

MEETING
STATE OF CALIFORNIA
STATE LANDS COMMISSION

STATE CAPITOL
ROOM 2040
SACRAMENTO, CALIFORNIA

TUESDAY, AUGUST 19, 2003
10:00 A.M.

ORIGINAL

JAMES F. PETERS, CSR, RPR
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APPEARANCES

BOARD MEMBERS

Mr. Cruz Bustamante, Chairperson, represented by
Ms. Lorena Gonzalez

Mr. Steve Westly, Acting Chairperon

Mr. Steve Peace, represented by
Mr. Steve Larson

STAFF

Mr. Paul Thayer, Executive Officer

Mr. Jack Rump, Chief Counsel

Ms. Kimberly Korhonen, Executive Assistant

Mr. Martin Eskijian

ALSO PRESENT

Alan Hager, Deputy Attorney General

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1 1st rather.

2 May I have a motion to approve the minutes?

3 ACTING COMMISSIONER GONZALEZ: I move to approve
4 the minutes.

5 ACTING COMMISSIONER LARSON: Second.

6 ACTING CHAIRPERSON WESTLY: All right. All in
7 favor please say aye.

8 (Ayes.)

9 ACTING CHAIRPERSON WESTLY: Thank you.

10 The minutes are unanimously adopted.

11 The next order of business is the Executive
12 Officer's report.

13 Mr. Thayer.

14 EXECUTIVE OFFICER THAYER: Mr. Chairman, good
15 morning. I have a very brief report this morning.

16 I just wanted to mention that with respect to
17 enforcement of the ballast water program, we had
18 previously discussed this with the Commission, and there
19 were two areas that we were looking to enforce. And I
20 just wanted to report that on one of them, the violations
21 by the agency K&S, that we have proceeded and referred
22 that to the Oil Spill Prevention Response Office for
23 enforcement.

24 And we'll keep you up to date on the second one
25 when there are developments in that.

1 And that will conclude my report, unless there
2 are any questions.

3 ACTING CHAIRPERSON WESTLY: I have no questions.
4 Mr. Larson or Ms. Gonzalez?

5 No?

6 Is there anyone in the audience at this time who
7 would like to speak out on an item on the consent
8 calendar? If not, the remaining group of consent items
9 will be taken up as a group for a single vote.

10 Is there a motion on the consent calendar?

11 EXECUTIVE OFFICER THAYER: If I may, Mr. Chair.
12 There are a couple items that I'd like to announce are
13 removed from the consent calendar before the vote's taken.

14 ACTING CHAIRPERSON WESTLY: Please, Mr. Thayer,
15 if you could give us that background.

16 EXECUTIVE OFFICER THAYER: Certainly.

17 There are five items -- or six: C7, C20, C23,
18 C34, C79, and C94. All but one will be heard at a
19 succeeding commission meeting. C7 would be heard at the
20 end of our regular calendar item -- a regular calendar
21 item.

22 ACTING CHAIRPERSON WESTLY: Let me just say for
23 the record, as Controller I serve on over 50 boards and
24 commissions. And I really feel like you at the Lands
25 Commission set the standard for working collegially with

1 people with very conflicting interests. And I just thank
2 you for doing this. I know you've resolved a number of
3 issues in advance in an appropriate and a statesmanlike
4 way; and a few that you couldn't, I know you've postponed.
5 And I fully expect most of these will be resolved in
6 advance of the meeting.

7 So I just want to give appropriate kudos where
8 kudos are due, especially when so many people are critical
9 of government in these times. You're doing a first-rate
10 job.

11 EXECUTIVE OFFICER THAYER: That's very nice of
12 you to say. And I'll certainly pass it along to the rest
13 of the staff who are really responsible for that result.

14 ACTING CHAIRPERSON WESTLY: Well, I appreciate it
15 a lot.

16 So is there a motion on the consent calendar?

17 ACTING COMMISSIONER GONZALEZ: Before we do
18 that --

19 (Thereupon a cell phone rang.)

20 (Laughter.)

