

MEETING
STATE OF CALIFORNIA
LANDS COMMISSION

COUNTY OF VENTURA GOVERNMENT CENTER
HALL OF ADMINISTRATION
LOWER PLAZA ASSEMBLY ROOM
800 SOUTH VICTORIA AVENUE
VENTURA, CALIFORNIA

TUESDAY, JUNE 18, 2002

1:30 P.M.

MICHAEL MAC IVER
SHORTHAND REPORTER

ORIGINAL

APPEARANCES

Kathleen Connell, Chairperson

Cruz Bustamante, Lieutenant Governor

B. Timothy Gage, Director of Finance, represented by Annette Porini

STAFF

Paul Thayer, Executive Officer

Jack Rump, Chief Counsel

Alan Scott

Curt Fossum

ALSO PRESENT

Alan Hagar, Deputy Attorney General

PROCEEDINGS

1
2 CHAIRPERSON CONNELL: I want to thank all of you
3 for being here in Ventura. We do try to take our meetings
4 around to different parts of the state. And on behalf of
5 the State Lands Commission, I welcome all of you here today.
6 Seated with me is Lieutenant Governor Cruz Bustamante on my
7 right and Annette Porini who represents the Governor's
8 Office Department of Finance on my left. And I am now
9 officially calling the meeting of the State Lands Commission
10 to order. I am, by the way, Kathleen Connell, the State
11 Controller of California and the Chair of the State Lands
12 Commission this year.

13 For the benefit of those of you who are in the
14 audience and this is the first time you have had a chance to
15 attend one of our meetings, we are the commission in the
16 state that administers the real property assets for the
17 State, and we also administer its mineral interests. And
18 today we are going to hear proposals that relate to those
19 specific responsibilities of this Commission, and more
20 particularly the leasing and management of our public
21 properties.

22 We have a protocol here before the Commission. We
23 welcome your comments, and if you would like to address this
24 Commission, we would ask that you do so by indicating it on
25 a form that is available for you to fill out, a speaker

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1 form, which is available at the back of the room. And then
2 you may speak at any item during the public comment period
3 or as we address specific items in the agenda.

4 Now, the first item of today's business will be
5 adoption of the minutes from the Commission's last meeting,
6 and may I have a motion from one of my fellow Commissioners
7 to approve the minutes.

8 ACTING COMMISSIONER PORINI: Move approval.

9 COMMISSIONER BUSTAMANTE: Second.

10 CHAIRPERSON CONNELL: It's been unanimously moved.

11 Let us move on to the next order of business,
12 which is the Executive Officer's report. And Mr. Thayer,
13 it's nice to see you.

14 EXECUTIVE OFFICER THAYER: Good afternoon, Madam
15 Chair.

16 CHAIRPERSON CONNELL: Mr. Thayer and I were up
17 here on a tour of one of the oil leases recently. It's nice
18 to see you again.

19 EXECUTIVE OFFICER THAYER: It's good to be back
20 here, especially in this area.

21 My report is not too lengthy. At our last
22 meeting, the Commission had several questions concerning our
23 website, and there were three items that you wanted us to
24 address. The first was to place the Belmont Island
25 Decommissioning Project onto the website. We reported at

1 the last meeting that that had been successfully completed.
2 We have since the April meeting put that on the website,
3 it's available. There are a variety of pictures of the
4 decommissioning and of the history of Belmont Island, when
5 it was approved by the Commission, the considerations that
6 the Commission faced when deciding how to decommission it,
7 and those kinds of issues. So that's been up there, I
8 think, for the last month.

9 The second item that the Commission was concerned
10 with, with respect to our website, had to do with placing a
11 feedback form on our website so that we could gather
12 information from users to find out what needs we were
13 meeting, which ones we weren't. That feedback form has gone
14 up on the site. It's available. It's one of the things you
15 see on our homepage, you don't have to search for it. Since
16 putting it up now about a month and a half ago, we've
17 received one feedback form back and it provided an
18 interesting input about or asking us to put information
19 concerning contracts that we're letting up on the website so
20 that people who wanted to bid on our contracts, they're
21 usually environmental consulting contracts, that they could
22 find that information. And we're researching ways to put
23 that up there in response to that comment. So it's already
24 been useful.

25 Finally, the Commission had a variety of

1 questions, particularly the Chair, about how our website was
2 being used and how it was being accessed. As it turned out,
3 our staff had started a software program that kept track of
4 some of that data last October and has assembled a report
5 which is before all of you, and additional copies are
6 available in the back for members of the public that would
7 like to look through it. But I'd like to hit a couple of
8 the high points here --

9 CHAIRPERSON CONNELL: Please.

10 EXECUTIVE OFFICER THAYER: -- that explain what
11 we're doing.

12 The web usage since the first of the year, we're
13 averaging about 300 hits a day, so we've totalled 45,000
14 through May. The search engines used to reach the website,
15 as is the case generally, Google is a very popular search
16 engine and about 47 percent of the hits that come to our
17 website from a search engine are coming from the Google
18 search engine. Second place went to Yahoo. My favorite is
19 Altavista and it came in fifth, so I obviously have to
20 reconsider the use of it.

21 In terms of referring URLs, these are links that
22 are posted to our site on other websites. The number one
23 referrer from outside the Commission was the State Personnel
24 Board. And we think what's happening, of course, is that
25 people who are interested in jobs see a link to potential

1 jobs on the Personnel Board's site and come to our site to
2 investigate those jobs. We had 539 hits since the first of
3 the year investigating us for that.

4 We do notice that the Governor's web portal, which
5 is the main search engine by which people who are looking
6 generally at the State agencies would use to get to our site
7 is fairly low. There were only 71 hits. And that's one of
8 the things that we think we'd be able to address by putting
9 key words into the search engine that the State uses to
10 access its different sites. And by having that, having
11 those reference words in there, the people that are looking
12 for information about things that we do are likely to more
13 readily find our site. So we're looking at that as one
14 method of improving how people can use our site.

15 The number one downloaded file, a number of our
16 files can be downloaded, turned out to be the North Baja
17 Pipeline EIR. And we shouldn't be too much surprised
18 because that was a very controversial project. And so it
19 reflects that controversy. But it also reflects with a
20 total download of 14,000 downloads of this or attempted
21 downloads, it means that people are really using our site to
22 access information about what we do. They are relying on
23 this website to go out there and get the information. So
24 it's been very useful to the people interested in that.

25 Other commonly downloaded pieces of information

1 included the Land Management Division brochure that explains
2 more generally what our Land Management Division does. The
3 April 2000 Commission agenda and voting summary was
4 downloaded over a thousand times. Some of our draft
5 regulations have been downloaded a lot. So we're seeing
6 that our site's being visited not just for information about
7 the Commission, but to help people actually work with us,
8 and work through some of the issues that we're using right
9 now.

10 So I think in total we're seeing that our site is
11 being used for a variety of purposes. It is being accessed
12 both through links and through search engines. We think
13 there are some other things we can do to improve the
14 usability. Some of the things we'd like to do is to improve
15 the number of search words by which we would be hit from the
16 State's web portal, so that people will more easily find us
17 in that context. We'd like to continue to provide
18 additional information about the Commission's activities,
19 whether it's Belmont Island or other varieties of special
20 policy areas that we're involved in, as well as our day-to-
21 day information.

22 As you know, it's only been in the last couple
23 meetings that we've figured out how to put all of our
24 calendar items, all of our staff reports from each meeting
25 are now available through the website. We want to continue

1 to do things like that to improve the usability.

2 CHAIRPERSON CONNELL: Do we know anything, Paul,
3 about the demographics of those who use our website, are
4 they young, are they old? You know, are they from certain
5 areas of the state? Are we reaching out effectively to non-
6 english speaking groups in California?

7 EXECUTIVE OFFICER THAYER: That's a good question.
8 And I think that gets us into an area that we have some
9 concerns about getting involved in. So there's a lot of
10 controversy over websites that collect information about
11 people who use those websites, and we're very leery about
12 establishing and in essence collecting information about our
13 users in a way that they might be reluctant to use our site.

14 But I think what we need to do probably is find
15 some ways to research usage, not based on the site itself.
16 In other words, we're looking at how many people are coming
17 to our site. Equally important would be say the people who
18 are applying for leases or for job opportunities who never
19 used our site. And so perhaps what we can do is go at it
20 that way and find out from people who are applying to the
21 Commission for leases or for jobs and find out if they ever
22 considered using the website and why not. And that might
23 give us some ways to find out from people who want to talk
24 to us but haven't used the website, what would make that
25 website more useful to them. So we have been looking at

1 that.

2 CHAIRPERSON CONNELL: Well, you can see where I'm
3 going with that question. I mean, if there are portions of
4 California unaware of the resources and the growing
5 resources that we have on our website, we should make a
6 proactive effort to try to reach out to those groups, in
7 particular through various organizations, community groups,
8 governmental entities that would have a natural nexus to
9 those demographics, and I think it would really be very
10 helpful for us.

11 And how are we doing with our schools program?
12 You know, I've always been very interested in our website
13 being available to the public schools, since there is now a
14 general catharsis and underfunding of the public schools as
15 it relates to science programs. Is there any way we can
16 encourage our teachers in California to be aware of the
17 resources that we represent on our website.

18 EXECUTIVE OFFICER THAYER: We'll certainly look
19 into that. I did not mention, but one of the, I think, even
20 top five reasons people visit our sites has to do with the
21 shipwreck information we have on there. We have information
22 on the Brother Jonathan, as well as generally about
23 shipwrecks off of California, and that's an extremely
24 popular use of our site, and I imagine some of that has to
25 do with educational purposes. But we'll look into how we

1 can better disseminate the availability of our site and what
2 we have on it to school teachers.

3 CHAIRPERSON CONNELL: Well, you know, in 5th
4 grade, if I stand corrected, since I have young children of
5 this age, I believe the 5th grade curriculum requires
6 children to do an analysis of environmental matters as part
7 of their science curriculum. And many 5th graders and 6th
8 graders in California travel to Catalina to Camp Simi, and
9 it would seem to me that we could connect to all of those
10 classes, in particular those grades would be particularly
11 assisted by the information that we have on marine life.
12 And, in fact, if you know the 6th grade curriculum required,
13 since I sit on the Education Resource Board as well, the 6th
14 grade curriculum in California is earth science and marine
15 science. They integrate the two. So it would seem to me
16 that that particular year, those teachers should be notified
17 about the kinds of resources we have on our website.

18 EXECUTIVE OFFICER THAYER: That's a good point.
19 We'll let you know.

20 CHAIRPERSON CONNELL: Are there other comments
21 about this matter from you, Annette, or from you, Cruz?

22 COMMISSIONER BUSTAMANTE: No.

23 ACTING COMMISSIONER PORINI: No.

24 CHAIRPERSON CONNELL: All right. Is there
25 anything else in your Executive Report, Mr. Thayer?

1 EXECUTIVE OFFICER THAYER: Just two items. I
2 wanted to mention forthcoming meetings. I think as I've
3 discussed with you and your staffs that maybe we need to
4 have a telephonic meeting in July to deal with two time-
5 sensitive projects that will be ready for review at that
6 time, and we'll be contacting your offices to come up with a
7 mutually agreeable date for that. And then our next regular
8 meeting would be in September after summer's over, and again
9 we will be working with your staffs to establish the dates
10 for those meetings.

11 The final point I wanted to make was to thank the
12 County for making this facility available to us. And I had
13 understood that there was going to be a representative here
14 from the County? Oh, I guess not. But they were very kind
15 to make this facility available.

16 CHAIRPERSON CONNELL: Okay. Thank you. It
17 certainly is convenient.

18 Our next order of business. That will be the
19 adoption of consent calendar, and, Mr. Thayer, I would ask
20 you to tell us which items have been removed from the
21 consent calendar.

22 EXECUTIVE OFFICER THAYER: They would be Items 7,
23 38, and 39.

24 CHAIRPERSON CONNELL: 7, 38, and 39. Is there
25 anyone who wants to speak to an item that is on the consent

1 calendar?

2 All right. If not, then the remaining group of
3 consent items are to be taken up now as a group for a single
4 vote and I'll --

5 COMMISSIONER BUSTAMANTE: Madam Chair?

6 CHAIRPERSON CONNELL: Yes.

7 COMMISSIONER BUSTAMANTE: If I could just ask a
8 quick question. I know that 38 and 39 were pulled, but also
9 the same question of both 38, 39, and 33. Are we ensuring
10 that any time that there is going to be a change of name or
11 change of ownership or change of management, are we ensuring
12 that there is proper capitalization? Are we making sure
13 that there is sufficient assets and that those assets are in
14 fact being brought to the management of these facilities?

15 EXECUTIVE OFFICER THAYER: That's a very timely
16 question, and in the case of 33, we believe that that
17 particular -- well, the short answer is yes. That's one of
18 the items that we look at for all of the issues, and
19 particularly those issues like the ones that you've
20 highlighted where there's some possibility of environmental
21 impact should something go wrong or there's a high
22 capitalization. In the case of 33 --

23 COMMISSIONER BUSTAMANTE: Just so we've seen
24 situations where people have gone bankrupt and banks are
25 taking over, and we've had other larger entities selling

1 their facilities to smaller entities and they run into
2 financial difficulties in trying to meet all safety
3 requirements, and I just wanted to make sure that this is
4 not -- it seems sort of innocuous, it seems like it's not
5 that big of a deal that we're switching from one group to
6 the other, but that also means that they're switching
7 liability and they're switching financial responsibilities.
8 So I just wanted to make sure that there is a protocol
9 that's established to ensure that that in fact is taking
10 place.

11 EXECUTIVE OFFICER THAYER: I appreciate the
12 direction, and it is something we do look at. I'm hearing
13 you loud and clear.

14 ACTING COMMISSIONER PORINI: I'm wondering, Mr.
15 Thayer, I've been reading a lot about Venoco, I know that
16 that doesn't directly relate to our consent items, but in
17 the same vein as 33, 38, and 39. Is there a letter that we
18 could send to folks just following up on the issues that
19 both the Controller and the Lieutenant Governor and I've
20 raised in the past, just to make sure that when changes do
21 occur that they're aware of what our requirements are?

22 EXECUTIVE OFFICER THAYER: I think that's a good
23 point and in connection with -- as I think the Commissioners
24 generally know, there's recently been a management struggle
25 at Venoco. I have been contacted by Mr. Eason who's been

1 selected as the temporary president, and I intend to write
2 such a letter to him to indicate that people expect --

3 COMMISSIONER BUSTAMANTE: And it ain't who's
4 running it, it's how it's run.

5 EXECUTIVE OFFICER THAYER: Right. Exactly. That
6 we expect compliance, full compliance with all of the
7 requirements of the Commission and its lease, and that the
8 health and safety and the environment will be protected.
9 But that's a good point, we will send that letter.

10 CHAIRPERSON CONNELL: I don't believe anyone who
11 is signed up to speak today wanted to speak on any of these
12 items, except for Item 15, and that was only if we took it
13 off consent; is that correct, Ann Merrill?

14 MS. MERRILL: I was concerned about the
15 environmental thing, but they reassured me that they will
16 not be taking copper and dumping it.

17 CHAIRPERSON CONNELL: That would be correct. So
18 you don't need to speak then?

19 MS. MARROW: I think they -- no.

20 CHAIRPERSON CONNELL: Okay, fine. I just want to
21 make sure that we are not passing too quickly by anyone.

22 COMMISSIONER BUSTAMANTE: Move consent.

23 ACTING COMMISSIONER PORINI: Second.

24 CHAIRPERSON CONNELL: Then it's now unanimous.
25 Okay. Now, let us move then to the regular

1 calendar if we can. Item 71, I believe, is the first one,
2 and that is on the safety audit, and, my goodness, everyone
3 was here for the consent calendar. Well, I'm glad we can
4 dispense with your business within the first 25 minutes.

5 Item 71 is an update on the safety audit of the
6 Rincon Island lease.

7 COMMISSIONER BUSTAMANTE: That's 72. Is that 72?

8 CHAIRPERSON CONNELL: No, that's 71.

9 COMMISSIONER BUSTAMANTE: Right, 71.

10 CHAIRPERSON CONNELL: And we have discussed this
11 several times before. I have been very concerned about the
12 safety of Rincon Island and I've discussed that with staff
13 before. And I would ask the staff to begin their
14 presentation on 71. I believe it, is it not?

15 EXECUTIVE OFFICER THAYER: Yes.

16 CHAIRPERSON CONNELL: Paul.

17 EXECUTIVE OFFICER THAYER: Let me double check.
18 It's 72.

19 CHAIRPERSON CONNELL: That's all right. 72.

20 EXECUTIVE OFFICER THAYER: I think that the notes
21 here were in error.

22 CHAIRPERSON CONNELL: 72.

23 EXECUTIVE OFFICER THAYER: I apologize.

24 Mark Steinhilber from our Long Beach Mineral
25 Resources Management Division will give the presentation on

1 this.

2 CHAIRPERSON CONNELL: We need to dim the lights in
3 here so we can see this presentation, or are we going to be
4 able to see it by the fact of where we are?

