a further interest here of a proprietary  
21 nature. We have some assets offshore of a considerable  
22 amount. Conceivably, sometime in the future, the State  
23 will determine that it might be worthwhile to develop  
24 those mineral assets. It is clear to me at this time,  
25 however, that if those development opportunities are to be

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1 pursued, it will have to be within the context of a  
2 pipeline transportation.

3 So, the State Lands Commission, in the interests  
4 of its own responsibilities, should ensure that there will  
5 in fact, a construction of a pipeline.

6 Now, this H(2) condition, which seems to be  
7 troubling the lease applicants, I don't know why they  
8 should be bothered. Another producer group should be --  
9 perhaps should be troubled by this lease condition, but  
10 the terminal operator shouldn't be inhibited or troubled  
11 by this condition. It's really none of their business.  
12 But it is ours.

13 CHAIRMAN MC CARTHY: Yes, except that they want  
14 as many companies pumping as much oil as possible through  
15 those pipelines, because it affects the price that they  
16 pay.

17 And we, on the other hand, want the other side  
18 of the coin, a guarantee that there's no slippage anywhere  
19 for oil tankering under circumstances that even we, in our  
20 wisdom, may fail to envision.

21 EXECUTIVE OFFICER WARREN: I think that's a  
22 legitimate and responsible exercise of our responsibility.

23 CHAIRMAN MC CARTHY: Commissioner Burton.

24 COMMISSIONER BURTON: I had a question. It  
25 seemed to me that the reason these issues were being raised

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1 had to more to do with potential time delays than with  
2 any intention of trying to get around Commission staff.  
3 Because it's clear the applicant has accepted these  
4 conditions from the Coastal Commission.

5 And so, my question -- it seemed to me the  
6 point is that there is a question about how long it would  
7 take for our staff to determine that the T & D agreement  
8 is, quote, "adequate"?

9 Because the phrase here says that, ". . .determined  
10 to be adequate by the Commission staff." And I'm  
11 assuming in the Coastal Commission case, it was meant  
12 to be the Coastal Commission. And you're supplanting or  
13 adding that it be adequate -- be determined to be  
14 adequate by our staff as well.

15 So, my question is: Do our staff have any  
16 different way of determining adequacy of the T & D  
17 agreement than the Coastal Commission staff has, or is  
18 that something that could be jointly done in order to  
19 expedite meeting the time lines?

20 What was envisioned when you put this in here?

21 EXECUTIVE OFFICER WARREN: Well, what was -- first  
22 of all, if I may say, the lease requires staff to do  
23 a 20-day turnaround on T & D review. So, if staff makes --  
24 that's 20 days within which to make that review. If for  
25 some reason they would find the T & D agreement to be

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1 unacceptable, then I assume the matter would be brought  
2 to your attention.

3 But what we had in mind here, frankly -- and  
4 this is -- I cannot underscore the importance of this  
5 component in the whole mix -- is that there is a widespread  
6 suspicion on the part of a number of folks and  
7 organizations that the -- that the producers will in the  
8 future seek an opportunity to amend or vary the terms of  
9 the Coastal Commission's permit; that they will concoct  
10 some excuse for not complying with the terms of the  
11 Coastal Commission's permit; that they will then petition  
12 the Coastal Commission for an amendment relieving them  
13 from the burdens of these way points, and then we will  
14 have nothing to say about it.

15 And because of the length of this controversy and  
16 the nature of the controversy, these suspicions exist.  
17 And this is our effort, I think, to assure folks that in  
18 the event we concur with the terms of the present  
19 Coastal Commission's shipping permit, that those conditions  
20 will not change -- cannot be changed exclusively by the  
21 Coastal Commission, but will also be subject to review  
22 by you folks.

23 COMMISSIONER BURTON: Okay. More specifically,  
24 though, are you uncomfortable with the adequacy of the  
25 Coastal Commission's staff review of the T & D agreement,

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1 so that you feel it's necessary for your staff to  
2 also have review and a determination of, quote, "adequacy"?

3 EXECUTIVE OFFICER WARREN: You ask me an  
4 embarrassing question.

5 COMMISSIONER BURTON: Thereby adding another  
6 month's --

7 EXECUTIVE OFFICER WARREN: Do we have confidence  
8 in the ability of the Coastal Commission staff to do an  
9 objective and thorough review of a T & D agreement?

10 COMMISSIONER BURTON: To determine adequacy,  
11 which is what this says.

12 Okay.

13 COMMISSIONER BURTON: Want to go into closed  
14 session?

15 (Laughter.)

16 EXECUTIVE OFFICER WARREN: Well, perhaps my  
17 pause is answer enough.

18 COMMISSIONER BURTON: Let me put it a different  
19 way.

20 CHAIRMAN MC CARTHY: All right. Answer it a  
21 different way.

22 MR. SHAMAS: You know, this is exactly what we're  
23 worried about. Every attorney on every staff wants to  
24 look at it. Every attorney has a certain favorite phrase  
25 that they like to use. And in the end -- at the end of

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1 the day, it doesn't matter what every one of those  
2 attorneys did, because either the financial institutions  
3 are going to accept them or they're going to turn them down.

4 And if you didn't write them the way they think  
5 they should be written, they're not going to loan you  
6 the hundred million dollars.

7 So, we don't feel that this is the appropriate  
8 thing to be in a request for State Lands lease. We want,  
9 because we were led to believe if we modernized, we put  
10 a new 30-inch line -- further adding to the water, we  
11 put two new 12-inch lines to recover vapors. We spent  
12 \$8.5 million on vapor recovery. We put the best system  
13 in the world in. And now, somebody wants to change the  
14 rules and inject producer issues into this. This is not  
15 the right thing to do.

16 I'm not against the State having other prospects  
17 of other people that would use a pipeline. We think  
18 pipelines are very safe, or we wouldn't have so many  
19 miles of them.

20 But you're changing the conditions. You're  
21 making what could be a rather simple lease into a very  
22 complicated thing. I don't know if that's another attorney  
23 calling or what! (Speaking of ringing telephone)

24 (Laughter.)

25 MR. SHAMAS: So, our plea is don't get us enmeshed --

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1 don't get us enmeshed in all of these other issues that  
2 were between the Coastal Commission and the producers.

3 COMMISSIONER DAVIS: Mr. Shamas, with all due  
4 respect, I've dealt with Texaco in many different  
5 capacities for many years. They're a very fine company.

6 But it's not fair to come before us and say  
7 you've accepted the Coastal Commission terms, when, in  
8 fact, you've sued the Coastal Commission challenging the  
9 validity of its lease, and then, say, "Don't you,  
10 Lands Commission, tinker with the Coastal Commission,  
11 because we think that's just fine. Forget the fact that  
12 we've sued them, because we'll drop that suit as long as  
13 we get you to sign it off."

14 I mean, this has to all be done in good faith.  
15 And we may or may not agree with what the Coastal  
16 Commission did, but I don't think you can come before us  
17 and say, "We're happy with the Coastal Commission. Don't  
18 change a thing. Oh, by the way, we got a lawsuit against  
19 them, because we think they acted illegally."

20 MR. SHAMAS: We've had to file, from the time I  
21 started on this, 12 lawsuits to protect our interest, not  
22 because --

23 COMMISSIONER DAVIS: No, I mean, just looking at  
24 it from our perspective --

25 MR. SHAMAS: -- we ever wanted things to happen.

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1 But everytime we would do something, someone else would  
2 change something. So, to preserve those rights, we've  
3 kept the attorneys of California employed to the full  
4 extent possible.

5 (Laughter.)

6 COMMISSIONER DAVIS: And we may follow your lead.

7 CHAIRMAN MC CARTHY: Suppose we put a time limit  
8 on our own staff review of this.

9 EXECUTIVE OFFICER WARREN: There is a time limit.  
10 Mr. Chairman, 20 days.

11 COMMISSIONER BURTON: Where is that?

12 MR. SHAMAS: Does it run concurrent with --

13 CHAIRMAN MC CARTHY: Excuse me. Point to where  
14 that is.

15 MR. HIGHT: It's in the lease between the  
16 Commission and the terminal company, which you don't have  
17 and I can give you a copy.

18 CHAIRMAN MC CARTHY: Is that a problem for  
19 you. Mr. Shamas? 20 days?

20 MR. SHAMAS: If it could run concurrent with some  
21 other reviews, it'd be great. But if the County took  
22 20, and the Coastal Commission took 20, and the State  
23 Lands took 20, two months are gone.

24 EXECUTIVE OFFICER WARREN: It's 20 days after we  
25 receive it. So, as soon as they get it to us, we have 20

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1 days.

2 COMMISSIONER BURTON: Okay. And then, what  
3 happens if you find it, quote, "inadequate"?

4 MR. HIGHT: Then we would come to the Commission  
5 with that issue, and you would be the ultimate  
6 arbitrator.

7 CHAIRMAN MC CARTHY: So, within 20 days after  
8 our Commission staff receives the T & D -- proposed T & D  
9 agreement, we'll have a response to you, specific  
10 response.

11 MR. SHAMAS: Could there be another 20 days until  
12 the final action?

13 CHAIRMAN MC CARTHY: That will depend upon the  
14 members of the Commission. But if this materially  
15 meets the statutory obligations of this Commission to  
16 serve the public with what are our clear mandates, we  
17 won't automatically set a Commission meeting.

18 MR. SHAMAS: Okay.

19 CHAIRMAN MC CARTHY: Two other members of the  
20 Commission could overrule me on that. But it would not be  
21 my assumption that we would set a Commission meeting  
22 unless there are significant problems in the proposed  
23 T & D agreement that our own staff points out to us.

24 EXECUTIVE OFFICER WARREN: On that point,  
25 Mr. Chairman, the lease provision specifies that in the

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1 event the staff determines the throughput agreement to be  
2 insufficient, the lessee has the right to request the issue  
3 to be brought to the Commission. And we do so within  
4 five days after that request has been filed.

5 COMMISSIONER DAVIS: And there's nothing to  
6 prevent you from submitting that to all the agencies  
7 and look at it at the same time?

8 Am I right about that, Charlie?

9 EXECUTIVE OFFICER WARREN: Yes, sir.

10 COMMISSIONER DAVIS: In effect, that would be  
11 running concurrently.

12 COMMISSIONER BURTON: Thanks, I understand it  
13 better.

14 CHAIRMAN MC CARTHY: Thank you, Mr. Shamas.  
15 Mr. Mihalik, do you have a comment?

16 MR. MIHALIK: Yes, Mr. Chairman, just one  
17 procedural issue. If it would please your Commission,  
18 we would appreciate just a very short moment at the end  
19 to rebut or discuss any comments?

20 CHAIRMAN MC CARTHY: I don't know if you were in  
21 the room when I announced it, but after both sides have  
22 roughly 45 minutes -- which may be a little longer than  
23 45 minutes -- to present their main case, case in chief  
24 for those in the legal profession -- then there will be  
25 a chance for rebuttal.

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1 MR. MIHALIK: Thank you.

2 CHAIRMAN MC CARTHY: Incidentally, those of you  
3 among the proponents of this application, I wanted to  
4 ask, are there any pipeline company representatives in  
5 this audience? All right. Which pipeline companies  
6 do you represent?

7 UNIDENTIFIED SPEAKER IN AUDIENCE: Four  
8 Corners Pipeline.

9 UNIDENTIFIED SPEAKER: All American Pipeline  
10 Company.

11 CHAIRMAN MC CARTHY: All right. So that's Line 90  
12 reversal option.

13 EXECUTIVE OFFICER WARREN: And 63.

14 CHAIRMAN MC CARTHY: And 63. All right. I  
15 take it that the proponents, as a group, the Point  
16 Arguello Producers, would create a company to build  
17 the Pacific Pipeline, or is that some other entity? How  
18 does that come about?

19 MR. HIGHT: It's another entity entirely,  
20 Mr. Chairman, that they would contract with.

21 CHAIRMAN MC CARTHY: The railroad company --

22 MR. HIGHT: Yes.

23 CHAIRMAN MC CARTHY: -- that owns the right-of-way.  
24 All right. Are they represented here? The railroad  
25 company represented here?

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1 UNIDENTIFIED SPEAKER IN AUDIENCE: The  
2 producers are represented here, however.

3 CHAIRMAN MC CARTHY: All right. The next  
4 speaker for the proponents is Andy Moynagh. Thank you,  
5 Mr. Moynagh.

6 The pipeline from Four Corners did not ask to  
7 testify. If you have something you'd like to say, we'd  
8 welcome your testimony. Not at this moment. I'd be  
9 happy to call you up.

10 Are you able to testify?

11 UNIDENTIFIED SPEAKER: If I could just clarify  
12 what you're asking. We will testify if there are any  
13 misstatements or you need any clarification. But all of  
14 our testimony has already been submitted. We have nothing  
15 further to say at this point in time.

16 MR. SECUNDY: I'm Jerry Secundy, President of  
17 Four Corners Pipeline.

18 CHAIRMAN MC CARTHY: Mr. Secundy, let me just  
19 ask you -- I'll pose to you one question, and then you  
20 can decide whether you ought to answer it representing  
21 your company after we go through the other witnesses.

22 The question is: Within the time limits that the  
23 Coastal Commission adopted for action by the producers to  
24 ship through pipelines, within those time limits, can you  
25 conceive of any reason why your company could not make

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1 the chances necessary to increase capacity so that the  
2 producers, if they chose -- they're obviously going to make  
3 the best bargain they can through a couple of pipeline  
4 companies. If they chose to do so, if they get a  
5 competitive price from you, is there physically or in  
6 any other way any obstacle that would prevent the use of  
7 your pipeline, your company's pipeline by the dates we're  
8 talking about that the Coastal Commission adopted and  
9 that we have before us?

10 MR. SECUNDY: If you mean the date of January  
11 1st, 1996, there is no physical obstacle that I'm aware  
12 of that would prevent us from reversing the pipeline  
13 and adding additional pumping capacity to have either  
14 a throughput of a hundred thousand barrels a day or 70,000  
15 barrels a day to Los Angeles.

16 CHAIRMAN MC CARTHY: All right. Don't answer  
17 this now, because we're going to go through the rest of  
18 the witnesses, then I'd like you to give a considered  
19 response. Are there any other reasons, problems of  
20 permits you have to obtain from different governmental  
21 agencies, any other reason you could reasonably anticipate  
22 that would block you from being able to pump oil through  
23 your line at a hundred thousand barrels daily capacity  
24 by the January 1st, '96 date?

25 MR. SECUNDY: Not that I'm aware of.

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1 CHAIRMAN MC CARTHY: Thank you.

2 Mr. Movnach.

3 MR. MOYNAGH: Good afternoon, Mr. Mc Carthy,

4 Mr. Davis, Ms. Burton, staff members. I am Andrew Moynagh,  
5 Executive Secretary of the Santa Barbara Building  
6 Trades Council, Vice Chair of the Coalition of Labor,  
7 Agriculture, and Business for Santa Barbara County, and  
8 Vice Chair of the Tri-County Central Labor Council.

9 The Building Trades Council is comprised of 36  
10 affiliates, 6,000 per capita paying members. The  
11 Coalition has in excess of 1,000 business, organizational,  
12 and individual members.

13 The Tri-County Central Labor Council represents  
14 about 30,000 individuals in the three counties --  
15 Ventura, Santa Barbara, San Luis Obispo. I'm here today  
16 on their behalf. We have for years now watched the  
17 Gaviota Marine Terminal and other projects, such as  
18 the Hyatt and some other larger scale projects within the  
19 community. They have perhaps become somewhat of a  
20 symbol of our concern, that despite meeting the most  
21 rigorous and stringent of conditions that agencies can  
22 require, these projects are either denied, delayed, or  
23 are not able to operate to profitability.

24 The Gaviota Marine Terminal has had to -- pardon  
25 me -- has had to submit to years of additional permitting

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1 demands. And despite having been deemed to have  
2 mitigated to the maximum extent possible back in 1987,  
3 we are at it again.

4 These are the types of activities that have  
5 created our rather user unfriendly persona, this same  
6 persona that now impedes economic recovery, not only in  
7 Santa Barbara but throughout the State of California.

8 A \$60 million investment deserves every opportunity  
9 to return to its investors a reasonable profit. Concerns  
10 for capital investment should relate only to  
11 performance. And we want to express our confidence in  
12 the performance of the terminal at this time.

13 Community success has become our common  
14 denominator, and we would hope that you would join us  
15 in our success efforts by granting to the applicant the  
16 requested lease.

17 Thank you for your time.

18 CHAIRMAN MC CARTHY: Thank you. Any questions?  
19 Thank you very much.

20 Mr. Richard Kasa, representing the California  
21 Energy Service & Supply Association. Mr. Kasa, welcome.

22 MR. KASA: My name is Richard Kasa, and I'm  
23 President and owner of Essence Engineering and, as was  
24 mentioned, I'm representing California Energy Service &  
25 Supply Association.

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1           This is an amalgamation of a number of companies  
2 that provide services and supplies to the oil and gas  
3 production business.

4           I'm a State Licensed Professional Engineer  
5 and have offices and employees in both Ventura and  
6 Santa Barbara Counties. I firmly believe that the  
7 majority of people in our area do not oppose this project.  
8 We are both for jobs and the environment. It's my  
9 professional opinion that the GTC project is the most  
10 highly conditioned project of its type in the United  
11 States and most likely the world.

12           This terminal is state of the art in every  
13 category, whether it be operational safety, emergency  
14 preparedness, or environmental mitigation. It's not  
15 inconsequential to note that there has been no spill of  
16 product at the Gaviota Marine Terminal throughout its  
17 entire history. I'm simply asking the Commission to grant  
18 the lease consistent with the permits already granted  
19 by the Coastal Commission.

20           I further ask that the Commission resist attempts  
21 to add additional and unreasonable conditions on this  
22 lease based on tactics and emotional appeals that have  
23 little basis in fact.

24           Specifically, adding any additional, or  
25 unnecessary, or unworkable conditions will likely

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1       jeopardize the compromise so painstakingly worked out  
2       among the producers and the various agencies.

3               I would not like to see this Commission supersede  
4       or usurp the authority of the County of Santa Barbara or  
5       the Coastal Commission in their work on future permit  
6       actions. As I'm sure you know, this permit has had  
7       permits -- this project has had permits since 1987, but  
8       has never transferred a drop of oil to a tanker.

9               Opponents have taken every opportunity in the  
10       intervening years of delay to throw up additional  
11       roadblocks for this project. Please don't be misled  
12       by carelessly used and poorly understood information  
13       being presented by project opponents. This is a sound  
14       project, mitigated to the maximum extent, feasible, and  
15       should be approved to proceed without further delay.

16              Thank you.

17              CHAIRMAN MC CARTHY: Thank you, Mr. Kasa. Any  
18       questions of Mr. Kasa?

19              COMMISSIONER DAVIS: Yeah, I have a question.  
20       I was struck by your line about, "Please don't usurp the  
21       authority of the County of Santa Barbara." I'd be  
22       delighted to support the conditions that the County of  
23       Santa Barbara wanted, but those were usurped by the  
24       Coastal Commission, which you're trying to usurp through  
25       a lawsuit now. So, I find it kind of ironic you come to us

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1 and say, "Please don't usurp the conditions of the  
2 County of Santa Barbara."

3 MR. KASA: To clarify, what I was talking about  
4 is the future permit actions on other shippers.

5 COMMISSIONER DAVIS: Are you talking about H(1)  
6 and H(2)?

7 MR. KASA: Correct. Other shippers' permits  
8 could be conditioned differently than your Commission  
9 has proposed. And maybe "usurp" is a strong word, but  
10 I would hesitate to -- I would like to see, as the Gaviota  
11 Terminal people would, I would like to see the process  
12 worked through by all other applicants to create the  
13 level playing field that we, I think, all desire.

14 Thank you.

15 COMMISSIONER DAVIS: Thank you.

16 CHAIRMAN MC CARTHY: Thank you, Mr. Kasa.  
17 Mr. Castagnoli. Castagnola, pardon me. San Franciscans  
18 should not pronounce that name.

19 MR. CASTAGNOLA: Mr. Chairman, Commissioners,  
20 my name is Angelo Castagnola. My family has been in the  
21 fishing business and operating workboats in California  
22 for 80 years. Like most fishermen, I use radar. In fog  
23 or at night, it is an essential aid to navigational  
24 safety.

25 I want to talk about the radar system that GTC

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1 will install as part of this project and how it will  
2 have a positive effect on my industry.

3 Let me quote from a letter written by the  
4 Southern California Trawlers Association to Santa Barbara  
5 County regarding GTC's permit for a conditional use  
6 permit to install the radar system at Gaviota. I quote:

7 "It is SCTA's position that  
8 construction of a radar facility at  
9 the Gaviota Marine Terminal will not harm  
10 fishermen, but will assist navigational  
11 safety for all mariners in the area.

12 "Radars aren't new to the fishing  
13 industry. They've been around for 50  
14 years and nearly every vessel has one. In  
15 addition, high-powered radar systems, like  
16 in San Francisco Bay, Los Angeles Harbor,  
17 and Long Beach Harbor, are used to guide  
18 oil tankers and commercial carriers safely  
19 in and out of port. A radar system on  
20 Platform Harvest off Point Arguello also  
21 helps large vessels avoid potential danger.  
22 Fishermen have never complained of any of  
23 these facilities and, to SCTA's knowledge,  
24 nobody has ever been injured by them."