21 ACTING COMMISSIONER GONZALEZ: And I won't even
22 answer it.

23 Before we do that, there's a couple that I would
24 like to pull off or comment on, if that's okay.

25 ACTING CHAIRPERSON WESTLY: Absolutely.

1 ACTING COMMISSIONER GONZALEZ: As far as -- I'll
2 go numerically, if I may. Ended up making this up.

3 C11, is that amended?

4 EXECUTIVE OFFICER THAYER: Yes, that was amended.
5 As a result, the Commission will be sending a letter to
6 the OSPR Office with respect to the spill that occurred
7 there.

8 ACTING COMMISSIONER GONZALEZ: Okay. I just
9 wanted to reiterate on behalf of Lieutenant Governor
10 Bustamante that when he first sat as Chair of this
11 Commission, he adopted and I believe the Commission
12 adopted a zero-tolerance policy on any kind of oil spill.
13 So it was really important to him that a letter was sent
14 OSPR reaffirming that and making sure that a fine was
15 imposed for it, even an accidental spill.

16 Well, I guess all spills are probably accidental.

17 EXECUTIVE OFFICER THAYER: We hope.

18 ACTING COMMISSIONER GONZALEZ: Let's hope
19 nobody's out there spilling on purpose.

20 Okay. The next one I had a question on was C85.

21 EXECUTIVE OFFICER THAYER: That --

22 ACTING COMMISSIONER GONZALEZ: And I didn't want
23 to pull staff report on any of these. I just wanted to
24 clarify that all we are doing in that is asking Venoco to
25 go forward with an EIR process and allowing you to go

1 forward with that.

2 EXECUTIVE OFFICER THAYER: This would provide
3 that authorization so that we could -- so I could enter in
4 to a contract for the preparation of an EIR for the
5 extension of the lease for the marine terminal at Ellwood.

6 ACTING COMMISSIONER GONZALEZ: Okay. And we will
7 make it clear to Venoco that prior to taking up -- was it
8 C94?

9 EXECUTIVE OFFICER THAYER: Yes.

10 ACTING COMMISSIONER GONZALEZ: -- that this will
11 be resolved?

12 EXECUTIVE OFFICER THAYER: And that has been
13 done. As I've discussed with all the Commissioners'
14 offices, we're working with Venoco, and we hope to have a
15 successful result. But at the moment there needs to be a
16 little bit more work to achieve that.

17 ACTING COMMISSIONER GONZALEZ: And, finally, I
18 want to pull C86, if that's okay. There seems to be a lot
19 of confusion I think over this item in Ventura County.
20 And I got calls this morning from county supervisors as
21 well as from an Assembly person. And I want to ensure
22 that we get in contact with those people and deal with
23 this issue before it's taken up.

24 I think there may be confusion. But in case
25 there's not, if they truly are opposed to it, I'd like to

1 hear that out. They were unable to make the meeting
2 today.

3 EXECUTIVE OFFICER THAYER: There was an
4 unfortunate newspaper article that came out at the end of
5 last week which implied that the item on today's agenda
6 for the Commission consideration was for approval of the
7 LNG project itself rather than, as is in fact the case,
8 merely authorization as with the previous item for us to
9 enter in to a contract to prepare the Environmental Impact
10 Report.

11 We contacted the reporter and asked for a
12 correction to be published. I believe it was. But as a
13 result, there has been a lot of confusion because of that
14 article.

15 ACTING COMMISSIONER GONZALEZ: And can we make
16 sure that we get in touch then with -- I think it's a
17 Supervisor Flynn?

18 EXECUTIVE OFFICER THAYER: Yes.

19 ACTING COMMISSIONER GONZALEZ: And I also had
20 requests from Assembly Woman Pavley's office. So if we
21 could get ahold of those two people and try to clear up
22 any confusion.

23 And then if there's still hesitation on this, if
24 we can try to work that out.

25 EXECUTIVE OFFICER THAYER: Sure.

1 ACTING COMMISSIONER GONZALEZ: I know there's a
2 lot of caution with LNG facilities and the rise of those.
3 It's really important to the Lieutenant Governor that, you
4 know, we proceed with caution and really look to see
5 what's going on before we move forward.