5 EXECUTIVE OFFICER THAYER: Why don't we put up the
6 first slide and then we can tell.

7 CHAIRPERSON CONNELL: Actually, are we doing the
8 Port or are we doing Rincon?

9 EXECUTIVE OFFICER THAYER: Rincon.

10 CHAIRPERSON CONNELL: Rincon is 73.

11 EXECUTIVE OFFICER THAYER: Rincon is 72.

12 CHAIRPERSON CONNELL: Actually, Rincon is 73, and
13 72 is the Port of San Diego; is that correct?

14 COMMISSIONER BUSTAMANTE: No.

15 CHAIRPERSON CONNELL: No. 72 and 71, I have two
16 different.

17 COMMISSIONER BUSTAMANTE: 72 is Rincon?

18 EXECUTIVE OFFICER THAYER: Right.

19 COMMISSIONER BUSTAMANTE: And 73 is San Diego.

20 CHAIRPERSON CONNELL: Okay. Let us do 72, Rincon.
21 Can everyone see with the lights on in the room?

22 EXECUTIVE OFFICER THAYER: Perhaps you can start
23 your presentation now without the slides.

24 MR. STEINHILBER: The handouts there, Mr. Thayer,
25 they follow the presentation.

1 EXECUTIVE OFFICER THAYER: Okay. And the
2 Commissioners have copies of that.

3 MR. STEINHILBER: Good afternoon, Madam Chair,
4 Members of the Commission.

5 CHAIRPERSON CONNELL: No offense to you, I need to
6 turn around at some point to see the screen. It's not that
7 I'm neglecting you.

8 MR. STEINHILBER: I'm hoping that you get a
9 picture up there at some point.

10 EXECUTIVE OFFICER THAYER: But for now I think
11 copies of the slides are in front of you.

12 CHAIRPERSON CONNELL: For those of you who are in
13 the audience, I apologize. At some point our technological
14 dais will come back up. So again, if you will.

15 MR. STEINHILBER: This is a status review of the
16 safety audit on Rincon Island and the associated offshore
17 leases. The safety audit was conducted and completed in
18 February of 2001, and we've been in a follow-up mode on this
19 audit.

20 On the second slide, you see the location of
21 Rincon Island. The safety audit addressed Rincon Island,
22 which produces oil and gas from the PRC1466 lease and leases
23 PRC145 and 410, which are produced from onshore locations.

24 On the third slide, you have a picture of Rincon
25 Island itself. Rincon Island is located in Ventura County,

1 about three miles south from the Santa Barbara county line.

2 Your next slide is a picture of the two onshore
3 leases, PRC145 and 410. These onshore leases are to the
4 southeast from Rincon Island and they are inland or east of
5 Highway 101, which follows the coastline.

6 On the next slide we look at our action item
7 priorities that come from our safety audits. Action Items
8 are identified in our safety audit reports and are
9 prioritized based on risk for injury, oil spill, or adverse
10 environmental impact or property damage. Based on
11 priorities and the risk with these priorities, we establish
12 target dates for completion of these action items. These
13 dates are set at 30 days, 120 days, and 180 days.

14 On the next slide you see the breakdown of results
15 from the audit of Rincon Island. This chart shows that
16 there was a total of 473 Action Items identified on these
17 leases, with the vast majority being of the lowest priority,
18 Priority Three, 324. There were 48 items that were
19 considered serious and identified as Priority One Action
20 Items, and those were to be addressed in 30 days. There
21 were also 101 Priority Two items, and those are given 120
22 days for action.

23 On your next slide, you see how those were
24 resolved, the key points.

25 COMMISSIONER BUSTAMANTE: Could you give us just

1 an example of some of your serious, the more serious items?

2 MR. STEINHILBER: Typically, one of the serious
3 Priority One-type items would involve a safety system, like
4 a fire main, fire pump, emergency generator, perhaps gas
5 detection, or some of the safety devices that are involved
6 with the processing of the oil and gas as it goes from the
7 wellhead through the equipment and then on to shipment to
8 pipelines.

9 COMMISSIONER BUSTAMANTE: And what about it? Tell
10 me about it?

11 MR. STEINHILBER: Many of the devices that are on
12 the process pieces of the equipment, they'll detect high or
13 low pressures which may indicate a problem, and what has
14 happened over the years, the industry trend has been to
15 better sensors and a little bit more automation. There's
16 industry standards and we've been comparing the safeguarding
17 of these facilities against those standards.

18 COMMISSIONER BUSTAMANTE: And would you consider
19 the number of serious and moderate violations to be of
20 concern?

21 MR. STEINHILBER: Not of a concern after they are
22 addressed within the 30 days. All of the companies jump
23 right on Priority Ones quickly.

24 COMMISSIONER BUSTAMANTE: When we do an audit, is
25 there oftentimes hundreds of violations there?

1 MR. STEINHILBER: There tends to be a number, but
2 they are typically the low priority that have to do with a
3 drawing not matching up with the actual equipment. Changes
4 have occurred over years and decades.

5 COMMISSIONER BUSTAMANTE: So the approximately 140
6 plus moderate and serious violations would seem to indicate
7 that there is some clear management problems?

8 MR. STEINHILBER: Not really. What happens is the
9 industry standards have changed over time.

10 COMMISSIONER BUSTAMANTE: Well, you just got
11 through saying the vast majority in an audit are low-
12 priority issues.

13 MR. STEINHILBER: Yes, sir.

14 COMMISSIONER BUSTAMANTE: And yet over half of the
15 -- well, not quite half, about 40 percent of the violations
16 are moderate to serious. So it seems to me that if 40
17 percent of the violations, approximately 40 percent of the
18 violations are beyond what normally takes place, that
19 doesn't tell you that there could be some problems?

20 MR. STEINHILBER: Well, many of them are design-
21 type problems that we're looking at.

22 COMMISSIONER BUSTAMANTE: Regardless of what they
23 are, shouldn't they be fixed?

24 MR. STEINHILBER: Yes, they should and --

25 COMMISSIONER BUSTAMANTE: Right. And so if you

1 know that, if you or the person that's managing the
2 facility, and you understand what the industry standards
3 are, why does it take an audit to come in and review, and
4 why aren't you just as a management process going ahead and
5 fixing your facility?

6 MR. STEINHILBER: I think that many of the
7 companies struggle with what the standard that is going to
8 be applied to them, what that is.

9 COMMISSIONER BUSTAMANTE: Are we not clear with
10 people what the standards ought to be?

11 MR. STEINHILBER: Well, we have a unique situation
12 in that we have islands that don't have clear cut standards,
13 so we have worked to bring the platform standard to address
14 the risks on an island.

15 COMMISSIONER BUSTAMANTE: We don't have standards?

16 EXECUTIVE OFFICER THAYER: We do have standards,
17 and in fact --

18 COMMISSIONER BUSTAMANTE: Have those standards
19 been given to the islands?

20 EXECUTIVE OFFICER THAYER: I believe so, yes.
21 Some of these though are, as we said, design standards,
22 where the project will be built to a particular standard
23 initially, and then there will be changes in the American
24 Petroleum Institute standards and the other standards that
25 are typically used, and the company may not apply those or

1 may not realize that they're out of compliance, and that's
2 the purpose of doing these audits. It might be instructive
3 to compare --

4 MR. STEINHILBER: Standards or manipulations.

5 EXECUTIVE OFFICER THAYER: It might be instructive
6 to compare the deficiencies identified here with the ones in
7 Long Beach or Venoco on Holly, which are the other places
8 where we've done audits.

9 MR. STEINHILBER: The numbers of items have been
10 on track with the other audits that we've done. If you
11 normalize it based on production or the sheer number of
12 facilities that we've looked at, the numbers of this audit
13 were comparable. And the nature of the items we've been
14 talking about, these Priority Ones and Twos, they are
15 typically design-type items where long-term upgrades and
16 improvements are indicated, and the audit brings that about.

17 The other point that was brought up was the
18 difference between the industry standards and our
19 regulations, that these facilities are typically in very
20 good compliance with all of our MRMD regulations. The
21 industry standards are the items that we have to look at to
22 see that they are conducting operations in a workman like
23 manner.

24 COMMISSIONER BUSTAMANTE: And how long did it take
25 or have we gone through the -- just going back to the

1 serious issues. How long did it take them to resolve those
2 issues?

3 MR. STEINHILBER: I have some of that and I'm
4 hoping it's going to come up. But on the next couple
5 slides, I think, we'll see how that went.

6 COMMISSIONER BUSTAMANTE: Why don't you tell me
7 right now?

8 CHAIRPERSON CONNELL: Well, actually, I think it's
9 on the next page. Is it on this one?

10 MR. STEINHILBER: Yes, the slide.

11 CHAIRPERSON CONNELL: High, moderate, low Action
12 Items, Mr. Bustamante. The next page since our slide
13 machine has died.

14 MR. STEINHILBER: Yes. If we bounce to the next
15 page, you see that the Priority One items, there was 24
16 completed within 30 days.

17 COMMISSIONER BUSTAMANTE: So half of them were
18 completed within --

19 MR. STEINHILBER: Fully completed, yes. And the
20 other ones were mitigated in some fashion, in a temporary
21 fashion, until a permanent engineering system could be
22 installed or other changes were made to bring the thing up
23 to the permanent-type arrangement with equipment.

24 COMMISSIONER BUSTAMANTE: There wasn't one serious
25 issue that wasn't properly mitigated until a final design

1 could be developed for the proper management of each and
2 every one of those problems?

3 MR. STEINHILBER: No. We looked to see that
4 operational safeguards were put in place.

5 COMMISSIONER BUSTAMANTE: For every single one?

6 MR. STEINHILBER: For every single one.

7 COMMISSIONER BUSTAMANTE: What about on the
8 moderate ones?

9 MR. STEINHILBER: On the moderate ones, when you
10 have resources such as these companies, they need to address
11 the Priority Ones before they address the Priority Twos.

12 COMMISSIONER BUSTAMANTE: So we have a situation
13 in which the high Priority Ones, the vast majority of them,
14 according to this, were dealt with completely within 120
15 days, and it took 360 days to complete 41; is that correct?

16 MR. STEINHILBER: Correct. And then there was
17 seven more that took up to the 480 days to finish up.

18 COMMISSIONER BUSTAMANTE: So we're not sticking
19 with our own protocol?

20 MR. STEINHILBER: Well, no, those items have
21 mitigation in place, operational safeguards. The operators
22 have different procedures to ensure that this particular
23 issue won't be a problem.

24 EXECUTIVE OFFICER THAYER: Mark, why don't you use
25 an example.

1 MR. STEINHILBER: For example, the fire pump
2 appeared to be undersized, so there was an existing one
3 there. There is an additional diesel driven one available,
4 and the causeway is available with the fire trucks. And in
5 this instance, we had the operator bring the fire fighting
6 capability of the facility up to state of the art standards
7 for this type of facility. It had been operating for years
8 as it was, and was reasonably safe, but what we wanted to
9 bring it up to the absolute top standard that the State
10 should have on a State lease.

11 EXECUTIVE OFFICER THAYER: So if a fire pump is
12 inappropriately sized, it's too small, while they obtain an
13 additional pump or do the design work to ensure that the
14 higher-capacity pump can be handled by the pipelines, you
15 can mitigate for that lack of the size of the firepump by
16 bringing in another fire pump. It's not the ultimate
17 solution, but it provides the same fire fighting capability.

18 COMMISSIONER BUSTAMANTE: That's fine.

19 MR. STEINHILBER: Right. There was new piping put
20 one, new foam monitors put on. There was fire fighting foam
21 for blanketing the tank farm and so forth.

22 If we bump back to this table here, you see that a
23 majority of all items were cleared within six months, and
24 that's of all priorities. And that was a majority of the 85
25 percent. And ultimately 480 days to finish all of them. At

1 one year out or 360 days, we had 88 percent completed here.

2 The next slide just gives you a graphical
3 representation of this progress. You see that at 30 days we
4 had varying percentages, about 40, for the three different
5 priorities. At six months, we had 85 percent for the total.
6 And then at 480, we were at 100 percent.

7 Summarizing some of the major improvements, the
8 gas shipping pipeline to shore was replaced. Fire detection
9 and fire suppression systems were reengineered and improved
10 with a new fire pump and new piping. The addition of fire
11 fighting foam. Safety devices were added to the island, as
12 well as the onshore gas compressors, and integrated with
13 automatic safety shutdown systems. A combustible gas
14 detection system was installed throughout the island. There
15 were comprehensive maintenance and training programs
16 implemented, and the upgrades were an investment of over 1.2
17 million in these facilities.

18 On the next slide you see that the safety audits
19 that we accomplished to date with Platform Holly, the Long
20 Beach Unit, a preliminary one. Rincon Island, which is now
21 considered complete. The follow-up phase is completed. And
22 the report for the Long Beach Unit safety audit has been
23 completed and the Long Beach Unit audit is entering its
24 follow-up phase.

25 We have started our newest safety audit of Era

1 Energy, which includes Platform Emmy, and their upland
2 leases in Huntington Beach. And that is scheduled for
3 completion this fall.

4 That ends my presentation.

5 CHAIRPERSON CONNELL: Well, let me just thank you.
6 I appreciate this presentation. If you recall, I requested
7 the beginning of an audit activity, since I was concerned
8 with the continued fear and concern that many
9 environmentalists and community leaders have expressed about
10 the aging of these facilities, which of course is something
11 that I don't know has been adequately addressed.

12 Can you tell me how in our audit activity you deal
13 with this concept of aging, since so many of these
14 facilities were designed with 40-year leases and 40-year
15 equipment, and we are now, of course, extended way beyond
16 that? I am concerned how do you attack that issue of aging
17 in your audits?

18 MR. STEINHILBER: These facilities are process
19 facilities which take the oil and gas from the wellhead on
20 through to where they're for sale and shipped out via
21 pipeline. As they do that in that process, there are rules
22 that govern that OSHA has a standard, CalOSHA has a standard
23 for processing facilities. We use their guidelines on that
24 for conducting a process hazards analysis, which goes
25 through point by point and looks for the type of problems

1 that can occur in the process. And we look for variant
2 types of safety devices to safeguard the system.

3 And certainly in the cases of our offshore
4 platforms which have the highest degree of safety, they
5 typically have a doubly redundant system for shutting down
6 the platform for serious deviations out of the norm. And
7 they actually shut the whole platform and typically they
8 will send the gas up to the flare to safely dispose of it,
9 and they safeguard the entire facility. And so we look for
10 that process hazards analysis, and we do a design review of
11 it to make sure that it follows the industry standards that
12 we had mentioned earlier that they all abide by.

13 CHAIRPERSON CONNELL: Well, let us get down to
14 specifics. We now have an island, that is Rincon Island,
15 which is now transferring ownership, and which we are all
16 familiar with, and we are at a situation where the new buyer
17 will now be presented with the audit findings, and then
18 hopefully all of those audit findings have been remedied.

19 MR. STEINHILBER: That's correct.

20 CHAIRPERSON CONNELL: So that's good news. Now,
21 the second question that I have is, given the fact that that
22 is an older facility, as they all are, do we give a
23 prevention list to them at the completion of the audit? You
24 know, we do a lot of audits for the State Controller's
25 Office, and we have now come up with this idea of a

1 preventative audit list so that when we leave a client with
2 the audit that is always of past years, we are tired of
3 always coming back and finding that there are problems that
4 are beginning basically at the same time that our audit is
5 being completed on what happened in the past. And so we're
6 trying to signal where we would go if we were to come back
7 in a year, two years, three years later. And we are now
8 beginning to put together what we call a preventative audit
9 list, things that should be in front of the new management
10 of an entity or the continuing management of an entity,
11 regarding that facility.

12 Do we do that, and if not, could we not do that in
13 this circumstance?

14 MR. STEINHILBER: I believe we do that. I think
15 the operations manual that they have has been totally
16 redone. That island is basically at the safety level that a
17 platform is, and that's the highest level of safety and
18 safeguards that are on there.

19 EXECUTIVE OFFICER THAYER: So the operations
20 manual is a perspective manual. In other words, it
21 describes how they operate it in a way they can remain safe,
22 rather than us reaching a certain illustrate today for what
23 it's going to look like a year from now. The operations
24 manual addresses that issue.

25 MR. STEINHILBER: That's correct. And the other

1 thing that the safety audit program does is it tunes our
2 inspection program. Our inspectors are involved and see all
3 of the audit findings. They are involved and see all of the
4 upgrades and improvements. And they are -- it's basically a
5 hand off to them. All of the new systems and equipment go
6 on their monthly inspection sheets and they watchdog the
7 situation with their monthly inspections.

8 MR. MOUNT: Mark, you may want to mention SAMS as
9 well.

10 MR. STEINHILBER: As part of our audit, we do a
11 safety audit of management systems, and what it does, it
12 looks at the management for the right elements to be in
13 place with the company. Training, maintenance, the way they
14 do their engineering, the fact that they've done a process
15 hazards analysis, we look at that and get a measurement of
16 that and then provide them with the results of that so that
17 they can tune their safety system and their HES department,
18 their Health and Environmental Safety department, can fine
19 tune their programs, their safety programs.

20 So we believe that it does work well. We can go
21 back and do a SAMS audit to take a look at where the company
22 management is without doing a full safety audit. So that's
23 potentially an option we have to do to keep track of the
24 company.

