

MEETING
STATE OF CALIFORNIA
LANDS COMMISSION

STATE CAPITOL
ROOM 1114
SACRAMENTO, CALIFORNIA

WEDNESDAY, AUGUST 14, 2002

10:00 A.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

In Culver City, Cindy Aronberg

STAFF

Paul Thayer, Executive Officer

Jack Rump, Chief Counsel

Barbara Dugal, Public Land Manager

In Culver City, Jack Rump

ALSO PRESENT:

Michael Dunn, Kern River Gas Transmission Company

Richard Huff, Williams Gas Pipeline Company

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1 ACTING COMMISSIONER PORINI: Move approval.

2 COMMISSIONER BUSTAMANTE: Let the record show that
3 it is unanimous to accept the minutes of the last
4 Commission's meeting.

5 And the next order of business is the Executive
6 Officer's Report. Mr. Thayer.

7 EXECUTIVE OFFICER THAYER: Two quick points. I
8 wanted to point out that like other agencies, and probably
9 your own offices, the State Land Commission's staff is now
10 grappling with the direction from the Department of Finance
11 to come up with a reduction in our budget, proposed
12 reduction, that could be implemented in the next fiscal
13 year. And that's a 20 percent. We'll let you know where we
14 think the best reduction should be, but, as with other
15 agencies, there undoubtedly will be an impact to our
16 operations from that kind of reduction. We had a reduction
17 last year that was close to ten percent mid year. So it's a
18 serious impact and we're hoping to avoid layoffs by cutting
19 back on travel funds, but we can't guarantee at this point.
20 It's still the early days in terms of getting our public
21 investment money back.

22 COMMISSIONER BUSTAMANTE: Mr. Thayer, last year
23 was all of the reduction, was it absorbed without any
24 layoffs?

25 EXECUTIVE OFFICER THAYER: That's correct. We

1 were able to meet most of the reduction goals by eliminating
2 some contract programs.

3 COMMISSIONER BUSTAMANTE: Is there any plans this
4 year that in order to implement the 20 percent reduction
5 that you would have to layoff any staff?

6 EXECUTIVE OFFICER THAYER: We're not at a stage
7 where we can say definitively. We don't believe we'll need
8 to do that this fiscal year, meaning 2002/2003, absent
9 further direction to reduce our budget. It would not be --
10 we don't think it would be a surprise though if sometime
11 later this year we were asked to reduce our existing budget
12 below what it is right now, and that we've given up our
13 contract money means that we have less flexibility to meet
14 the reductions without staff layoffs as we have before.

15 COMMISSIONER BUSTAMANTE: Will any of the benefits
16 be decreased by staff?

17 EXECUTIVE OFFICER THAYER: No.

18 COMMISSIONER BUSTAMANTE: We won't lose any staff,
19 no reduction of benefits. Will there be any restrictions on
20 time?

21 EXECUTIVE OFFICER THAYER: There may be
22 restrictions on overtime, because that costs more per hour.
23 We may restrict travel in order to save money.

24 COMMISSIONER BUSTAMANTE: So restrictions on
25 overtime and travel is going to be the predominant reduction?

1 EXECUTIVE OFFICER THAYER: That's the first thing
2 we're going to explore. But, again, in terms of meeting the
3 requirements of the 20 percent reduction for next July 1st,
4 for the budget starting next July 1st, we can't say at this
5 point that there would be no layoffs.

6 COMMISSIONER BUSTAMANTE: Is the result of these
7 reductions, either in overtime or travel, will the services
8 that we provide to the various businesses of the State of
9 California or those wishing to do business in California,
10 would it be restricted or would there be any slow down of
11 those activities?

12 EXECUTIVE OFFICER THAYER: We would, of course, do
13 our best to avoid that impact, but it's absolutely the case
14 that most of our work is with businesses on leases and
15 things like that, and the cutbacks are going to affect how
16 we do our business.

17 COMMISSIONER BUSTAMANTE: Is there any kind of
18 leeway, is there any kind of --

19 EXECUTIVE OFFICER THAYER: Alternative?

20 COMMISSIONER BUSTAMANTE: No. Some kind of
21 understanding of an agency that --

22 MS. ARONBERG: Lieutenant Governor, excuse me.
23 Madam Controller, are you on the phone?

24 CHAIRPERSON CONNELL: I am on the phone.

25 COMMISSIONER BUSTAMANTE: Great.

1 MS. ARONBERG: Okay. Thank you. The Lieutenant
2 Governor has commenced the meeting and we were just
3 listening to Paul Thayer's report. So why don't you go
4 ahead and continue from there.