6 EXECUTIVE OFFICER THAYER: We'll certainly
7 contact those individuals.

8 But just to set the record clear, that the
9 Commission -- the staff was only bringing authorization to
10 prepare the EIR to the Commission. And the intent of that
11 process is to do two things: One is to develop the
12 information about the project, which would include an
13 examination of the same issues that the folks who are
14 concerned about this have. And the second thing is it has
15 an enormous public participation element to it. And so I
16 think those folks who are most concerned about what we're
17 doing here are, in fact, most benefited by the process
18 that we wanted to get going today. But we can take that
19 up at a succeeding meeting.

20 ACTING COMMISSIONER GONZALEZ: Okay.

21 ACTING CHAIRPERSON WESTLY: Thank you, Ms.
22 Gonzalez.

23 Just for the staff's record then, we will remove
24 from the consent calendar items C11, C85 and --

25 ACTING COMMISSIONER GONZALEZ: No, C11 stays on.

1 I just wanted to make sure that it had been amended from
2 what I had originally seen, because I didn't have time
3 this morning to go through it.

4 EXECUTIVE OFFICER THAYER: So C86 is the only one
5 that --

6 ACTING COMMISSIONER GONZALEZ: C86 is the only
7 one that I want to remove before voting on them.

8 ACTING CHAIRPERSON WESTLY: Terrific.

9 And Mr. Larson.

10 ACTING COMMISSIONER LARSON: I had a question
11 about C86 also. And it's really following on from what's
12 been discussed. I wondered if there was any harm done by
13 delaying it until the next meeting.

14 EXECUTIVE OFFICER THAYER: It will mean that
15 we'll initiate the EIR two months later. We're
16 anticipating our next meeting being in October, we believe
17 around October 20th. And we're looking to do it in San
18 Diego.

19 That date is not firmly established yet, but
20 still that's the time we're looking at.

21 ACTING COMMISSIONER LARSON: So it delays the
22 process by two months?

23 EXECUTIVE OFFICER THAYER: Yes, it does.

24 It's also true we do not yet have a completed
25 permit application. So the total delay -- which we're not

1 expecting until September. So there may be -- it may not
2 be the entire two months' delay that we're talking about
3 here.

4 ACTING CHAIRPERSON WESTLY: All right.

5 ACTING COMMISSIONER LARSON: I make a motion to
6 approve the consent items.

7 ACTING CHAIRPERSON WESTLY: Is there a second?

8 ACTING COMMISSIONER GONZALEZ: Second.

9 ACTING CHAIRPERSON WESTLY: All in favor say aye.

10 (Ayes.)

11 ACTING CHAIRPERSON WESTLY: Okay. Motion passes
12 unanimously.

13 Item 99 is the consideration of a resolution
14 concerning the inventory of oil and gas resources in the
15 outer continental shelf.

16 I'd like to make a few comments about this item.

17 I'm proposing -- I always hate when we remove the
18 controversy early in the meetings.

19 (Laughter.)

20 ACTING CHAIRPERSON WESTLY: I'd like to go ahead
21 and make a few comments about this item.

22 I'm proposing this resolution because I believe
23 we must maintain the moratorium on oil development off
24 America's coastline. I am deeply concerned that Congress
25 by their recent actions may try to reauthorize new leases

1 on oil and gas development off California's coast. I
2 think this is poor policy for the state.

3 Senator Domenici, the Chair of the Senate
4 Committee on Energy and Natural Resources promised to
5 pursue his oil agenda, which includes taking inventory of
6 offshore oil and gas resources as part of the 2003 energy
7 bill. This inventory's widely seen as a first step
8 towards new offshore development in California and in
9 other places in the country. And I believe we need to
10 oppose it in the strongest possible terms.

11 Even more alarming is the fact that this study
12 would scrutinize state and local programs to determine if
13 they impede offshore development. In California these
14 programs protect our coast from the harmful effects of oil
15 development, and that we reap recreational benefits,
16 environmental benefits, economic benefits from tourism, et
17 cetera.