25 CHAIRPERSON CONNELL: Well, I would like us to

1 make this a priority. I'm sure I'm joined by my fellow
2 Commissioners. We cannot put enough effort into making sure
3 that we prevent problems from occurring on these oil leases.
4 I guess my last question would be, many years ago I know we
5 discussed this issue, and maybe Annette remembers it as
6 well, what the difference was between the State's
7 requirements, the safety requirements, and that of the
8 federal government. And I want to make sure that we are
9 exceeding the federal government guidelines across the
10 board, Paul, for all aspects, the maintenance and operation
11 of these facilities. Is that correct today? I know it was
12 not at one time when you and I took the tour of what was it,
13 Project Holly, was that the one we were one?

14 EXECUTIVE OFFICER THAYER: You went out to Holly,
15 and then I think we both went out to Irene.

16 CHAIRPERSON CONNELL: Irene. It was on Irene that
17 we had this come up, correct?

18 EXECUTIVE OFFICER THAYER: Paul reminded me that
19 we have on our website right now the joint regulations that
20 we developed with the Department of Conservation to remedy
21 any gaps that we might have. The advantage of doing joint
22 regs is that we're able to take advantage of some of the
23 jurisdiction and authority that the Department of
24 Conservation has with respect to oil operations safety and
25 enforce those ourselves. And so those are -- I can't

1 remember the amount of public review period, but we're in
2 the middle of adopting those. And those have gone up on our
3 website, and we think those will address those kinds of
4 issues.

5 CHAIRPERSON CONNELL: Are there any other
6 questions by my fellow Commissioners?

7 Thank you very much for your presentation, albeit,
8 unaided by graphics. I must say a point of relief to me
9 that we don't have to have a Powerpoint presentation and we
10 still made it through by the old fashioned way of talking.

11 I think we are now on Item number 73, which is
12 the --

13 COMMISSIONER BUSTAMANTE: Madam Chair, there was a
14 recent article in the paper, I believe about the issue of a
15 previous vote on this particular issue, in which we had
16 allowed for an EIR?

17 CHAIRPERSON CONNELL: On Rincon?

18 COMMISSIONER BUSTAMANTE: Was it on this issue?

19 EXECUTIVE OFFICER THAYER: Yes.

20 COMMISSIONER BUSTAMANTE: It was on this one, I
21 believe. And it was in the article indicating that somehow
22 that the EIR that we allowed to move forward was in fact
23 expanding offshore oil drilling. And did the Commission in
24 the action that it took to allow the EIR to take place, in
25 fact, expand offshore oil drilling?

1 EXECUTIVE OFFICER THAYER: No. My view is that
2 those aren't.

3 COMMISSIONER BUSTAMANTE: Did we extend it to any
4 location that currently exists now?

5 EXECUTIVE OFFICER THAYER: No.

6 COMMISSIONER BUSTAMANTE: Without violating the
7 terms of the lease, could we have stopped the EIR?

8 EXECUTIVE OFFICER THAYER: No. We could not have
9 taken action on the project without getting that EIR
10 completed. In fact, the action that the Commission took in
11 April was merely to authorize staff to enter into a contract
12 with a consultant to prepare the environmental review. That
13 environmental review, you all specifically at the time of
14 taking the action, stated that you wanted that environmental
15 review as comprehensive as possible. You did not want to
16 see a scaled down review, you did not want a mitigated
17 negative dec or a negative declaration, you wanted an
18 Environmental Impact Report. The Commission's direction to
19 staff was very clear that you wanted the environmental
20 review to be as thorough as possible.

21 But the actual decision taken by the Commission
22 had nothing to do with approving or denying the project, it
23 only was a procedural matter ensuring that the environmental
24 review has been done and authorizing you, as you must
25 authorize me for any contract over whatever the face amount

1 is designated in terms of what I complete on my own. I have
2 to go to the Commission and get approval for that. And
3 that's what the Commission was doing last April, or this
4 past April.

5 COMMISSIONER BUSTAMANTE: I know to some Johnny
6 Come Latelys in terms of trying to talk about the issue of
7 offshore drilling, I think that the Commission has made it
8 pretty clear to staff where it's at on the issue of
9 extending or expanding offshore oil drilling. Whether it
10 was the issue of closing down a platform for unsafe
11 practices, whether it was in the asking you to do aggressive
12 quick claims, whether it was the resolution last year that
13 we support the moratorium, I think we have been fairly
14 clear. Is there anything else that the Commission would
15 have to do to make it clearer to staff that we are opposed?
16 I think individually we've probably each written letters to
17 the President or in some way had our shops written letters.

18 CHAIRPERSON CONNELL: The past two Presidents.
19 There have been two during my term of office.

20 COMMISSIONER BUSTAMANTE: Yeah. And so, I mean,
21 I'm not sure --

22 EXECUTIVE OFFICER THAYER: I think staff is pretty
23 clear on the direction from the Commission on this.

24 COMMISSIONER BUSTAMANTE: It seemed that they were
25 clear when they were responding to the reporter's questions.

1 I just wanted to make sure that there wasn't any loose ends
2 anywhere.

3 EXECUTIVE OFFICER THAYER: I don't think there
4 any. I think the Commission's been clear in two respects.
5 You know, the first is that many of these -- all of the
6 leases that we're administering, that the present Commission
7 is administering now, were let by predecessor Commissioners
8 and Commissions.

9 CHAIRPERSON CONNELL: Many years ago.

10 EXECUTIVE OFFICER THAYER: Prior to 1969. Prior
11 to the oil spill off of Santa Barbara. The last lease was
12 1968. And that the facilities that we're now administering
13 are ones that are on leases that were entered into at least
14 34 years ago.

15 COMMISSIONER BUSTAMANTE: Now, in fact, in getting
16 aggressively the quick claims, haven't we taken less lease
17 area out of potential production?

18 EXECUTIVE OFFICER THAYER: We have. Since 1990,
19 we've accepted 18 quick claims back and with no new leases
20 in the same period of time, and that's out of 52 leases.
21 And then we've I think in the last four years or so, we've
22 had about seven quick claims coming back to the State.

23 COMMISSIONER BUSTAMANTE: I just wanted to make
24 sure that that was on the record.

25 EXECUTIVE OFFICER THAYER: So as I was saying, the

1 direction that I have is that as we've just talked about,
2 Rincon Island and the audit program in general, is that the
3 Commission has made clear to me with its zero tolerance for
4 problems, which is a policy expressed after the release of
5 hydrogen sulfide gas from Holly, that the list of concerns
6 we've identified at Holly and at Rincon and Long Beach are
7 like shooting the messenger to find some problem with coming
8 out with that list.

9 Basically, that means that we're cracking down.
10 It means we're going out there and we're finding the
11 problems before they generate a leak. We're following the
12 Commission's direction that on these facilities which we've
13 inherited from predecessor Commissions, that we're going to
14 be as safe as we can. We can't close them down legally.

15 COMMISSIONER BUSTAMANTE: We're just looking for
16 high standards of management.

17 EXECUTIVE OFFICER THAYER: Exactly. And, as I
18 say, that no Commission, this one or any of the preceding
19 ones back to 1968 has authorized a new lease. So we are in
20 effect administering leases that are already there.

21 CHAIRPERSON CONNELL: Speaking of leases, shall we
22 move on to our next transaction, which is the item 73, which
23 is the moorings at the San Diego Port District. And we have
24 a number of public speakers for this item, and I will
25 certainly respect all of your wishes to appear before the

1 Board. May we first though have a staff presentation on
2 this item, Mr. Thayer?

3 EXECUTIVE OFFICER THAYER: Certainly. Madam
4 Chair, let me just first say preliminarily that this matter
5 first came to the Commission several years ago, and the
6 Commission made it very clear that they wanted staff to
7 investigate all of the concerns that have been raised by the
8 public, particularly the ones that related to safety, safe
9 operations, and wanted staff to apply its engineering
10 expertise to these questions so that the Commissioners would
11 have an independent assessment of these issues. And in the
12 last couple years, we have spent quite a bit of time working
13 on that and brought in staff that normally don't work on
14 this kind of lease, but that have the expertise to look at
15 these engineering questions.

16 The second major issue was whether or not the
17 process followed by the Port in approving this lease was
18 appropriate. And at the request of the Commission, staff
19 asked the Port to take this matter back and rehear it and
20 reapprove it, hold additional workshops, and they have done
21 all of that.

22 To give you more details, Alan Scott will have a
23 presentation from our staff. It's somewhat lengthy, because
24 we want to make sure that we've covered all of these issues
25 that have been previously raised.

1 MR. SCOTT: Good afternoon, Madam Chair and
2 Commissioners.

3 CHAIRPERSON CONNELL: Yes, thank you. I take it
4 you're also going to be operating without a Powerpoint?

5 MR. SCOTT: Thank goodness.

6 (Laughter.)

7 CHAIRPERSON CONNELL: You're in the beginning
8 stages of learning how to use Powerpoint presentations?

9 MR. SCOTT: I have no electronic capabilities.

10 I gave that up, I'm afraid. I'm an old dog, and
11 teaching old dogs new tricks and that sort of thing.

12 My name is Alan Scott. I am a Regional Manager
13 with the Commission's Land Management Division here to
14 present information on Calendar Item Number 73, which
15 requests your approval of a lease between the Port of San
16 Diego and the San Diego Mooring Company, covering some 437
17 recreational moorings located in San Diego Bay. Three
18 hundred thirty seven of these moorings are located on lands
19 leased by the Commission to the Port District, and a hundred
20 of them are on lands granted to the Port District by the
21 legislature.

22 This matter was previously before the Commission
23 in February of 2000. At that time, representatives of the
24 mooring tenants expressed the following six general areas of
25 concern regarding the leasing of these moorings by the Port.

1 The first was privatization of the public
2 moorings. The second was the inability of the public to
3 have input to the sublease process. Third was safety of the
4 mooring equipment itself. Fourth was adequacy of
5 maintenance of that mooring equipment. Fifth was rental
6 issues. And sixth was purported irregularities in the RFP
7 used to select the lessee.

8 Because of these concerns and several similar ones
9 expressed by the Commissioners themselves, you asked staff
10 to conduct an independent analysis of the situation before
11 returning this item for your consideration.

12 Staff has conducted such an analysis, working
13 closely with the Port and the mooring tenants, and this
14 effort has encouraged the Port to, in fact, amend this lease
15 to the San Diego Mooring Company several times and respond
16 more completely to concerns voiced by the public. The
17 results of the staff's efforts are reflected in the item
18 that is before you today.

19 I would to like to just briefly address the
20 various concerns that were raised during the previous
21 presentation and some response that the staff believes
22 adequately addresses those.

23 The first is privatization. The mooring tenants
24 believe that allowing the moorings to be operated by a
25 private company would result in the loss of these moorings

1 to the public. The moorings were installed by the Port
2 District as a means of organizing private mooring vessels in
3 San Diego Bay to create a safer, less environmentally
4 damaging alternative to the mixture of abandoned, derelict,
5 and private vessels scattered throughout the bay that
6 existed prior to the creation of these mooring areas.

7 The Port now intends to transfer the operational
8 responsibility for these moorings to a private company
9 through a lease. However, the lessee is required to pay the
10 Port the book value of the existing mooring equipment, and
11 at the end of the lease term that mooring equipment is to be
12 returned to the Port. Therefore, the public trust asset
13 created by the Port in establishing the mooring areas will
14 not be lost.

15 Additionally, the Port will continue to exercise
16 control over the operation of the moorings through
17 provisions contained in the lease, one of which restricts
18 the use of these moorings to recreational vessels only.

19 A second concern that was expressed was a lack of
20 public input to the Port's leasing process. The mooring
21 tenants indicated that the Port had paid little attention to
22 concerns expressed by them to both Port management and in
23 public meetings before the Port commissioners regarding the
24 operation of the moorings and the proposed transfer of those
25 mooring operations to a private operator. At your request

1 and with the urging of Commission staff, the Port arranged
2 to hold three workshops regarding mooring lease issues and
3 invited the representatives of the mooring tenants, all of
4 the mooring tenants, and the public to these meetings.

5 The meetings were conducted by the Port using --

6 CHAIRPERSON CONNELL: Alan, can you tell me where
7 you are on the handout materials? I see all of us searching
8 to follow you.

9 MR. SCOTT: There are no handout materials, Madam
10 Chair.

11 CHAIRPERSON CONNELL: I see. Well, we have
12 something.

13 MR. SCOTT: That's the Port's staff presentation.

14 CHAIRPERSON CONNELL: Okay. Thank you.

15 (Laughter.)

16 CHAIRPERSON CONNELL: We were all sitting here
17 trying to find where you were. You were doing it, I was
18 doing it, and so was Annette.

19 COMMISSIONER BUSTAMANTE: This one was so much
20 nicer than the other one.

21 (Laughter.)

22 CHAIRPERSON CONNELL: I, myself, was trying to
23 figure out whether that was the Statue of Liberty or a life
24 boat.

25 (Laughter.)

1 CHAIRPERSON CONNELL: You see, none of were
2 listening to you Alan.

3 (Laughter.)

4 MR. SCOTT: You're not going to make me start
5 over, are you?

6 CHAIRPERSON CONNELL: No, no, that's okay. You
7 see this is what happens when you put any kind of graphic in
8 front of a public Board, they immediately are trained to
9 look at the graphic, and I kept thinking why isn't your
10 speech connecting to the graphic.

11 (Laughter.)

12 CHAIRPERSON CONNELL: And I noticed that Annette
13 was doing the same, so I thought I would interrupt your
14 presentation.

15 Go ahead.

16 MR. SCOTT: It's quite all right. Let me go back
17 to this.

18 The Port conducted three separate workshops of
19 which they invited all of the tenants of the moorings and
20 the public, and it was attended by members of the Tenants
21 Association, the proposed lessee, the Port representatives,
22 representatives from your staff. And the meetings were
23 conducted by a private consultant hired by the Port to
24 assure that all the participants had an equal opportunity to
25 express their concerns and that they were, in fact,

1 recorded.

2 Many of the concerns expressed in those workshops,
3 however, were ones that had been raised before and they
4 included rent, safety, maintenance practices of the Port,
5 inspection periods, and so forth. The major concerns
6 expressed during these meetings dealing with the operation
7 of the moorings have been addressed by the Port and its
8 lessee in amendments to the lease that is before this
9 Commission for approval.

10 The third was safety of the mooring equipment.
11 The amended lease addresses the issue of equipment safety by
12 providing specific criteria for the design of the moorings
13 and specifications for the type of materials that will be
14 used in assembling the moorings. The amended lease contains
15 drawings that show the configuration of each type of
16 mooring, that contain specifications that control the type
17 and size of chain that can be used in the future as chain is
18 replaced. The moorings received an engineering analysis by
19 both the Port's and the Commission's engineering staff, and
20 modification to those moorings are required, based on that
21 engineering review.

22 Some existing anchors are to be increased in
23 weight in order to meet specific design weather conditions.
24 The lease contains drawings that indicate how the moorings
25 are to be attached to the -- excuse me. The lease contains

1 drawings that indicate how the moorings are to be installed,
2 and the lessee is required to provide to each mooring tenant
3 a detailed drawing that shows the preferred method of
4 attaching the vessel to the moorings.

5 In addition, the Commission staff required
6 replacement criteria for elements of the moorings be set at
7 a higher standard than that originally provided in the
8 lease. The lease between the Port and San Diego Mooring
9 Company has been amended to incorporate the staff's
10 recommendations.

11 The fourth was adequacy of maintenance. Members
12 of the tenant group had indicated that routine maintenance
13 of the existing moorings under the Port's operation was not
14 consistent. The amended lease contains specific provisions
15 that require the cleaning and inspection of the entire
16 mooring assembly at intervals of not less than 12 months.
17 The lease also contains specific criteria for replacement of
18 worn parts. The replacement criteria has been modified at
19 the request of Commission staff to require replacement of
20 metal parts when they are less than 80 percent of their
21 original size.

22 The San Diego Mooring Company has also built a
23 specialized vessel which they propose to use for purposes of
24 inspecting the moorings. The vessel will allow the entire
25 mooring to be lifted from the water, excluding the anchor

1 weight. It will be cleaned, completely inspected, and any
2 repairs made to the assembled parts so that they meet the
3 inspection criteria that's established within the lease.

4 The fifth was rental issues. The mooring tenants
5 were concerned that if the Port were to transfer the
6 moorings to a private operator, the rental rates would
7 increase substantially. The lease itself sets forth a fixed
8 rental rate schedule for the first six years of the lease,
9 assuring that the lease rentals will remain consistent.

10 Also during various public meetings, the mooring
11 tenants have suggested reducing the size of the anchor
12 chains in the mooring as a means of reducing overall cost.
13 Smaller chain is less costly and the Port's lessee has
14 agreed to pass any savings on to the tenants in the form of
15 lower rates if smaller chain is used. Smaller chain will
16 only be used if the Port engineering staff finds it to be
17 safe and fit for purpose.

18 The tenants were also concerned that they would
19 have no voice when the rental rates were adjusted after the
20 six years of scheduled rent. The lease requires that rental
21 adjustments after the first six years be approved by the
22 Port at a public meeting where the tenants can then express
23 their concerns to the Port. Also changes in rental require
24 approval of this Commission, thus providing an additional
25 opportunity for public comment.