25 End quote.

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1 I am in complete agreement with the letter and  
2 believe it accurately reflects the view of the vast  
3 majority of fishermen and mariners. After years of  
4 study and mitigation, the Gaviota Interim Marine  
5 Terminal must be considered the most heavily conditioned  
6 project of its kind ever. Well over 300 environmental  
7 conditions have already been placed on the project, yet  
8 opponents argue that mitigation is required and urge you  
9 to delay permitting the project yet again.

10 I believe it is time to go forward and stop  
11 standing in place. This is a state-of-the-art marine  
12 terminal using the best vessels available.

13 I urge you to grant the lease for this project  
14 consistent with the Coastal Commission permit. Thank you.

15 CHAIRMAN MC CARTHY: Thank you, Mr. Castagnola.  
16 Thank you very much.

17 Mr. Cliff Moryama, representing the California  
18 Chamber of Commerce.

19 (Thereupon, a woman came to the podium.)

20 CHAIRMAN MC CARTHY: Hi, . . .Cliff.

21 (Laughter.)

22 MS. NERA: Mr. Chairman, Commission members,  
23 my name is Valerie Nera, and I'm standing in for Cliff  
24 Moryama. I'm also a policy director for the California  
25 Chamber of Commerce.

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1 I'm here today to show our support for the  
2 approval of the Gaviota Terminal project. Many businesses  
3 inside and outside of California view this project as an  
4 example of how government agencies discourage  
5 businesses in California. Having been permitted  
6 originally in 1987, the marine terminal's still fighting  
7 to begin operations in 1993. In the meantime, no oil has  
8 been moved by tanker, production from the Point Arguello  
9 field has been artificially limited, and millions of  
10 dollars have been wasted in the regulatory bureaucracy.

11 Now, is it any wonder that many businesses have  
12 the impression that California is hostile to the  
13 business community? This project seeks to move oil by  
14 maine tankers while, at the same time, protecting the  
15 environment to the maximum extent feasible. The Chamber  
16 believes that the State needs to send a positive signal  
17 to California businesses, one that promotes a healthy  
18 business climate by allowing businesses to operate  
19 in California in an environmentally sound manner without  
20 being placed in an unreasonable competitive disadvantage.

21 Failure to approve this lease will send the wrong  
22 signal to the businesses at a time when California  
23 should be concentrating on improving the State's  
24 regulatory and business climate.

25 The Chamber urges you to approve the Gaviota

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1 Terminal lease.

2 Thank you.

3 CHAIRMAN MC CARTHY: Thank you. Would you give  
4 the spelling of your last name to our recorder, please?

5 MS. NERA: It's N, like Nancy, e-r-a.

6 CHAIRMAN MC CARTHY: Thank you very much.

7 We have three speakers left -- Mr. Daniel Kramer,  
8 Mr. Frank Morin, Mr. Robert Foote -- among the  
9 proponents. We invite them to come up and give their  
10 testimony. Why don't all three of them please come up  
11 to the microphone.

12 UNIDENTIFIED SPEAKER IN AUDIENCE: Harmonize?

13 CHAIRMAN MC CARTHY: Yes, if you could, as much  
14 as possible, and in order. Mr. Kramer first, and then  
15 Mr. Morin, and then Mr. Foote.

16 Representing the California Independent  
17 Petroleum Association.

18 MR. KRAMER: I'll be as quick as I can. I'm  
19 here before the State Lands Commission to urge your  
20 support for the renewal of Gaviota Terminal Company's  
21 lease to operate the Gaviota Interim Marine Terminal.

22 My testimony is on behalf of the California  
23 Independent Petroleum Association. We're a trade  
24 association representing the interests of approximately  
25 550 independent oil and natural gas producers, service, and

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1 supply companies throughout California.

2 We have two points to make before you today. The  
3 first is to remind you that the term "interim marine  
4 terminal" means exactly that. Once new pipeline  
5 capacity is available for Point Arguello Producers,  
6 hopefully through the new Pacific Pipeline system, or  
7 perhaps through the new Cajon pipeline system, or the  
8 reverse Four Corners line, they have pledged to cease  
9 all tankering from Gaviota.

10 The second point is near and dear to the hearts  
11 of those whom I represent. Because if the terminal lease  
12 is not renewed, and if tankering from Port Arguello is  
13 not allowed during the three years that is required to  
14 permit and build new capacity to transport OCS crude  
15 from Santa Barbara County to Los Angeles, the producers  
16 will have no alternative but to pump more crude through  
17 existing pipelines into the San Joaquin Valley.

18 That will mean economic hardship, if not  
19 disaster, for the independent producers. Why? Because  
20 of the already limited, already prorated capacity in  
21 existing pipelines will get tighter still, and our  
22 production will be left out in the cold, if not in the  
23 ground.

24 It also means that the already scarce diluent,  
25 or light oil, used to dilute Point Arguello crude to allow

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1 it to flow from the existing lines will be even in  
2 scarcer supply, which means its cost will go up, further  
3 exacerbating the situation for small producers.

4 In sum, if you're supportive of a long-term  
5 reduction in the amount of tankering off the California  
6 coastline and if you're supportive of the creation of  
7 additional pipeline capacity to transport OCS crude from  
8 Santa Barbara to Los Angeles, and if you do not want  
9 to damage the livelihood of small producers in the  
10 San Joaquin Valley, please, I urge you, renew the lease  
11 of the Gaviota Interim Marine Terminal. Thank you.

12 CHAIRMAN MC CARTHY: Thank you, Mr. Kramer.  
13 Any questions? All right. Thank you very much.

14 Mr. Morin, representing the Coalition of  
15 Labor, Agriculture, and Business of Ventura County.

16 MR. MORIN: Correct. My name Frank Morin.  
17 Can you all hear me in the back, outside? Okay.

18 Some people are weary of talking about jobs, and  
19 I submit to you that only those people who have jobs  
20 are tired of the topic. The folks who aren't working  
21 are intensely interested in it. Some will tell you there  
22 are only 11 jobs at stake at the terminal -- approval, 11  
23 more folks are working; disapproval, 11 aren't going to  
24 have jobs. Patently untrue. That is a manipulation  
25 of the facts of the positions open for a particular task

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1 to be performed there. Hundreds of contractors will  
2 pass through that gate in a year in addition to the  
3 Texaco personnel who will be working if that terminal  
4 is reactivated.

5 I work in the marine industries or the  
6 marine services industry, and I can recite the names of  
7 12, at least a dozen, California companies providing  
8 services and products to that terminal and others like  
9 it, and I can rattle them off the top of my head. So,  
10 that means there's a lot more of them out there.

11 They won't close their doors, in all likelihood,  
12 if this terminal isn't reactivated, but there will be  
13 jobs that are going to go. And when the jobs are cut  
14 there, you could walk back in the town and cut a  
15 librarian, or cut a policeman, or cut a mechanic, or cut  
16 a drycleaners. That's the ripple effect you all know  
17 about better than I do. And those are the facts.

18 This is a job issue. Please send a message  
19 today that California wants and will fight for good jobs.  
20 Thank you very much.

21 CHAIRMAN MC CARTHY: Thank you, Mr. Morin.  
22 Mr. Foote, representing H & H Oil Tool Company, Inc.

23 MR. FOOTE: Good day, ladies and gentlemen. My  
24 name is Robert K. Foote. I've been employed by H & H Oil  
25 Tool Company out of Santa Paula for the past 13-plus years.

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1           H & H is one of the rapidly shrinking number of  
2 oil service companies that is entirely dependent upon  
3 oil field activity, on and offshore, generated by the  
4 oil companies, such as Texaco.

5           In 1982, H & H employed 235 people, most of them  
6 with families. Since that time, we have joined forces,  
7 consolidating with two other related oil service  
8 companies of approximately our same size.

9           Today, all three companies combined employ  
10 only 155 employees. Last year, H & H had a reduction  
11 of workforce and pay affecting 20 percent of the  
12 employees.

13           A year ago, last May, I personally had to lay  
14 off two of my coworkers with families. I'd worked with  
15 these people for over ten years. One of them just  
16 recently found a job, a much lower paying job. The other  
17 is still searching for work.

18           During testimony today, as Frank just noted,  
19 you -- there will be conflicting numbers of jobs stated  
20 related to this particular project. I submit to you that  
21 the actual number of jobs is a relatively insignificant  
22 factor compared with a much larger issue. Intended or  
23 not, the decision that you make today will send a  
24 message to the hundreds of thousands of companies that  
25 remain in California -- those same companies, which are

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1 actively and aggressively being pursued by other states  
2 and countries.

3 If two companies with the human and financial  
4 resources of a Texaco and a Chevron cannot satisfy the  
5 regulatory agencies' demands of this State, who then  
6 could?

7 Jobs is an important issue. But much more  
8 important, in my opinion at this time, is the perceived  
9 business attitude of this State. You have an opportunity  
10 to send a positive message. I urge you to approve the  
11 Texaco lease consistent with the Commission permit -- the  
12 Coastal Commission permit. Texaco rightfully deserves  
13 your approval, and the entire business community of  
14 California desperately needs the message.

15 CHAIRMAN MC CARTHY: Thank you, Mr. Foote.

16 Mr. Secundy, would you mind leaving your card  
17 with our recorder so she has the correct spelling of  
18 your name and your position with Four Corners.

19 MR. SECUNDY: All right.

20 CHAIRMAN MC CARTHY: Thank you. That finishes  
21 the witnesses for the proponents. Mr. Shamas, may I ask  
22 you a couple of questions, please, regarding the pipelines?

23 MR. SHAMAS: Yes, sir.

24 CHAIRMAN MC CARTHY: Would you mind coming back  
25 to the microphone? Mr. Shamas, you heard Mr. Secundy

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1 who is an officer with Four Corners -- as I understand  
2 it, there are two primary pipelines competing for this,  
3 although there are three possibilities. And I'm not going  
4 to ask you any questions which would reveal how you and  
5 those in your group want to go about negotiating to get  
6 the best deal from these companies.

7 But what I am interested in ascertaining right  
8 now is what you think the maximum capacity necessary is  
9 in the pipeline, and tell me what sources of oil would  
10 be included in what you anticipate would be the maximum  
11 capacity necessary. And then I'm going to relate that  
12 to what Mr. Secundy just told me about what his company  
13 could do, which was 100,000 barrels a day.

14 MR. SHAMAS: Well, I don't know if I -- as  
15 managing partner of the terminal operation -- should feel  
16 that I can speak for those two groups, but I can give you  
17 my opinion, because my feeling is that a minimum of  
18 50 to 60,000 barrels a day -- well, let's say 40 to 60,000  
19 barrels a day of the PAPCO group crude would need to move  
20 to Los Angeles. And then, if you look at the Santa Ynez  
21 Exxon unit that's slated to come on late 1993, early --  
22 actually it's between six and twelve months before they  
23 get up to full capacity. If you took the total output  
24 of those two projects, you're looking at between 170 and  
25 180,000 barrels per day.

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1           CHAIRMAN MC CARTHY: All right. So, you said  
2 40 to 60 for PAPCO.

3           MR. SHAMAS: For the PAPCO group. Exxon has a  
4 similar -- and, again, I can't speak for Exxon. But  
5 Exxon has indicated they have a similar expected market  
6 in the L.A. Basin for their type of crude in that same  
7 range.

8           So, if you want to add the maximums, it's 120.  
9 I could be off some, because I really can't predict what  
10 the refiners are going to select. If you look at our  
11 very own refinery in the L.A. Basin, we select crudes  
12 from all over the world. And so, I really can't, you  
13 know, tell you. But my guess is it's going to be  
14 between 100 to 150,000 barrels a day.

15           CHAIRMAN MC CARTHY: All right. When you set out  
16 to negotiate with the two or three pipeline companies  
17 that you will be talking to, it's an understanding  
18 accepted by every producer that will use the pipeline  
19 selected, that there will be no oil tankering and that  
20 the pipeline selected will be the source of shipping  
21 to Los Angeles?

22           MR. SHAMAS: The pipeline selected will be the  
23 source.

24           CHAIRMAN MC CARTHY: Right. But there won't --  
25 the point is, there won't be a question of a lack of

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1 capacity and, therefore, we have to revert to oil  
2 tankering?

3 MR. SHAMAS: Well, it depends upon which  
4 project is constructed or which phase.

5 CHAIRMAN MC CARTHY: That's why I'm asking these  
6 questions.

7 MR. SHAMAS: The original scoping -- and  
8 again, this is a pipeline issue. But the original  
9 scoping is not a terminal issue. I'm answering this in  
10 a nonterminal way.

11 The original scoping of the pipeline down the  
12 railroad tracks looked at three different cases -- the  
13 16-inch, an 18-inch, and 20-inch. Every one of those  
14 would have been capable of moving what was expected to  
15 be the maximum L.A. demand. And the reason that the  
16 20-inch line was chosen was because you can put a number  
17 of pump stations on. But that was the most efficient  
18 sizing for the line that Pacific Pipeline thought was  
19 needed to go to the L.A. Basin.

20 So, there's a line that we have no question  
21 that, if it is 150, the industry thinks that line will be  
22 fine.

23 CHAIRMAN MC CARTHY: All right. So, everyone  
24 shares the same understanding that whatever oil is going  
25 to be shipped is going to be shipped through the pipeline

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1 selected and not tankered.

2 MR. SHAMAS: We all have the very same under-  
3 standing because of the conditions that the producers will  
4 have agreed to at the Coastal Commission; that they will  
5 move by pipeline or they won't move.

6 And I don't want to give the impression that  
7 I don't think the Cajon pipeline project is not a good  
8 project, nor do I want Gerry Secundy's pipeline to think  
9 that I'm against the Four Corners -- All American Four  
10 Corners reversal. Each of them has a different benefit  
11 to it.

12 The Four Corners line, you know -- Gerry says  
13 it's 100,000. And they have indicated to industry they  
14 have some options between 70 and 100,000 barrels a day,  
15 and I would not differ with that.

16 CHAIRMAN MC CARTHY: I don't think we're asking  
17 you to negotiate that out here now. I understand there  
18 are differences within the producers in your group as  
19 to which of the pipelines should be used. So, that's  
20 a matter you can work out as long as everybody understands  
21 that whatever oil is shipped is going to go through  
22 pipelines and not tankers.

23 And you've said yes to that.

24 MR. SHAMAS: I've said yes to that, but, again,  
25 let me emphasize I'm not here speaking for those ten  
producers. I'm here speaking for the Gaviota Terminal.

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1           We understand that our terminal will shut down.  
2           If they want to ship it in helicopters, or trains, or  
3           trucks, or something else, but our feeling is that the  
4           terminal has a date certain at which it's going to close.  
5           And the only thing that'll be used there anymore will be  
6           tanks, so they can tender to a pipeline.

7           CHAIRMAN MC CARTHY: I've had the distinct  
8           impression that the producers were a part of this  
9           dialogue, together with you, and you're not speaking or  
10          operating independently, and that they understand they're  
11          going to be part of the negotiation process with competing  
12          pipelines, to the end that there will be no more oil  
13          tankering after the specified date, and that everybody  
14          will be shipping through the pipelines.

15          Now, if there's any dissent from that, we need to  
16          know that right now.

17          MR. SHAMAS: The Coastal Commission conditions  
18          will force the producers to select a pipeline option.

19          Lou Blackwell is here from Chevron. Lou? I'm  
20          sorry if I've given anything that indicates that I  
21          represent the producers, because I don't.

22          CHAIRMAN MC CARTHY: You want to identify  
23          yourself for the record?

24          MR. BLACKWELL: Yes, sir. My name is Lou  
25          Blackwell, and I'm General Manager of the Western Supply

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1       Region for Chevron, but I'm also chairman of the  
2       Point Arguello Producers Management Committee, and I'm  
3       here in that capacity. Maybe I can follow up. You've  
4       done a great job for an attorney, Jim.

5               (Laughter.)

6       MR. SHAMAS: I'm an engineer.

7       MR. BLACKWELL: Let me just answer your last  
8       question. The Point Arguello Producers understand and  
9       accept that, if we get to the position that we can accept  
10      the Coastal Commission permit, that all oil that will  
11      move out of the processing plant after the 1996 drop-  
12      dead date will move by pipeline. It's unequivocal.

13             Now, what we can't guarantee, as Jim has  
14      referred to, is that a new pipeline or new capacity  
15      will be built or made available.

16             Those negotiations are going on currently. But  
17      what we do accept -- again, without reservation, if  
18      we accept permit, that once the date is triggered --  
19      I think it's January 1st, '96. I could be a little bit  
20      off. After that date, no other Point Arguello crude will  
21      move to any destination by marine tanker.

22             CHAIRMAN MC CARTHY: Now, I appreciate that  
23      there are negotiations that have to go on regarding the  
24      tariff that will be paid to whatever pipeline company  
25      is ultimately selected, and that a T & D agreement would

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1 have to be signed before bank loans would be given. But  
2 what I'm trying to get a sense of here is that there's a  
3 clear understanding on everybody's part that there will  
4 be no oil tankering after the date certain, as far as  
5 one member of this Commission is concerned, and that that,  
6 in part -- there are other considerations, your  
7 negotiations with the pipeline companies, what you  
8 consider a fair price from them, whatever permit  
9 processes go through. Obviously, there could be someone  
10 in California that says there should be no more oil  
11 tankering, we should only use pipelines, and then it  
12 could go into court and try to stop the permit process  
13 from going forward that would allow the very pipelines.  
14 We understand that.

15 And we'll be able to look at all those facts  
16 and make that judgment as to whether there are any  
17 positions like that taken, which really serve to undercut  
18 what the good-faith agreement may turn out to be here.

19 But what I'm trying to get from the producers  
20 is that you understand -- I don't know where these two  
21 Commissioners are, but I'm speaking for myself now --  
22 that I take very, very seriously this date that says  
23 there'll be no more oil tankering after this date.

24 MR. BLACKWELL: I can tell you unequivocally on  
25 behalf of the Point Arguello Producers that, if we work

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1 through all of this and we accept the Coastal Commission  
2 permit, we will live up to all the conditions in that  
3 permit, one of which is that after a date certain,  
4 irrespective of whether pipelines are constructed,  
5 built, reversed, or whatever, there will be no more  
6 marine movements of Point Arguello crude after that date  
7 certain. And every producer in our partnership under-  
8 stands and accepts that.

9 I can't say it any clearer than that.

10 COMMISSIONER DAVIS: Can I ask a question of  
11 Mr. Shamas?

12 As the State's -- one of the State's chief  
13 fiscal officers, I'm somewhat struck by the difficulty  
14 of your position; you have spent a lot of money.

15 My question is, how can you recoup that  
16 investment between now and January 1, 1996? Let's  
17 assume the pipelines are available; how can you recoup  
18 all the investment that you've made in this terminal?

19 MR. SHAMAS: We -- the answer to your question  
20 is, we will not. We -- and it's interesting. Lou and I  
21 have been working on this. We made the decision back in  
22 1985, when we had two competing terminal projects --  
23 Gaviota and Las Flores. And Chevron was really backing  
24 the other terminal. We made a decision and a pledge to  
25 the county we would operate whichever terminal we

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1 constructed for four years, and then we would shut it  
2 down.

3 That has now been compressed to 2.8, two years  
4 and eight months. That was through the negotiations,  
5 which I differed with, but that's what happened when  
6 they got together for four months. And Lou was one  
7 of the lead negotiators between the State's representatives  
8 and the producers.

9 We will get revenue from the tanks, but we can't  
10 get a payout in 2.8 years on about \$40 million of our  
11 investment that went to go out 3500 feet into the sea  
12 and build the tanker loading.

13 COMMISSIONER DAVIS: Did I hear you suggest  
14 that you will get -- you'll be compensated from the  
15 pipeline revenues once it's switched to pipeline?

16 MR. SHAMAS: No. The tanks that are there, which  
17 were mandated by the County of Santa Barbara, will be  
18 used then to deliver into All American Pipeline, or  
19 Pacific Pipeline, whichever line turns out to be the  
20 one that ends up being the option to go to L.A.

21 There will still be a tankage fee, but it will  
22 be much reduced compared to what it costs to load a  
23 tanker. And we'll do the tankage on about a 15-year  
24 payout

25 COMMISSIONER DAVIS: But when you crank all that

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1 in, does the investment ultimately pay for itself, or  
2 is it not going to pay for itself?

3 MR. SHAMAS: It has between a two -- well,  
4 between a two and three percent return. It's not the kind  
5 of thing we'd go into business, you know, to end up with.

6 COMMISSIONER DAVIS: So, at a two to three  
7 percent return, it takes a long time to get the  
8 investment back.

9 MR. SHAMAS: A long time to pay it out. Close  
10 to 20 years. So, it doesn't have good economics. But,  
11 as I stated in the introduction, we set out to spend  
12 \$15 million. Everytime we met an APCD condition or the  
13 firemen made us add something, we ended up over \$60  
14 million. So, it just grew.

15 CHAIRMAN MC CARTHY: Questions? Mr. Warren.

16 EXECUTIVE OFFICER WARREN: Mr. Chairman, with  
17 the presence of Mr. Blackwell at the lectern, I wonder  
18 if he would advise the Commission on the record of the  
19 status of the determination by the producers on resolving  
20 the question of whether or not they'll pick up the  
21 permit?

22 As you recall, I indicated that was a  
23 subsidiary question in my opening remarks. And it's  
24 still not clear to me exactly what the intentions are of  
25 the producers with respect to the Coastal permit itself.

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1           CHAIRMAN MC CARTHY: Mr. Blackwell?

2           MR. BLACKWELL: Yes. Mr. Warren, when we  
3 started this process in the State facilitation effort  
4 last summer, at that time, we were anticipating a  
5 fourth-quarter '93 startup, and the permit had a  
6 certain cost/benefit ratio associated with it. Because,  
7 as you know, we've agreed to some very substantial  
8 concessions in this permit.