5 CHAIRPERSON CONNELL: Thank you, Lieutenant
6 Governor, for chairing the meeting for me. I appreciate
7 that.

8 COMMISSIONER BUSTAMANTE: Yes. We were just in
9 the process of listening to Mr. Thayer's report with respect
10 to the 20 percent reduction that's coming up this year in
11 terms of his agency. I asked some questions with regard to
12 whether or not services to the people we serve, businesses,
13 et cetera, would suffer as a result of the reductions. And
14 that's where we were at right now.

15 So is there any kind of allowance provided for
16 agencies that create revenue?

17 EXECUTIVE OFFICER THAYER: Last year that was a
18 consideration. As a result, the Lands Commission did not
19 suffer a level of cuts that some agencies did last year, and
20 that's something that we would certainly bring up again this
21 year.

22 COMMISSIONER BUSTAMANTE: Okay.

23 CHAIRPERSON CONNELL: Paul, may I ask a question
24 in that regard?

25 EXECUTIVE OFFICER THAYER: Certainly.

1 CHAIRPERSON CONNELL: Is this 20 percent number
2 from your understanding going to be applied across the
3 board. From our understanding, running a major agency, and
4 I agree with Cruz's question here, there has to be obviously
5 some flexibility. Not every agency, you know, has the fat,
6 so to speak, to cut back here. And we're going to end up, I
7 think, having severe reductions in some of these services.
8 Have you been able to formulate exactly how far you can cut
9 back? Have you done like a 10 and a 15 percent budget
10 reduction, as well as a 20?

11 EXECUTIVE OFFICER THAYER: We had gone through
12 that last year when we were asked to come up with various
13 proposals for cutbacks, based on these different
14 percentages. This year the budget letter specifically
15 didn't make reference to smaller amounts, but did require us
16 to come up with a proposal for the 20 percent. I think at
17 this point it's still early in terms of knowing how
18 financing, and Annette is much more of an expert on this
19 than I am, but it's still early in terms of deciding what
20 sort of cutback is necessary. And I think they have also
21 asked us to prioritize where the cuts would occur, so that
22 if there were lesser cuts necessary, we would have already
23 determined which ones we could most easily endure.

24 COMMISSIONER BUSTAMANTE: Madam Controller.

25 CHAIRPERSON CONNELL: Yes, well, I just think we

1 ought to stay on top of this, if we can, because obviously
2 if we need to make some decisions regarding where we go with
3 this budget, and we need to comply with the Governor's
4 request, obviously, on submission. But I think that we
5 ought to be able to argue very effectively, you know, at
6 what level we would begin losing blood, versus shedding fat
7 and a little muscle.

8 EXECUTIVE OFFICER THAYER: Certainly.

9 COMMISSIONER BUSTAMANTE: According to Paul's
10 earlier comments, Madam Controller, when you were not on the
11 call, he indicated that the 20 percent over the 2002/2003
12 year would not necessitate the loss of staff, nor benefits
13 of any kind, however, that there would be a cutback on
14 overtime and travel. So in how we do our business without a
15 loss of staff, there might be some need for perhaps more
16 tech ways of doing, rather than personal contact ways, of
17 doing business for the agency. And if that can be done and
18 a more tech-based approach can be used and still not
19 restrict the amount of business that would flow into
20 California, it might end up being an interesting exercise
21 for the use of --

22 CHAIRPERSON CONNELL: Oh, I think -- excuse me,
23 I'm sorry, I can't tell when you're finishing, Lieutenant
24 Governor. I do think that, you know, always cutting back is
25 good. I've done that at the FTD and the DOE by 15 percent.

1 I just am concerned that, you know, will we recognize the
2 point at which we are on life support.

3 COMMISSIONER BUSTAMANTE: Yes.

4 CHAIRPERSON CONNELL: We found that they were able
5 to sustain the cuts and that's great.

6 Should we move on to the agenda then?

7 ACTING COMMISSIONER PORINI: Controller Connell,
8 if you don't mind, since the budget letter that's been
9 referenced is the budget letter the Department of Finance
10 sends to our departments and agencies in preparation of
11 submitting budget change proposals for the Governor's
12 January budget, I'd just like to add that the Department of
13 Finance has always had a process where they have heard
14 specific appeals from departments and agencies. We would
15 continue to do that this year, as well as we have been, as
16 you know, Controller, always much more sympathetic in terms
17 of providing appeals to departments and agencies that
18 produce revenue. So what I would anticipate as Mr. Thayer
19 completes the process of preparing for submission of his
20 prioritization that he would appeal to Department of Finance
21 if he finds that there's going to be a great diminution in
22 that ability.