1 Finally, irregularities in the RFP process. The
2 mooring tenants contend that there were irregularities in
3 the RFP process that should have invalidated the selection
4 process and believe that the RFP process should be redone.
5 Staff has discussed these allegations with the Port,
6 reviewed documents relating to the RFP process, and although
7 there is some confusion and terms were found by staff, we
8 believe that none were sufficiently significant to
9 invalidate the RFP process, nor were they prejudicial to any
10 of the bidders.

11 Also the tenants believe that negotiations between
12 the Port and San Diego Mooring Company that occurred after
13 the RFP process were not appropriate and changed the
14 conditions under which the selection of San Diego Mooring
15 Company occurred.

16 Commission staff concluded that subsequent changes
17 in the lease have made any prior negotiations between the
18 Port and San Diego Mooring Company moot. By removing
19 special fees and incorporating specific provisions regarding
20 mooring equipment purchased from the Port at current book
21 value. To reprocess the RFP at this time would not be
22 productive, nor would it necessarily lead to selection of a
23 different lessee.

24 The calendar item before the Commission today
25 contains staff recommendations for approval of the sublease.

1 Staff recommends that you approve the sublease of a portion
2 of the lease between the Port and the Commission covering
3 various areas in San Diego Bay to San Diego Mooring Company
4 with conditions.

5 Your approval would be conditioned on the
6 following. Prior Commission approval would be required for
7 any changes or amendments to fee schedule. That's the
8 rental fee schedule. And for any changes to mooring
9 equipment standards and mooring maintenance schedules.

10 Also, within six months, the Port or San Diego
11 Mooring Company is required to submit a report to this
12 Commission identifying the status of retrofitting certain
13 moorings to accommodate large vessels, as recommended by
14 Commission's engineering staff's analysis.

15 This concludes my presentation, and I'll be happy
16 to answer questions.

17 CHAIRPERSON CONNELL: Thank you. If there are no
18 questions at this moment, I would like to begin the rather
19 lengthy group of speakers that have joined us today. I will
20 call upon you in the order in which your form has been given
21 to me.

22 The first one is Dennis Lee. Is Dennis Lee here?
23 And, Dennis, if you could come up and join us at the podium.
24 We do like to ask that our public speakers limit themselves
25 to three minutes and then allow for questions from our

1 Board. After that will be CiCi Sayer.

2 MR. LEE: Thank you, very much. Good afternoon.

3 CHAIRPERSON CONNELL: Can you identify yourself
4 for the record, please?

5 MR. LEE: Yes. My name is Dennis Lee. I'm a
6 member of the San Diego Mooring Tenants Association, and I
7 have a boat moored on San Diego Bay.

8 I'm here today to ask the Commission of the State
9 Lands Commission to reject the proposed lease between the
10 Port of San Diego and the San Diego Mooring Company. There
11 are many reasons to reject this lease, but because of time,
12 I'm only allowed to speak of one.

13 I attended all the public workshops, public
14 hearings over the past few years, and I'm very disappointed
15 and angry with the response to public comment that we have
16 received from the Port of San Diego. For four and a half
17 years, the boating public has been saying no to
18 privatization of the public moorings. We are the people who
19 are most affected by this and we should have -- at least
20 have some input. The Port has had lots of public meetings
21 and workshops, but their minds were made up years ago, and
22 nothing the public ever says has ever made any difference.

23 During the workshops, the mooring tenants were
24 asked to come up with a plan and idea for the moorings. The
25 one idea that everyone was in favor of was the mooring

1 tenants be allowed to purchase and maintain the moorings and
2 the mooring tackle themselves. Lease the bottom space from
3 either the Port or another administrator. Even some members
4 of the Port staff who were running the workshops thought
5 this was a sensible plan. The guys that work in the mooring
6 office think this is a great plan. This type of system is
7 currently successful in every other mooring system in the
8 state of California.

9 This plan would have resulted in a much more
10 economical system for both the Port and the mooring tenants.
11 Unfortunately, because the Port was afraid of being sued by
12 the San Diego Mooring Company, they would not adopt this
13 system. But it is stated that if the State Lands Commission
14 rejects this proposed lease, they would then give
15 consideration to the mooring tenants plan. We ask you to
16 reject this lease and let common sense prevail.

17 Thank you very much for your cooperation and
18 letting me speak.

19 CHAIRPERSON CONNELL: Thank you. And thank you
20 for making such an effort to get here.

21 Are there any comments by Members of the
22 Commission?

23 COMMISSIONER BUSTAMANTE: Just the obvious one.
24 Have we taken a look at that system, the alternative system,
25 and what was the staff's thoughts in terms of it versus the

1 privatization issue?

2 EXECUTIVE OFFICER THAYER: I think either system
3 is within the discretion of the Port to set up, but I think
4 Alan Scott and perhaps Curt Fossum have some comments. We
5 did go out and look at other mooring systems, how it was run
6 in other parts of the state.

7 CHAIRPERSON CONNELL: Alan if you could -- Dennis,
8 just stay there, but if you could step aside for a moment.
9 Let's get input to this. I think that's a very legitimate
10 subject of discussion that the Lieutenant Governor has
11 raised.

12 MR. SCOTT: Certainly. During the RFP process, I
13 believe that one of the alternatives to issuing a lease to a
14 private operating company was the Tenants Association had a
15 proposal as part of the RFP, submitted as part of the RFP
16 process, to do exactly what this gentleman has suggested. I
17 think the difficulty is that it still leaves the Port with
18 some major responsibilities that they did not wish to
19 continue with respect to the moorings. It leaves the Port
20 obligated to assure that maintenance is in fact performed
21 adequately and regularly.

22 COMMISSIONER BUSTAMANTE: How does that work with
23 a contractor, versus with a tenants association? They are
24 both applying, they have two different systems, they're both
25 acknowledging that they are going to do the necessary

1 maintenance. How is it the Port is more liable in one
2 situation versus the other?

3 MR. SCOTT: Well, I think for one thing, the Port
4 didn't really want to have to deal with 437 individual
5 people who had responsibility for maintaining a significant
6 system.

7 COMMISSIONER BUSTAMANTE: Maybe I'm
8 misunderstanding then, because I thought that what the
9 gentleman had said was that there was, in fact, a proposal
10 that they would deal with that?

11 MR. SCOTT: My understanding, Governor, is that
12 the proposal was that the individual moorings equipment be
13 sold to each tenant, not to the tenants' association, but to
14 each individual tenant. The tenant would then have a
15 responsibility to maintain that piece of equipment.

16 COMMISSIONER BUSTAMANTE: And in fact the Port
17 would then still manage.

18 MR. SCOTT: The Port would still manage by virtue
19 of --

20 COMMISSIONER BUSTAMANTE: Would still be
21 responsible, but would still be managing for all intents and
22 purposes they would be required to --

23 MR. SCOTT: Correct. Because they'd still have
24 the underlying fee which they would then be leasing either
25 to the Tenants Association or to 437 individuals.

1 COMMISSIONER BUSTAMANTE: Was there an RFP by the
2 tenants association?

3 MR. SCOTT: They submitted one of the bid packages
4 under the RFP to the Port.

5 COMMISSIONER BUSTAMANTE: Okay. And their bid
6 package was to do exactly this?

7 MR. SCOTT: I believe so, yes.

8 COMMISSIONER BUSTAMANTE: Mr. Lee, it wasn't to
9 take full responsibility for the moorings as a tenant
10 association?

11 MR. LEE: I believe that the proposal stated that
12 we wanted to purchase the mooring tackle, you know, the
13 cement blocks, the chains, the buoys, and the connecting
14 lines, and we would maintain them. We would pay a land
15 lease to the Port, and then every year we would submit our
16 inspection form to the Port, the same as we have to renew
17 our lease and have our boat inspected, you know, so our boat
18 is off the mooring when we're getting it inspected. We can
19 have a boat come in, inspect our mooring, hand all our
20 paperwork in. And if we don't have the right paperwork,
21 we're not allowed to renew our mooring.

22 COMMISSIONER BUSTAMANTE: But that would require
23 the Port then to have a group of people to process all that
24 paperwork for you, and that's what you were proposing?

25 MR. LEE: Yes. But I believe they already have to

1 have somebody connected with even the San Diego Mooring
2 Company. Somebody has to oversee them. All they would have
3 to be doing is the harbor master authorizing our --

4 COMMISSIONER BUSTAMANTE: But probably not
5 processing 437 mooring forms and inspections. But I think I
6 know now better what it is that you were proposing and what
7 they were proposing, and that's what I trying to figure out.

8 MR. LEE: The sailors have a much better idea
9 of --

10 CHAIRPERSON CONNELL: Dennis, I have a question.
11 What would happen if we were to go this route of the tenant
12 association and we found that there was an
13 undercapitalization of assets to make it possible for you to
14 fulfill your obligations?

15 MR. LEE: Well, I would -- I'm not really sure. I
16 know I can meet my obligations, and if it was something --
17 we have discussed it privately in the meetings, and if it's
18 about a thousand dollars a boat or something like that, you
19 know, we could all come up with that, you know, as a down
20 payment or, you know, something. I'm not sure of the
21 finances, I wasn't involved in that.

22 CHAIRPERSON CONNELL: Sure. Well, I'll inquire of
23 our staff. I was just wondering if that subject had been
24 raised in your organization.

25 MR. LEE: Oh, it has been raised, but we never

1 really got complete information. So I'm not familiar with
2 that.

3 CHAIRPERSON CONNELL: Thank you.

4 EXECUTIVE OFFICER THAYER: Madam Chair, the other
5 thing is that I believe the Port is next up to speak, and of
6 course they'll be able to explain why they have made the
7 decision that they have.

8 CHAIRPERSON CONNELL: Right, right. I just wanted
9 to find out from Dennis' perspective how it would work.

10 Thank you, Dennis.

11 MR. LEE: Thank you very much.

12 CHAIRPERSON CONNELL: We now have -- is CiCi here?

13 MS. SAYER: Yes.

14 CHAIRPERSON CONNELL: CiCi, do you want to speak
15 next.

16 MS. SAYER: Thank you very much for having us
17 here. Good afternoon. For the record, my name is CiCi
18 Sayer. I am president of the San Diego Mooring Tenants
19 Association and I am here on behalf of and at the request of
20 that association to ask that you reject this lease.

21 I wonder if I might just clarify a few things that
22 Mr. Lee was talking about on our plan. That was not part of
23 our original bid in the RFP. Because the RFP clearly stated
24 that you had to abide by these parameters, and that was not
25 part of the parameter that we could have followed. That

1 plan was put forward during one of the workshops when we
2 were specifically asked to come up with an alternate idea or
3 a plan on -- an alternative plan to the privatization plan.
4 So that's why that was not in our particular RFP bid.

5 But if you don't mind, I'll finish with my
6 presentation --

7 CHAIRPERSON CONNELL: I'm not sure I understand.
8 Help me through this. I've been up for many hours and maybe
9 I'm not following it.

10 MS. SAYER: Sure.

11 Back in '98 when there was an RFP put out, we put
12 out a bid.

13 CHAIRPERSON CONNELL: Right.

14 MS. SAYER: And our bid followed very carefully
15 the criteria that was laid out in that RFP. That RFP did
16 not allow for the individual purchase of the moorings.

17 CHAIRPERSON CONNELL: Right.

18 MS. SAYER: So our bid in the RFP did not include
19 that. This plan came up several years later when we were
20 asked is there an alternative.

21 CHAIRPERSON CONNELL: I got it.

22 MS. SAYER: Okay.

23 CHAIRPERSON CONNELL: And my 4:00 o'clock brain is
24 now awakened up.

25 MS. SAYER: Okay.

1 CHAIRPERSON CONNELL: Go ahead.

2 MS. SAYER: When we were here in February of 2000,
3 we raised a number of issues concerning public process, the
4 RFP, technical details of the lease and the level of
5 experience of the proposed operator, and we had hoped that
6 all of these issues would have been resolved.

7 Unfortunately, most were not and new problems have arisen.

8 The last time we were here, we questioned the
9 legitimacy of the lease based on the fact that the terms of
10 the lease were significantly changed from the RFP. The Port
11 defended its position back then by claiming that, and I
12 quote, as far as the substandard portions of the lease, the
13 terms, the amounts, and things like that, there were no
14 changes to the lease.

15 Well, these things have changed now. The purchase
16 price has been reduced from \$256,000 to \$69,000. There are
17 significant changes in the maintenance criteria, resulting
18 in an increase in costs to the mooring tenants. I could go
19 through those, but I don't want to go over too much time.
20 You can ask me later if you're interested.

21 Some of these changes came about because of
22 comments that were made by the mooring tenants during the
23 various workshops. But as early as 1998, during the RFP
24 question and answer meeting, we requested that all of these
25 issues be addressed before the RFP was put out for bid.

1 The Port told the mooring tenants that since the
2 Port was not obligated to issue an RFP in the first place,
3 because this was not a public works project, they were not
4 obligated to abide by the terms of the RFP. They have
5 convinced the State Lands' lawyers of this. But I remain
6 unconvinced. And as bidders in the process, the San Diego
7 Mooring Tenants Association considers this unfair. Many of
8 the changes in this lease enable the proposed operator to
9 increase its fees to the mooring tenants to the tune of 30
10 percent over and above their initial fee structure.

11 In February 2000, we commented to this Board on
12 the proposed operators lack of experience in maintaining
13 moorings. That continues to be a major concern. The San
14 Diego Mooring Company points out that they own and operate
15 four marinas in the state of California, which they do.
16 However, the only thing that a marina has in common with a
17 mooring is that is where one would park a boat, and that is
18 where the similarity ends. A marina is an above water
19 facility, while a mooring is an underwater facility, and
20 therefore, significantly more difficult to maintain and
21 requiring a different level of experience.

22 Because the proposed operator has no experience
23 maintaining moorings, their operation, according to their
24 paperwork that they have submitted, will be less efficient,
25 and they have already made several costly mistakes. They

1 commissioned a maintenance vessel unsuited for the task.
2 The vessel is designed to lift the entire mooring assembly,
3 including the block, contrary to Port-supplied drawings
4 specifically warning against the lifting of the block by the
5 chain. They then tested the vessel on several moorings with
6 the Port's permission. They did not test the viability of
7 the chain after this test. And it wasn't until this was
8 brought to the attention of the State Lands Commission in
9 our letter of August 2001 that the Port told the San Diego
10 Mooring Company they couldn't use the vessel for that type
11 of maintenance. And I understand from Mr. Scott that now
12 they're going to just pull the chain.

13 The vessel still remains inappropriate for certain
14 areas of the moorings. In one area of the moorings, the
15 vessels that are moored there are so close together that
16 that vessel cannot get in between the boats without causing
17 damage to the boats. The boats are very closely moored.

18 The second thing. The San Diego Mooring Company
19 did not question to Port's analysis of the moorings that
20 resulted in having to retrofit 43 of the mooring blocks,
21 despite the fact that there were numerous errors in the
22 Port's analysis. These errors were pointed out in the
23 workshops, but were ignored by both the Port and the San
24 Diego Mooring Company. The type of chain in the analysis
25 was incorrect. The weights of many of the vessels was

1 incorrect. The scopes of the chain in many cases was
2 incorrect. Some crucial components of the assembly, such as
3 the mooring ball itself were not even taken into account.

4 The Mooring Company has inflated the cost of
5 mooring, of maintaining the moorings, by increasing fees for
6 management by 30 percent plus margin, office staff, labor,
7 and material costs, all 30 percent plus margin. And these
8 increases were based on a chain wear factor that was
9 erroneous and that contradicted what the Port's own divers
10 had reported.

11 The privatization of the moorings was to result in
12 a more efficient and cost effective and safer system. What
13 this lease gives us is less efficiency, more expense, and
14 with a potential of making it unsafe due to the lack of
15 experience on the part of the proposed operator.

16 We proposed an alternate plan to the Port of San
17 Diego that would address all of the above issues and would
18 have --

19 CHAIRPERSON CONNELL: I'm going to have to ask you
20 to wrap up. So if you can do that quickly.

21 MS. SAYER: Yes. Yes, I will ma'am.

22 CHAIRPERSON CONNELL: We've been generous with
23 your time.

24 MS. SAYER: Thank you.

25 Basically, the proposal that Mr. Lee was talking

1 about would eliminate the need for the State Lands
2 Commission to be involved for the next 20 years on this
3 lease. Thank you.

4 CHAIRPERSON CONNELL: Robert Keller. And Robert
5 Keller, as you're coming forward, I'd like a response to
6 that last comment which is at the very least provocative.

7 Is that indeed your analysis that we don't need to
8 be involved for the next 20 years. Would you step forward
9 and respond to that while Mr. Keller is coming forward.

10 MR. SCOTT: I'm not sure how the Commission
11 doesn't remain involved. The Commission has an ultimate
12 responsibility to properly administer the lands under its
13 jurisdiction. There are requirements within the approval of
14 this particular lease that will require Commission action if
15 alternatives are made, or if changes are made in either the
16 process that they use for inspection purposes, the criteria
17 they use for inspection purposes, or changes in the rent.
18 And at least for six years, this Commission will have to
19 address a change in the rent schedule. It will require your
20 approval. So consequently, even though the lease to the
21 Port District is in fact for more than 20 years, the
22 Commission has the opportunity to, one, look at the Port's
23 lease every five years for rent review. And --

24 EXECUTIVE OFFICER THAYER: If I can interject
25 here. I think the question was, the previous witness said

1 that under her scheme, the Lands Commission would not have
2 to be involved, and so that relates more to her proposal
3 rather than this other one. In fact, we would remain
4 involved because the majority of the land that underlies
5 these moorings is land that's leased from the Lands
6 Commission to the Port. It's not granted lands. And the
7 terms of our lease to the Port basically say that we review
8 and approve every sublease. And so if the tenants, I
9 contend, individually sublease these, we'll have to be
10 involved.