9           As this thing has stretched on and we still have  
10 not been able to reach full production, because we're  
11 still in this process of seeing if we can get the  
12 permits -- the value, i.e. the benefit, has continued to  
13 erode while the costs have continued to mount. So, we  
14 are a partnership of ten companies that in normal --  
15 in our normal business we compete with one another. We  
16 are here together in this partnership for this  
17 particular project. So, I have to be candid. There are  
18 individual partners who are now questioning whether this  
19 permit has any value to them.

20           I am hopeful -- I know from Chevron's standpoint,  
21 we continue to believe that this is a fair solution to a  
22 very complex problem that the State's been wrestling with  
23 for a number of years. And from our standpoint, we would  
24 like to proceed. But I have to admit that the longer  
25 this drags on -- and I think this was the point of

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1 Mr. Shamas' comment on having another agency review a  
2 T & D another 20 days, another request for another  
3 hearing, as this drags on, the benefit of this permit  
4 continues to erode. And it's a very -- it's in the  
5 balance now. And if we can get this thing wrapped  
6 up and get going, I'm hopeful that we're going to be able  
7 to get everybody on board. I can't guarantee it.

8 CHAIRMAN MC CARTHY: Incidentally, perhaps you  
9 didn't understand the back and forth on the 20 days  
10 before. There need not be an additional 20 days. The  
11 20 days will run from the time the T & D agreement is  
12 received, and that's to be --

13 MR. BLACKWELL: Well, I think that -- because  
14 this is the February date that we have to hit. And if  
15 this thing progresses in the timing that we were on,  
16 which has been disruptive a little bit here -- but the  
17 timing we were on was going to lead us to where we would  
18 have had a T & D by the fourth quarter, in which case  
19 we would have had plenty of time. We'd have done it before  
20 then.

21 But with the uncertainty -- in fact, we're  
22 going tomorrow to a meeting of the producers in Phoenix.  
23 I'm hopeful that I'll be able to carry with them the  
24 news that we've gotten a relatively clean lease.

25 But a lot of this depends -- they're holding back

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1 their decisions based on what they think the ultimate  
2 regulatory cost of this project's going to be.

3 CHAIRMAN MC CARTHY: Thank you very much. How  
4 about a two-minute recess? Stand and stretch. A short  
5 seventh-inning stretch.

6 (Thereupon, a brief recess was taken.)

7 CHAIRMAN MC CARTHY: I thank the rest of the  
8 witnesses for their patience. I think the proponents  
9 took about 35 minutes to testify, and we took about an  
10 hour to ask them questions. So, you still have your  
11 45, and we'll have questions of you as well.

12 Let's start with Mr. Bill Douros, the Deputy  
13 Director of the Resource Management Department of  
14 Santa Barbara County.

15 COMMISSIONER DAVIS: Mr. Chairman, I have a  
16 question that I intended to put to Mr. Secundy. Is he  
17 still here?

18 CHAIRMAN MC CARTHY: Mr. Secundy, could you step  
19 up? Would you mind just a moment, Mr. Douros?

20 Mr. Secundy, would you mind taking the microphone  
21 for a minute? Commissioner Davis would like to ask you  
22 a question.

23 MR. SECUNDY: Certainly.

24 COMMISSIONER DAVIS: First of all, do you  
25 operate Line 63?

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1 MR. SECUNDY: Yes, I do.

2 COMMISSIONER DAVIS: How much additional capacity  
3 does Line 63 have now that is going unutilized?

4 MR. SECUNDY: As of today, it has zero  
5 additional capacity. What I think you have to do is  
6 look at the volumes that we've moved over the last year.  
7 Just to go back a few months, in the month of March --  
8 in terms of the PAPCO crude, which we blend with a  
9 diluent of about 10 to 12 percent, so we call it  
10 high viscosity/high sulfur crude, HVHS crude -- in the  
11 month of March, I believe we moved approximately  
12 52,000 barrels a day of that. Excuse me. 56,000  
13 barrels a day of that.

14 In the month of April, we'll move about 52,000  
15 barrels a day. In the month of May, we've been  
16 nominated (sic) about 41,000 barrels a day. With those  
17 capacities, and with the light crude oil that we move,  
18 we are full. But if you go back over the last year or  
19 so, we have had additional capacity that's ranged between  
20 10, 20, 30, 40,000 barrels a day.

21 It depends on which month that you pick. It's  
22 not an easy question to answer, because it depends on how  
23 much of the light crude you're moving at the same time.  
24 We are certainly very comfortable with the amount that  
25 we're moving right now.

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1           COMMISSIONER DAVIS: If this Commission were to  
2 condition a lease on the premise that pipeline capacity  
3 was fully utilized, would you be in a position to advise  
4 our staff and obviously the producers as to when you had  
5 additional capacity?

6           MR. SECUNDY: Yes. Actually, Mr. Warren asked  
7 us for a specific proposal as to how this could be done.  
8 We propose something that was done on a quarterly basis  
9 as opposed to a monthly basis. I think it's feasible.  
10 We are not advocating that system, but it is certainly  
11 a feasible system, and it would give everyone enough  
12 opportunity and time in order to be able to nominate.

13           The pipeline capacity is going to vary month  
14 by month. But certainly, there's a very substantial  
15 minimum capacity that exceeds 25,000 barrels a day.

16           COMMISSIONER DAVIS: When you say minimum  
17 capacity, you mean that --

18           MR. SECUNDY: That's for the heavy sulfur.

19           COMMISSIONER DAVIS: Pardon me?

20           MR. SECUNDY: For the heavy crude. For the PAPCO  
21 crude. Did I make myself clear?

22           COMMISSIONER DAVIS: No. But it's not your fault.

23           (Laughter.)

24           MR. SECUNDY: Let me go back, because, again,  
25 it is not an easy subject to understand.

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1                   COMMISSIONER DAVIS: My question is just, you  
2 know, I just want to utilize all the efficiencies we  
3 can. And if there is unused capacity, can we -- if the  
4 Commission were to require the producers to first utilize  
5 the capacity before exercising any option to tanker,  
6 could you develop a plan -- and you suggested it would  
7 be something you could do on a quarterly basis. And then  
8 my next question was, can you identify -- I think you  
9 gave me a figure of about 25 minimum. And I don't know if  
10 that was the unused capacity or that was the demand  
11 that goes through the pipeline all the time.

12                   MR. SECUNDY: First of all, in terms of a plan,  
13 a plan has already been submitted. Mr. Warren has a  
14 copy of that plan. I believe it's in the documents  
15 that you currently have. So, there is a plan and it is  
16 a feasible plan, and it's a workable plan.

17                   In terms of how much capacity that plan would  
18 enable you to move, what I'm convinced of is that it  
19 would enable you to move substantially more than the  
20 25,000 barrels a day that the Coastal Commission is  
21 putting in as a requirement for their permit. That was  
22 the reference to the 25,000 barrels a day. But I can't  
23 tell you a specific month.

24                   COMMISSIONER DAVIS: Thank you.

25                   CHAIRMAN MC CARTHY: Thank you.. Mr. Douros.

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1           MR. DOUROS: Thank you, Mr. Chairman and members  
2 of the Commission.

3           For the record, my name is Bill Douros. I manage  
4 the County's Energy Division. I'm here to present a  
5 letter that our Board of Supervisors approved unanimously  
6 last night.

7           I also want to say that I appreciate being  
8 sandwiched between the proponents and opponents, because  
9 I think it accurately reflects our Board's position.

10           (Laughter.)

11           MR. DOUROS: Our Board offers these comments to  
12 clarify the scope of the County's permit for the Gaviota  
13 Interim Marine Terminal and the SEIR prepared for  
14 Chevron's proposed tankering for that facility, as well  
15 as the relationship of these matters to Exxon's tankering  
16 application.

17           Our suggestions are intended to ensure that  
18 any lease the State Land Commission issues is based on  
19 accurate facts and is consistent with the County's  
20 local coastal plan and the final development plan issued  
21 to the Gaviota Interim Marine Terminal.

22           The County's LCP allows for only one consolidated  
23 marine terminal on the South Coast of Santa Barbara  
24 County. In 1987, the County approved Exxon's Las Flores  
25 Canyon Marine Terminal as the permanent consolidated marine

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1 terminal allowed by our LCP, and authorized interim  
2 use of the Gaviota Interim Marine Terminal until either  
3 Exxon's marine terminal was constructed or until new  
4 pipelines to Los Angeles and Texas became operational.

5 The linkage between the interim status of the  
6 Gaviota Terminal and the designation of Exxon's marine  
7 terminal as the permanent consolidated facility is made  
8 explicit in several related conditions imposed in the  
9 separate permits issued by the County to the Gaviota  
10 Terminal Company and to Exxon.

11 These requirements assure that there will be  
12 only one consolidated marine terminal in the County.

13 And also, the reason for this and for allowing  
14 that for only an interim period would be to allow  
15 Chevron to complete its commitment made to the Coastal  
16 Commission in 1983 to, quote, ". . . assume the lead  
17 role in arranging for the design, permit, organization,  
18 and capitalization of an industry-sponsored pipeline to  
19 Los Angeles," end quote, and also to allow Exxon to  
20 develop its marine terminal in Las Flores Canyon.

21 In 1988, GTC applied to the County, in coordination  
22 with Exxon, for GTC to become the permitted marine  
23 terminal while Exxon deferred construction of its Las  
24 Flores Canyon Marine Terminal until April of 1994.

25 Indeed, at our request, the Coastal Commission's

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1 February, 1993 approval of a new coastal development  
2 permit for interim operations of the Gaviota Interim  
3 Marine Terminal included a condition that we had asked  
4 for -- and that's also included on page 2 in Italics of  
5 our letter -- I won't read that, but I believe you have  
6 that letter in your record.

7 The second point that the County Board of  
8 Supervisors wanted to make is with regard to the volumes  
9 of the permit -- the lease before you today. Because  
10 Exxon's proposed use of the Gaviota Interim Marine Terminal  
11 is beyond the scope of the County and the Coastal  
12 Commission permits for use of that facility, as well as  
13 it's beyond the final SEIR prepared to review the impacts  
14 of Chevron's tankering from the Gaviota Marine Terminal,  
15 we also request that any lease authorize a throughput  
16 of 50,000 barrels a day rather than 100,000 barrels a day  
17 recommended by your staff.

18 And I'll outline the reasons for that. First,  
19 use of the GIMT by Exxon is beyond the scope of the final  
20 SEIR prepared under the direction of a joint review  
21 panel consisting --

22 EXECUTIVE OFFICER WARREN: Mr. Chairman -- pardon  
23 me for interrupting, but perhaps in the interest of  
24 time, the staff accepts that suggestion on page 394,  
25 paragraph 6F. Strike the numerals 100,000 and insert

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1 50,000. I think that would be as suggested by the  
2 County. And we find that suggestion appropriate and  
3 acceptable.

4 MR. SHAMAS: (From the audience) We don't accept  
5 that.

6 CHAIRMAN MC CARTHY: Well, we'll return to the  
7 point in a minute.

8 Go ahead and finish your comments.

9 MR. DOUROS: Well, perhaps, then, because there  
10 is some controversy, I'll continue with reading from our  
11 Board's letter.

12 When GTC withdrew its applicaton for the  
13 permanent Gaviota Marine Terminal on June 5th, 1992, the  
14 partnership confirmed that it would accept an  
15 appropriately conditioned lease from the State Lands  
16 Commission accommodating Chevron's tankering application;  
17 that is, a term of approximately three years allowing the  
18 transport of at least 50,000 barrels a day of Point  
19 Arguello crude oil to Los Angeles in Chevron Oregon  
20 Class tankers.

21 As a consequence of GTC's permanent marine  
22 terminal application withdrawal and the desire of GTC  
23 and the Point Arquello Producers to have a county  
24 decision on Chevron's tankering application by August of  
25 1992, the final supplemental environmental impact report

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1 was narrowed to serve as the environmental analysis of  
2 the Point Arquello Producers' May 22nd application to  
3 tanker from the GIMT.

4 Thus, although the draft SEIR for the Gaviota  
5 Marine Terminal was originally prepared for a larger  
6 project, the County certified the final SEIR, quote,  
7 ". . .for action by the County on Chevron's tankering  
8 application," unquote.

9 I'll note that that is a quotation from findings  
10 adopted by our Board.

11 Neither the County or the Coastal Commission  
12 has utilized the final SEIR to approve tankering from  
13 the GIMT for Exxon or for volumes greater than 50,000  
14 barrels a day.

15 On February 12th of this year, the County  
16 deemed Exxon's application to tanker 50,000 barrels a day  
17 of its Santa Ynez unit crude oil for five years from the  
18 Gaviota Marine Terminal in single-hulled tankers and  
19 to construct a feeder line to allow Exxon's oil to get  
20 from the Las Flores Canyon to the Gaviota Terminal (sic).

21 Exxon's proposed use of the Gaviota Terminal and  
22 the new feeder line are beyond the scope of the activities  
23 evaluated for or contemplated by the County's permit for  
24 interim use of the Gaviota Terminal. Allowing such use  
25 by Exxon will require modification of the County's permit

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1 to GTC regardless of the State Lands Commission action  
2 on the lease.

3 GTC has notified the County that it intends to  
4 submit an application to modify its final development plan  
5 by May 17th, 1993. It is also likely that GTC will  
6 seek a modification of the Coastal Commission's new  
7 permit to increase the 50,000 barrel a day throughput  
8 limitation to allow for Exxon's proposed use of the  
9 Gaviota Terminal.

10 We believe that approval of a State Lands  
11 Commission lease to accommodate Exxon's tankering should  
12 await final County and Coastal Commission action.

13 Finally, we commend your staff's efforts to  
14 identify lease conditions that can maximize feasible  
15 use of existing pipelines. The County's LCP requires  
16 that crude oil be transported from the County by pipeline  
17 as soon as the shipper's oil refinery center of choice  
18 is served by pipeline.

19 Both the County and Coastal Commission have  
20 rejected Chevron's claims that the use of Line 63 to  
21 Los Angeles is economically infeasible or constrained by  
22 an inadequate market for blended crude oil.

23 Tankering may occur only if, among other things,  
24 available pipeline capacity to a shipper's destination  
25 of choice is first utilized.

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1           Our Board also identified a number of  
2 clarifications to the staff report. There's five of  
3 them. I won't go through those. They are in the letter.

4           And also, I want to point out one thing that's  
5 not in our Board's letter that I've noticed today in  
6 reviewing the staff report. And that pertains to  
7 Condition 6I on page 23 of the staff report.

8           That condition identifies that, if for any  
9 permit issued by the Coastal Commission or the State  
10 Lands Commission, a permittee, a shipper, is notified  
11 that they have not met the conditions of compliance,  
12 that G -- that the lessee, GTC, shall be notified of the  
13 State Lands Commission (sic) of that violation.

14           Because it's theoretically possible for the  
15 County to issue a permit that, if not appealed or if  
16 appealed is not accepted by the Coastal Commission,  
17 there would be a County permit that would also be a  
18 viable permit. We believe that 6I should also include  
19 an acknowledgment that a County-issued permit as well as  
20 a Coastal Commission-issued permit should carry the same  
21 weight. And any notification of a lessee -- of a  
22 shipper not in compliance should be one that could be a  
23 notification by the County to your staff.

24           I talked about it with your staff. They  
25 understand and agree that that, I believe, is an

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1 acceptable amendment to that condition.

2 That concludes the comments from our Board of  
3 Supervisors. I can answer any questions.

4 CHAIRMAN MC CARTHY: Let's return to the issue  
5 of 50,000 versus 100,000 barrels per day. Was that an  
6 argument that the County presented to the California  
7 Coastal Commission?

8 MR. DOUROS: Mr. Chairman, that's an argument  
9 we did not need to make because their recommendation  
10 and their action was only for 50,000 barrels a day.  
11 And our Board concurred with that as part of their  
12 action.

13 So, I don't believe we've specifically made any  
14 comments because we didn't need to.

15 CHAIRMAN MC CARTHY: Mr. Shamas?

16 MR. SHAMAS: (From the audience) I'd like to  
17 have Mr. Milhalik address that.

18 Just as a lead-in, we've decided that terminal  
19 for 150,000 barrels a day. We did an SEIR for 125.  
20 The County has continued to just change and drop things.  
21 It's the same thing that they've done all the time.

22 CHAIRMAN MC CARTHY: You did an environmental  
23 impact report for 125?

24 MR. SHAMAS: That's what we submitted. And when  
25 we came down to whether or not we could start the  
terminal up, which was April of '92, the County said we

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1 had to -- how'd they phrase it, Dan? We had to withdraw  
2 it, we had to change it.

3 MR. MIHALIK: We withdrew our permanent terminal  
4 application. I think the point that needs to be  
5 clarified here is that -- I think it's important  
6 throughout this whole process to keep the owners of oil,  
7 the shippers and their permits separate from the Gaviota  
8 Terminal Company. I mean, they are one of our  
9 customers.

10 And it's true that one of our customers, the  
11 Point Arguello Producers, has a limit in its permit  
12 conditions of 50,000 barrels a day. But if you go back  
13 to kind of the main framework here of conditions for  
14 Gaviota Terminal Company -- and that is the County's  
15 final development plan -- we have a permit from the County  
16 right now that's good for 100,000 barrels a day. That's  
17 the Gaviota Terminal. And we have always expected -- and  
18 I think the State Lands Commission has always kind of  
19 undertaken the approach that they use that final  
20 development plan from the County as sort a framework in  
21 developing conditions.

22 So, our expectation would be, we would receive  
23 a permit for 100,000 barrels a day. We're mitigated for  
24 that. We're designed for that. And we're an open,  
25 consolidated facility, open to everyone. Again, you have

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1 a provision in your proposed lease that would cause us  
2 to come in and ask for a permit modification later if  
3 there are other shippers, you know, you'll be looking  
4 at mitigation measures and that whole area.

5 CHAIRMAN MC CARTHY: So, the 50,000 barrels  
6 per day condition in the California Coastal Commission  
7 permit refers to Point Arguello Producers only.

8 MR. MIHALIK: Well, the Point Arguello Producers  
9 have a condition; but to be accurate, the Gaviota  
10 Terminal Company right now has a Coastal Commission  
11 permit which really reflects our ability to run Point  
12 Arguello crude oil only. There is a recognition by  
13 the Coastal Commission -- so implied in that, it's  
14 50,000 barrels a day if we could only run Point  
15 Arguello crude oil --

16 CHAIRMAN MC CARTHY: Back it goes to the  
17 Commission, when the San Ynez people want to start shipping,  
18 and get another Coastal Commission permit to increase that  
19 50,000?

20 MR. MIHALIK: Mr. Chairman, that's correct. We  
21 would have to go back to the Coastal Commission; we would  
22 have to come back to the State Lands Commission to modify  
23 our coastal development permit and lease to be  
24 consistent with what another shipper like Exxon may  
25 propose.

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1           CHAIRMAN MC CARTHY: Have any reason to believe  
2 that you would not be granted that permit by the  
3 California Coastal Commission? Is there any discussion in  
4 the public record that the Coastal Commission might want  
5 to limit you in some way that could be shipped daily?

6           MR. MIHALIK: The Coastal Commission, I think,  
7 made it very clear -- I can't speak for them, but I  
8 thought they made it very clear the facility is designed  
9 for 100,000 barrels a day. It has the capacity for  
10 for 100,000 barrels a day. I don't think that's an issue  
11 with anyone. But we can't predict what will happen with,  
12 you know, some future shipper, like Exxon. Don't know.

13           CHAIRMAN MC CARTHY: Thank you. Mr. Douros,  
14 could you give the Commission the reasoning of the  
15 County in suggesting that there be a limit to 50,000  
16 barrels a day?

17           MR. DOUROS: Yes, I can, Mr. Chairman. It's  
18 important to keep in mind that there are two permits  
19 that we are speaking of. There is a permit that has been  
20 issued to the Gaviota Terminal Company to construct and  
21 operate the marine terminal. That's the final  
22 development plan, but the specific name is not important.  
23 It's a permit to GTC.

24           There's a second permit that allows the use under  
25 our LCP that when a shipper wants to ship by tanker,

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1 they need to come and get a separate approval by the  
2 County Board of Supervisors.

3 The original permit that the County granted in  
4 1985 to GTC to construct and operate the terminal  
5 has a throughput limitation -- a maximum limitation  
6 of 100,000 barrels a day. And that is because that  
7 marine terminal was designed and built to accommodate the  
8 transportation needs of the Point Arguello Producers,  
9 whose peak production at the Chevron facility -- literally  
10 across the street -- was 100,000 barrels per day.

11 So, that is a correct statement Mr. Mihalik made  
12 regarding the maximum capacity from a County permit.  
13 However, because shippers need to get additional permits  
14 to use the terminal to tanker -- and Chevron, as the  
15 original intended user of that, has received a permit,  
16 but only for 50,000 barrels a day. Anyone using the  
17 terminal between 50 and 100,000 barrels a day -- in this  
18 case, in practical reality, that's Exxon -- would be  
19 introducing a shipper that wasn't originally considered in  
20 the permit that the County granted that gave them  
21 100,000 barrels a day throughput.

22 So, it's because the shipper's permit is limited  
23 to 50,000 barrels a day, and the Coastal Commission has  
24 acknowledged that and provided an additional permit lease  
25 to 50,000 barrels a day, then our view is that you

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1 shouldn't offer them a lease that, in effect, extends the  
2 potential users to incorporate Exxon. That's a separate  
3 discretionary action that will come before the County  
4 later this year and before the Coastal Commission on  
5 appeal, and on a permit modification. And we don't think  
6 it's appropriate for you to extend this lease to  
7 accommodate a shipper not originally intended.