18 Even if the inventory doesn't lead to
19 development, the study itself poses risks. I have
20 concerns about the seismic surveys, that we'd use
21 high-energy air guns, which may cause harm to fish and
22 marine life. California bans these surveys because of
23 these dangers.

24 The California State Lands Commission has worked
25 to phase out oil development off our shores. We've

1 accepted eight quit claims of oil leases since 1995, have
2 not leased any new areas in more than 30 years. This
3 resolution is consistent with our tradition and will make
4 a strong statement to Congress that we value our coast.

5 I'd like to ask the other Commissioners to join
6 me in supporting it. And I'd like to ask if there are any
7 other speakers on this resolution?

8 ACTING COMMISSIONER LARSON: Move to approve.

9 ACTING CHAIRPERSON WESTLY: No comments from the
10 Commissioners?

11 ACTING COMMISSIONER GONZALEZ: I just want to
12 reiterate, the Lieutenant Governor wanted to thank you for
13 bringing this forward. He brought a similar resolution
14 forward I think two years ago now on the undeveloped 36
15 offshore oil facilities imperiled waters. And thank you
16 for bringing it forward. It's absolutely important, if we
17 can make sure it's in the strongest language possible,
18 that we again affirm that California's completely opposed
19 to any extension of offshore oil drilling.

20 ACTING CHAIRPERSON WESTLY: Thank you.

21 ACTING COMMISSIONER GONZALEZ: Because there
22 seems to be some misunderstanding at the federal level
23 that California did not oppose offshore oil drilling. And
24 so any time we can remind them, I think it's a great
25 thing.

1 ACTING CHAIRPERSON WESTLY: Just for the record,
2 I think we need to be at least as emphatic as the people
3 in Florida are.

4 (Laughter.)

5 ACTING CHAIRPERSON WESTLY: I think the President
6 will appreciate that.

7 So, Ms. Gonzalez, we have a motion.

8 ACTING COMMISSIONER GONZALEZ: I second.

9 ACTING CHAIRPERSON WESTLY: Thank you.

10 All in favor please say aye.

11 (Ayes.)

12 ACTING CHAIRPERSON WESTLY: Terrific.

13 Item No. 100 is the informational item concerning
14 the Marine Oil Terminal Standards.

15 May we have the presentation from the staff.

16 Mr. Thayer.

17 EXECUTIVE OFFICER THAYER: Certainly. Thank you,
18 Mr. Chair.

19 The staff presentation will be made by Martin
20 Eskijian, who's with our Marine Facilities Division. Mr.
21 Eskijian is an engineer who's been looking at seismic
22 safety issues for some time. And this informational item
23 today, although it's the first time we've really come to
24 the Commission in a while with it, really represents a lot
25 of work that's gone over the last few years and analyze

1 the potential impacts to California from what we think of
2 as the unpreparedness by marine oil terminals at the
3 present time to handle large earthquakes. And so this
4 will be an item that will explain the research we've done
5 and some of the proposed standards that we'll be bringing
6 back to the Commission in several months in the form of
7 regulations.

8 ACTING CHAIRPERSON WESTLY: Terrific.

9 Mr. Eskijian, please let me just say, I know this
10 is a tough time for staff and budget cuts and the like.
11 And let me just say I particularly appreciate the
12 expertise that people like you bring with a fairly deep
13 technical background. It's extremely important, as we're
14 trying to do good public policy. And just please let your
15 colleagues know you're genuinely valued here. So I'd love
16 to hear your presentation.

17 MR. ESKIJIAN: Thank you.

18 All I've got to do now is figure out how to get
19 my presentation working. It's a slide show.

20 (Thereupon an overhead presentation was
21 Presented as follows.)

22 MR. ESKIJIAN: Well, it's a privilege to be here,
23 Mr. Chairman and Commissioners and ladies and gentlemen.
24 And I'll make this as brief as I can. If you have any
25 questions or comments, just please speak up.

1 And you're seeing the very tip of the iceberg
2 here. You're not seeing the full story, because it's
3 pretty detailed. It involves about four years of pretty
4 hard work by myself, my staff, and a whole bunch of other
5 people from industry and from the professional field.