11 MR. SCOTT: In addition, every five years look at
12 the rent.

13 EXECUTIVE OFFICER THAYER: Right. Right.

14 CHAIRPERSON CONNELL: I see that clearer.

15 Okay. Robert, can you identify yourself for the
16 record.

17 MR. KELLER: Yes. My name is Robert Keller. I'm
18 the technical advisor to the San Diego Mooring Tenants
19 Association.

20 When I addressed this Commission in February of
21 2000, I expressed my concerns that the lease did not contain
22 the necessary technical details to ensure the safe operation
23 of the Port's moorings. Unfortunately, after two years, the
24 technical details of the lease that you have been advised to
25 approve are still not correct.

1 The Port's staff performed an engineering
2 evaluation which addressed the safety of the moorings. Of
3 the numerous components that comprise the mooring system,
4 only the chain and the mooring block were considered in the
5 analysis. Many of the components that comprise the system,
6 which is significantly weaker than the chain, were not
7 analyzed.

8 The executive summary provided you states that the
9 lease contains specifications for all parts of the mooring
10 system. This is simply not correct. Only half of the
11 individual components that comprise the system depicted on
12 the drawings referenced in the lease have detailed
13 replacement specifications. The drawings referenced in the
14 lease contain details that are inconsistent with the system
15 as presently configured in the harbor. The drawings
16 referenced in the lease also are inconsistent with the
17 system as analyzed by the Port's engineering evaluation.

18 Since 1998 at every Port meeting concerning this
19 lease, I requested that the drawings and the technical
20 details of the lease be correct to ensure that the moorings
21 remain configured in a safe manner, yet after four years the
22 details are still not correct.

23 Fees. The fees stated in Exhibit K of this lease,
24 which you're asked to approve, are based on inflated
25 estimates of manpower and material required. To accomplish

1 all required maintenance in 2001, the Port expended 3,137.5
2 man hours. The Port has approved fees based on the San
3 Diego Mooring Company expending 7,000 man hours to
4 accomplish the task. That's twice as much manpower as the
5 Port uses. This certainly cannot be considered an
6 improvement in efficiency by the San Diego Mooring Company.

7 The mooring tenants obtained a written quote from
8 an experienced company specializing in underwater
9 maintenance which actually maintains the Navy mooring system
10 in San Diego Bay. All required maintenance, including a
11 hundred percent annual chain replacement, could be performed
12 by this company in 1,748 hours. That's a 75 percent
13 reduction from that of the fees charged by the inexperienced
14 San Diego Mooring Company.

15 To meet the State's mandated 80 percent chain wear
16 criteria, the Port has calculated that all mooring chains
17 and shackles will have to be replaced on an average of 14.4
18 months. In a representative survey by the Port's divers,
19 not one of the over 60 assemblies inspected exhibited wear
20 that would require replacement in 14.4 months. This
21 inflated material estimate is the basis for the fees
22 charged.

23 Because it is impossible to accurately predict the
24 life expectancy of the mooring assembly, the tenants
25 association suggested a fee-for-service plan, which I think

1 we've talked about.

2 Adoption of this lease will result in a greater
3 than 70 percent reduction in the revenue to the State of
4 California. It seems inconceivable that with the present
5 State budget crisis that any reduction in the revenues to
6 the State would be considered. In the best interest to the
7 people of the state of California and the mooring tenants,
8 reject this lease. No improvements in efficiency are
9 realized by the San Diego Mooring Company operation.

10 This lease clearly states that the system meets
11 the maintenance requirements of Exhibit I. This is simply
12 not the case. The Port has not yet adopted the State's 80
13 percent chain wear criteria. Approval of this lease is
14 nothing less than a fraud. Once the 80 percent chain
15 criteria is adopted, a safer system will result. But
16 without a redesign, which incorporates the appropriate size
17 and type of materials, higher than necessary operating costs
18 will result.

19 The amendments to the requirement to incorporate
20 the use of five-eighths chain is simply not adequate to
21 obtain the most efficient design. We have been requesting a
22 properly designed system using recognized national
23 standards, specified materials to reduce costs for years.

24 At the February 2000 State Lands Commission
25 meeting, the honorable Lieutenant Governor after a few

1 minutes saw the logic in the use of proper-sized equipment
2 to reduce operating costs. Why has the Port steadfastly
3 refused to change the design of the mooring system, even
4 after valid recommendations from both the mooring tenants
5 and the State Lands Commission engineering staff? Money and
6 higher fees.

7 The Port has permitted the San Diego Mooring
8 Company --

9 CHAIRPERSON CONNELL: Robert, you're going to have
10 to wrap up in the next 30 seconds.

11 MR. KELLER: One more paragraph.

12 CHAIRPERSON CONNELL: Very quickly.

13 MR. KELLER: The Port has permitted the San Diego
14 Mooring Company to incorporate a 20 percent profit over and
15 above the cost of materials that don't determine their fees.
16 The higher the price of material, the more the San Diego
17 Mooring Company profits.

18 As in the recent electric rate debacle, this lease
19 results in higher costs resulting from the poorly conceived
20 operation from which the government sets rates to the
21 benefit of the business interests at the expense of the
22 public. Only by rejection of the lease will the Port
23 consider an operation which is better suited to the needs of
24 the boaters.

25 CHAIRPERSON CONNELL: Thank you. Are there any

1 questions? If not, we're going to have Ann Merrill, and
2 then we're going to move from Ann to -- I'm sorry.

3 COMMISSIONER BUSTAMANTE: I'm going to have a lot.

4 CHAIRPERSON CONNELL: Yes. I'm going to have some
5 too when we get to the Port.

6 And then I need Jeffrey McEntee.

7 MR. MCENTEE: Yes.

8 CHAIRPERSON CONNELL: Okay. So let's get Ann and
9 then Jeffrey McEntee, and then we have Eric Leslie, and I
10 believe the last person is Lisa. And so then we're done at
11 that point.

12 All right. Let's do it. Ann.

13 MS. MERRILL: Thank you.

14 CHAIRPERSON CONNELL: Certainly. Identify
15 yourself for the record, please.

16 MS. MERRILL: My name is Ann Merrill. And I've
17 been a sailor for 65 years. And in the last 20 years since
18 the moorings came in, I've spent about seven of them on the
19 moorings and the rest of the time cruising either around San
20 Diego Harbor or through Mexican waters.

21 And I want to speak to two issues here. One, what
22 I testified to about the size of the chain being too heavy
23 was taken out of context. I have a little boat right now
24 and I have a heavy enough chain to handle a small Navy ship.
25 And I can't lift it and it makes my bow go down like this.

1 And I had to put what they call a salmon eye on it to lift
2 it up and use it. And this chain has not been replaced. I
3 think it's been there 20 years because it's on a little tiny
4 boat. I only have a 25-foot boat.

5 So there have been inaccurate engineering done on
6 the moorings ever since the beginning, and we've been paying
7 for it.

8 I have also been around where we thought that we
9 were only going to be charged \$30 a month, and that it was a
10 nominal charge, and the whole operation was not to make
11 money for everybody, and right now it seems like
12 California, the Port, and the mooring tenants, that this has
13 all been diluted.

14 And the worse people suffering have not been
15 spoken for, and that is the cruisers, those who go through,
16 those who come from Mexico, those who come from Canada.
17 There is very often no place to moor in San Diego Harbor,
18 and the whole situation is it's getting more and more
19 expensive. Certainly 25 percent may not seem like to you,
20 or \$24 a month doesn't seem like much to you, but the
21 increase in the touring people had been like nine or ten
22 times what it had been originally. And if you're coming
23 down from Canada, the pay of ten dollars a day compared to
24 one dollar a day makes a lot of difference.

25 And I'm saying that what is happening with this

1 technique of adding layers and layers on is that we are
2 making it so that people cannot travel on the waterways.
3 They can't have access. A retired Navy man can't cruise.
4 And as we raise our rates here, they raise them in Mexico
5 also. And I'm saying that I'm probably the last generation
6 the way it looks who's going to be able to work for a few
7 years, save your money, and go cruising.

8 So the idea that we do it as they do it in Mission
9 Bay, once a year you pay the City of San Diego for your
10 mooring, and they check and make sure it's all right. And
11 if we just hire somebody to check my mooring and pass the
12 things. I don't have to have 150 pounds on my bow. So I'm
13 saying let us do our individual moorings, let us share our
14 moorings when we're not on them with the cruisers, and let's
15 cut down the cost and increase the use of the waterways.
16 Thank you.

17 CHAIRPERSON CONNELL: May I ask a question, Ann.
18 How would you share them with cruisers? Would you have to
19 have some facility that would make those available so that
20 you would check in and say I'm going to be gone for 30 days
21 and then that mooring would be available for someone who was
22 touring?

23 MS. MERRILL: In Catalina that's how it's done. I
24 feel very guilty when I am cruising down in South Bay and my
25 mooring is empty. And I feel guilty when I'm two weeks in

1 the boat yard and my mooring is empty and I know there's no
2 place for anybody to go in the harbor.

3 CHAIRPERSON CONNELL: All right.

4 MS. MERRILL: I mean, I think we have definitely
5 failed to not treat San Diego Harbor like they do in
6 Catalina. And I personally would use other moorings, if I
7 could, just because I like to change.

8 CHAIRPERSON CONNELL: Okay. Thank you. That's
9 helpful input.

10 Jeffrey, you can expect a lot of questions from
11 this Commission.

12 The next speaker will be Eric Leslie.

13 MR. MCENTEE: Good afternoon, Madam Chair and
14 Commissioners. My name is Jeffrey McEntee. I'm the Senior
15 Director for Business and Financial Services for the Port of
16 San Diego.

17 And today we are asking for your approval for a
18 lease with the San Diego Mooring Company. I have provided
19 you with a handout to enable you to follow my presentation.
20 However, much of what I was planning to cover has already
21 been discussed, largely by Mr. Scott. What I would like to
22 do is still follow through the order that I have here, but
23 zero in on what I think are really the key points, based on
24 what I have heard up to this point, and coming into this
25 meeting.

1 With respect to the RFP process, I think it is
2 important to note several things. First of all, again, and
3 just so it's clear, this was not a public works project and
4 it was not a low bid. So it was an RFP process and the
5 selection of the proposer is based on a variety of criteria.
6 And as CiCi mentioned, the selection criteria was based on
7 financial stability, experience either in operating moorings
8 or a similar type of operation, and then the fees that would
9 be charged for the moorings, taking that all into
10 consideration, and that was done.

11 And at the end of the day, the selection was for
12 the San Diego Mooring Company as being the best qualified to
13 provide what it was that the Port was asking for. And as
14 has been previously stated, what the Port was asking for was
15 one of two things, either to contract out for the
16 maintenance of the moorings, or to privatize the moorings
17 through a lease, with the intent or the objective that the
18 Port District was no longer going to have day-to-day
19 administration responsibility for the moorings.

20 With respect to the public hearing process, I
21 heard a comment made that -- and clearly there have been a
22 lot of hearings, there have been a lot of public workshops,
23 and that the Port didn't hear what the boaters had to say.
24 I got heavily involved in this process, and starting in
25 January 2001, as Alan indicated, in January 2001, really at

1 the direction of this Commission, the Port conducted a
2 series of two different workshops a year apart, and each of
3 those workshops were held on three different days, a
4 Saturday, then a weekday, and then another Saturday, each of
5 those being three hours each, to give the boaters as much
6 opportunity as we could to make sure that their concerns
7 could be heard.

8 Those meetings were facilitated by an independent
9 facilitator, and I think it's important to note what his
10 ground rules were. And his name was Louis Michaelson. And
11 his ground rules to us were that if your purpose in doing
12 these workshops is to simply provide a window dressing and
13 to be able to run back up to the State Lands Commission and
14 tell them that you satisfied their concerns, when the fact
15 is you really don't have any intent of listening to what the
16 boaters have to say, nor taking their concerns and
17 incorporating those into the lease, then I'm not interested
18 in doing this facilitation, because then I lose credibility.

19 And Mr. Michaelson had our assurance that we were
20 interested in seeking the input from the boaters and doing
21 something with that. And I think the result of that is that
22 as a result of that first set of workshops, we took all of
23 the issues and the concerns that the boaters had and we
24 grouped them together into 26 different issues or concerns.
25 Out of those 26 concerns, Port staff determined that six of

1 the concerns were adequately addressed already in the lease.
2 Another eight of those concerns we took and we sat down on a
3 number of occasions with San Diego Mooring Company, and
4 through a number of negotiating sessions, we were able to
5 get eight of those issues incorporated into the lease, which
6 resulted in Amendment Number Four, which I think was a
7 significant improvement as far as the lease.

8 Moving on, in about the middle of 2001, State
9 Lands' staff made some recommendations to us that would be
10 prescient to approval of this lease. And they greatly
11 enhanced the safety of the moorings, but in enhancing the
12 safety of the moorings, there's also a cost associated with
13 that. And Rob was the one that spoke to the 80 percent. I
14 call it the 20 percent wear factor. What we currently use
15 as our standard right now is a 50 percent wear factor on the
16 chain and the various components that are in the load path
17 of those moorings. By going to a standard that says that as
18 soon as any of the thickness on any of those components gets
19 down to 80 percent, or conversely, a 20 percent allowance,
20 you're going to need to change out the chain, you're going
21 to need to change out the shackles and the cotter pins and
22 all the components that are included in that. That
23 translates into a multiplier of about 2.5.

24 So what we did is we said, you know, we use X
25 amount of chain on an annual basis using a 50 percent wear

1 factor. If we drop that down to a 20 percent wear factor,
2 that's going to have a significant increase in terms of the
3 cost of the operation, which ultimately translates into a
4 cost of about 84 cents per day in the moorings. As Rob
5 said, the fee schedule that San Diego Mooring Company had
6 previous to the recommendations would currently call for a
7 cost or a fee of \$3.10 a day. With the 84 cents, and then
8 also the additional anchor weights that we need to implement
9 in 43 of the mooring areas, the fee would now be \$3.97 on
10 those moorings.

11 The second recommendation was that we do a
12 comprehensive engineering study of all of the mooring areas
13 to look at the holding capacity of those moorings to verify
14 that in, I believe, a 25-year average return with a wind
15 speed of 48 miles per hour, 43 knots, that any size vessel
16 that we had in those mooring areas could sustain that type
17 of a wind load. To complete that study, we had to go
18 through all the vessels in the mooring, determine the
19 displacement, compare that against the criteria that
20 resulted from that engineering study, and we found that
21 there were 43 vessels that per the displacement information
22 we had that we were provided with or that we could find,
23 that those vessels were oversized for those moorings, thus
24 requiring additional anchor weights in 43 of those moorings.

25 CHAIRPERSON CONNELL: But can you respond to the

1 concern of, I believe it was Ann. Is that your name, Ann?

2 MS. MERRILL: Yes.

3 CHAIRPERSON CONNELL: Thank you.

4 Ann's concern about having such heavy chains on
5 her 25-foot boat?

6 MR. MCENTEE: Yes.

7 CHAIRPERSON CONNELL: That seems to be a
8 legitimate concern.

9 MR. MCENTEE: Historically, the Port District has
10 used three-quarter inch chain in three of the four mooring
11 areas. There's one mooring area, which is the Shelter
12 Island Road area, where we have used five-eighths inch
13 chain, and that's primarily because of the depth of the
14 water and because of the weight, it would actually start to
15 sink the mooring buoy. In the other areas, we have
16 historically used three-quarter inch chain, and the
17 rationale for that was that it's pretty thick chain and it's
18 going to take a while for that chain to wear, and that it
19 would provide greater safety and prevent vessels from
20 breaking lose and the chain wearing out.

21 CHAIRPERSON CONNELL: But isn't it overkill?

22 MR. MCENTEE: It depends on the frequency of
23 inspection. That would be my answer to that.

24 CHAIRPERSON CONNELL: Well, and what are you doing
25 to respond here? I mean, I would imagine many of the people

1 who are cruising are cruising and they're retired people
2 that are cruising in smaller boats, and they don't have the
3 physical strength to be pulling huge chains up on board. I
4 am concerned about whether we're eliminating the kind of
5 people who can therefore cruise as a result of over
6 extension of our requirements on the chain.

7 MR. MCENTEE: Madam Chair, this issue has been
8 addressed in the last amendment to the lease, Lease
9 Amendment Number 7, wherein the San Diego Mooring Company
10 would be allowed to switch out three-quarter inch chain with
11 five-eighths inch chain in any of the mooring areas.
12 However, the use of that five-eighths chain is prescient
13 upon having an engineering analysis done to determine that
14 that's going to provide an adequate level of safety. If
15 that is determined, five-eighths inch chain is determined to
16 be safe to be used in the mooring areas, any savings in
17 material costs would be passed on to the boaters through a
18 reduction in the mooring fees.