8 CHAIRMAN MC CARTHY: Let me ask you a question.  
9 Are there any reasons why you anticipate that Exxon will be  
10 requesting that they be allowed to ship another 50,000  
11 barrels a day through the pipeline might be rejected?

12 MR. DOUROS: Mr. Chairman, I will decline to  
13 answer that, in that we have only just received their  
14 application, and we've begun what is an extensive  
15 environmental review and public hearing process. And I  
16 think in all fairness to Exxon, as well as our Board,  
17 it's just inappropriate for me to give some sort of  
18 speculative response.

19 CHAIRMAN MC CARTHY: I'm troubled, because there's  
20 sort of an inherent contradiction here in what we're  
21 trying to do to glue all of this together. We're trying to  
22 stop oil tankering. And the only way we stop oil  
23 tankering is put -- ship all this oil through the  
24 pipeline. And we have to ship the maximum amount of oil  
25 through the pipeline to make it as economical as possible

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1 to make this a worthwhile undertaking.

2 So, to the degree we make it sound like we're  
3 taking actions that are going to limit them -- I mean,  
4 there's a lot of argument that there's unused capacity.  
5 Commissioner Davis was asking some questions on that,  
6 because friends that we share are suggesting that there's  
7 unused capacity in the existing pipelines, and that the  
8 oil companies haven't been operating in good faith; that  
9 they wanted to continue oil tankering and didn't use  
10 the existing capacity.

11 Now, either we're going to encourage the  
12 construction or expansion of pipelines so that they can  
13 ship the maximum amount daily or we aren't. And I'm a  
14 little bit confused in this process.

15 Now, what compelling reason is there for us to  
16 amend this from 100 to 50?

17 EXECUTIVE OFFICER WARREN: You mean reduce it  
18 from 100 to 50?

19 CHAIRMAN MC CARTHY: Right.

20 EXECUTIVE OFFICER WARREN: Two things, but  
21 neither of which may be compelling, however.

22 First off --

23 UNIDENTIFIED SPEAKER IN AUDIENCE: We can't hear.

24 EXECUTIVE OFFICER WARREN: Oh. Two reasons I  
25 would offer in reply to your question, but none of them

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1 may be compelling necessarily.

2 First off, as I understood Mr. Douros' remarks --  
3 and I may have misunderstood -- it's my understanding  
4 that the EIR was certified by the County only to the  
5 extent of necessary to accommodate the Chevron permit  
6 or 50,000 barrels per day. That raises the question in --  
7 a legal question in my mind whether or not we can go  
8 beyond the EIR -- certified EIR, which was limited to  
9 50,000.

10 I have put that question to Mr. Hight, who seems  
11 to indicate -- well, what do you indicate? Then I'll  
12 have another reason I'll offer.

13 (Laughter.)

14 MR. HIGHT: The environmental impact report  
15 prepared for the project looked at a capacity of -- of  
16 a throughput of 125,000 barrels a day, even though the  
17 County only analyzed or only certified it for 50,000.  
18 It is our position that the entire EIR of 125 is valid.

19 The application before the Commission today is  
20 for 100,000.

21 CHAIRMAN MC CARTHY: Therefore, there's no reason  
22 to amend it down to 50.

23 EXECUTIVE OFFICER WARREN: There's no legal  
24 reason.

25 MR. HIGHT: Yeah. There's no legal reason. On

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1 a policy issue, the issue is that Exxon will have to come  
2 back to this Commission anyway. This would be another  
3 signal if it was reduced.

4 COMMISSIONER DAVIS: What would the signal be?

5 (Laughter.)

6 MR. HIGHT: That they need to come back to the  
7 Commission and they need to worry --

8 EXECUTIVE OFFICER WARREN: There will be a  
9 difference. I'm sorry.

10 COMMISSIONER DAVIS: If -- this is what concerns  
11 me a little bit. If we reduce it -- if we don't reduce  
12 it to 50,000, is there any way Exxon can get in this  
13 process without coming back to us?

14 MR. HIGHT: No.

15 UNIDENTIFIED SPEAKER: Yes.

16 COMMISSIONER DAVIS: Well, some people suggest  
17 there is.

18 MR. HIGHT: At the moment, they do not have the  
19 ability to use Chevron tankers. If they can arrange --  
20 make an arrangement with Chevron to use their tankers,  
21 then they can tanker up to 100,000 without coming back to  
22 us. But they would have to go back to the Coastal  
23 Commission.

24 EXECUTIVE OFFICER WARREN: The Coastal -- the  
25 shipping permit to Chevron requires Chevron -- the

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1 producers to ship by Chevron Oregon Class tankers, which  
2 are double-hulled. There are only four such tankers in  
3 the world, and I understand that three of them will be  
4 dedicated to transporting Point Arguello production.

5 There are no such tankers available to Exxon.  
6 So, Exxon in its application to the County for a  
7 shipper's permit, has requested to be -- I don't know if  
8 they've made a request -- but the implication is that  
9 that requirement would not apply to Exxon; that they would  
10 be allowed to ship in tankers other than the Chevron Oregon  
11 double-hulled class of tankers.

12 Now, that is a question which I think is a  
13 significant one, and one which I think we might want to  
14 take into consideration in the future.

15 If we could be assured -- and I'm embarrassed  
16 to say I cannot give you assurance -- that we would  
17 still -- that this Commission would still be in a position  
18 to review whatever shipping permit might be given Exxon  
19 in the future, then I would withdraw my suggestion of  
20 modifying the 100,000. But I'm not quite -- I would like  
21 to have that assurance first, because that is an issue  
22 that I think we might want to consider.

23 MR. DOUROS: Mr. Chairman, if I might take one  
24 more stab at summarizing the County's position. Our  
25 Board has continually, both to the Coastal Commission on

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1 several matters related to this project and in this  
2 letter to you, taken the position that whatever permits  
3 or leases are issued should be consistent with those of  
4 other agencies and with the County.

5 And our consistency concern with regard to the  
6 lease before you is that, in all practical effects, by  
7 granting it for 100,000 barrels a day, you are extending  
8 the lease to be more than just a marine terminal for the  
9 Point Arguello Producers; it's one for Exxon as well.  
10 Because, at present, the Point Arguello Producers are  
11 capped at 50,000 barrels a day.

12 And so, if you want to issue a lease that meets  
13 the request of our Board -- and that is, issue a lease  
14 consistent with previous County actions -- don't extend  
15 the lease to other shippers; keep it narrowly focused  
16 on those who originally have and currently have permits  
17 for that lease.

18 Does that help?

19 CHAIRMAN MC CARTHY: I understand what you said.  
20 I don't know if it helps. If the point is to end up with  
21 no oil tankering within the time frame we're talking  
22 about here, while the makeup of this Commission is as it  
23 is -- and you never know whether the makeup of this  
24 Commission will change after the November, '94 elections.  
25 I'm not running for Controller and I'm not running for

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1 Lieutenant Governor --

2 COMMISSIONER BURTON: I'm not running for  
3 anything.

4 (Laughter.)

5 CHAIRMAN MC CARTHY: If there's a change --

6 COMMISSIONER BURTON: Sorry, Mr. Chairman.

7 CHAIRMAN MC CARTHY: No, not at all. I like it.  
8 You'd be too tough.

9 If there's a change in the governorship, I may  
10 request to be Director of Finance, so I can sit on this  
11 Commission.

12 (Laughter.)

13 CHAIRMAN MC CARTHY: Because I enjoy it so much.  
14 But I think my interest is in figuring out how we create  
15 these are important words that we used: a good faith  
16 chemistry that helps us move forward on whoever shares  
17 this common ground of stopping oil tankering and starting  
18 to use that pipeline.

19 And I appreciate what the County has to do. You  
20 have your statutory obligations that you have to fulfill.  
21 I'm just not sure that I yet see the policy reason for  
22 this Commission. Mr. Warren, you said you had one other  
23 potential policy.

24 EXECUTIVE OFFICER WARREN: Well, that was the  
25 double-hulled vessel question. I'm satisfied that the

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1 lease we propose will have a special condition in it  
2 requiring double-hulled tankers to use that -- before  
3 that terminal can be used.

4 Accordingly, I will withdraw my suggestion that  
5 the 100,000 be amended to 50,000. We will have an  
6 opportunity to review the lease on that issue. Thank  
7 you.

8 COMMISSIONER DAVIS: Let me just make a point  
9 here. Mr. Chairman, I don't understand where you're going.  
10 If the point is to facilitate pipeline production,  
11 why are we trying to expand tanker activity? I don't  
12 understand that.

13 CHAIRMAN MC CARTHY: I don't want to expand --

14 COMMISSIONER DAVIS: I don't see any point in  
15 emphasizing --

16 CHAIRMAN MC CARTHY: I don't want to expand  
17 tanker opportunity.

18 COMMISSIONER DAVIS: Well, that's what we're  
19 doing by not reducing the 100,000 to 50,000.

20 CHAIRMAN MC CARTHY: There is no tanker shipping  
21 after the date that we're talking about in here. So, what  
22 are we talking about? A very limited number of -- a  
23 very limited period here.

24 EXECUTIVE OFFICER WARREN: The concern is that  
25 there will be tankering in excess of 50,000 between now

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1 and January 1 of '96.

2 You're right on that point. So, we're only  
3 talking about that two-and-a-half-year period.

4 CHAIRMAN MC CARTHY: Now, the other side of it --  
5 the other side of it is that they are trying to figure out  
6 how to put this together with the pipeline companies and  
7 all of the parties involved in that. And what I'm trying  
8 to search here is how do we increase the certainty that  
9 we're going to end up with pipeline shipment?

10 And so, any changes that are proposed here,  
11 I'm trying to figure out how they affect that basic  
12 purpose.

13 Mr. Shamas, you want to add to this?

14 MR. SHAMAS: Well, two things. One, Exxon is  
15 a part owner of Gaviota Terminal. They understand that  
16 everything is going to cease a date certain.

17 Two, they're going to come on the end of '93  
18 with 12 to 15,000 barrels a day. And then, during '94,  
19 they're going to come on with between -- using the staff's  
20 report -- probably 60 to 80,000 barrels a day.

21 There's not going to be pipeline capacity by  
22 that time. Line 63 will be chockerbloc full even if  
23 Gerry has some magic solutions. But everything's going to  
24 be full until such time as we can get these expanded  
25 facilities on. And Exxon is going to have to come before

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1 you, and the County, and the Coastal Commission and say,  
2 "Can we tanker a while while -- up until the drop-dead  
3 date until these new pipelines are built?"

4 That's the real thing. And so, I think to  
5 unnecessarily limit this to 50 a day when we all know  
6 that Exxon's coming right down the road pretty soon to  
7 see if they can tanker on an interim basis. That's why  
8 we differ. We built this terminal for 150. It's already  
9 been downrated to 100. We've paid for the last three  
10 years over 180,000 a year for a hundred thousand barrel  
11 a day terminal we haven't been allowed to use. Now the  
12 rent's been jacked up to 230, and you're going to down-  
13 grade the capacity. We just don't think that's playing  
14 fair.

15 UNIDENTIFIED SPEAKER IN AUDIENCE: That's right.

16 CHAIRMAN MC CARTHY: Any other Commissioner  
17 questions of Mr. Douros on his testimony for the County?

18 COMMISSIONER BURTON: I just wanted to know  
19 whether anyone has received a copy of the letter that you  
20 were reading to us, so that we might have that for our  
21 records.

22 MR. DOUROS: I would assume that you have a copy.

23 COMMISSIONER BURTON: Is it in here?

24 EXECUTIVE OFFICER WARREN: Yes.

25 COMMISSIONER BURTON: Thank you.

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1 MR. DOUROS: And I have extra copies also.

2 COMMISSIONER BURTON: Okay.

3 CHAIRMAN MC CARTHY: Thank you. Is that it?

4 Thank you, Mr. Douros.

5 Now, the patient group that's been waiting that  
6 have some serious questions about this. And we're going  
7 to start with Linda Krop, who represents the Environmental  
8 Defense Center, Sierra Club, Get Oil Out, CPA, League of  
9 Women Voters, Santa Barbara; SF, HRA. You don't sleep.

10 MS. KROP: Thank you. Good afternoon. My name  
11 is Linda Krop. I'm an attorney with the Environmental  
12 Defense Center in Santa Barbara, and I'm here today  
13 representing the Environmental Coalition of Santa Barbara.

14 As the Chair mentioned, I represent EDC,  
15 Get Oil Out, the Sierra Club, the League of Women  
16 Voters of Santa Barbara, Citizens Planning Association,  
17 the Surfrider Foundation, Hollister Ranch Owners'  
18 Association, and local commercial fishermen.

19 Our comments will address the staff report  
20 we received on Friday, since we haven't had an opportunity  
21 to review the CEQA findings and the other attachments  
22 that were made available today.

23 Before I begin my prepared comments, I'd like to  
24 note that we've heard many references to the Coastal  
25 Commission actions and reliance on those actions. And I'd

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1 like to point out that both the Point Arguello  
2 Producers and GTC have sued the Coastal Commission twice  
3 over the issuance of the Point Arguello tanker permit,  
4 and now over the issuance of a permit for the Gaviota  
5 Marine Terminal. The last lawsuit was just filed on  
6 April 19th.

7 The producers and GTC have also both opposed  
8 a bill proposed by Assemblyman Terry Friedman, AB 591,  
9 which would codify the January, '96 tanker cessation  
10 date. And I question, if we're looking at good faith  
11 here, whether we have that on the part of the producers  
12 and GTC if they're opposing those very Coastal  
13 Commission actions.

14 I'd also like to point out that all five GTC  
15 partners are producers who intend to use the Gaviota  
16 Marine Terminal -- Chevron, Texaco, Phillips, and Oryx  
17 are Point Arguello Producers, and the fifth partner is  
18 Exxon, which has now filed its own application to tanker  
19 from the Gaviota Marine Terminal.

20 So, although -- you know, as far as corporate  
21 status, we're talking about independent entities, we're  
22 actually talking about the same players. And I think  
23 we need to look at the commitments of the producers when  
24 we look at the commitment of GTC.

25 First, I would like to put this issue into proper

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1 context. The Gaviota Marine Terminal was approved by  
2 the County Coastal Commission and State Lands Commission  
3 in 1987 as an interim facility to be used only until a  
4 permanent terminal was built at Las Flores or until  
5 pipelines were available to transport Santa Barbara OCS  
6 crude to Los Angeles and Texas.

7 The agencies anticipated at that time that the  
8 terminal would operate only until 1990, or until 1991  
9 at the latest.

10 At that time, the County determined that  
11 Las Flores was the environmentally preferred location  
12 for a consolidated marine terminal on our South Coast.  
13 In addition, whether the terminal was located at  
14 Las Flores or Gaviota, the preferred location and  
15 design was for a single-point mooring system 10 to 14,000  
16 feet offshore.

17 This design and location would significantly  
18 reduce impacts to air quality, esthetics, kelp beds,  
19 and other marine resources, commercial and recreational  
20 fishing resources, not to mention significantly reducing  
21 the risks and effects of oil spills.

22 Contrary to what the applicants may tell you,  
23 then, neither the County nor the State agencies guaranteed  
24 GTC the right to operate the marine terminal after 1991.  
25 In fact, the original lease granted by this Commission

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1 specifically limited any potential holdover to one year,  
2 or to 1992.

3 That maximum holdover has ended. The applicant  
4 has no right to continue operations of the current  
5 interim terminal. If GTC wants to continue operations  
6 at Gaviota, it should apply for a lease for a permanent  
7 terminal.

8 Now that Exxon has withdrawn its plans to  
9 develop the permanent terminal at Las Flores, has  
10 quitclaimed its lease to the State Lands Commission, and  
11 has applied for its own tanker permit from Gaviota, it  
12 certain appears that the producers intend to use the  
13 Gaviota facility as the permanent marine terminal  
14 facility.

15 Rather than apply for permanent status, GTC  
16 seeks to incrementally extend the life of the marine  
17 terminal and avoid its responsibilities to reduce the  
18 environmental impacts of the facility by locating a  
19 single-point mooring system further offshore.

20 We urge the Commission to deny the application  
21 for a new lease on the following grounds -- and I had  
22 prepared some overheads for you and, unfortunately, we  
23 didn't have room to put the projector up, so I made a  
24 packet for you. And the first item in the packet lists  
25 the proposed grounds for denial.

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1           First, there is no need for a marine terminal.  
2           There is available pipeline capacity to transport oil  
3           from Santa Barbara County to various refining destinations.  
4           Environmental review is incomplete. Marine tankering  
5           would violate the Public Trust Doctrine by interfering  
6           with established fishing, recreational, and environmental  
7           uses in the area. Tankering would violate the Coastal  
8           Act and LCP preferences for pipeline transportation.

9           The Gaviota Marine Terminal is inconsistent  
10          with the Coastal Act preference for single-point mooring  
11          systems. The project would result in unmitigated Class 1  
12          impacts, and there are no significant benefits of this  
13          proposal which can outweigh those unmitigated impacts.

14          And, finally, feasible mitigation measures and  
15          alternatives have not been incorporated into the proposed  
16          project.

17          The second item in your packet is a chart which  
18          indicates the amount of Point Arguello crude which has been  
19          transported through the All American and Four Corners  
20          Pipeline system to various refining centers in Martinez,  
21          in Los Angeles, and to Texas in tankage, as well as  
22          through the Sisquoc Line to Santa Maria.

23          This chart indicates that the Point Arguello  
24          Producers have been able to transport up to 69,500 barrels  
25          of neat Point Arguello crude. That was transported in

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1 March of '93. At peak production, the Point Arguello  
2 Producers expect to produce 85,000 barrels per day.  
3 That was listed in their tanker application.

4 As this chart shows, they currently produce and  
5 ship approximately 70,000 barrels a day. And if you'll  
6 note on the chart, that was transported without even  
7 using the usual 20,000 barrel per day capacity in the  
8 Sisquoc Line to Santa Maria. The reason for that was that  
9 the Unocal refinery in Santa Maria was temporarily  
10 shut down for maintenance.

11 So, actually, in March, the available capacity  
12 in pipelines from Point Arguello's production was 90,000  
13 more than their expected peak production.

14 The second grounds for denial is that the  
15 environmental review is incomplete.

16 And the third item in your packet gives you an  
17 outline of the CEQA requirements which relate to this  
18 application.

19 Under CEQA, it's important that environmental  
20 review occur early in the process and that it look at the  
21 full potential uses of the project -- of the facility,  
22 any potential phases, any potential future use that's  
23 reasonably foreseeable.

24 Environmental review must also address the  
25 potentially long-term use of projects, even if they are

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1       termed temporary or interim.

2               In this case, both the County and the Coastal  
3       Commission have already determined that the current  
4       environmental review documents do not address the full  
5       potential use of the terminal by both Chevron and  
6       Exxon. The staff report mistakenly assumes that the  
7       EIR certified by the County last August is adequate to  
8       address GTC's application for a new lease. This is simply  
9       not true as Mr. Douros explained.

10              Last August, when the County certified the  
11       EIR, they made it abundantly clear that the EIR was to be  
12       used only for Chevron's tanker permit for 50,000 barrels  
13       per day, and that any actions relating to the marine  
14       terminal permit or lease would require further  
15       environmental review.

16              As stated by the County, the current proposed  
17       use of the terminal is beyond the scope of the EIR  
18       certified by the County last August. The County is now  
19       preparing a subsequent EIR (sic) to address Exxon's  
20       application to tanker from the Gaviota Marine Terminal.

21              This EIR, which was scoped a couple weeks ago  
22       and is under preparation, will encompass all potential  
23       uses of the marine terminal and will analyze the  
24       cumulative impacts of tankering by both Exxon and Chevron  
25       as well as the potential long-term use of the facility.

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1           This EIR must be completed before the State  
2 Lands Commission can take action on the lease application.

3           Staff has presented the proposition that the  
4 Commission is somehow exempt from full environmental  
5 review because the Commission is a responsible as opposed  
6 to a lead agency in this matter.

7           We disagree with this analysis. In any event,  
8 the Commission cannot hide behind labels to avoid its  
9 legal duties under CEQA. The fact of the matter is,  
10 the EIR which staff seeks to rely upon, is incomplete  
11 for the project proposed by GTC. And I think that's been  
12 confirmed in the dialogue today.

13           Therefore, the Commission must complete  
14 environmental review before taking action on this lease.  
15 Yet another reason to require further environmental  
16 review is some alarming news, which we just received  
17 earlier this week, that five of the six tankers which  
18 will be using the Gaviota Marina Terminal as part of this  
19 lease do have accident histories. And I have a few  
20 copies of a news report, which details those accident  
21 histories. And this was not part of the EIR. We have  
22 requested that the County look at this information in the  
23 subsequent EIR that they're now preparing, and we think the  
24 State Lands Commission should look at this information  
25 as well.

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1           Third, approval of the lease will violate the  
2 Public Trust Doctrine. As we have stated in our letters,  
3 tankering from the Gaviota Marine Terminal would interfere  
4 with established public trust uses in the affected area;  
5 namely, fishing, recreation, and environmental  
6 preservation.

7           As a State agency, the Commission has a duty  
8 to protect the public trust uses in this area. Steve  
9 Dunn, a representative of the local commercial fishing  
10 industry will tell you about the impacts to local fishing  
11 operations.

12           Tankering will also disrupt recreational  
13 activities at the Gaviota State Park and surrounding  
14 beaches.

15           Finally, operations at the terminal will put  
16 pristine ecological communities of the entire Gaviota  
17 to L.A. Coast at risk.