23 EXECUTIVE OFFICER THAYER: Good.

24 CHAIRPERSON CONNELL: I appreciate that input. I
25 think that's very encouraging.

1 COMMISSIONER BUSTAMANTE: And we had somebody on
2 the inside too.

3 (Laughter.)

4 ACTING COMMISSIONER PORINI: Yes, but an inside
5 contact.

6 CHAIRPERSON CONNELL: Right. Paul, do you have
7 anything else on the agenda item of your report?

8 EXECUTIVE OFFICER THAYER: The one other item I
9 wanted to mention was that for our next Commission meeting,
10 we are looking to have a hearing, perhaps the week of
11 September 16th. There are a couple of projects that won't
12 be ready until September 16th, and then we'd want to have
13 the meeting as soon as possible thereafter. And we'll get
14 in contact with your offices to find out what's workable for
15 you.

16 CHAIRPERSON CONNELL: And I will ask for the
17 courtesy of our fellow members in that regard. Is it
18 appropriate at this point then, Paul, to go back to the
19 first agenda item?

20 EXECUTIVE OFFICER THAYER: Yes. And we hadn't
21 taken that up yet. Do you mean the project before us today?

22 CHAIRPERSON CONNELL: Yes.

23 EXECUTIVE OFFICER THAYER: And we already did
24 adopt minutes, so, yes, we're ready for that. Let me first
25 say that the application before us which has to do with the

1 Kern River Gas Pipeline project is one that we're having a
2 special hearing on. Because this project has the potential
3 to assist California in meeting its energy needs and because
4 of construction schedules in Wyoming and Colorado, the
5 applicant has asked for this meeting. And so with the
6 assistance of all the Commissioners in reaching a mutually
7 agreeable date, we're able to accommodate the applicants.

8 With that, Barbara Dugal from our Land Management
9 Division is here today to give general background on the
10 project.

11 MS. DUGAL: Good morning, Commissioners, I am
12 Barbara Dugal, as Paul mentioned, with the Land Management
13 Division, and I will be presenting background information
14 regarding the project that you're considering today. The
15 applicant for the project is Kern River Gas Transmission
16 Company, a Texas general partnership and a wholly-owned
17 subsidiary of Mid American Energy Holdings Company, which is
18 a unit of Berkshire Hathaway.

19 In order to expand its existing pipeline system,
20 Kern River proposes to construct and operate a new natural
21 gas pipeline system from southwestern Wyoming to southern
22 California. The proposed new pipeline system basically
23 parallels Kern River's existing pipeline route and involves
24 the construction of about 117 miles of pipeline and other
25 appurtenant facilities.

1 In California, the construction will involve the
2 installation of approximately 104 miles of 36-inch pipe, and
3 82 miles of 42-inch pipe, and modifications to one existing
4 compressor station and four metering stations.

5 Approximately 1.7 miles of new pipe will cross two sections
6 of school land in San Bernadino County that are under the
7 jurisdiction of the Commission. And those that have the map
8 in front of you, it's the two red parcels, are the parcels
9 that are under the jurisdiction of the Commission.

10 The only improvements that will be placed on these
11 two parcels are the buried 36-inch pipe and above ground
12 markers. Additionally, a temporary construction area
13 adjacent to the pipeline route will be used.

14 Once constructed, Kern River anticipates that over
15 95 percent of the natural gas capacity will be used for
16 delivery points in California to serve existing or new power
17 generation markets. The new pipeline system will be
18 constructed and operated to meet or exceed State or US
19 Department of Transportation construction and safety
20 standards. These regulations, which are intended to protect
21 the public and to prevent natural gas facility accidents and
22 failures, include specifications of material selection,
23 minimum design requirements, and protection of the pipeline.

24
25 As I mentioned earlier, Kern River currently

1 operates a natural gas pipeline system. When the Commission
2 approved the issuance of the two leases for the existing
3 pipeline at Kern River, the two general partners in Kern
4 River were Kern River Corporation and Williams Western
5 Pipeline Company. The two general partners have assigned
6 their respective 50 percent interest in the partnership to
7 Kern River Acquisition One, LLC., and Kern River Acquisition
8 Two, LLC. Pursuant to the terms of both of these leases,
9 the applicant has requested the Commission approve the
10 assignment.

11 There are actually three actions that staff is
12 asking the Commission to consider today. First is the
13 certification of the environmental impact report that has
14 been prepared as part of a joint federal EIS/EIR for the
15 pipeline project. The second action involves issuance of
16 two general leases to Kern River Gas Transmission Company
17 for the portion of the pipeline that will cross the two
18 parcels of State school land. And third is the assignment
19 by the general partners and the general partnership.