19 CHAIRPERSON CONNELL: Well, I don't know that they
20 so much want a reduction in the mooring fees, as they want
21 greater comfort, isn't that correct, Ann?

22 MS. MERRILL: The problem is the two-point
23 moorings. If you have a heavy chain and you have a mooring
24 ball on it, you only have to lift the rope.

25 CHAIRPERSON CONNELL: All right.

1 MS. MERRILL: I'm on a two-point mooring. I have
2 one mooring ball on my stern and I have nothing lifting the
3 chain in the front. And at this time, anybody with a hernia
4 or a heart condition cannot lift those. I mean otherwise if
5 we had a separate mooring ball, if we had -- I would
6 normally have quarter-inch chain on my boat, otherwise the
7 chain on my boat -- and what I've got now makes it look like
8 this.

9 CHAIRPERSON CONNELL: Right.

10 MS. MERRILL: I'm saying that -- and I don't think
11 it's ever been changed in 20 years. If there was a mooring
12 ball on it, it wouldn't be the health problem that is
13 existing now. What is so frustrating is if we were doing
14 our own moorings, we would know. The way it is now, we are
15 always dealing with people who don't know what we're talking
16 about and we're not very good at english so we don't explain
17 it well.

18 CHAIRPERSON CONNELL: Okay. Thank you.

19 I don't think you're responding to the concern
20 I've raised here. You know the question here is not so much
21 in reducing fees, it's increasing the ability, and I hope I
22 don't offend you, Ann, here, of people who are retired, our
23 older population to enjoy their cruising. When we have
24 reduced strength in individuals in demographic populations,
25 I'm particularly attuned to this because of another Board I

1 sit on, I think we have to be observant of what we do as a
2 government and what we do as a quasi-government that makes
3 it impossible for people to access certain choices, in this
4 case, boating.

5 Now, is there any reason why you have to have such
6 heavy chains on both ends of the boat here if it's not a
7 safety concern?

8 MR. MCENTEE: Well, just to specifically respond
9 to that question, I would either call upon -- David, if I
10 could ask your engineers or one of our engineers who is with
11 us in the audience today to respond to that.

12 Before I do that, what I'd like to do is come back
13 that we heard the public. We took the input of the boaters
14 and we heard this issue. We heard this concern in terms of
15 the weight of having to lift the heavy chain. And the last
16 public comment that we got from the boaters was that they
17 wanted us to explore the option of substituting five-eighths
18 inch chain for the three-quarter inch chain. At least
19 that's what I heard, that's what we wrote down, that's my
20 recollection. And so I personally was involved in the
21 negotiations dialogue with the San Diego Mooring Company to
22 get that incorporated into the lease.

23 Now, with respect to the use of a lighter chain,
24 Javier, you might want to come forward and speak to that.

25 CHAIRPERSON CONNELL: Well, let's conclude your

1 comments. We've been more than generous. You've been up
2 here almost 20 minutes.

3 MR. MCENTEE: Okay.

4 CHAIRPERSON CONNELL: So let's assume your
5 comments are now done, and let's move over to Eric Leslie,
6 if we can.

7 MR. MCENTEE: Thank you, Madam Chair.

8 MR. LESLIE: Madam Chair and Commissioners, my
9 name is Eric Leslie, and I'm here today on behalf of the San
10 Diego Mooring Company. And we're here to respectfully
11 request that you accept your staff's recommendation for
12 approval of the sublease with the San Diego Port District.

13 As you've heard from the previous testimony, we've
14 been working over three years on approval of this particular
15 sublease. And when we entered into this existing sublease
16 back in March of '99, we had no idea it would take this
17 long.

18 We've spent a tremendous amount of time and money
19 preparing to take over the sublease. We've also expended a
20 tremendous amount of staff time addressing the concerns and
21 the issues that were brought up in February of 2000 before
22 you, as well as in subsequent public hearings.

23 The end result of that is the sublease that's
24 before you here today, which includes seven amendments and I
25 think all parties involved, with the exception of a few

1 people, feel that this is a very workable arrangement.

2 I don't have anything to add that wasn't already
3 put forward in the State Lands' staff presentation or the
4 Port District's presentation. I did want to introduce
5 ourselves and be available for any questions that may come
6 up. I would just again suggest that you look at all the
7 work that -- I don't know if you could appreciate all the
8 time and effort that your staff has put into all these
9 issues. They haven't by any means swept anything under the
10 rug, and I think if you look at all the time and effort
11 that's been put in by the Port District staff, I think that
12 should equally raise your comfort level with what you're
13 looking at here today.

14 So again, I'd just ask that you approve your
15 staff's recommendation.

16 Thanks for your time.

17 CHAIRPERSON CONNELL: Thank you.

18 Lisa.

19 MS. DIMAGGIO: A long time coming.

20 CHAIRPERSON CONNELL: We've kept the best for
21 last.

22 (Laughter.)

23 MS. DIMAGGIO: I don't know about that.

24 CHAIRPERSON CONNELL: Like fine wine, you know.

25 MS. DIMAGGIO: I want you to know I just quit

1 drinking.

2 (Laughter.)

3 CHAIRPERSON CONNELL: Well, that's not a good
4 analogy then.

5 (Laughter.)

6 MS. DIMAGGIO: How about it's the cheese, right.

7 CHAIRPERSON CONNELL: The cheese doesn't quite do
8 it for me.

9 MS. DIMAGGIO: Oh, I shouldn't have said that.
10 I'll never live that one down.

11 Good afternoon, Commissioners, Ms. Connell, Mr.
12 Bustamante, and Ms. Porini, and their Executive Director,
13 Mr. Thayer.

14 I'm here today to thank this Commission both
15 collectively and each of you individually for your support
16 and ongoing personal interest in these matters.

17 My name is Lisa Dimaggio, and as you are most
18 probably aware, I have historically been perhaps the most
19 vehemently, publicly anyway, outspoken individual against
20 privatization of the San Diego Mooring facilities. And as
21 you may recall from the February 8th, 2002, hearing, this
22 lease in particular.

23 It may surprise you then to learn that I am here
24 today not only to thank each of you and many others as
25 you're about to hear, but also to support the approval of

1 this lease. Is it perfect? No. Is it necessarily what the
2 boating public wants? No. But is it a reasonable
3 accommodation of the interests of all parties concerned? I
4 think yes.

5 And as much as I have invested eight years three
6 months and four days to this venture, I hope you will
7 indulge me this time to elaborate on why I am in favor of
8 this lease and what caused me to change my position.

9 I'm certainly not known for my brevity in the
10 first place, but in this case I beg you please for your
11 indulgence.

12 In March of 1994, when I and my fellow family
13 members established the Boaters Alliance for Recreational
14 Concerns, it was in response to the Port District's
15 intention to raise the mooring fees some 500 percent and
16 implement new rules, restrictions and regulations regarding
17 the use of the 437 mooring buoys in San Diego Bay. Our
18 primary objectives then and still are to this day to ensure,
19 one, safe moorings; two, at a reasonable fee to the tenants;
20 and, three, that they were to remain accessible to the
21 public and be used for the purpose originally intended,
22 namely, to moor recreational vessels, not for commercial use
23 or any other purpose unforeseen in the future.

24 Whether wittingly or unwittingly, this Commission
25 collectively and individually provided the opportunity on

1 February 8th for each of those objectives to be
2 accomplished. This lease in the form it was presented to
3 you that day more than two years ago did not. However,
4 because the participants were sent back to San Diego with
5 our marching orders, and because your staff recognized the
6 sincerity of your directives, each interested party had no
7 choice but to accept reality and come to a meeting of the
8 minds. Due to the divisiveness of perspectives, this was
9 not an easy task. To wit, this is my personal take on the
10 matter.

11 The Port was intent on divesting themselves of
12 these assets, and I don't mean to rehash any old wounds or
13 embarrass anyone here today, but that and history will prove
14 that they were willing to do so by whatever means were
15 necessary. Private enterprise, marina operators, wanted to
16 take over the moorings so as to level the playing field,
17 charge market rents, and eliminate what they perceived to be
18 competition by a public agency. Three the mooring tenants
19 desires were as diverse as their individual selves.

20 But in my perception, collectively and above all
21 else, they wanted what BARC set out to accomplish. Number
22 one, safe moorings, reasonable fees, and assurances that the
23 moorings would continue to be used for the purposes
24 intended. They would not be kicked off for some arbitrary
25 reason.

1 As time went by and my own personal investigation
2 and involvement became more intense, I found myself, as did
3 my fellow BARC founders, seeking yet one more objective.
4 Namely, intervention by a higher authority government agency
5 that would aid us in holding the Port accountable for its
6 actions. On February 8, 2000, this Commission opened the
7 door for the opportunity to accomplish all of the above.

8 Ms. Connell, thank you for recognizing the
9 difference between passion and legitimate concerns.

10 Mr. Bustamante, thank you for your sincere
11 interest in assuring public safety, for taking Rob Keller
12 and CiCi Sayers concerns regarding mooring configurations,
13 specifications, and maintenance seriously.

14 Ms. Porini, thank you for championing the public's
15 right to fair due public process, versus the historical
16 unproductive, please forgive me, Port of San Diego, dog-and-
17 pony shows that all of us were subjected to, Port staff and
18 public alike, in San Diego.

19 Mr. Thayer, thank you for recognizing this
20 Commission's absolute intent to see that public legitimate
21 concerns were resolved before bringing this back to them.
22 And thank you for the level of staff involvement and the
23 hours expended to see that that happened.

24 On that note, I want to thank Alan Scott, Curt
25 Fossum, and Jane Smith, Martin Estegian, Avi, and other

1 engineering staff; Lynda Smallwood, Cindy Aronberg, and
2 countless others who no doubt work behind the scenes giving
3 their time and energy to this agenda item.

4 We may not have always seen eye to eye, and I
5 apologize for harsh words and other rudenesses I may have
6 subjected you to over the years, but State Lands' staff
7 always treated me with professionalism and respect.

8 The pivotal point for me, personally, came as a
9 result of learning from the exceptionally talented mediator
10 hired by the Port, Louis Michaelson of Katz & Associates,
11 that despite the acknowledgement by both Port and State
12 Lands' legal staff of, quote, "procedural errors," end
13 quote, which I continue to contend were violations of the
14 RFP, neither agency felt that this lease should be nullified
15 and the bidding process started anew. At that juncture, I
16 accepted that this lease would go through and I encouraged
17 the other boaters to accept that reality and to actively
18 participate in assuring that the lease would be amended to
19 include certain provisions to safeguard their interests and
20 mitigate their concerns.

21 Again, my focus was to assure safe moorings at
22 reasonable rates, and, specifically, for public use.
23 Fortunately for all of us, and again I don't mean to
24 embarrass anyone here today, the Port of San Diego has
25 recently been undergoing significant management style and

1 philosophical changes for the better, in my opinion.

2 A mediator was hired by the Port in order to
3 facilitate the true intent of Ms. Porini's desire for full
4 and complete public participation. I cannot express enough
5 gratitude to Jeff McEntee and to Bruce Hollingsworth for
6 their involvement in this process.

7 While Port staff may have shot themselves in the
8 foot yet again by not properly noticing the public, nor, in
9 my opinion, taking seriously the directive of this
10 Commission for true public participation, Bruce and Jeff
11 did. And yet a third workshop was properly noticed and
12 held.

13 Over the course of the last year, several years,
14 these gentlemen, Bruce and Jeff, have won not only my trust,
15 but my absolute respect. So with their assurances that the
16 boaters' concerns would finally be appropriately addressed,
17 and believing that CiCi Sayer, president of the Mooring
18 Tenants Association, was more in tune with what the tenants
19 wanted and the most appropriate spokesperson for the Port to
20 work with, I stepped aside. And publicly ask the Board of
21 Port Commissioners to afford her the same courtesies that
22 have been afforded to me over the years.

23 Both Cici and Rob should be commended for their
24 many years of involvement, investigation, personal physical
25 inspection of and recommendations for both cost effective

1 changes, as well as safety issues of the future mooring
2 operation.

3 In my opinion, they are to be credited for the
4 level of attention that both the Port and State engineers
5 have given, and, it is my understanding, continue to give
6 the configuration, specifications, and future routine
7 maintenance frequencies that will be required under this
8 lease.

9 It has been asked why are we holding San Diego
10 Mooring Company to higher standards that were required by
11 the Port of San Diego, and I would submit to you,
12 particularly you, Mr. Bustamante, because we should.

13 It's my personal belief that with Mr.
14 Hollingsworth and Mr. McEntee's ongoing involvement, we can
15 be assured that anything that comes up in the future will be
16 addressed and will be done so adequately and publicly.

17 Based on the findings of Rob and CiCi and of
18 pursuing involvement of both agencies, I am convinced that
19 this lease now contains better provisions than were included
20 in the original lease, or that were ever required by or
21 adhered to by the Port of San Diego.

22 Is it perfect? I don't know. I don't have the
23 technical wherewithal to address that. But it appears to me
24 that State Lands staff has incorporated in today's
25 recommendation the opportunity to explore other solutions

1 that could be recommended for State Lands Commission
2 approval at a latter date.

3 I thank Rob and CiCi for their tenacity and hard
4 work over the years, and especially for their continued
5 pursuit of alternative operating procedures that are safer,
6 more cost effective, and that hopefully will be translated
7 in continued reasonable fees to the mooring tenants. In
8 particular, I commend them for the tenants' rights that have
9 been incorporated into this specific lease.

10 Finally, I believe the San Diego Mooring Company,
11 LLC, is to be commended for their flexibility in agreeing to
12 incorporate many of the tenants' requests into this lease
13 document. Further, it is my understanding that the
14 principals of the LLC have agreed to reflect future
15 operating cost saving measures in their ongoing lease fees
16 to the tenants lease fee reduction.

17 CHAIRPERSON CONNELL: You are now out of time.

18 MS. DIMAGGIO: Okay.

19 CHAIRPERSON CONNELL: I'm giving you 30 seconds to
20 wrap up.

21 MS. DIMAGGIO: In that regard, I thank Eric Leslie
22 and John Grimstead for their policy of patience and
23 sensitivity to the tenants concerned.

24 In conclusion, I hope that we all walk away from
25 this today with an invaluable lesson, and that is that one

1 brief period of cooperation is worth years of obfuscation,
2 obstination, and self-serving interests.

3 Thank you.

4 CHAIRPERSON CONNELL: Thank you.

5 And I'd like to take the pleasure of the Chair
6 here. I see that John Flynn who's the Chairman of the Board
7 of Supervisors from Ventura County is here. Thank you,
8 John. Welcome.

9 MR. FLYNN: Thank you very much.

10 We welcome you here to our Government Center here
11 in Ventura County. It's an honor to have all of you here.
12 Some of you I've seen before, and I can remember when Cruz
13 Bustamante came to South Oxnard and gave a speech. He sent
14 me out to the Highway Patrol car to find his speech.

15 (Laughter.)

16 MR. FLYNN: And Ms. Connell, you're very familiar
17 with our county.

18 CHAIRPERSON CONNELL: Right.

19 MR. FLYNN: And we welcome you.

20 We just finished adopting our budget this year.
21 I've been on --

22 CHAIRPERSON CONNELL: Can you help us?

23 (Laughter.)

24 MR. FLYNN: No. We're going to have to come back
25 and do a lot of revisions, I'm afraid. I've been on the

1 Board 27 years and this is the worst year ever. We don't
2 know what the State is going to do, so we're in deep, deep
3 trouble. But if we can help you, call on me, I'll be right
4 upstairs.

5 (Laughter.)

6 MS. CONNELL: Well, I have some news for you. We
7 were successful in selling the State's Revenue Anticipation
8 Warrants this morning. That's why I'm a little beleaguered
9 this afternoon. We sold the largest issue ever in the
10 nation's history, seven and a half billion dollars. We had
11 three-to-one coverage, meaning we had three times as many
12 bids as we needed, and we came in at a net interest cost of
13 a dollar eighty five. So hopefully the State will have a
14 little money and maybe some of that money will trickle down
15 to local government.

16 So thank you for being here and thank you for your
17 welcome. It's always a pleasure to be in Ventura. And as
18 you know, we try to move these meetings around the state, so
19 it's a real pleasure to be here today.

20 MR. FLYNN: Thank you very much.

21 COMMISSIONER BUSTAMANTE: Thank you.

22 CHAIRPERSON CONNELL: Thank you.

23 Now, we have had almost an hour and fifteen
24 minutes on this issue. So I think we have been very
25 generous in understanding everyone's perspective, and we are

1 just beginning to understand where the Commissioner's might
2 be. So I'm going to first call upon Commissioner
3 Bustamante, and then I will call on you, Ms. Porini, and
4 then I will end with my own comments and questions.

5 COMMISSIONER BUSTAMANTE: I have several questions
6 here I need to have clarified. For example, one of the
7 comments said this was not a low-bidder RFP. Why is that?
8 Why was this not a low-bidder RFP?

9 EXECUTIVE OFFICER THAYER: Curtis, do you want to
10 respond to that?

11 CHAIRPERSON CONNELL: Which, of course, you now
12 know is the rule for the government of the State of
13 California.

14 MR. FOSSUM: Madam Chair and Commissioners, I'm
15 Curtis Fossum with the staff.

16 This was a request for a proposal process that the
17 Port had set up. It was soliciting basically different
18 types of responses, different types of proposals from those
19 that were interested in providing some form of response to
20 the criteria that they sent forward. Their criteria was
21 that they were looking for either a management-type proposal
22 or a sublease type proposal, and there were in fact 19
23 different responses to that. And I think, in fact, if I'm
24 not mistaken, that the tenants' association actually
25 submitted one of each of those types of proposals.