18           Fourth, tankering from the Gaviota Marine  
19 Terminal would be inconsistent with the Coastal Act and  
20 the County's LCP.

21           And the next, the fourth item in your packet,  
22 lists the Coastal Act provisions that this application is  
23 inconsistent with -- primarily the preference for  
24 pipeline transportation and for single-point mooring  
25 systems. And, as the Coastal Commission determined in

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1 February, there are several sections of the Coastal Act  
2 which this application would be inconsistent with.

3 The application is also inconsistent with our  
4 County's oil transportation policies, which are set forth  
5 in the local coastal plan and coastal zoning ordinance,  
6 primarily a series of findings that have to be made before  
7 tankering can occur. The findings are that pipelines to  
8 the refining destination of choice have inadequate  
9 capacity; that a pipeline commitment has been  
10 demonstrated before tankering occurs, and that environmental  
11 impacts of tankering have been mitigated to the  
12 maximum extent feasible.

13 And as our comments demonstrate, none of those  
14 findings can be made; therefore, tankering would violate  
15 the County's LCP.

16 A fifth reason to deny the lease is because the  
17 project will result in many unmitigated impacts.  
18 According to the County's EIR, tankering from the  
19 Gaviota Marine Terminal would result in Class 1 impacts  
20 to fisheries, recreation, biological, and marine  
21 resources.

22 In addition, tankering will use up valuable  
23 air quality offsets. Therefore, under CEQA, the  
24 Commission can only approve this project if the benefits  
25 outweigh the Class 1 impacts.

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1           The magnitude of the risks and impacts of  
2 tankering are so great that there can be no credible  
3 argument that they are outweighed by any alleged benefits.  
4 The risks are too obvious. Tankers lead to oil spills,  
5 leaks, and accidents. Prevention is impossible,  
6 cleanup is incomplete.

7           One needs only to remember the major oil spills  
8 that have occurred within the last six months in Spain,  
9 Scotland, Finland, and Indonesia to realize that oil  
10 spills are inevitable. It doesn't matter whether the  
11 tankers are single-hulled or double-hulled. They  
12 explode. They go off course. They crash.

13           Incidentally, these are not small tankers we're  
14 dealing with. Each tanker will hold 250,000 barrels  
15 a day, which is the volume of oil which was spilled by  
16 the Exxon Valdez. That's not a small amount. And we  
17 don't want to be exposed to that risk.

18           There are no real public benefits of this  
19 project. Revenue stream will be unaffected because, as  
20 I mentioned earlier, production levels are increasing on  
21 a regular basis and existing pipelines are capable  
22 of carrying the oil companies' peak production.

23           Taxes will also be unaffected as confirmed by our  
24 County's Tax Assessor last August.

25           Neither will the project have a benefit on jobs.

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1 According to our County, operations at the Gaviota  
2 Marine Terminal will result in only 11 new jobs. On the  
3 other hand, construction of a new pipeline will create  
4 literally hundreds of jobs. For example, according to the  
5 EIRs for the pipeline projects, construction of the  
6 Pacific Pipeline will result in a peak 605 jobs;  
7 construction of the Cajon Pipeline will generate 211  
8 jobs; and reversal of Line 90 will require approximately  
9 135 jobs.

10 And although these jobs are temporary, as  
11 supposedly tanker jobs would be, the long-term operation  
12 of the pipelines will generate more jobs than tankering  
13 as well ranging anywhere from 20 to 30 jobs per project.

14 These jobs will not result from tankering. They  
15 only result if pipelines are required to be developed.

16 Finally, 11 jobs simply isn't enough when one  
17 considers the number of other jobs which would be  
18 jeopardized in the fishing, tourism, and recreation  
19 industries if tankering is allowed.

20 Finally, the proposed lease does not include  
21 mitigation measures and alternatives which could reduce  
22 project-related impacts as required by CEQA.

23 Several mitigation measures and alternatives have  
24 already been identified which could reduce tanker impacts.  
25 The most obvious is moving the facility 10 to 14,000 feet

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1 offshore and requiring a single-point mooring system.

2 Reducing throughput is another obvious means  
3 to reduce impacts. Because of the existing pipeline  
4 network, throughput at the terminal could be reduced  
5 without any prejudice to the producers.

6 Other mitigation measures are available to  
7 reduce impacts to fishing resources and commercial  
8 fishing activities, and these will be discussed by  
9 Steve Dunn.

10 Those are the grounds on which we hope that you  
11 deny this application for a lease. If you do decide to  
12 issue a new lease, then we would like to direct you  
13 to some proposed conditions which we would like  
14 incorporated into the lease, which is the final item in  
15 your packet.

16 Your authority to condition the lease is based  
17 upon Public Resources Code Section 6873, which deals with  
18 leases, the Coastal Act, and the County's local coastal  
19 plan, as well as the Public Trust Doctrine.

20 The first condition we propose is to clarify  
21 that any operation of the marine terminal is consistent  
22 with valid tankering permits as issued by the County or  
23 the Coastal Commission, and consistent with our  
24 County's LCP oil transportation policies.

25 The second condition relates to pipeline use and

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1 is based upon staff's proposal to maximize the  
2 existing capacity of pipelines.

3 We've added a couple suggestions to clarify  
4 the scope of emergencies and exceptions to that  
5 certification process.

6 The third condition deals with the pipeline  
7 commitment issue and mirrors the County's permit  
8 condition, which requires execution of a throughput and  
9 deficiency agreement with the pipeline developer before  
10 tankering commences.

11 And finally, given the capacity of Line 63 and  
12 Sisquoc, the throughput volumes that we suggest would  
13 be to allow 20,000 barrels per day on a monthly average  
14 since we're dealing with supposedly just the Point  
15 Arguello production.

16 I'd like to stress the importance of this  
17 pipeline commitment condition. Although Chevron made  
18 a commitment to use pipelines to L.A. in 1983 and  
19 Exxon made a similar commitment to use pipelines to  
20 Texas in 1985, neither company has lived up to its  
21 commitment.

22 Ten years have passed since Chevron promised  
23 to develop a new pipeline to L.A. Once the producers  
24 are in tankers, it will be virtually impossible to get  
25 them out. We have seen how ineffective deadlines and

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1 terminations have been in the past.

2 More recently, the producers objected to a  
3 proposal which -- by the County which would have required  
4 them to put their money where their mouth is by signing  
5 a throughput and deficiency agreement with a pipeline  
6 developer before commencing marine tankering.

7 In addition, Chevron and the other Point  
8 Arguello Producers have sued the minor partners over  
9 their efforts to construct the Mariposa Pipeline.  
10 This pipeline, which would provide a direct link from the  
11 Gaviota processing facility to the All American Pipeline  
12 network, would reduce pipeline costs by about a dollar  
13 a barrel. And one would think that if the producers  
14 truly wanted to pipeline, they would support a project  
15 which would reduce pipeline costs.

16 Chevron and GTC have also sued the Coastal  
17 Commission over its issuance of a tanker permit for the  
18 Point Arguello Producers and over the issuance of the  
19 marine terminal permit as well.

20 Finally, Chevron and GTC have both opposed  
21 AB 591, a bill which would codify the tanker cessation  
22 date set forth in the Coastal Commission's Point Arguello  
23 tanker permit and the Gaviota Marine Terminal permit.

24 At every step of the way, the producers continue  
25 to resist their obligation and their commitment to use

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1 pipelines. To compound this resistance, no new pipeline  
2 will be built without an upfront commitment in the form  
3 of a T & D agreement by the producers.

4 And the reason is simple. In 1985, Exxon said  
5 it would use pipelines to transport its oil to Texas.  
6 Based on that promise, All American spent \$885 million  
7 to build a pipeline to Texas. Now it's sitting virtually  
8 empty. Based on this experience, no pipeline developer  
9 now will construct a pipeline, will start the shovels  
10 until they have a T & D agreement. That T & D agreement  
11 guarantees the development of a pipeline, guarantees the  
12 jobs that we were talking about, guarantees the  
13 cessation of tankering. That's the only thing that  
14 guarantees a cessation of tankering. Dates don't mean  
15 anything. Pipelines do.

16 The other importance of the commitment is that  
17 it's tied to the capacity of existing pipelines that  
18 we've been talking about. We can try to increase the  
19 use of existing pipelines by Point Arguello, but when  
20 Exxon comes on line later this year, they're going to  
21 back out half of that Point Arguello oil. And there's  
22 going to be more tankering. So, the only way to ensure  
23 that enough oil is going in the pipelines is to require  
24 the throughput and deficiency agreement. That's the only  
25 way we're going to deal with both Chevron and Exxon.

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1           In conclusion, we hope you'll give this issue  
2 your serious consideration and, by the dialogue that's  
3 gone on today, I can see that there's tremendous interest  
4 and serious consideration of this issue. And we appreciate  
5 that.

6           We urge you not to take action under the  
7 threat of litigation. Succumbing to litigation threats  
8 is not good planning policy, because it sends a message  
9 to other applicants that they can pressure your agency  
10 into taking action for their benefit regardless of the  
11 laws and policies which may be undermined in the process.

12           In addition, no matter what you do, no matter  
13 what negotiations you make, no matter what deals you cut,  
14 you still might get sued. That's what happened to the  
15 Coastal Commission. They've been sued twice on this issue  
16 this year already.

17           Furthermore, we urge you not to let the producers'  
18 threat of tankering for Martinez influence your decision.  
19 They've been sending some oil through pipelines up to  
20 Northern California, loading it onto tankers. I noticed  
21 in the staff report that they were threatening to  
22 resume that tankering if they don't get the lease they  
23 want. And I just want to let you know that that tankering  
24 has been sporadic. It's been minimal. It's been  
25 expensive. It only occurs everytime there seems to be a

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1 big public hearing coming up. And more importantly,  
2 it's in violation of the OCS approved plan and is subject  
3 to Federal enforcement.

4 Instead of making a decision based upon the  
5 applicant's threats, base your decision upon the  
6 applicable laws and policies adopted by the this State  
7 and by the County of Santa Barbara.

8 Encourage the development of a new pipeline.  
9 Remember that the only true incentive to building a  
10 pipeline is to prohibit tankering. Please deny the  
11 lease application, direct the applicant to complete  
12 environmental review. Any resulting delay is no one's  
13 fault but their own.

14 The GTC partners are the very producers who  
15 intend to tanker from the marine terminal. They  
16 promised to build a pipeline ten years ago. Had they done  
17 so, the pipeline would have been built by now for a lot  
18 less money and operational to their refining destinations  
19 of choice.

20 Thank you.

21 CHAIRMAN MC CARTHY: Thank you. Are there any  
22 questions?

23 COMMISSIONER DAVIS: I have a number of questions.  
24 First of all, in fairness to the producers, there's been  
25 a lot of opposition to the construction of pipelines. I

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1 remember at one point, Mayor Bradley came out against  
2 the proposed pipeline in Los Angeles. So, I don't  
3 think -- believe me, I'm not their champion, but I don't  
4 think it's fair to say that they have not made an effort  
5 to build a pipeline from roughly the Santa Barbara area  
6 down to Los Angeles.

7 MS. KROP: I do have a comment on that. The  
8 SCOP's pipeline project was abandoned in 1986, and it  
9 wasn't until the County forced them to pursue another  
10 pipeline project in 1990, that the Pacific Pipeline  
11 became a new proposal.

12 So, I agree that there have been some permitting  
13 problems, but there also has not been a consistent effort  
14 on the part of the producers to encourage the  
15 development of a new pipeline.

16 COMMISSIONER DAVIS: Let me ask you a couple of  
17 other questions. You say there's no need for a marine  
18 terminal, and that is based on your perception that  
19 there's unused pipeline capacity?

20 MS. KROP: That's correct.

21 COMMISSIONER DAVIS: And also based on the  
22 perception that only Chevron's contribution to or PAPCO's  
23 contribution to -- let me see if I'm getting this  
24 confused here. What assumption are you using as to the  
25 total amount of oil that's now moving through the pipelines?

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1 MS. KROP: The assumption is that there's been  
2 demonstrated adequate capacity to transport all of Point  
3 Arguello's peak production, which then leaves us with  
4 Exxon, which committed to send its full production to  
5 Texas.

6 Now, that they want to change destinations,  
7 they can't tanker yet until the County's environmental  
8 review and permitting process is complete, which won't  
9 be until the end of the year. At that point, we'll  
10 probably be up there objecting to that application for  
11 various reasons. But one of them would be that a pipeline  
12 hopefully will be under construction by then, and  
13 Exxon could be held to its earlier commitment to  
14 transport to Texas until that new pipeline capacity to  
15 L.A. is available.

16 In the alternative, they should at least have  
17 to show a financial commitment or T & D commitment to  
18 the pipeline to L.A. before they can tanker.

19 So, it's -- they're not going to be ready to  
20 tanker yet for quite some time.

21 COMMISSIONER DAVIS: So, you're assuming Exxon  
22 is not going to come on line. When you say there's no  
23 need for a marine terminal, that's based on that assumption.

24 MS. KROP: There's no need for a marine terminal  
25 now. We do see Exxon in the picture, because they filed

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1 their application, and we think that's part of the big  
2 picture that has to be looked at.

3 And that's why development of the additional  
4 pipeline capacity is so critical.

5 COMMISSIONER DAVIS: Okay. I think we all agree  
6 on that. I think that's -- I'd like to put the cart  
7 before the horse, too.

8 What about Mr. Shamas' response to my question  
9 about a throughput agreement. He's basically saying  
10 there's no point in signing one until you get the  
11 pipeline permitted.

12 MS. KROP: We --

13 COMMISSIONER DAVIS: Because you say that we  
14 should insist.

15 MS. KROP: Yeah. The County's permit, which we  
16 supported, required execution of a throughput and  
17 deficiency agreement with a pipeline project that has its  
18 discretionary permits. Otherwise, we agree, it does have  
19 no meaning.

20 The only way the pipeline developer will obtain  
21 the construction financing is if it's an unconditional  
22 throughput and deficiency agreement and if the permits  
23 have been obtained.

24 COMMISSIONER DAVIS: Okay. But then you say  
25 that -- I thought you recommended that we condition any

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1 lease by the signing of a throughput agreement,  
2 throughput and development agreement.

3 MS. KROP: I do. The County's condition, which  
4 is the same condition we would like you to impose,  
5 conditions the commencement of tankering upon evidence  
6 of an unconditional throughput and deficiency agreement,  
7 which is executed with a pipeline developer that has  
8 all discretionary permits. It's our --

9 COMMISSIONER DAVIS: And none exists, right?

10 MS. KROP: None exists at this time, but it's  
11 our understanding that the Cajon Pipeline expects to  
12 have permits in May and that Line 90 expects to have  
13 permits in September.

14 And perhaps the pipeline companies can  
15 confirm that. But that's the information that we've  
16 been given in staff reports and EIRs.

17 Again, there's no prejudice in that six month  
18 or whatever delay, because Point Arguello, which is the  
19 producer that now is ready to tanker, is sending  
20 70-plus thousand barrels a day in existing pipelines,  
21 and can send their full peak production. So, again,  
22 if it takes until the fall to have a pipeline project  
23 that's ready to execute T & Ds, that's no prejudice to  
24 Point Arguello, and it's no prejudice to Exxon, because  
25 Exxon can't tanker till the end of this year, beginning of

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1 next year anyway.

2 COMMISSIONER DAVIS: Can I ask Mr. Secundy  
3 a question, Mr. Chairman? Just while she's there?

4 CHAIRMAN MC CARTHY: Yes.

5 COMMISSIONER DAVIS: You may just answer from  
6 there.

7 MR. SECUNDY: Okay.

8 CHAIRMAN MC CARTHY: Would you stay up there,  
9 please (speaking to Ms. Krop).

10 Excuse me. Would you come up, Mr. Secundy?  
11 Use the microphone. Thank you.

12 COMMISSIONER DAVIS: Would you agree that there  
13 is capacity to handle the production from Point Arguello  
14 Producers between now and the end of the year through  
15 your pipeline?

16 MR. SECUNDY: Through just my pipeline?

17 COMMISSIONER DAVIS: Or existing pipeline  
18 capabilities between here and Los Angeles.

19 MR. SECUNDY: It depends upon the destination  
20 of choice of the producers and the people that are  
21 buying their production.

22 In terms of Line 63, it would be my best guess,  
23 we probably have between 40 and 50,000 barrels a day  
24 of capacity that we could move to Los Angeles. There's an  
25 additional 20,000 barrels a day that can go to the

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1 Santa Maria's refinery, Unocal's refinery. It's about  
2 5,000 barrels a day that can go to Bakersfield. There  
3 some that can go east; there's some that can go north.  
4 It depends on who wants to purchase it.

5 COMMISSIONER DAVIS: I guess, at least  
6 conceivably, the capacity exists, but people would have  
7 to route the oil in different directions.

8 MR. SECUNDY: Well, again, yes. What you're  
9 saying is correct. But it does depend upon the refinery  
10 of choice by the producers, who wishes to purchase the  
11 oil.

12 If everyone in Los Angeles wishes to purchase  
13 all of the PAPCO production, there is not enough  
14 capacity to go just to Los Angeles. The only way that  
15 you could accommodate all of the current production of  
16 PAPCO producers is to have some go to the Unocal  
17 refinery, which it's currently doing; some going to  
18 Bakersfield, and some going to other destinations.

19 Our pipeline also, Line 63, for a fairly nominal  
20 amount, can be expanded by about 10,000 barrels a  
21 day. So, we can put on some additional capacity on an  
22 interim basis. But we've received no indication that  
23 anyone's interested in that at this point in time.

24 CHAIRMAN MC CARTHY: Yes, Mr. Shamas?

25 MR. SHAMAS: We need to straighten out some

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1 misconceptions. The total production could go by  
2 pipeline if you wanted to send it to Texas at a loss of  
3 two to three dollars a barrel. But nobody wants to.  
4 In April and part of March, Gerry's pipelines were  
5 prorated, because they were full. So, when you stand up  
6 and say that all of it can go out now, yes, we can take  
7 20 a day to Martinez and tanker down the shore to L.A.,  
8 and that went out by pipeline. You can't move all this  
9 crude right now by pipelines. That's not a true  
10 statement.

11 Gerry said the right thing. You try to give  
12 all that crude to him, he's going to back out all the  
13 San Joaquin Valley crude and all the independent  
14 producers' testimony you heard, where they had crude to  
15 go to L.A.? That all gets backed out.

16 So, it's not true that you can ship everything  
17 today. We've been throttling back production there  
18 because there isn't room in all the pipelines to go to the  
19 markets where that crude makes the most sense.

20 CHAIRMAN MC CARTHY: Okay? Thank you,  
21 Mr. Secundy. Other questions of Linda Krop?

22 COMMISSIONER DAVIS: Thank you. Let's see.  
23 That's all I have.

24 CHAIRMAN MC CARTHY: Any questions? Thank you  
25 very much.

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1 MS. KROP: Thank you very much.

2 CHAIRMAN MC CARTHY: Next we hear from  
3 Jana Zimmer, American Oceans Campaign, special  
4 counsel. Welcome.

5 MS. ZIMMER: Thank you, Mr. Chairman, and  
6 Commissioners, and good afternoon.

7 My name is Jana Zimmer, and I represent  
8 American Oceans Campaign, which is a national ocean  
9 protection advocacy organization with offices in  
10 Washington, D.C., Seattle, and Santa Monica.

11 I want to stress the connection to the  
12 Los Angeles area, because the constituencies in  
13 Los Angeles were not included in the facilitation  
14 process that was organized by the Resources Agency,  
15 neither the environmental groups from Los Angeles  
16 nor the local governments in the Los Angeles area.

17 Our position in this has been consistent  
18 throughout, and that is that the only way that we could  
19 accept interim tankering would be if we were assured that  
20 we were not, in effect, on the slippery slope to  
21 permanent tankering from the Gaviota Marine Terminal.

22 And, unfortunately, everytime we try to  
23 dot the "i's" and cross the "T's," we hear equivocation  
24 and resistance from the producers.

25 One of the first things I want to clarify today

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1 is the record, as I understand it, as to the history  
2 of the parties legitimate expectations in this regard.

3 The staff report reports at page 18 that  
4 Texaco has claimed that they relied, when they invested  
5 their millions of dollars in the interim terminal,  
6 on an expectation of an ability to continue to use that  
7 terminal on a long-term basis.

8 And that simply does not square with the facts.  
9 It does not square with the lease that was issued by  
10 this Commission in 1987. That lease, at page 2, the  
11 term provision acknowledges that GTC may wish permanent  
12 tankering, but clearly indicates that additional  
13 environmental analysis may be required, and I quote  
14 here: "The Commission in any decision to convert the  
15 marine terminal to permanent use may deny such  
16 conversion."

17 That lease, I'm sure, is already in your  
18 record. So, the concern here is that GTC did apply  
19 for a permanent terminal. It was only after we and  
20 other groups raised objections to the adequacy of the  
21 environmental document for that terminal that that  
22 application was withdrawn and they reapplied or  
23 resubmitted for an additional interim term.

24 Our concern, of course, is that, given the  
25 economics of the situation, they will continue to

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1 attempt to gain permanent use of that terminal at that  
2 site.

3 So, there's no basis in the permits that  
4 were in the lease that was given by this Commission for  
5 GTC to assert any sort of legal right or vested right  
6 to continue use of that permit -- of that terminal.