20 I would now like to introduce Dwight Sanders of
21 the Environmental Planning Division who will provide
22 information relative to the EIR that was prepared for the
23 project, and also in Culver City are Commission engineering
24 staff and they're prepared to respond to any questions you
25 may have regarding engineering details. Thank you.

1 CHAIRPERSON CONNELL: Well, let me just interrupt
2 before we start the staff presentation. Do we need to hear
3 the EIR presentation at this point? I have certainly
4 reviewed it. Have other Commissioners reviewed it and feel
5 we need to have that presentation?

6 COMMISSIONER BUSTAMANTE: I think that there were
7 some concerns that were raised, but it appears that most of
8 the concerns have been pretty much resolved. I mean if
9 we're talking about the re-vegetation issue or the desert
10 tortoise issue or those issues with regard to the specific
11 guarantee of the holding company to ensure performance, I
12 think all those kinds of things appear to have been worked
13 out in some reasonable fashion. Was there something else,
14 Madam Controller, that you were thinking?

15 CHAIRPERSON CONNELL: No. That's why I don't feel
16 it's necessary to review the entire EIR again.

17 ACTING COMMISSIONER PORINI: I'm comfortable --

18 CHAIRPERSON CONNELL: I'm comfortable. I'm
19 comfortable with the staff recommendation today, and I don't
20 know, since I'm not sitting with you all, who for the public
21 wishes to address this. I'd rather go directly to public
22 comments at this point than have another staff discussion on
23 the EIR.

24 ACTING COMMISSIONER PORINI: Controller, I do have
25 one question. In our staff write up, there were a list,

1 there was quite an extensive list of further approvals
2 required, and I just wonder if I could hear from staff or
3 the applicant. Have these approvals been issued now or
4 where are you in the process with all the rest of those?

5 MR. DUNN: Can I see which ones you're speaking
6 about?

7 COMMISSIONER BUSTAMANTE: It's the mega list.

8 MR. DUNN: Further approvals required.

9 ACTING COMMISSIONER PORINI: Yes. I understand
10 that the EIR approval is first in the line of things --

11 MR. DUNN: Right.

12 ACTING COMMISSIONER PORINI: -- but I wondered how
13 quickly or --

14 MR. DUNN: Right. I can go down the list here. I
15 am Michael Dunn. I am the Director of Construction for Kern
16 River Gas.

17 The United States Department of Agriculture Forest
18 Service, we have two Forest Service parcels. This is
19 federal land that the record of decision and right-of-way
20 grants has been issued for that by the Bureau of Land
21 Management. It would be the same for the Edwards Air Force
22 Base parcel and the Bureau of Land Management parcel. A
23 substantial amount of this property is on BLM property. The
24 U.S. Fish and Wildlife Service, I'll defer to Tim Powell
25 here, but they have issued their biological opinion --

1 MR. POWELL: July the 9th.

2 MR. DUNN: -- July the 9th for the project. Tim
3 Powell is the environmental lead for the project.

4 COMMISSIONER BUSTAMANTE: Does that mean it was
5 approved?

6 MR. POWELL: Yes.

7 MR. DUNN: The United States Environmental
8 Protection Agency, Tim, can you help me on that one?

9 MR. POWELL: Yes. The EPA would be commenting on
10 the four permits from the Corps. And then the State's --
11 the NPDF program is deferred to the State. The EIR,
12 approval of the EIR, would then trigger. We have been
13 notified by the Corps of Engineers that the project
14 qualifies for nationwide Permit 12 and that it would be
15 issued pending approval of the EIR.

16 MR. DUNN: Do you want to go ahead and address the
17 Corps of Engineers permits as well? Right now we have
18 authorization in Wyoming, Utah, and Nevada from the Corps of
19 Engineers, and I believe the only outstanding issue is the
20 certification of the EIR prior to the same notification from
21 the State of California.

22 MR. POWELL: Right. It would allow issuance of
23 the 401 Water Quality, which is needed for the Corps.

24 MR. DUNN: I'm not sure on the United States
25 Department of Treasury Bureau of Alcohol, Tobacco, and

1 Firearms, what we need there. That may be something
2 associated with blasting. I'm not sure what type of
3 authorizations we need from that. It's very typical in the
4 industry that we require blasting for some of the pipeline
5 and we're quite experienced in getting those types of
6 permits. I'm assuming that's what that is.

7 The California Department of Fish and Game, Tim?

8 MR. POWELL: That's the 2081 and the Stream Bed
9 Authorization permits, which we've received in draft, but
10 they can't be issued final pending approval of the EIR.