1 So there wasn't a particular bid that could be
2 accepted as a low bid or a high bid, it was a proposal
3 solicitation. In that proposal solicitation there were
4 criteria set out by the Port as to what they wanted to see
5 from the proposers. Once they got these 19 proposals, they
6 then had an interdisciplinary staff group go through those
7 proposals and had set out criteria as how to gauge each of
8 the proposals. And what they ended up with was a list of
9 half a dozen or so that they selected as being the top
10 proposals. And the top proposal was the one they selected
11 then to negotiate a lease with.

12 COMMISSIONER BUSTAMANTE: So of the top proposals,
13 is the one in front of us the one that had the lowest bid?

14 MR. FOSSUM: It was not a low bid. It was --
15 because there were different elements to the bid. What they
16 were looking at, and it wasn't really a bid from that
17 standpoint. It was a request for proposals. The proposal
18 that was submitted by the San Diego Mooring Company was one
19 that matched the criteria set out by the Port, plus it had
20 additional incentives for the Port to accept it, and given
21 experience and all the other issues that were part of the
22 proposals, it was selected based on those criteria.

23 COMMISSIONER BUSTAMANTE: So the criteria was to
24 divest the Port of its responsibilities, but there was no
25 consideration given to the costs that would go to mooring

1 facilities to the tenants?

2 MR. FOSSUM: There were a number of criteria set
3 forward, and as I said, there was two different types of
4 responses. One was a sublease where they would actually
5 have an operator come in, much as the marinas are done and
6 other mooring operations. Since our mooring operation, the
7 big mooring operation at Catalina is what we have, the State
8 Lands Commission has, as a single operator.

9 COMMISSIONER BUSTAMANTE: Was there any other
10 proposal that was able to have a lower fee for the tenants
11 and to still be able to comport with the requirements of the
12 RFP?

13 MR. FOSSUM: There were ones that had different
14 levels of bidding. For example, I think the Mooring Tenants
15 Association had a fee schedule that was based upon the size
16 of the vessel, and, in fact, some of their schedule, and
17 depending on the size of boat you had, would actually be
18 higher than the mooring companies.

19 COMMISSIONER BUSTAMANTE: I'm not asking for the
20 details inside it. I'm asking for a general yes or no.
21 Were there proposals that provided a lower fee to the
22 tenants and still was able to meet all the requirements of
23 the RFP?

24 MR. FOSSUM: Well, I don't have the schedule in
25 front of me, but I'm sure we have it available, if you're

1 going to go over it in detail.

2 COMMISSIONER BUSTAMANTE: Well, you indicated that
3 of the 19 requests that were received, they were the top
4 RFPs that were considered. How many top RFPs were
5 considered?

6 MR. FOSSUM: Well, I think they eliminated all but
7 about six RFPs.

8 COMMISSIONER BUSTAMANTE: So there were six that
9 were considered?

10 MR. FOSSUM: Yes.

11 COMMISSIONER BUSTAMANTE: Of those six, which one
12 had the lowest tenant fee and still met all the requirements
13 of the RFP?

14 (Thereupon a fire alarm started sounding.)

15 EXECUTIVE OFFICER THAYER: Curtis, if you don't
16 know, let's just ask the Port to respond to that.

17 MR. FOSSUM: Yes, I think I'll ask the Port. I
18 don't have those notes in front of me right now.

19 COMMISSIONER BUSTAMANTE: Just ask the question to
20 somebody, just call them up.

21 CHAIRPERSON CONNELL: Is that a fire alarm?

22 EXECUTIVE OFFICER THAYER: The security guard will
23 check that.

24 ///

25 ///

1 (Thereupon an announcement came over the
2 intercom that the electricity was going
3 to be shut down in five minutes, and the
4 fire alarm stopped.)

5 EXECUTIVE OFFICER THAYER: I presume if we don't
6 have any power, we don't have any lights.

7 CHAIRPERSON CONNELL: Is there a reason for this?

8 EXECUTIVE OFFICER THAYER: Do you know how long it
9 will be? Do you know how long it will be down?

10 COMMISSIONER BUSTAMANTE: Do you have any candles?
11 (Laughter.)

12 COMMISSIONER BUSTAMANTE: Let's use the five
13 minutes of light.

14 MR. LIBUDA: Good afternoon, I'm Paul Libuda. I'm
15 a member of the Port staff. I have a comparison of the fee
16 schedules. There are two separate fee schedules that were
17 proposed, one for privatization and the sublease option,
18 which is before you today, and also --

19 COMMISSIONER BUSTAMANTE: Which is the proposal
20 that had the lowest tenant fee that met all the requirements
21 for the RFP?

22 MR. LIBUDA: The lowest fee was the San Diego
23 Mooring Tenants Association, and close to that was San Diego
24 Mooring Company.

25 COMMISSIONER BUSTAMANTE: That was in the top six?

1 MR. LIBUDA: There was seven. There was a total
2 of seven.

3 CHAIRPERSON CONNELL: Are we required to leave, Mr.
4 Thayer?

5 EXECUTIVE OFFICER THAYER: No. My understanding
6 is it will be just a short loss of power and the backup
7 system will come on. So it will be just a quick blip.
8 We've asked them to leave the doors open in case it's a
9 longer deal. But he said we didn't have to leave.

10 MR. LIBUDA: The San Diego Mooring Company was the
11 lowest fee proposed under the privatization proposal. Under
12 the operating and maintenance agreement proposal, the San
13 Diego Mooring Tenants Association was the -- as a finalist,
14 they were the lowest proposer for fees.

15 COMMISSIONER BUSTAMANTE: Okay.

16 CHAIRPERSON CONNELL: What was the difference in
17 those fees? Excuse me.

18 MR. LIBUDA: The difference in fees was nine cents
19 per mooring per day.

20 COMMISSIONER BUSTAMANTE: Nine cents?

21 CHAIRPERSON CONNELL: Nine cents per day?

22 COMMISSIONER BUSTAMANTE: Per day. And so then
23 what the issue was was trying to decide which type of
24 contract that would be let would be more beneficial to the
25 Port at that point. Whether it was going to be the lease

1 option or it was going to be the privatization issue?

2 MR. LIBUDA: It was what was then the best benefit
3 judged by the evaluation team that would provide the most
4 benefit to the boater. The most amenities, if you will.
5 There were certain features of the privatization that
6 provided different services to the boaters.

7 COMMISSIONER BUSTAMANTE: And it was in those
8 services that you gave the tip to San Diego Mooring?

9 MR. LIBUDA: That is correct.

10 COMMISSIONER BUSTAMANTE: Okay. Let me just go on
11 through a couple of other things. I have several other
12 quick questions, so if you can kind of be here so I can go
13 through this and I can have it clear in my mind.

14 The issue of an inadequate vessel to do the work.
15 And there was an issue that was raised by one of the folks
16 here that said that in order to be able to do maintenance,
17 to do the kind of operations that are necessary, there was
18 inadequate vessels in order to be able to actually do the
19 work. Everything from having a boat that was so large that
20 it could not go between the vessels in order to actually do
21 the work, as well as one which didn't have the proper
22 equipment. Is that correct for the San Diego Mooring
23 Company?

24 MR. LIBUDA: I would defer to the San Diego
25 Mooring Company to answer that.

1 COMMISSIONER BUSTAMANTE: Why don't you guys all
2 get up here, so I can ask the questions and everybody -- and
3 staff. We'll have staff and everybody up here.

4 MR. LESLIE: My name is Eric Leslie from the San
5 Diego Mooring Company.

6 In making preparations to take over the mooring
7 buoy operations, we went up and down the coast and viewed a
8 number of different mooring areas and --

9 COMMISSIONER BUSTAMANTE: Do you have an adequate
10 vessel to do the maintenance?

11 MR. LESLIE: Yes, we do.

12 COMMISSIONER BUSTAMANTE: Okay. Does staff agree
13 that that vessel is adequate to do the maintenance?

14 EXECUTIVE OFFICER THAYER: Let me ask the staff to
15 respond.

16 MR. SCOTT: Alan Scott. Yes, Governor, I believe
17 we do. I've been on the vessel, I've seen it. I've seen --

18 COMMISSIONER BUSTAMANTE: You're giving the
19 Commission assurances that the boat in question will be able
20 to do the proper maintenance?

21 MR. SCOTT: That's correct.

22 COMMISSIONER BUSTAMANTE: Okay. Thank you.

23 The experience of the proposed operator, there was
24 an issue that was raised whether or not the operator in fact
25 had the kind of experience to do this kind of mooring

1 maintenance and supervision. That issue was raised. That's
2 a concern to me. Can you tell me how it is that you
3 determined that they had the experience necessary to manage
4 this mooring facility?

5 MR. LIBUDA: Governor, I don't think that your
6 staff has actually made that determination. That
7 determination was made by the San Diego Port District.

8 COMMISSIONER BUSTAMANTE: Okay. Could the Port
9 come up and answer that then.

10 MR. LIBUDA: We evaluated the proposals on the
11 information that was submitted, and we looked at the
12 background experience that the different proposers had in
13 the marine environment, the marine field. We had proposers
14 that were diving companies, for example, that had a lot of
15 experience on heavy construction. We had also the --

16 COMMISSIONER BUSTAMANTE: The issue was raised, I
17 believe it was by CiCi, that they only had marine experience
18 and never had any mooring experience. Is there a difference
19 in your mind in terms of how you manage each facility? It's
20 a yes or a no first. Is there a difference in managing
21 either one of those facilities?

22 MR. LIBUDA: Yes, there is a difference.

23 COMMISSIONER BUSTAMANTE: Is there a substantial
24 difference?

25 MR. LIBUDA: I don't think there's a substantial

1 difference.

2 COMMISSIONER BUSTAMANTE: Okay. Did staff in
3 reviewing the proposal as it's coming to us decide to review
4 whether or not the standards that were accepted by the Port
5 in deciding that they had sufficient experience, did we make
6 a determination that in fact they did have sufficient
7 experience?

8 EXECUTIVE OFFICER THAYER: Yes.

9 COMMISSIONER BUSTAMANTE: Okay. I'm just going
10 through a drill here. I'm going through my questions.

11 CiCi, do you have a response to that?

12 MS. SAYER: Yes, I do.

13 COMMISSIONER BUSTAMANTE: Could you make it very
14 fast, and we're not talking --

15 CHAIRPERSON CONNELL: And I guess you also had a
16 response to the boat.

17 COMMISSIONER BUSTAMANTE: Yes, sure, the boat.

18 MS. SAYER: Thank you. I didn't say it was an
19 inadequate boat, I said it was an inappropriate boat. Okay.
20 There's a difference.

21 COMMISSIONER BUSTAMANTE: Well, can it do the job?
22 That's the question I have. I mean I'm not a sailor and I'm
23 not a person who understands a lot about the various boats.

24 MS. SAYER: Understood.

25 COMMISSIONER BUSTAMANTE: So it's function for me.

1 MS. SAYER: Its function was to pull the entire
2 mooring assembly from the bottom of the bay.

3 COMMISSIONER BUSTAMANTE: My folks are saying that
4 it will do an adequate job for the maintenance of the
5 moorings and whatever it is that it's required to do. Are
6 you saying --

7 (Thereupon the lights went out briefly.)

8 COMMISSIONER BUSTAMANTE: Okay. There you go.

9 MS. SAYER: I don't believe it's the appropriate
10 vessel, because it's too large to fit into some of the
11 mooring areas. It is too slow, and it's not a diving boat,
12 it is a boat for pulling moorings, which they have been told
13 they cannot do.

14 COMMISSIONER BUSTAMANTE: And just to follow up.
15 Moorings are not going to be pulled anymore; is that
16 correct?

17 MR. LIBUDA: That's correct.

18 COMMISSIONER BUSTAMANTE: And --

19 MS. SAYER: And you asked -- pardon me.

20 COMMISSIONER BUSTAMANTE: Go ahead.

21 MS. SAYER: You asked me, sir, if I had a response
22 as to whether there was a difference between maintaining a
23 marina and maintaining a mooring.

24 COMMISSIONER BUSTAMANTE: Uh-huh.

25 MS. SAYER: A mooring, the way that it needs to be

1 done, you dive. You need a diver, you need to understand
2 diving. In a marina you walk around, you see the brick is
3 crumbling, you patch it. It's a very different level of
4 experience that you need to have.

5 COMMISSIONER BUSTAMANTE: Are we sure, staff, in
6 reviewing of the proposal that you're recommending to the
7 Commission that the Port has asked for San Diego Mooring
8 Company to have adequate services to ensure that this
9 particular function is taking place?

10 EXECUTIVE OFFICER THAYER: I have two responses to
11 that. First the answer is yes, we do believe it is
12 adequate. And number two, we're not as concerned about the
13 mechanism, it's the standards that are being met. We want
14 these to be safe operations, so if this boat turns out to be
15 insufficient, we're not going to accept that as an excuse.
16 If the Port comes back to us and says, oh, we can't carry
17 out the standards that the Commission posted because the
18 boat doesn't work --

19 COMMISSIONER BUSTAMANTE: I understand that. I
20 understand that. But in the meantime it's the tenants and
21 the moorings and all of having to live in that community
22 that has to deal with all of that, and then we come back at
23 some point, you know, later on and we're cleaning up a mess
24 that's been left there because we didn't ask the question.
25 I understand about performance standards. I like to work in

1 that way as well.

2 EXECUTIVE OFFICER THAYER: Okay.

3 COMMISSIONER BUSTAMANTE: But having to have some
4 sense that they can actually complete those performance
5 standards is also important to them.

6 EXECUTIVE OFFICER THAYER: Exactly.

7 MR. MCENTEE: One of the things I'd like to say,
8 Governor, is that in response to whether they are capable of
9 doing it. The company is wholly owned by the Beachum family
10 and they are well funded. Just as our concerns about when
11 we assign or turn over an oil lease to a less-funded
12 company, we're always concerned about their ability to
13 comply with the terms of the lease, in this instance they
14 have the capacity to contract for seasoned professionals who
15 can dive and do those types of activities.

16 (Thereupon the fire alarm started.)

17 COMMISSIONER BUSTAMANTE: Do they have, in fact, a
18 contract currently with an individual, whether it's on
19 retainer or on staff?

20 MR. MCENTEE: Two years ago --

21 COMMISSIONER BUSTAMANTE: No, right now. Do they
22 have one right now? Do you have a diver on staff or on
23 retainer at this moment?

24 ///

25 ///

1 (Thereupon the fire alarm stopped, and
2 an announcement came over the intercom
3 regarding computers in the building and
4 the electrical power.)

5 MR. LESLIE: We have not received final approval
6 for the sublease. We have not hired the employees that
7 we'll have in place to effect the operations. We have
8 consulted and we had a consulting contract with a company
9 called Shellmaker, Inc., out of Newport, and they operate
10 and they maintain 600 mooring buoys.

11 COMMISSIONER BUSTAMANTE: The answer is no, but
12 you are going to get a service that will include a diver,
13 either on staff --

14 MR. LESLIE: Yes.

15 COMMISSIONER BUSTAMANTE: The fee increases, it
16 says here, will not be increased for six years; is that
17 correct? Am I reading that right?

18 EXECUTIVE OFFICER THAYER: Correct. There is a
19 fee schedule that allows for a small percentage increase
20 over the next six years. That schedule can't be changed.

21 COMMISSIONER BUSTAMANTE: It cannot be changed?

22 EXECUTIVE OFFICER THAYER: That's correct, without
23 coming back to the Commission.

24 COMMISSIONER BUSTAMANTE: Okay. Now it also
25 indicates that in the fee schedule that there is a 20

1 percent profit over the cost of maintenance and equipment in
2 the supplies; is that correct?

3 MR. SCOTT: That's correct.

4 COMMISSIONER BUSTAMANTE: So that is in addition
5 to the increases set in the fee schedules?

6 MR. SCOTT: No. That is reflected in the fee
7 schedule.

8 COMMISSIONER BUSTAMANTE: That is already
9 reflected in the fee schedule?

10 MR. SCOTT: There is no set fee schedule.

11 CHAIRPERSON CONNELL: How is that 20 percent
12 number derived?

13 MR. SCOTT: As I understand it -- Eric why don't
14 you respond to that. But I believe that was the product
15 margin that was used in the original development of the fees
16 in response to the RFP, and so that was just a continuation
17 on the profit that had been built in initially in their
18 proposal.

19 COMMISSIONER BUSTAMANTE: And in your due
20 diligence and when you looked at other facilities in the
21 state with respect to mooring, and you looked at the
22 contracts that they had that were the kind that you were
23 going to use for your facility and you were going to
24 contract out services, did you check to see how they
25 established their fee schedules, as well as their negotiated

1 rates with the vendor?

2 MR. MCENTEE: I'm going to respond to that in two
3 ways. First of all, I wasn't involved in the RFP process at
4 the outset. However, I know that we have done surveys of
5 other mooring areas up and down the coast, and I believe
6 your staff has done that as well.