7 In addition, the Coastal Commission permit that  
8 was issued in 1987, specifically states that -- I'm just  
9 going to read this little sentence -- "Circumstances  
10 may develop such that GTC may desire to continue  
11 marine terminal operations beyond the interim period,  
12 but GTC acknowledges that the Commission has made no  
13 commitment to the approval of a new permit. GTC further  
14 acknowledges that the expenditures it will undertake in  
15 connection with the knowledge that the terminal has been  
16 permitted for an interim period only, and that the  
17 Commission may, but shall not be required to consider  
18 these expenditures in evaluation of compliance with the  
19 Coastal Act on any subsequent proposal for continued  
20 operation."

21 So, from the permits that were accepted by  
22 GTC, it's clear that the investment that they made was  
23 made with the knowledge that that was an interim use and  
24 that they could not claim those expenditures to assert a  
25 right to a continued use.

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1           Now, the economics of the situation have not  
2 turned out to be what the producers and GTC had  
3 expected originally. And we can all sympathize with  
4 that. But the question here is not whether we sympathize  
5 with their economic situation, but whether this  
6 Commission has to bail them of that sorry economic  
7 circumstance. And the fact is that the problem here  
8 has much more to do with the fact that oil is selling  
9 for about \$20 a barrel, rather than the \$40 that they  
10 expected it to be selling for, than it does any other  
11 factor or issue.

12           The second area that I'd like to cover --  
13 Ms. Krop has already told you why the environmental  
14 document that you're using is inadequate under CEQA.  
15 And we believe that there's a problem with the lease  
16 approval today because that would violate additional  
17 specific provisions under the Public Resources Code  
18 that are directly applicable to your leasing  
19 activities.

20           And those provisions include Section 6873,  
21 6873.2, and 6873.5. The two latter provisions -- and I  
22 have copies to distribute here -- involve a requirement  
23 of holding a hearing on at least 30 days' written notice  
24 on the environmental document that supports your permit  
25 release action.

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1           Although the Environmental Coalition requested  
2 a hearing in Santa Barbara -- and that statute does  
3 require that the hearing occur in the area, the  
4 geographic area where the leasing is to occur -- that  
5 has not happened.

6           In addition, under 6873.5, consultation is  
7 required, specifically with the Department of Fish &  
8 Game, the National Marine Fisheries, and representatives  
9 of local fishermen who fish in the area.

10           Mr. Dunn will be testifying after me. He's  
11 the representative of the local crab and lobster  
12 fishermen, and he will tell you that no such consultation  
13 has occurred.

14           Finally, under 6873.5(b)(3), in considering the  
15 lease, the Commission needs to consider the cooperative  
16 efforts that have been made to mitigate the effects of  
17 the operation of the marine terminal on fishing  
18 activities. And to our knowledge, that has not been  
19 done. There's no reference to it in the staff report.

20           These failures to comply with these provisions,  
21 we think, are especially prejudicial to this process,  
22 because staff has recommended and GTC has insisted that  
23 they're entitled to 100,000 barrels a day capacity for  
24 that marine terminal. None of the hearings before the  
25 County, none of the hearings before the Coastal

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1 Commission contemplated that this -- that the capacity  
2 of the terminal would be 50,000 barrels a day. In both  
3 cases, the public was repeatedly reassured that the  
4 use of the terminal by Exxon was a separate issue and  
5 involved additional considerations which would be  
6 given serious consideration.

7 So, we believe there's some serious procedural  
8 problems with proceeding with an approval today on that  
9 basis.

10 The third area that I would like to stress --  
11 and this has to do with commitment and making sure that  
12 we dot the "i's" and cross the "T's" on the producers'  
13 commitment and GTC's commitment to absolutely stop  
14 tankering on January 1, '96.

15 Ms. Krop mentioned AB 591, which was co-authored  
16 by Terry Friedman and our Assemblyman in Santa Barbara,  
17 Jack O'Connell. All that statute would do is put into  
18 the Coastal Act the final cessation date for tankering.

19 At the March 29th hearing before the Assembly  
20 Natural Resources Committee, industry representatives,  
21 including Mr. Mihalik for GTC, the Western States  
22 Petroleum Association, and also Mr. Van Buskirk for the  
23 producers, vigorously opposed this provision in the  
24 Coastal Act.

25 Now, I might agree that, in general, it's not a

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1 great idea to codify permit conditions through  
2 legislation. But given the history of this project  
3 and the ten years of failed commitments, we thought  
4 and Assemblymen Friedman and O'Connell also thought that  
5 it was appropriate to provide that additional guarantee  
6 that under no circumstances would tankering continue  
7 beyond that date.

8 Mr. Van Buskirk testified on behalf of the  
9 producers that if this bill became law, that that, by  
10 itself, would force the producers to go back to court  
11 and to reject the permit.

12 And we've discussed -- you've discussed good  
13 faith several times in this hearing. And we cannot  
14 imagine why a bill that would merely codify their  
15 promise would lead them to reject the permits that have  
16 been offered to them.

17 This concern relates additionally to a condition  
18 that we have proposed and, if you do issue a lease,  
19 that under no circumstances can there be any holdover.  
20 Your standard lease forms have a holdover provision.  
21 And the lease that was issued to GTC in 1987 was in  
22 holdover status for almost two years. And we think, given  
23 the policy concerns and this Commission's concerns about  
24 not extending tankering under any circumstances, that if  
25 you do issue a lease, you should direct that it be

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1 explicit that there can be no administrative holdover  
2 under any circumstances.

3 I just want to summarize and attempt to  
4 respond to some of the comments that were made with  
5 regard to the fairness of this process.

6 In addition to the claim that they have a  
7 vested right to continue using this interim terminal,  
8 the producers have asserted in testimony to the  
9 Assembly Natural Resources Committee and also here  
10 today that this process represents an example of the  
11 unfair way in which businesses are being treated in  
12 California and, in some great measure, have contributed  
13 to the lack of economic recovery in this State.

14 Their assertion is that the rules have been  
15 changed on them in the course of the process, and that's  
16 simply not correct. The County's coastal policies have  
17 been the same since 1984. The permits that I'll be  
18 putting into your record have been in existence, the  
19 conditions haven't changed. The only thing that has  
20 changed here is the economics of the project. The  
21 project was an expensive project to begin with, the  
22 rate of return -- even in 1990, when the County did  
23 a crude oil transportation analysis -- was a minimal  
24 positive rate of return.

25 So, whether they received tankering -- a permit

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1 for tankering or not, this project has not been what  
2 it was intended to be economically.

3 So, the problem is not regulation, overregulation,  
4 or changing conditions. The problem is that the worldwide --  
5 worldwide price of oil is not what the producers had  
6 anticipated.

7 So, in answer to the speaker earlier who asked  
8 what the message is to the business community if this  
9 Commission adheres strictly to the resource protection  
10 policies of the Coastal Act and under the Public  
11 Resources Code generally? The message is that businesses  
12 who comply with the rules and who adhere to their  
13 commitments will be well treated. But, as in this case, if  
14 you have a ten-year history of failed commitments,  
15 then there are going to be problems.

16 And we don't believe that the coastline should  
17 be put at risk in order to solve those problems. Thank  
18 you. Do you have any questions?

19 CHAIRMAN MC CARTHY: Thank you very much. Any  
20 questions of Ms. Zimmer?

21 Thank you very much.

22 MS. ZIMMER: Okay. I'd like to put these exhibits  
23 that I've referred to in the record.

24 CHAIRMAN MC CARTHY: Commissioner Davis.

25 COMMISSIONER DAVIS: Yeah, I thought your point

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1 on administrative holdovers was a good one. Do we  
2 have the authority, Bob, to write that into a lease, to  
3 say that, basically -- because this particular  
4 lease was kaput and it's still going on. How can we  
5 legally do that?

6 MR. HIGHT: You can put it in the lease, but  
7 a subsequent Commission could change it. So, you can  
8 put it in and it gives -- it creates a condition today,  
9 but that condition can be changed later.

10 COMMISSIONER DAVIS: Well, how can -- then any  
11 subsequent Commission could change the term -- all the  
12 terms of the lease.

13 MR. HIGHT: Correct.

14 COMMISSIONER DAVIS: But not without consent  
15 of the other party.

16 MR. HIGHT: Correct.

17 CHAIRMAN MC CARTHY: Thank you very much.

18 MS. ZIMMER: Thank you.

19 CHAIRMAN MC CARTHY: Steve Dunn, Santa Barbara  
20 Trap Fishermen. Mr. Dunn, welcome. Thanks for your  
21 patience.

22 MR. DUNN: Thank you very much, members of the  
23 Commission. My name is Steve Dunn. I'm a local  
24 commercial fisherman from Santa Barbara. I was born and  
25 raised there. I've been fishing crab, lobster, and/or

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1 fishnets for the last 17 years. I fish in the area of  
2 the Gaviota Marine Terminal as well as other areas in  
3 our channel.

4 Today, to my knowledge, I'm the only permitted  
5 commercial fishermen coming before you here today. I'm  
6 also here in representation of the Trap Fishermen of the  
7 Joint Oil/Fisheries Committee. I'm also here in  
8 presentation of eight of approximately 12 gill net  
9 fishermen who fish in the Gaviota area, as well  
10 representation of members of the Central Coast Hook & Line  
11 Commercial Fishing Association.

12 As the permit exists today, or the idea of the  
13 permit to tanker oil out of Gaviota, our group is opposed  
14 to that permit on the grounds that the conditions that  
15 have been specified, if they still stand, are inadequate  
16 to address our issues.

17 In August of 1992, the Santa Barbara County  
18 designated the impacts to commercial fishing in the area  
19 in relation to tankering as Class 1 impacts. This is  
20 based primarily on the fact that the voluntary vessel  
21 traffic corridor program in relation to us is a failure.  
22 The Joint Oil/Fisheries Committee originated some ten  
23 years ago as a result of devastating losses of said  
24 fishing gear by commercial fishermen at the hands of  
25 the seismic exploration industry as well as other oil

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1 service vessels. The trap fishermen were at major loss  
2 of all the fisheries here. And finally, after many  
3 years -- or several years of trying to reach some sort  
4 of an agreement, some sort of method of coexistence  
5 in the channel, we sought legal remedy. The permits  
6 for seismic testing were issued using a negative  
7 declaration. We sought legal means to have those permits  
8 withheld, and they were, pending further economic  
9 review -- excuse me -- environmental review.

10 At this time, we face much the same situation  
11 with the vessel traffic corridor program. Since it  
12 doesn't work, we're asking for relief. We've been  
13 asking for relief from the County, we've been asking for  
14 relief from the Coastal Commission, and we're following  
15 up today asking for relief from you.

16 We have in the last several months sent copies  
17 of letters to your staff and to the Commissioners, letters  
18 that were originally addressed to the California Coastal  
19 Commission. These letters -- I have copies today that  
20 I'd like to submit for the record if they're not in your  
21 possession today. I'd like to digress a little bit --  
22 being a little unprepared here -- the small boat trap  
23 fishing industry in Santa Barbara generally considers the  
24 full range of their operations to be in the Gaviota area.  
25 The representation here today is for all of those

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1 fishermen who fish traps and gill nets inside 3 miles,  
2 which will be terminated at the end of this year; as  
3 well as outside of 3 miles, which will continue.

4 The jobs involved probably on the magnification  
5 of 10 to 1 after the fish hits the dock, we've just  
6 been subjected to the full beginning of another El Nino  
7 situation similar to the 1982-1983 storms. We have a  
8 large body of warm water moving into our area. A lot of  
9 species of fish are harder to catch right now than they  
10 normally are.

11 We've gone through about 12 weeks of some  
12 severe weather conditions, where fishermen have a hard  
13 time getting out of port to get to their fish.  
14 I've come up here today -- I'm not paid to come here.  
15 I'm representing those of us who are at a loss here and  
16 feel that tankering will create more of a loss and more of  
17 a hardship for us. We don't come here today to suggest  
18 that there are jobs waiting for us from tankering. We're  
19 here to tell you that we have jobs now. We don't want to  
20 lose them.

21 The economic loss is certainly something that,  
22 in our community, we really can't afford to have. And  
23 we're quite frustrated, in that the conditions that we've  
24 proposed following this permit process have not been  
25 addressed. The County, as I say, defines our impacts as

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1 Class 1. I'd like to know from the Commission -- actually  
2 from the Director (sic) perhaps -- in relation to  
3 establishing a mandatory traffic corridor program, can  
4 the Commission enact civil penalties for noncompliance?

5 EXECUTIVE OFFICER WARREN: Well, let me answer.  
6 We have explored that opportunity available to the  
7 agency, and we could through the means of liquidated  
8 damage provisions in our leases and contracts. But  
9 beyond that type of approach, I'm not at all sure we're  
10 in a position to impose penalties. I'm willing to be  
11 corrected if legal staff can suggest another answer.

12 CHAIRMAN MC CARTHY: That's the answer.

13 MR. DUNN: Correct. I would like to continue  
14 to -- actually, I have another question. The State  
15 Constitution in 1925 defined fishermen as having a right  
16 to fish in State waters from State waters in State waters  
17 from State lands (sic). And that right, to our knowledge,  
18 has never been usurped or withheld. Currently, we have  
19 fishermen -- I'm among them -- who have had direct  
20 conflict with either debris from oil exploration,  
21 conflict with site specific fishing and oil company  
22 operations. And I'd like to know, since the State Lands  
23 Commission leases the sea floor to the oil companies, how  
24 does that relate to our right to fish?

25 CHAIRMAN MC CARTHY: The Public Trust Doctrine,

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1       which the State Lands Commission has the obligation  
2       to uphold, includes the people's interest in the  
3       commercial fishing and recreational values of the waters  
4       within our jurisdiction.

5               From time to time, we have to reconcile  
6       conflicts -- and you've just pointed out one -- that arise  
7       in pursuing these interests. We have imposed during the  
8       years I've been on this State Lands Commission  
9       innumerable restrictions on the pursuit of oil so that it  
10      did not unfairly interfere with the commercial and  
11      recreational fishing industry.

12              It is not possible to have a perfect world, given  
13      the statutory and constitutional mandate that we have,  
14      as I've just described within the Public Trust Doctrine.  
15      But we do the best we can in trying to protect your  
16      interests. And we, on many occasions, have attached  
17      conditions to leases, exploration, drilling leases to  
18      try to protect commercial fishermen.

19              MR. DUNN: Thank you, Commissioner. I'm aware of  
20      some of the efforts we've all made in those regards.  
21      I would like to ask here today that, in relation to  
22      the local contingency fund in the Santa Barbara Channel  
23      area -- actually, it's in the Tri-County area, I believe --  
24      which are funds that are set aside from oil revenues to  
25      be directed to mitigating gear loss of set fishing gear,

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1 I would ask that rather than those funds being directed  
2 to the areas where the fishing and -- excuse me --  
3 rather than being directed to the areas where the oil  
4 companies have already set equipment -- that is, drill  
5 rigs, sea floor completion units, pipelines, so on, and  
6 so forth -- I would like to ask, in relation to this  
7 tankering permit, if it is issued, if the Gaviota Terminal  
8 lease is issued, that the local contingency fund be  
9 extended to cover gear loss as well as production loss  
10 by a set formula in those areas which are generally  
11 considere to be oil company areas.

12 I'm maybe not expressing myself fully. In the  
13 Gaviota area, we rely on the traffic corridor area as  
14 fishing grounds for all the fishermen who I've just  
15 described. Since we're talking about reauthorizing an  
16 existing lease, it's important to note that there's been  
17 little or no activity relative to what we're talking about  
18 coming over the horizon in this area.

19 And so, fishermen who have gear that gets hung up  
20 on a pipeline or gear hung up on the remains of an oil  
21 rig that perhaps wasn't removed, any debris, I would like  
22 to ask that the contingency fund be extended to cover  
23 those circumstances. Right now, there is a claim by one  
24 of our hook and line fishermen for gear loss on a piece of  
25 oil equipment that is charted and, therefore, it is not

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1 covered.

2 CHAIRMAN MC CARTHY: Let me get an answer.

3 EXECUTIVE OFFICER WARREN: That contingency fund  
4 is a County-administered fund. We have no jurisdiction  
5 over its creation or its use.

6 CHAIRMAN MC CARTHY: You've got another target,  
7 Mr. Dunn.

8 MR. DUNN: I understand, and I started with  
9 that.

10 CHAIRMAN MC CARTHY: We'll be happy to support  
11 your reasonable request.

12 MR. DUNN: Thank you. Thank you. I understand,  
13 and I need to make note that we did start with those  
14 previous targets some months and some years ago.  
15 And we need very much to have State Lands consider these  
16 issues. I would like to submit the two letters that went  
17 to the Coastal Commission that have already been received  
18 by State Lands and the conditions that we've asked for  
19 be considered if the permit will be extended.

20 CHAIRMAN MC CARTHY: Thank you very much.

21 MR. DUNN: Thank you.

22 CHAIRMAN MC CARTHY: Any questions? Thank you.

23 MR. DUNN: Are there questions?

24 CHAIRMAN MC CARTHY: No, thanks. Mr. Robert  
25 Klausner? And after this, Joy Piazza. Would you both

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1 please come up? Mr. Klausner representing himself, and  
2 Ms. Piazza representing the Greater Santa Barbara Lodging  
3 Association.

4 Yes, sir.

5 MR. KLAUSNER: Commissioners, it is refreshing  
6 to have a staff present the options, which didn't happen  
7 at the Coastal Commission. And I want to compliment your  
8 staff for at least giving you your four options.

9 Now, it appears that industry's only interested  
10 in one of those options and has told you the other three  
11 will not survive or fly. So be it.

12 I appreciated your comment, and I think you made  
13 the key question today, which said, "What can we do to  
14 make it happen, to get pipelines," which is essentially  
15 State policy and it's County policy.

16 And that's what we've been wrestling this for a  
17 long time. And the reason we're here is because the  
18 assumptions we made back when -- and we go back a long  
19 time -- were that it would be in the economic interest of  
20 industry, because there was enough volume to get pipelines,  
21 certainly to L.A. when Arco was going to be producing  
22 and when Chevron was going to be producing, and there  
23 would be pipelines to Texas.

24 Well, it didn't work out that way. And the net  
25 result is, there's a lesson to be learned. And the  
lesson to be learned is that you cannot regulate that

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1 decision. That decision is an economic decision.

2 So, the key question then is what can you do  
3 in the equation to make it happen? I don't think there's  
4 anybody here, including industry, that knows whether  
5 it's in their economic interest at this stage of the  
6 game to increase capacity to Los Angeles so that they can  
7 produce the field as fast as they want to produce the  
8 field. It may not be worthwhile increasing capacity and  
9 may be more economical to phase the field and use what  
10 capacity there exists.

11 We won't know that, and we certainly won't  
12 know that if we allow them at this stage of the game,  
13 for the next three years, to ship by tanker. Because the  
14 volume, the key volume, the biggest volume is at the  
15 front end. It's not at the back end. And when Lou tells  
16 you that within three years, they can guarantee they won't  
17 tanker, they can guarantee that, because by that time,  
18 they will have passed their peak and they'll be down in  
19 figures that they'd have a tough time arguing there weren't  
20 pipelines to go to L.A. to carry.

21 And we certainly can't accomplish what we're  
22 trying to do by not maximizing the use of the pipelines  
23 that already exist, because that would be counterproductive.  
24 So, the number three option that industry wants you to  
25 accept and pursue doesn't even take advantage, truly, of the

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1 pipeline capacity that has been demonstrated here -- is  
2 here over and above what the Coastal Commission required  
3 them to put into the line.

4 So that doesn't really make sense to me either.  
5 If, on the other hand, there is no pipeline, then we  
6 really are going to test whether or not there is enough  
7 capacity between what Chevron has with Point Arquello and  
8 Exxon has coming down to justify a pipeline that both  
9 of them want to be in. Because what I can foresee is that  
10 there's a fight for turf here. There's only so much  
11 capacity down there for refining. And these guys are  
12 after getting as much as they can and getting as large a  
13 share of the pie as they can, and there's no love lost  
14 between Exxon and Chevron or anybody else.

15 That's just plain business. And I accept that.  
16 Figure this one. Southern Pacific comes in, permitted,  
17 and Chevron lives up to their agreement. They offer them  
18 an unconditional T & D to ship their full production or  
19 whatever it will be through Southern Pacific. And Exxon  
20 says, gee, why are we facilitating a pipeline for Chevron.  
21 We'll go the other way, because we want to go to Texas,  
22 and we want to go to L.A., and it's more to our interest  
23 to go by Four Corners. And we can't get the volumes  
24 together. Are you going to hold Chevron responsible  
25 for the whole industry lining up to go one place?

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1           You can't hold them accountable for something  
2 they can't produce. So, what we've got here is a  
3 situation where you think you're doing something through  
4 a regulatory process to produce a result. And I guarantee  
5 you it won't produce the result, unless it's in their  
6 interest economically. And we don't know that.

7           So, I think that what's happening here is your  
8 best shot, truly, at finding out whether it's economically  
9 in everybody's interest to increase the capacity to go  
10 down there, is to deny the permit without prejudice. And  
11 I think you have a very legitimate reason for denying  
12 that permit without prejudice. And this gets down to  
13 process.

14           If you had somebody walk in here with a hundred  
15 acres -- one-acre zoning -- and tried to develop that on  
16 the basis of going for a lot split, three one-acre  
17 parcels and 97 is left over, and then come back a while  
18 later, we've got 97 acres, we want to lot split, and  
19 try to get through the process of a subdivision by lot  
20 splits, you wouldn't allow that.

21           Now, we agreed back when, and we went through  
22 this -- and I may not like all the policies, but by golly,  
23 we worked those policies out and we accept those policies  
24 that industry had a right to interim tankering while they  
25 took time to build that pipeline both to Texas and to L.A.