11 MR. DUNN: I believe Cal-Trans is the same,
12 waiting on the certification of the EIR. The State Water
13 Quality Control Board, the same.

14 MR. POWELL: Right. Yes, we provided draft
15 stormwater and hydrostatic plans, which they commented on,
16 and now we've provided final plans based on their comments.

17 MR. DUNN: The California State Historic
18 Preservation office, Tim?

19 MR. POWELL: The treatment plan for California is
20 presently in the Federal Energy Regulatory Commission's
21 hands. It's received comment from the FIRC and the Bureau
22 of Land Management and needs to be issued to the State
23 Historic Preservation Office for comment. And that would be
24 the final step of the programmatic agreement.

25 MR. DUNN: And the Lahontan River Basin Regional

1 Water Quality Control Board, I'm assuming that's some type
2 of hydrostatic test permit?

3 MR. POWELL: Correct.

4 MR. DUNN: I'm not sure if we have that yet.
5 That's fairly straight forward.

6 MR. POWELL: Those have been submitted.

7 MR. DUNN: Okay. The Mojave Desert Air Quality
8 Management District. We don't have any emissions sources in
9 California associated with this project, but we do need dust
10 control permits. And most likely, I am assuming that that's
11 what that is with Mojave Desert. San Bernadino County Flood
12 Control District, is this another hydrostatic test permit or
13 is this a -- Tim, help me out there.

14 MR. POWELL: That might be a Rick -- Rick Huff may
15 be best.

16 MR. DUNN: Rick Huff's our Right-of-Way Lead for
17 the project as well.

18 MR. HUFF: All of the --

19 CHAIRPERSON CONNELL: May I just interrupt here.
20 How long is this list? It's hard for me to figure out where
21 we are on going through this list.

22 MR. DUNN: Okay. There's only two left.

23 CHAIRPERSON CONNELL: Okay. Go ahead.

24 MR. DUNN: Okay.

25 MR. HUFF: Okay. The flood permit is being sought

1 after at this time. We anticipate early restitution.

2 MR. DUNN: The next one is the San Bernadino
3 Franchise Authority Special District Department. I don't
4 believe we do need Franchise authority for the project for
5 many of the counties. And the Kern County Road Department,
6 that would just be road crossing permits.

7 That would conclude the list of further approvals
8 required that I was given.

9 ACTING COMMISSIONER PORINI: Thank you.

10 CHAIRPERSON CONNELL: All right. Did that answer
11 your question, Ms. Porini?

12 ACTING COMMISSIONER PORINI: It does.

13 CHAIRPERSON CONNELL: Mr. Thayer, are there any
14 speakers who want to address this issue?

15 EXECUTIVE OFFICER THAYER: I do not believe. Let
16 me look around the room, but we have no slips. No, there is
17 no one who wishes to address.

18 CHAIRPERSON CONNELL: And, Cindy, is there anyone
19 in Culver City?

20 MS. ARONBERG: No, Madam Controller.

21 CHAIRPERSON CONNELL: Then I think that we should
22 take a motion. Does anyone want to move the staff filed
23 recommendation here?

24 ACTING COMMISSIONER PORINI: I would move approval
25 of staff's recommendation.

1 COMMISSIONER BUSTAMANTE: Second.

2 CHAIRPERSON CONNELL: It's been moved and
3 approved, and Cindy will be voting for me, since I'm not
4 physically in California, And that will be a unanimous
5 vote, right, Cindy?

6 MS. ARONBERG: Yes.

7 (Laughter.)

8 CHAIRPERSON CONNELL: I love the way I can detach
9 myself from the vote. All right. So we have dealt with
10 that vote. Is that the conclusion of the regular calendar,
11 Mr. Thayer, or are there other speakers who want to address
12 the Commission during the public comment period?

13 EXECUTIVE OFFICER THAYER: We have no public
14 speakers here.

15 CHAIRPERSON CONNELL: Are there any comments by
16 Commissioners?

17 COMMISSIONER BUSTAMANTE: No.

18 ACTING COMMISSIONER PORINI: No.

19 MR. RUMP: There appear to be none in Culver City
20 as well.

21 CHAIRPERSON CONNELL: Fine. Thank you. Then that
22 concludes the Commission meeting and the meeting is now
23 adjourned. Thank you all.

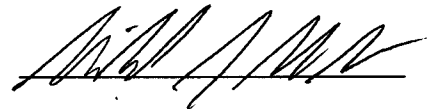
24 (Thereupon the meeting of the State Lands Commission was
25 concluded at 10:20 a.m. on August 14, 2002.)

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 17th day of September 2002.

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18 Michael J. Mac Iver

19 Shorthand Reporter
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