7 COMMISSIONER BUSTAMANTE: Our staff has done that?
8 Then can you tell me if there is a survey, whether or not
9 the 20 percent profit margin is a normal industry standard,
10 or is this above or below what the standards are?

11 MR. SCOTT: Governor, I don't believe that our
12 study went into that detail. What we were more concerned
13 with was whether or not the proposed fees were consistent
14 with the market. And what we found is that the market isn't
15 consistent. It depends on the climate, the use, the
16 location, and so forth. But that within a very narrow
17 parameter, the proposed fees were within range. They were
18 no higher nor lower than a number of other sites of
19 comparable use and utility.

20 COMMISSIONER BUSTAMANTE: Could you cite one?

21 MR. SCOTT: Certainly. In fact, if you'd just
22 bear with me one second, I can cite you a whole series of
23 them.

24 COMMISSIONER BUSTAMANTE: I'm only asking for one.

25 MR. SCOTT: How about Newport. It's a little

1 higher. It's up at about 192 a month. Newport Beach.

2 COMMISSIONER BUSTAMANTE: The profit margin above
3 the equipment and --

4 EXECUTIVE OFFICER THAYER: When we did the survey,
5 we did not ask them what their profit margin was.

6 MR. SCOTT: We didn't ask that detail.

7 EXECUTIVE OFFICER THAYER: All we did was ask them
8 how much do you charge tenants. So we don't know what the
9 profit margins were in other --

10 COMMISSIONER BUSTAMANTE: So you didn't know how
11 they were constructed, and so --

12 MR. SCOTT: I can tell you what your Commission
13 asks of other mooring tenants. We require a 25 percent
14 royalty paid to the State of California by the Island
15 Company and the Island Conservancy of Catalina.

16 COMMISSIONER BUSTAMANTE: Okay. Thank you.

17 There was an indication that there would be a
18 revenue loss to the State as a result of this contract.
19 True or not true?

20 MR. SCOTT: Not true.

21 COMMISSIONER BUSTAMANTE: Is it going to be
22 increased or decreased?

23 MR. SCOTT: Increased slightly.

24 COMMISSIONER BUSTAMANTE: Increased slightly by
25 approximately how much?

1 MR. SCOTT: I believe it's going to go from the
2 minimum rent, which is ten thousand dollars a year to about
3 between eleven and twelve thousand.

4 COMMISSIONER BUSTAMANTE: I'll leave that next
5 question for a moment.

6 The rent to the average person who is renting or
7 leasing a mooring is how much?

8 MR. SCOTT: It's contained in Exhibit K to the
9 latest amended lease. It looks like it's going to in the
10 first year average out at about 120 a month. The highest
11 is --

12 COMMISSIONER BUSTAMANTE: What is it currently?

13 MR. SCOTT: 102, I believe. Right now it varies
14 depending on the location within the harbor. The lowest is
15 107 and change, and the highest is 132 and change, and
16 that's per month. And it's not based on necessarily the
17 length of the vessel. In most places that we looked at, the
18 fees are based on so much a foot, and it's based on the size
19 of the vessel, or the maximum sized vessel that could be
20 accommodated by the mooring.

21 COMMISSIONER BUSTAMANTE: Okay. Then that would
22 be approximately \$18 a month difference between what
23 currently exists and what is being proposed in the first
24 year. What does that go up to after six years?

25 MR. SCOTT: At the end of the sixth year or during

1 the sixth year, the highest rate is 157 and the lowest is
2 128. It's approximately three percent a year increase.

3 COMMISSIONER BUSTAMANTE: So who determines who
4 gets the 50 percent increase? How was that determined?
5 You're going from \$102 a month to \$157 a month.

6 MR. SCOTT: It's different sets of moorings to
7 start with, and then it is about a three percent escalation
8 of the base rate over the six-year period is what's making
9 the changes. It's averaging about three percent a year,
10 which is around inflation. So it's basically protecting the
11 operator's ability to maintain the moorings at a constant
12 rate. His costs are going to go up based on inflation. His
13 profit is basically going to stay flat.

14 COMMISSIONER BUSTAMANTE: His profit is going to
15 stay flat?

16 MR. SCOTT: If you inflate the rate by --

17 COMMISSIONER BUSTAMANTE: You mean it will never
18 exceed 20 percent?

19 MR. SCOTT: It doesn't look like it to me, based
20 on these numbers, unless inflation is less than three
21 percent.

22 COMMISSIONER BUSTAMANTE: But the 20 percent can
23 grow to a bigger 20 percent?

24 CHAIRPERSON CONNELL: Well, if it's on a
25 compounded base. So the answer is yes, it is more than 20

1 percent. That answer will have to be yes, not no, because
2 you're compounding it off of a larger base.

3 EXECUTIVE OFFICER THAYER: So he's still getting
4 20 percent, but that results in a higher figure.

5 CHAIRPERSON CONNELL: Right.

6 MR. SCOTT: Dollarwise.

7 COMMISSIONER BUSTAMANTE: Okay. So what we get
8 down to is we have a contract in which the State is getting
9 a little bit more money, the company is making a profit, the
10 Port is divesting itself of its responsibility of making
11 sure that there is an entity that is taking care of all
12 those issues, and the tenants are getting stuck with the
13 tab.

14 EXECUTIVE OFFICER THAYER: The tenants are also
15 getting stronger chains, better maintenance than is
16 occurring right now, and, therefore, a safer environment.

17 COMMISSIONER BUSTAMANTE: And the cost of that is
18 approximately the first year of about \$18 a month, is that
19 what we're saying?

20 EXECUTIVE OFFICER THAYER: That's right.

21 COMMISSIONER BUSTAMANTE: Okay.

22 EXECUTIVE OFFICER THAYER: There are other
23 amenities too. I believe that there's dingy service
24 available. I'm trying to remember what the other things are
25 that are part of it.

1 COMMISSIONER BUSTAMANTE: The last question I have
2 is to staff. Thank you gentlemen. Unless you have
3 something else.

4 MR. MCENTEE: Well, yes. Just the amenities, they
5 were pulled out because the boaters, as a result of these
6 workshops, determined they didn't want them. And a large
7 reason for this jump in the fee from 102 up is again these
8 safety enhancements that are going to be required as part of
9 these moorings. There is a significant cost associated with
10 that.

11 COMMISSIONER BUSTAMANTE: With the initial upfront
12 costs?

13 MR. MCENTEE: With the ongoing costs. Using the
14 20 percent wear factor on the chain and the --

15 COMMISSIONER BUSTAMANTE: Which is the same as
16 before, right?

17 MR. MCENTEE: No. We had a 50 percent wear factor
18 allowance, wear allowance, previously. Now we have a 20
19 percent wear allowance. So that's a substantial reduction
20 in the amount of allowable wear in the load path on those
21 moorings.

22 COMMISSIONER BUSTAMANTE: Okay. Thank you.

23 Now, our responsibility here, besides having
24 review and management of the public trust lands and
25 tidelands, is it also because there is State-leased

1 properties here, specifically in this particular mooring
2 facility?

3 EXECUTIVE OFFICER THAYER: Yes. The majority of
4 the moorings are --

5 COMMISSIONER BUSTAMANTE: Because we have
6 responsibility whether it's the Port or not on the
7 tidelands, correct?

8 EXECUTIVE OFFICER THAYER: That's right. But in
9 this case, the majority of the moorings are located on land
10 that's under the jurisdiction of the State Lands Commission.
11 It's not included in the grant to the Port, but that we've
12 leased that land to the Port for administration of these
13 moorings.

14 COMMISSIONER BUSTAMANTE: And to what extent then
15 is our responsibility in reviewing any Port action?

16 EXECUTIVE OFFICER THAYER: We have more
17 responsibility with respect to this lease to the Port than
18 we would over a grant. In most cases, when a grant is made
19 by the legislature to the Port, it transfers most
20 administration, all administration really --

21 COMMISSIONER BUSTAMANTE: But if it affects the
22 tidelands, then any action that the Port takes, we have a
23 review and management of that?

24 EXECUTIVE OFFICER THAYER: We have oversight, but
25 we have no authority to --

1 COMMISSIONER BUSTAMANTE: We have oversight?

2 EXECUTIVE OFFICER THAYER: Oversight. We don't
3 have approval authority over most of that. There are
4 certain circumstances in San Diego pursuant to the grant
5 deed, we can review expenditures outside of the grant area.
6 There are some other things like that. But for most
7 projects, we don't have any control of this.

8 COMMISSIONER BUSTAMANTE: I guess I'm just sort of
9 stuck with are they getting what they're paying for, and I
10 guess that's kind of what I'm having to deal with. So help
11 me try to figure that out.

12 CHAIRPERSON CONNELL: I certainly am, you know,
13 just very impressed by the list of questions that you came
14 up with and I'm glad that you were more focused than I this
15 afternoon drifting away as I am. But I must tell you that
16 the concerns that you raised are my concerns as well. And
17 at the end of the day as we sit here with the responsibility
18 for public trusts in the coastal areas, including the ports,
19 are we encouraging public use of this waterway. This is my
20 bottom line. Is are we giving the public greater access at
21 reasonable fares to the limited waterway.

22 And I was, I must say, Ann, moved by your comment
23 that people are not able to move from one cruising location
24 to another. Now, I find this disturbing, because I do know
25 that there's a whole population of people who upon

1 retirement do enjoy the cruising lifestyle, and I feel that
2 we want to encourage that. I was troubled that there is no
3 way of registering these vacant moorings in San Diego,
4 because they are in Catalina. We faced this issue on
5 Catalina and had extensive discussion at our meeting, as you
6 remember, Mr. Bustamante, in LA some time ago.

7 COMMISSIONER BUSTAMANTE: Is there any way of
8 doing it?

9 MR. MCENTEE: We did.

10 CHAIRPERSON CONNELL: Why can't we do that here
11 and why don't you do that here? It would make me feel more
12 inclined to vote for the staff recommendation than not.

13 MR. MCENTEE: We, as a result of the boater input
14 on the tenant list of rights, it was one of those items that
15 they wanted to have the ability to do that, for the mooring
16 company to lease out those moorings if they would be gone
17 for an extended period of time and then for some of that
18 revenue to flow back to the boaters to offset the rent that
19 they were paying for the mooring that they weren't using.

20 CHAIRPERSON CONNELL: Well, and where are we on
21 that discussion?

22 MR. MCENTEE: It's amended into the lease. It's
23 part of the lease.

24 CHAIRPERSON CONNELL: Oh, it is now?

25 MR. MCENTEE: Yes.

1 CHAIRPERSON CONNELL: So Ann you can do that now.

2 MR. MERRILL: I'll believe it when I see it.

3 CHAIRPERSON CONNELL: Well, but I mean, I'm trying
4 to represent your issues here, Ann. So they appear to have
5 that one covered then.

6 MR. SCOTT: Madam Chair, one comment that may help
7 you understand this a little bit more is these are slightly
8 different kinds of moorings than you find at Catalina
9 Island. The Catalina Island moorings are destination
10 moorings. They are not used for boat storage. The
11 predominate use is for the four months during the boating
12 season. The rest of the year, they're pretty much vacant.

13 Whereas the moorings in San Diego Bay and in other
14 places like Ventura Harbor, Newport Bay, those are used for
15 storing of boats. Boats are tied to those 24/7 by March,
16 unless the tenant is actually out on his boat and sailing.
17 But it's unlike Catalina, where Catalina, the majority of
18 those moorings are not occupied year round, they are just
19 basically for people who voyage over there and spend a week
20 or two and then voyage on to some other location.

21 CHAIRPERSON CONNELL: Well, that's all very
22 interesting.

23 Annette.

24 ACTING COMMISSIONER PORINI: Well, thank you. The
25 Lieutenant Governor actually asked many of the questions

1 that --

2 CHAIRPERSON CONNELL: It would be hard not to have
3 asked many of the questions.

4 (Laughter.)

5 CHAIRPERSON CONNELL: I want to congratulate you
6 on your prepping here. It reminds me of the Enron hearings.

7 ACTING COMMISSIONER PORINI: I just wanted to ask
8 one additional question.

9 It was suggested by one of the speakers that the
10 analysis of the chain was not adequate, that we could look
11 at all of the tackle and anchorage, and perhaps one of the
12 engineers can respond to that.

13 MR. SAUNDERS: Madam Chair and Commissioners, my
14 name is Javier Saunders. I'm the Assistant Director of
15 Engineering for the Port of San Diego.

16 And we follow the guidelines of the American
17 Boating and Yacht Council in our analysis. We had an
18 independent firm look at our assumptions. And in addition,
19 as you heard, we coordinated very closely with the State
20 Land Commission engineers, and we feel that we've provided a
21 safe mooring that's safe and reasonable in cost, and we
22 followed the American Boating guidelines.

23 Now, Mr. Keller brought up a point about shackles
24 and swales that we would look at. Manufacturers of those
25 components are very concerned about safety. Generally those

1 components are about a sixteenth inch thicker and they are
2 designed to match the chain. So that is the reason why
3 those weren't looked at.

4 ACTING COMMISSIONER PORINI: I have one additional
5 question for the Mooring Company or for the Port. Ann
6 raised a very interesting issue with regard to the fact that
7 there is a ball on the stern, but not on the bow. Are there
8 provisions if people have made that request that you can add
9 the buoy to both ends of the mooring?

10 MR. LIBUDA: Paul Libuda, Assistant Director of
11 Marine Operations at the Port. The area that they're
12 talking about is in our America's Cup Harbor. We have four
13 marines, and in order to have the vessels more densely --
14 close to each other to allow more vessels, we do not
15 currently have a provision for a second ball on there.

16 ACTING COMMISSIONER PORINI: But would you
17 consider it. I mean --

18 MR. LIBUDA: That could be considered. In fact,
19 in the lease in our latest amendment, Amendment Number 7, it
20 allows the San Diego Mooring Company to come back with
21 recommendations for a five-eighths inch chain and if they
22 wish to provide some different accommodations such as that,
23 then that would be considered by the Port's engineering
24 staff, and then that would be brought to the State Land's
25 Commission for a review and approval.

1 CHAIRPERSON CONNELL: Well, I think we should just
2 indicate that that's the sentiment of the Board to, as I
3 understand it, to reexamine that.

4 ACTING COMMISSIONER PORINI: Absolutely.

5 CHAIRPERSON CONNELL: I'm willing to entertain a
6 motion here, unless you had more questions, Annette, I
7 didn't mean to cut you off.

8 ACTING COMMISSIONER PORINI: No.

9 COMMISSIONER BUSTAMANTE: I think that for me, I
10 had a lot of questions, but I think that they were all
11 responded to sufficiently. A lot of things have been placed
12 on the record here that allows me to believe that this has
13 been thought out. I think the issues of the boaters seem to
14 be at this point have worked out for the benefit of what is
15 taking place and is appropriate, and I'm ready to vote to
16 support the staff approval.

17 CHAIRPERSON CONNELL: I would like to just add to
18 the -- may I have a second?

19 ACTING COMMISSIONER PORINI: Second.

20 CHAIRPERSON CONNELL: Thank you. I would just add
21 that I'm ready for that as well, with the understanding that
22 the suggestions that have been made here today should be
23 seriously entertained. I think the fact that the Board
24 listened as attentively as they did, we're willing to lay
25 out the kind of exhaustive issues that Mr. Bustamante

1 represented I think unanimously from all of us is an
2 indication of our concern.

3 I, for one, will continue to want to see
4 monitoring of this lease. I would like to have this come
5 back to the Board a year from now, although I will not be
6 sitting here. I would like to have someone else looking at
7 this lease. I think it's important once we render our
8 approval and sanction that we stay on top of our agreements,
9 and that we hold San Diego Port staff and Board responsible
10 for managing this contract in the fashion that's been
11 represented here today. And with the input that we have all
12 given to you, perhaps you can be sensitive to some of these
13 other issues. Because when we come back a year from today,
14 I'm sure that Mr. Bustamante will maintain this little list
15 he has of exhaustive questions. He's going to keep it with
16 him, and he will want to refer those questions back to you
17 again to make sure that we have indeed adhered to the spirit
18 of the Commission today.

19 With that having been said, we have indeed
20 approved this staff recommendation and we will now move
21 forward to what I believe is the last staff item here, which
22 concludes the regular calendar. And that is, are there any
23 speakers who wish to address the Commission during public
24 comment meeting. If not, I'm going to conclude the
25 Commission meeting, and we're not adjourned. We'll go into

1 closed session after the room has been cleared.

2 (Thereupon the proceedings of the State
3 Lands Commission were concluded at 4:10
4 p.m. on June 18, 2002.)
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1 CERTIFICATE OF SHORTHAND REPORTER

2 I, MICHAEL J. MAC IVER, a Shorthand Reporter, do
3 hereby certify that I am a disinterested person herein; that
4 I reported the foregoing State Lands Commission proceedings
5 in shorthand writing; that I thereafter caused my shorthand
6 writing to be transcribed into typewriting.

7 I further certify that I am not of counsel or
8 attorney for any of the parties to said State Lands
9 Commission proceedings, or in any way interested in the
10 outcome of said State Lands Commission proceedings.

11 IN WITNESS WHEREOF, I have hereunto set my hand
12 this 2nd day of July 2002.

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18 Michael J. Mac Iver

19 Shorthand Reporter
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