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1 And this has been going on long enough to get a pipeline.  
2 And the reason we did that was we didn't want to hold  
3 them ransom to the pipeline not being able to be built  
4 in a timely fashion and hold up their production.

5 But this interim is not interim anymore. This  
6 interim is essentially a permanent tankering. And if it  
7 is a permanent tankering, then they should come in and  
8 apply for a permanent tankering. When you said no oil  
9 tankering after '96, that's contrary to our policies.  
10 Our policy says that there shall be a permanent tankering  
11 facility, which means that there can be tankering under  
12 certain conditions. And I expect that we should live up  
13 to those policies. And they'd have every right after '96  
14 to have a terminal there that could handle oil under  
15 certain circumstances.

16 Now, I appreciate staff trying to lay out a  
17 protocol, which essentially they did for a permanent  
18 tankering facility. Yet they're coming in and asking  
19 for an interim and only doing what an interim tankering  
20 facility and terms and conditions -- for all the talk of  
21 the number of conditions requires (sic). And we're  
22 saying, "You're entitled to a permanent tankering  
23 facility. Go for it."

24 Do it right, and under what terms and  
25 conditions we will then determine how you can have a

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1 final permanent tankering facility in Santa Barbara.  
2 Not "There will be no tankering after '96." That's  
3 making policy through a condition. That's not the way we  
4 do it, nor would we want to do it, because it violates  
5 the integrity of the process. Once you've got those  
6 policies, that's what should be controlling everything.

7 And what they're trying to do is they're trying,  
8 through the guise of interim, in effect, they are going  
9 for a permanent tankering facility.

10 And that's why you start to get -- you say,  
11 "No, Lou. It's not the way to do it. I disagree with  
12 you."

13 So, I've covered the point about maximizing  
14 the pipeline use that's there already. The timeliness  
15 of those time frames, I don't honestly believe that you  
16 can hold these people responsible for something they  
17 can't control. You have no guarantee you're going to get  
18 everybody together to go on the same pipeline. And,  
19 therefore, you have no guarantee that the volumes will be  
20 large enough for them to accept the tariffs. The net result  
21 is, you'll get nothing.

22 Thank you.

23 CHAIRMAN MC CARTHY: Thank you very much for your  
24 testimony.

25 COMMISSIONER DAVIS: Mr. Klausner?

CHAIRMAN MC CARTHY: I'm sorry. Commissioner Davis.

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1           COMMISSIONER DAVIS: Sorry that my falling  
2 blood sugar forced me to leave for a short time. I missed  
3 part of your beginning of your testimony; so, I apologize  
4 if I'm asking you to repeat yourself.

5           But I think all of us here want a result that  
6 you mentioned in the part of the testimony I heard, which  
7 is -- which may be contrary to Santa Barbara's policies,  
8 but which are that all the oil humanly possible be shipped  
9 to Los Angeles by pipeline.

10          MR. KLAUSNER: That's certainly consistent with  
11 our policy.

12          COMMISSIONER DAVIS: I understood you to say  
13 that Santa Barbara has basically established a policy  
14 that would allow Gaviota Terminal to operate as a  
15 tankering facility, you know, in perpetuity.

16          MR. KLAUSNER: No, I said this. Way back when,  
17 and we had to deal with it in the early eighties -- and  
18 you folks were involved then also -- we had to set in  
19 policies about transportation. And one of the policies  
20 that the transportation element said -- there were a couple  
21 of things. First of all, aside from the consolidations  
22 in the transportation, we said we would allow an interim  
23 facility to bridge the gap against the time in case they  
24 couldn't get that pipeline onstream as fast as their  
25 production was coming up. That interim terminal was

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1 supposed to be for a certain length of time. You've  
2 already heard testimony about that.

3 I mean, now they're asking for an interim  
4 terminal that, in reality, almost becomes ten years  
5 by the time you get through with what Exxon's asking  
6 for. That's not interim. You could have had a pipeline  
7 before this.

8 The second thing that we had in the  
9 transportation policies was that we would allow  
10 and permit, which we did, a permanent terminal. And  
11 Gaviota and Exxon fought for who was going to get it  
12 and decided that the Las Flores was a better, more  
13 environmentally practical site, and Las Flores got the  
14 blue ribbon or whatever it was.

15 Subsequently, Las Flores has turned it down (sic)  
16 and said -- they quitclaimed it. They don't want to  
17 bother doing it.

18 So, now what you really have is a tanker  
19 facility there where there's a lot of money been spent  
20 already. So, the odds are, and they already came in  
21 here a while back and ultimately withdrew because of some  
22 logistics and trying to get through the hoops as fast  
23 as possible, which hasn't worked out -- it appears that  
24 Gaviota will be the terminal -- the permanent terminal.  
25 And it's consistent with our policies. We have to allow

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1 a permanent terminal. And there are conditions under  
2 which that would operate.

3 One, in case of emergency, a breakdown. You  
4 wanted to ship something to a place that had no pipeline.  
5 And they talked at that time -- I remember the  
6 testimony. We might want to take a shipment up to  
7 Washington. Okay. Fine. Pipeline.

8 If there was no pipeline to destination of  
9 choice; at that time, we had no pipelines, or at the  
10 time that was going through we had no pipeline to Texas,  
11 nor did we have what we thought was a reasonable pipeline  
12 going to L.A.

13 Well, so, all I'm saying is that you can put  
14 these time frames in and say, "We're going to stop  
15 comes the year 1996." Yes, you're going to stop the  
16 interim tankering. Is anyone here under the impression  
17 that there will be no tanker facility there? I can't  
18 conceive of that, at least not the way they made the  
19 case back then that they had to have a backup system  
20 in case, and those were the conditions under which we  
21 set the policies.

22 And we're not about to -- I don't think we're  
23 about to change those policies.

24 So, it may sound a little crazy. I mean, I'm not  
25 happy about it, but it's a policy.

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1           COMMISSIONER DAVIS:  If we were to take your  
2 advice and deny the lease, how would that facilitate  
3 at least the State Lands Commission's objective, which is  
4 to get a, you know, greater pipeline capacity?

5           MR. KLAUSNER:  I'll tell you how I see it.

6           If you deny the lease at this time, then there  
7 is no interim tankering.  So now, they're faced with some  
8 permits coming through by Cajon, Four Corners, Southern  
9 Pacific.  That'll all be known within the next six months.  
10 Certainly, at that time, if it's in their economic interest,  
11 they will give T & D's jointly, or however, to get a  
12 pipeline to relieve the compression that you've created  
13 by having no tankering and their having an ability to  
14 produce more than they can ship out with the lines that  
15 exist right now.

16           And you will be able to test the economics of  
17 the deal within the next six months to see whether it's  
18 practical.  If it is practical and they go ahead with  
19 it, well, what the hell.  Let 'em interim tankering  
20 during the construction period, which is what the County  
21 called for anyway.

22           But if you allow tankering for the next three  
23 years -- and what's going to happen Chevron comes in here  
24 in January, we gave a T & D to Southern Pacific, but,  
25 you know, the volume wasn't large enough to get it at a

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1 price that, you know, that we could afford, and they're  
2 not going ahead with it.

3 You're going to say to them, "Well, gee, you  
4 haven't lived up to your bargain." They've lived up to  
5 their bargain, but that hasn't produced the economic  
6 result we're looking for. The best way to produce that  
7 result is to test it by changing that equation as to  
8 what their options are.

9 Now, if after that, it doesn't pay to build that  
10 pipeline and they can produce more, what will happen  
11 under your policies, you will no doubt end up with a  
12 tankering facility, and you'll have to decide at that  
13 time under what conditions you'll allow tampering and  
14 how much more -- whether you want to accommodate for  
15 the next couple of years their phasing in at maximum  
16 rates, or whether you want to phase them so that they  
17 don't have the need to go above and beyond.

18 And I'll tell you something. I can't for the  
19 life of me figure out how you're going to handle the  
20 Exxon deal.

21 Exxon predicated -- I mean, those guys back there  
22 predicated over \$800 million of investment on the fact  
23 that Exxon's destination of choice was Texas. You say now  
24 it's not Texas? What happens next Tuesday?

25 If you get a pipeline to L.A., they'll say, "Well,

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1 we want to go to San Francisco"?

2 I mean, you can't allow that. I mean, that  
3 wasn't what the policy was meant to do. The policy was  
4 meant to establish where they wanted to go and then get  
5 pipelines built there. And since they're not building  
6 it themselves, this is the problem we have -- we didn't  
7 know that then. We should have tied the whole thing  
8 together and said, no. "Unless you build the pipelines  
9 yourself, it's no deal."

10 But we didn't do that. So, we have to live  
11 with it the way it is.

12 CHAIRMAN MC CARTHY: Thank you. Ms. Piazza?  
13 No?

14 MS. KROP: Now I'm Joy Piazza.

15 Joy asked me to read this letter  
16 into the record.

17 (Thereupon, the reporter requested the  
18 speaker to identify herself.)

19 MS. KROP: I'm Joy Piazza.

20 (Thereupon, the reporter replied she  
21 was not.)

22 MS. KROP: Okay. I'm Linda Krop, K-r-o-p,  
23 presenting this letter on behalf of --

24 CHAIRMAN MC CARTHY: She looks like Linda Krop.

25 (Laughter.)

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1 MS. KROP: Same outfit, too.

2 Joy Piazza's the President of the Greater  
3 Santa Barbara Lodging Association and was unable to make  
4 this hearing, and asked me to read this letter.

5 "Dear State Lands Commission:

6 "I regret that I or a Board member  
7 of the Greater Santa Barbara Lodging  
8 Association are unable to attend the  
9 scheduled hearing concerning the issue  
10 of oil tankering in the Santa Barbara  
11 Channel by Chevron Oil Company. The  
12 Greater Santa Barbara Lodging Association  
13 represents the local hospitality industry --  
14 the hotels, motels, inns, and tourist-  
15 related businesses. Our purpose is to  
16 create and maintain tourism in Santa  
17 Barbara County. We monitor issues pertaining  
18 to the hospitality industry, tourism, and  
19 our environment. Our association supports  
20 the ruling which states that Chevron Oil  
21 may tanker up to 17 months with the signing  
22 of a contract to build a pipeline. I  
23 recall the last local oil spill in 1967. . . ."  
24 I think that was 1969, editorial comment.

25 ". . .It was devastating to our community

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1 and our economy. Travelers still recall  
2 the ugly black goo on the beaches, the  
3 suffering wildlife. It takes many years  
4 for those mental images to fade, let alone  
5 the devastation to the environment to  
6 disappear and at what loss? The tourism  
7 industry cannot afford to run even the  
8 slightest risk of a diaster like Valdez  
9 or the one suffered by the Shetland Islands.  
10 Santa Barbara County has been plagued with  
11 a major fire, a major drought, a toxic water  
12 spill via Southern Pacific Railroad, and  
13 the Los Angeles riots, which affected our  
14 economy due to our close proximity to  
15 Los Angeles.

16 "Tourism is the number one industry  
17 in our area. We are one of the major  
18 employers in Santa Barbara County. The  
19 City and County depend on our TOT taxes  
20 to provide the many services our community  
21 enjoys. We cannot take a chance that an  
22 accident would happen. By being dependent  
23 on the tourism market, the jobs lost,  
24 the loss in revenue to the City would be  
25 devastating. Building a pipeline would

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1 provide more local jobs. Using tankers,  
2 the jobs are limited and there's no need  
3 for labor to reside in the County where  
4 the production is located. With tankers,  
5 we gamble with the chance of disaster.  
6 Chevron Oil cannot guarantee that there  
7 will be an accident in the channel. And  
8 if there is one, the clean-up time is  
9 greater than one on land.

10 "The Greater Santa Barbara Lodging  
11 Association urges the State Lands  
12 Commission to uphold the decision to  
13 stipulate that Chevron sign a contract  
14 to build a pipeline within a designated  
15 date before tankering is allowed to  
16 commence.

17 "Cordially, Joy Piazza, President,  
18 Greater Santa Barbara Lodging Association."

19 Thank you.

20 CHAIRMAN MC CARTHY: Thank you. That completes  
21 the list of witnesses. I think we've had a fairly  
22 flexible give and take, back and forth. Is there anyone  
23 on either side that feels there has been some  
24 outrageous misconception of the truth that they must  
25 rescue us? Or have we had a chance to air this out?

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1 All right. Step forward, sir. You want to  
2 hang on for just a second, Mr. Mihalik, and I'll give  
3 you a shot.

4 Are you together? You want to come up?  
5 Anybody that hasn't testified yet is what I was looking  
6 for here.

7 You want to give your name and identify  
8 yourself? With the mike, please.

9 MR. MOORE: My name is Tom Moore. I'm with the  
10 Chevron Corporation. I'm the Vice President of  
11 Chevron Shipping Company.

12 And there's been a lot of talk about terminals,  
13 permits, pipelines, tanks. But an issue was raised  
14 regarding tanker safety by Linda Krop, and I just felt  
15 that I'd like to add some clarity to --

16 UNIDENTIFIED SPEAKER IN AUDIENCE: Can't hear  
17 you.

18 MR. MOORE: I'd like to add some clarity to the  
19 document that was submitted.

20 CHAIRMAN MC CARTHY: Use the mike. Just aim  
21 right at it, please.

22 MR. MOORE: I'll lean forward. I have  
23 responsibility for our worldwide tanker operations at  
24 Chevron, some 40 ships that we own and operate and an  
25 average of 40 others that we operate in worldwide trade.

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1           The GT vessels as we call them -- you call them  
2 the Oregon Class vessels. A point of information, there  
3 are five of this class, not four. Three of them have been  
4 named as those which were intending to be permitted for  
5 Gaviota Marine Terminal operations.

6           These were built beginning in the mid-seventies  
7 through the late seventies as a modernization project.  
8 They were state of the art, very modern tankers, and  
9 actually continue to be so today with the facilities  
10 and the details and equipment that was put on them.

11           At that point in time, they were built as  
12 double-hulled tankers, not required by law. In fact, they  
13 have been the model of the current law that is  
14 requiring the double-hulled tanker construction today.  
15 Our Oregon Class tankers are, in fact, one of the models  
16 behind that law and were sought after by the Federal  
17 commission that did the research.

18           The issue raised by Linda Krop -- and I believe  
19 it was submitted in your packet -- was a newspaper  
20 article of last Sunday in the San Fernando Valley  
21 Daily News. And the inference was that these tankers  
22 are -- our Oregon Class tankers are unusually accident  
23 prone or perhaps unsafe for the service that we're  
24 intending to put them in.

25           I'd just like to cite the four accidents

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1 that have been mentioned in this article, and comment  
2 a little bit for those of you that were reading this,  
3 perhaps after the fact.

4 One incident was cited by the vessel that  
5 lost steering while on trial run in 1975 in the  
6 Willamette River, and impacted a bridge, having a  
7 collision of sorts.

8 This accident occurred -- and it did occur,  
9 but it was actually before the vessel was commissioned.  
10 It was out on what we call the builder's trials. The  
11 vessel was not complete, but the builder was taking the  
12 shakedown run, and it was under the operation of the  
13 shipyard and the technicians of the equipment they had  
14 installed. And, yes, there was a control failure, and  
15 there was a slight impact brushing with absolutely no  
16 damage, and had no impact in the sense of consequential  
17 damage.

18 I assure you that the conditions that caused  
19 that control failure have been corrected. But the point  
20 is, it was taken out of context that this is a failure  
21 that exists today. It was actually corrected well  
22 before the delivery. And it was the purpose of the  
23 shakedown cruise to find these kinds of problems under  
24 a controlled environment at a very, very controlled speed.

25 The second item was -- that was noted was an

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1 accident that occurred in 1989, by, again, another of the  
2 Oregon Class tankers.

3 This accident did occur and it was very, very  
4 serious. We were headed upbound with a full cargo  
5 of oil. And southbound, another ship ran into us.  
6 We were hit. This happens. It happens in the open  
7 oceans, and it happened in the Columbia River, which  
8 is a particularly confined waterway. But it happened  
9 with both vessels under the con of a pilot, a mandatory  
10 State pilot in this case. The point I want to make  
11 about this is that the Coast Guard investigation found no  
12 fault of the ship or of the personnel handling our ship  
13 in their findings. In fact, through subsequent recovery,  
14 we were found exonerated and we were fully recovered  
15 for the damage to our vessel.

16 The point, though, is that this was a double-  
17 hulled vessel. The outer hull was not creased -- I'm sorry.  
18 It was not punctured or ruptured. It was a dent. But  
19 it leads to show that it could have been a rupture. And,  
20 in fact, had it been, it would have been protected by  
21 the inner hull. It was a clear case of a case where  
22 double-hulled tankers were a benefit and would have  
23 provided and did provide that extra ounce of protection.

24 The third reference was an accident that  
25 occurred in 1983. This was not an accident. The

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1 reference was that we had a vessel that lost steerage  
2 in Los Angeles and had to be towed to San Diego for  
3 repairs.

4 We have a very, very disciplined approach  
5 with regard to steering. Steering and propulsion are the  
6 two primary conditions of tankering. And before any  
7 vessel departs any safe mooring or berth, we go through  
8 a very, very rigorous checklist, much like a flight  
9 control list, of testing all of the steering gear. And,  
10 in fact, it was during one of those tests that we found  
11 a rudderstock movement that was more than usual on the --  
12 inside the bearing in the engine room. And it was  
13 reported, and it was -- the decision was made by our  
14 office that we would not proceed as planned, but we would  
15 go directly to the shipyard and make the repairs.

16 We were not towed. The ship went under its  
17 own power, under its own steerage with a tug escort  
18 as an extra precaution of safety. This was no accident.  
19 This was accident prevention.

20 The last item that was referenced in this  
21 article was the oil spill in 1977. An Oregon Class  
22 vessel spilled over the side a hundred barrels of fuel  
23 oil while loading. It was operator mishap. There's no  
24 excuse for it. We were embarrassed, and it was -- it  
25 happened. That's all I can say. But I can also follow

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1 through to say that it had insignificant short-term  
2 impact -- no long-term impact. The oil was cleaned up  
3 responsibly, quickly, and the conditions that led to  
4 that oil spill, operator error, have been relieved.  
5 And, in fact, there has been further mitigations and  
6 defenses against this similar happening (sic).

7 I'd like to point out, that happened 15  
8 years ago, 16 years ago. I would like to reference th  
9 performance of these ships.

10 The suggestion is that these are perhaps unsafe  
11 ships. I would like to maintain that these are, in fact,  
12 very, very safe ships; in fact, about the best that you  
13 could ever expect, if you're concerned about tanker  
14 safety, to be calling at a port in California. That was  
15 the basis on which these ships were designed, double-  
16 hulled tankers.

17 The three ships in question -- the Chevron  
18 Oregon, the Chevron Washington, and the Chevron Louisiana  
19 that we're considering for the utilization at the Gaviota  
20 Marine Terminal have for the last four years combined,  
21 these three ships have caused one gallon overboard the  
22 side average per year. That's a three-ship combination.

23 I'm a small boater, and I'm looking at these  
24 boats out here. I would maintain that the average boat  
25 here is responsible for more than one gallon overboard.

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1 But we do have a zero spill policy, and we enforce it  
2 rigorously.

3 I can go back many other years. If we go back  
4 the fourth year, we had a one-barrel spill, so that  
5 raises the average up to 10 gallons for these three  
6 ships.

7 I consider that an impeccable record. But  
8 those one gallons, by the way, weren't spills or mishaps.  
9 Much of that was reported operational spills as a result of  
10 minor hydraulic leak or a minor whatever. But one gallon  
11 per year for those three ships, I would ask any tanker  
12 operator to try and match that.

13 And that's not luck. We operate 41 ships --  
14 40 ships today -- we just sold one -- worldwide. I'm  
15 going to switch now from gallons -- let me reference  
16 another point. Those three ships -- that one gallon  
17 overboard? We carried more than a billion -- the math  
18 gets too high -- more than a billion gallons in the  
19 course of one year. So, that's one out of a billion.

20 And I think the number's many, many billions.  
21 But the number that does stick in my mind, because we  
22 use barrels, is that our worldwide fleet carried 600  
23 million barrels last year. And we caused three and a half  
24 barrels to go over the side in a number of very small,  
25 minor incidents. And, again, that's not luck. If I look

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1 back, our ten-year average history, the averages are  
2 in the under five barrel per year spill.

3 This is a discipline of our company, and it's  
4 a mandate of all those people that serve on our ships.  
5 It's a culture, it's a commitment, but it's also  
6 economic reality. We cannot afford -- we cannot afford  
7 what Exxon could. Yet we are forced to operate on the  
8 West Coast -- the most rigorously regulated arena,  
9 as we're seeing here, and I tell you, gentlemen, my  
10 company's job -- my company's on the line. We risk  
11 this with unlimited liabilities, and I risk personal,  
12 criminal liability, my career, my family's welfare. This  
13 is all on the line. We have a priority for absolutely  
14 safe tankering.

15 Just to close out. This article also refers  
16 to a rating system of tankers. It suggests that one of  
17 these Oregon Class tankers is not very highly rated.  
18 The Marine Tanker Advisory Center has this system whereby  
19 they use published reports. We don't give this  
20 credence, not many people in our industry do, but  
21 Mr. McKenzie does find himself in the news a lot,  
22 because when people want to get a rating of the tanker,  
23 he's willing to give one.

24 I think I've perhaps categorized some of these  
25 situations that were publicized in the press. I would

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1 invite you to consider referring to your State Lands  
2 Commission inspectors who, under statutory authority,  
3 frequently -- every port call -- board our ships. And  
4 save for a few administrative interface problems in the  
5 startup of this statutory inspection, find that our  
6 ships are, in fact, at the top of the list with regard  
7 to compliance and with regard to performance. And I  
8 would also invite you to look at the Coast Guard  
9 records.

10 We -- the question of risk management is  
11 a very real issue. And it's what -- it's what really  
12 controls us. And, as I mentioned, the exposure that we  
13 have, and we're not going to manage that exposure without  
14 full consciousness of the risks, and the risks are  
15 extreme.

16 The environmental risk, the public concern are  
17 indelible in our minds, but we're looking at the financial  
18 risks, and we can't afford to do anything but the  
19 absolute, most prudent, proper, fault-free, spill-free  
20 operation.

21 But there are risks. And we can't guarantee  
22 no spills. But what I can guarantee and what we stand by  
23 is the excellent performance that these ships have had  
24 through the years and, furthermore, we'll stand by our  
25 commitment to maintain and improve that performance and

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1 our commitment to providing the operation here that  
2 satisfies the expectations of zero spills.

3 But, again, we can't guarantee a risk free  
4 operation, but we can guarantee the maximum commitment  
5 to make that performance work to everybody's  
6 expectations. Any questions?

7 CHAIRMAN MC CARTHY: Any questions? Thank you  
8 very much. Mr. Mihalik?

9 MR. MIHALIK: I'll be very brief, Mr. Chairman.  
10 My name is Dan Mihalik, representating the Gaviota  
11 Terminal Company. And I would just like to briefly  
12 respond to several of the speakers. The County brought  
13 up a new condition. We believe the condition's  
14 redundant. It's already carried in the County and Coastal  
15 Commission permits.

16 As far as the Daily News that Ms. Krop mentioned,  
17 I just want to make it clear that this was an area that  
18 was thoroughly studied in this recent EIR -- types of  
19 spills from moorings, especially spills that could occur  
20 at a mooring like Gaviota, was extensively studied.

21 Another topic brought up by Ms. Krop was taxes  
22 and the tax assessor. And I think the facts are that  
23 \$1.5 million per year are being lost to Santa Barbara  
24 County due to the fact that these facilities are not  
25 running at capacity.

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1           Jobs was another topic brought up. And I think  
2 it was a sad level of insensitivity to our employees and  
3 to our contractors in this area. We've had facilities  
4 here since the late 1800s. We've had three, four  
5 generations of families as employees and as contractors,  
6 and there literally are over a hundred jobs involved  
7 with contractors in this facility all the time.

8           Size of tankers, this tanker's one-tenth of  
9 that, or approximately, I guess, of the Valdez. The  
10 proposed conditions by the -- brought up by Ms. Krop  
11 I think are extreme and unreasonable. She also  
12 mentioned the Mariposa project. And I think it should be  
13 clear or made clear that the County and Coastal  
14 Commission recognize that the Point Arguello project  
15 cannot operate without the storage at the Gaviota  
16 Terminal. You can't operate the project with simply one  
17 tank being installed at Mariposa. No one has ever  
18 made the conclusion in any of these hearings -- none of the  
19 agencies have -- that this results in a dollar-per-  
20 barrel savings in pipelining. That's simply untrue.  
21 And it's totally unrealistic.

22           I think it continues to be important for your  
23 Commission to, you know, make a clarification between  
24 the producers and the Gaviota Terminal Company. We are  
25 not privy to a lot of the work that's going on with

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1 pipelines and producers and that sort of thing.

2 We're in the business of operating the terminal.  
3 Just quickly, Jana Zimmer made a comment on the  
4 permanent terminal application. It was withdrawn because  
5 of some environmental opposition. It was withdrawn  
6 because Santa Barbara County asked us to withdraw it.  
7 And this was part of the process. They didn't want  
8 two terminals there, an interim terminal and a  
9 permanent terminal, and all of that sort of permitting  
10 going on as the producers were trying to get through their  
11 permit.

12 And it's been made clear, and the State Lands  
13 Commission staff made clear to us, call it what you will --  
14 permanent, interim -- it's always going to have conditions  
15 that really make this an interim terminal. That's  
16 always been the understanding. The permanent terminal  
17 concept was something we went forward with at one time  
18 to attempt to increase the capacity of this facility from  
19 100 to 125; that doesn't seem necessary under the  
20 circumstances, so we withdrew the application.

21 Jumping then to the next speaker, Steve Dunn on  
22 fisheries. I think it's important to note that -- I  
23 think it's this year or next year, we're contributing  
24 roughly \$200,000 a year to a coastal resources enhancement  
25 fund. We contribute to a fisheries contingency fund, and

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1 a fisheries enhancement fund, and the EIR again thoroughly  
2 studied this area. And the conclusion was that the  
3 impacts on fishermen are much less than the payments  
4 we're making to these various funds.

5 And the topic of vessel lanes and mandatory  
6 lanes is very, very stringently been controlled by the  
7 Coastal Commission.

8 Those are all the comments I have. Thank you.

9 CHAIRMAN MC CARTHY: Thank you very much.

10 Now, is there anybody remaining in this  
11 audience -- it's been a long hearing. Is there anybody  
12 remaining that thinks that an outrage has been committed  
13 that they have to redress? If there isn't, does the  
14 staff have any summing up that it wants to do before the  
15 Commission takes the matter?

16 EXECUTIVE OFFICER WARREN: Just a brief few  
17 comments on process. There were some references to  
18 staff's compliance with the Environmental Quality Act  
19 and with a number of cited statutes. And insofar as the  
20 leases are concerned, we've been aware of those  
21 contentions. Staff has carefully reviewed them and is  
22 content that the issue is properly before you and in  
23 compliance with CEQA and all statutory sections relating  
24 to -- or at least provisions. We are prepared to go  
25 into them, if you wish, but I did want to assure you that

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1 we feel that the issue is procedurally and  
2 appropriately before you.

3 Insofar as the terminal is interim or permanent,  
4 it seems to me that the key question here is that the  
5 witnesses seem to be putting particular stress on the  
6 timing of a throughput and deficiency agreement. Many  
7 say that that agreement should be signed now before  
8 tankering can commence. The Coastal Commission has  
9 said, "Well, you can commence tankering, but you have to  
10 have a throughput and deficiency agreement signed by  
11 February 1, 1994, and if you don't by that time, then  
12 you stop tankering."

13 The question, I suppose, goes to the good  
14 faith of the parties. I can understand why some of those  
15 who've been dealing with this issue for as long as it  
16 has lasted and have met disappointments are not comfortable  
17 by waiting a period of 10 months in order to see to it  
18 that that way point can be established.

19 I do not find that unreasonable. And with the  
20 provision that it is clear and explicit that, if no  
21 throughput and deficiency agreement is signed by February  
22 1, then tankering will stop and the further use of that  
23 terminal will be discontinued.

24 We will now within the tenure of this particular  
25 Commission whether or not there will be a throughput and

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1 deficiency agreement, and whether or not tankering on  
2 an interim basis -- that is, until January 1, 1996 --  
3 will be contemplated.

4           Insofar as the difference between the full  
5 pipeline -- so-called full pipeline option is  
6 concerned and the Coastal Commission's condition that  
7 designate 25,000 barrels per day through Pipeline 63  
8 to Los Angeles, it occurs to me, in listening to the  
9 testimony, that the Coastal Commission's actions were  
10 a part of a process between it, the industry, and the  
11 administration, and could well have been the result of  
12 some compromise developed in the course of that process.  
13 And one can only speculate what consideration -- what  
14 benefit the Coastal Commission obtained by the  
15 designation of that 25,000 barrels per day minimum.

16           I would like to say, unfortunately, neither the  
17 existing pipelines nor this agency were participants  
18 in that facilitation process. I think because of that  
19 it was flawed, but we can only speculate whether or  
20 not the agreements reached as a result of that process  
21 would have been otherwise.

22           It should also be pointed out that, whereas,  
23 the environmental community and the County of Santa  
24 Barbara were part of that facilitation process, they did  
25 not agree to the results of that process. So, it was not

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1 a unanimous -- it was not a consensual agreement.

2 The fact that we were not -- that we were  
3 either overlooked or prohibited from participating in  
4 that facilitation process only encourages me to urge that  
5 in the event you go with the Option 3, that you authorize  
6 us to put in the Coastal Commission's conditions  
7 specifically in the lease.

8 When I was asked earlier, am I confident about  
9 the actions of the Coastal Commission -- well, I had the  
10 dubious honor of serving on that Commission for four  
11 years and, therefore, I paused. I have more confidence --  
12 frankly, I have more confidence in this Commission  
13 on this issue than I do in the Coastal Commission. Its  
14 members change rather quickly, and I think that these  
15 matters should all -- should be reviewed if they're to  
16 be reviewed again by this particular Commission.

17 That's all I have to say, Mr. Chairman.

18 CHAIRMAN MC CARTHY: The matter's before the  
19 Commission.

20 COMMISSIONER DAVIS: I have just a couple  
21 observations.

22 CHAIRMAN MC CARTHY: Commissioner Davis.

23 COMMISSIONER DAVIS: First of all, I find this  
24 to be one of the more difficult decisions I've had to make  
25 in public office. I'm on 62 boards and I make a lot of

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1 decisions. I think Bob Klausner may have captured  
2 part of my dilemma, because we can't control what other  
3 Commissions do.

4 It's very clear to me that the original purpose  
5 in allowing this terminal was to -- the original  
6 condition was that oil be transported by pipeline. And,  
7 yes, we needed tanker facility, but it was really not  
8 designed to be used as anything but a backup or in  
9 emergency conditions.

10 And I have a little trouble thinking how we're  
11 going to get a throughput agreement in January or  
12 February when we can't have one yet. I mean, I would like  
13 to find a way to vote in favor of this. But I have to --  
14 I need another sign of good faith. I need another  
15 miracle here. Why can't the proponents support either  
16 AB 591 or -- it just seems -- and why do they resist  
17 our efforts to codify the Coastal -- I mean to incorporate  
18 the Coastal Commission conditions? And I guess I have  
19 a little problem believing that come January 1, 1996,  
20 that there won't be tankers moving around. I guess I'm  
21 looking for a way to vote yes, but I'm not getting much  
22 help.

23 CHAIRMAN MC CARTHY: Well, has there been a  
24 specific objection to incorporating the Coastal Commission's  
25 conditions?

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1 COMMISSIONER DAVIS: Yes.

2 CHAIRMAN MC CARTHY: All right. What was that  
3 objection?

4 MR. SHAMAS: Not by us.

5 EXECUTIVE OFFICER WARREN: Well, the applicant  
6 objected, as I understood their testimony, and I also  
7 believe the applicant represented that the producers  
8 also objected to our -- to the February 1, 1994 date  
9 and the January 1, '96.

10 Except our lease terminates on that date, so  
11 there's no big -- you know, there's no need to deal  
12 with that way point, but there is the need to deal with  
13 that February 1, 1994 way point.

14 And we would -- staff would urge that that be  
15 an express condition of the lease.

16 CHAIRMAN MC CARTHY: Do you have a problem with  
17 that, Mr. Shamas? Dan?

18 MR. SHAMAS: Now we've got a real attorney.

19 (Laughter.)

20 MR. KIRBY: I'm Steve Kirby, counsel for GTC.  
21 There's no objection to the February, '94 date in the  
22 lease, nor to the January '96 date in the lease. The  
23 objection was to having another level of review on the  
24 adequacy of the agreement. That was all.

25 COMMISSIONER BURTON: That's what I heard.

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1 EXECUTIVE OFFICER WARREN: Well, that's an  
2 incidental responsibility to the date.

3 CHAIRMAN MC CARTHY: We covered that in the  
4 discussion, the 20-day limit we would impose --

5 MR. KIRBY: I think you've given a lot of  
6 comfort on that score.

7 CHAIRMAN MC CARTHY: All right. All right.  
8 Okay?

9 COMMISSIONER DAVIS: Okay.

10 CHAIRMAN MC CARTHY: So, one of the two issues you  
11 raised is addressed. Mr. Warren suggests that those  
12 dates be specifically included and they will be included  
13 without objection by the members of the Commission.

14 COMMISSIONER BURTON: That's fine. I was the  
15 one who raised the question about our review, which I  
16 still consider to be redundant, our review of the  
17 T & D agreements. It seems to me that one State agency  
18 reviewing T & D agreements should be sufficient, and  
19 having the Coastal Commission staff do that is fine.

20 EXECUTIVE OFFICER WARREN: You would think so if  
21 one State agency worked and cooperated or involved another  
22 State agency. But as I just pointed out, on this  
23 particular issue, we were excluded from any of this  
24 participation, from participating in this process. So,  
25 our exclusion may continue in the future. That's my fear.

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1           COMMISSIONER BURTON: I understand what you're  
2 saying, and my point remains. It may be just my point.  
3 I have concerns about what I consider to be redundant  
4 processes in government, and it seems to me that if the  
5 Coastal Commission has imposed on their staff a  
6 requirement that they determine that the T & D  
7 agreement is adequate and they've defined what adequate  
8 is, that they should be able to do that, and not have  
9 another State agency do the same thing.

10           Now, if --

11           CHAIRMAN MC CARTHY: Well, we're going to get  
12 a staff view on the point, and I think my sentiment on  
13 this, if it is material -- materially consistent with our  
14 purposes and views in the fulfillment of our  
15 responsibilities, that'll be satisfactory.

16           COMMISSIONER BURTON: Right. It seems to me  
17 the point of concern, to me, are the dates. And the  
18 dates are meaningful only in the fact that they show  
19 progress toward the objective of getting out of  
20 tankering completely.

21           CHAIRMAN MC CARTHY: I quite agree.

22           COMMISSIONER BURTON: And the details  
23 associated with how you get through those dates should not  
24 be the subject of dissension among the ranks among various  
25 staff agencies.

          CHAIRMAN MC CARTHY: And I don't think we have to

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1 be, Commissioner, if we get a copy of the T & D  
2 agreement promptly from the applicant and we get the  
3 opportunity to review that T & D and get word back to  
4 them as to whether it's our opinion that there is --  
5 there are material differences between the intent we're  
6 expressing today in taking this action and what's in the  
7 T & D agreement.

8 I, at least, have made the argument that we're  
9 trying to get past redundancy wherever that's possible  
10 to reach the main objective of stopping oil tankering  
11 and putting it in the pipeline.

12 So, as one vote out of the three out here,  
13 I'm going to try very hard not to do things that get in  
14 the way of that objective.

15 On the other hand, we're trying to build good  
16 faith here. We've talked about lawsuits and about other  
17 things, and I think maybe we call need to take a few  
18 steps here that help build that chemistry of good  
19 faith.

20 COMMISSIONER DAVIS: Well, Mr. Chairman, what  
21 about the lawsuit against the Coastal Commission? Why  
22 do you guys need this lawsuit against the Coastal  
23 Commission? It's not been satisfactorily explained to  
24 me and it casts doubt on this good faith issue.

25 MR. KIRBY: That was filed because the time

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1 within which to file the lawsuit was running, and the  
2 companies asked for an extension from the Coastal  
3 Commission so they wouldn't have to file that lawsuit.  
4 We didn't know and don't know just yet what your  
5 Commission's going to do. You're the last piece in the  
6 puzzle. So, the lawsuit was filed as a protective  
7 measure. It has not been filed -- excuse me. It has  
8 not been served, and it will be dismissed if this  
9 compromise comes together the way everyone hopes it will.

10 CHAIRMAN MC CARTHY: I haven't read the lawsuit.  
11 I'm not, at this point, interested in the lawsuit, because  
12 I don't want it to affect my judgment on the issue before  
13 us.

14 I am driven by the central point of whether  
15 we go away from oil tankering to a pipeline, and what we  
16 need to do to get there. Now, we have -- we have other  
17 bites of the apple here that we can take if this gets  
18 ugly in some way. But we don't need to talk like that,  
19 because we're trying to build a positive chemistry with  
20 good faith. We're trying to forget whoever's to blame  
21 or not to blame for the sequence of events over the past  
22 decade.

23 We're trying to look where we are today and see  
24 how we get in the time frame we've outlined here into  
25 pipeline construction or expansion and utilization. That's

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1 where we want to be. So, you can make your judgments  
2 and understand that, if there are lawsuits and other  
3 things, that obviously colors the view of the human beings  
4 that are part of the process. So, those are risks that  
5 you can accept on your own behalf.

6 Now, to get back to Commissioner Davis' point.  
7 I think we've addressed the issue of dates.--

8 EXECUTIVE OFFICER WARREN: Yes.

9 CHAIRMAN MC CARTHY: -- being included.

10 EXECUTIVE OFFICER WARREN: I hope so.

11 CHAIRMAN MC CARTHY: They'll be incorporated.

12 COMMISSIONER DAVIS: What about my other point  
13 about AB 591? Why are you opposed to supporting that  
14 bill where all it does is codify the Coastal Commission  
15 conditions?

16 MR. KIRBY: I can't speak to that subject.

17 MR. MIHALIK: Dan Mihalik again. Much of our  
18 objection was on the process. When a statute's enacted,  
19 like the Coastal Act, the Coastal Commission is given  
20 charge to look at permits like Point Arguello and come up  
21 with permit conditions. But I don't think there's ever  
22 been a case that anyone ever saw where somehow a permit  
23 condition that an agency came up with was -- an attempt  
24 was made to codify it. There just doesn't seem to be any  
25 need for it.

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1           In addition to that, one of the objections  
2 that was raised by the Gaviota Terminal Company was  
3 that the proponents of that statute said they were  
4 trying to codify something the Coastal Commission did,  
5 but it was -- the statute clearly goes to shippers other  
6 than the Point Arguello Producers. It goes towards, for  
7 example, Exxon, who has not gone through the permitting  
8 process, in an attempt to codify something for them.

9           So, it was both the process that was going on  
10 and the fact it really wasn't codifying what the Coastal  
11 Commission did. It was doing more than that.

12           COMMISSIONER DAVIS: I don't understand why it was  
13 doing more than what the Coastal Commission did.

14           MR. MIHALIK: Well, for example, Exxon and any  
15 other shippers that might be out there, they haven't gone  
16 through the Coastal Commission and gotten a shipper's  
17 permit. This particular bill attempted to codify dates  
18 for future shippers. And there aren't any permit  
19 conditions for future shippers yet, at least from the  
20 Coastal Commission.

21           COMMISSIONER DAVIS: All right.

22           MR. MIHALIK: Thank you.

23           CHAIRMAN MC CARTHY: The matter's before the  
24 Commission. Do I have a motion?

25           COMMISSIONER BURTON: Let me back up first. And

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1 after picking on staff, say thank you to them for what I  
2 consider to be an extremely well-presented document for us  
3 to work our way through, and to all the people who made  
4 presentations. I know this is a tough issue to prepare  
5 for. Some of us have been more involved than others in  
6 these matters, but I appreciate the thoughtful way in which  
7 you've approached this matter.

8 And I'd like to put before the Commission for  
9 its consideration that we adopt what's been listed  
10 as Option 3, with the understanding that all of the  
11 comments that we've been made be taken into consideration.  
12 And that is that the purpose of imposing the conditions  
13 that are also outlined in the pages that follow and  
14 the staff's recommended conditions, the purpose of  
15 taking this is to continue to show good faith efforts  
16 toward progress toward getting us away from tankering.  
17 And it is not our intention to make people jump through  
18 hoops just for the sake of jumping through hoops; that we  
19 will be thoughtful in the way we approach the  
20 implementation of these conditions.

21 So, with that, I move that we approve the lease  
22 as consistent with Item 3.

23 CHAIRMAN MC CARTHY: Second?

24 COMMISSIONER DAVIS: I'm reluctant to second  
25 that. As I said, I would like to find a way to vote yes.

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1 I have a feeling my vote is not necessary, but I just  
2 feel that there have to be other ways that we can achieve  
3 the certainty that a pipeline is going to be built.

4 And I have a little trouble believing that come February,  
5 that those throughput agreements will be signed, or come  
6 January, 1996, that all tankering will stop. I have a  
7 lot of empathy for the companies. I think -- I have no  
8 quarrel with Chevron's safety record. I think they do  
9 an excellent job. Texaco's a first-rate company. And  
10 I wish I could control the whole process, because then  
11 I could say, we'll give you the pipeline in February,  
12 and you can tanker up to then, and I'd feel confident  
13 that there would be no slip between the mouth and the lip.

14 I can't second it.

15 CHAIRMAN MC CARTHY: I will second the motion  
16 and speak briefly to it. By my questions, I revealed  
17 what my thinking is on this. If we can stop oil  
18 tankering off the California Coast, I think we achieve a  
19 major environmental goal. There are doubts in many  
20 environmentalists' minds based on a ten-year history of  
21 whether this is really going to happen or not.

22 In addition, if a pipeline is going to be built,  
23 whether it's a significant expansion of Line 90 or if  
24 it's a new Pacific Pipeline, a lot of jobs are going to be  
25 created in a State which has 1.5 million unemployed  
people.

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1           It's not very often in my history in California  
2 where I think you can achieve a major environmental goal  
3 and do a good hit for a lot of working people that are  
4 in fairly desperate shape right now.

5           I don't know if this is all going to come together  
6 or not. But I think we're moving in the right  
7 direction if we act on this motion, and I'm going to  
8 support it.

9           You want to abstain?

10           COMMISSIONER DAVIS: No. I'll be recorded as  
11 no on that.

12           COMMISSIONER BURTON: Okay.

13           CHAIRMAN MC CARTHY: Two aye votes, one no vote.  
14 The matter is concluded. Thank you all very much.

15           (Thereupon, the meeting was adjourned  
16 at 4:05 p.m.)

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