6 Again, this is informational. And we're hoping
7 to come back in January with it for your vote. So this is
8 to kind of get you -- how you feel about it. That's the
9 idea of today.

10 --o0o--

11 MR. ESKIJIAN: I've been looking at marine oil
12 terminals for about the last 11 years. I started out as a
13 complete novice, and started looking at them from Eureka
14 to San Diego. We found that there's some real problems
15 with the oil terminals in California.

16 The average age is 50 years. The newest one was
17 built in 1984. The twenties is a common build date. The
18 seismic standards were extremely minimal or nonexistent.
19 They in no way come close to today's standards.

20 Some of the reasons why we took this course to do
21 this work were that -- it's called grandfathering, where
22 when we started to look at operations manuals, we let the
23 operator use the vessel that he was bringing in at that
24 point and say, "Yes, it's okay," without any engineering
25 justification.

1 wharf. And the vessel that was tied there one day had a
2 very adverse current. At the same time a vessel was
3 passing by and the line started to part. That means a
4 system had been broke all the way down.

5 And the last thing to go is where the arrow is,
6 which is called a loading arm. And one of the employees
7 risked his life, went in there, shut off the oil, got out
8 of the way. And the loading arm collapsed and went in the
9 water. That was the last arm holding the vessel to the
10 wharf. It dropped in the water. It cost \$500,000 to
11 replace. The vessel drifted off. It didn't hit anybody.
12 It didn't hit a bridge. It didn't hit a tank ship or
13 anything. And the captain was smart enough to drop his
14 anchor and averted a major catastrophe. It was like this
15 close to being a major problem.

16 --o0o--

17 MR. ESKIJIAN: This is Turkey one week after the
18 earthquake of August 17th, 1999. And we were in a little
19 boat. And I saw that and I said, "I've got to get a
20 picture of that." That's what's called a mooring dolphin.
21 And it has no structural integrity left. You can see that
22 the rebar is exposed.

23 You have to hit a fundamental frequency when the
24 earthquake hit that day. And it severely damaged it. You
25 have a large mass on top.

1 Why'd I take that picture? Because that
2 structure was built by Americans in the mid-1960s. That's
3 the same design, the same kind of thing that we had in
4 northern California all over the place.

5 And the Hayward fault is just as apt to go as the
6 north Anatolian fault that went in a matter of...

7 --o0o--

8 MR. ESKIJIAN: There was a vessel that was moored
9 at this marine oil terminal. He decided that -- after
10 seeing a tsunami of a meter or two and watching the wharf
11 kind of oscillate back and forth, he decided it was
12 probably time to leave town. So he left town. And his
13 hose ruptured. Just like going to the gas station, when
14 you pull away and your nozzle's still in the tank. You've
15 seen people do that. Except in the gas station the flow
16 turns off. In this case the flow doesn't turn off.

17 This is my favorite shot. When you have an
18 earthquake and you have a major oil spill from a marine
19 oil terminal, the answer is yes. This is Turkey. There's
20 about three to six inches of crude in the small fishing
21 marina. The estimate was 2,000 to 3,000 barrels of oil
22 spilled as a result of the earthquake of August 17th,
23 1999.

24 So what did we do? You all know the
25 Lempert-Keene-Seastrand Oil Spill Response Prevention Act.

1 And there's a very famous quote in there that addresses
2 the problem that we have here, and it says, "Commission is
3 to adopt performance standards from marine oil terminals."
4 And that's what -- using that as a mandate, that's how we
5 started the project and said, "Okay. We're going to do
6 this. We're going to do this as best we can."

7 We submit a proposal to FEMA as a result of the
8 1994 Northridge earthquake. The grant was approved. We
9 got \$500,000 from FEMA. The California State Lands
10 Commission came in with \$300,000 for the non-seismic
11 portions. My staff time is somewhere in the order of
12 \$400,000 to \$500,000. If you add on the consultants that
13 gave their time for free, the industry, and all the people
14 that helped us, probably another \$100,000 or \$200,000
15 involved in this project.

16 There was a grant from the University of Southern
17 California for \$1 million for the seismic and tsunami
18 threat for southern California, and that work has been
19 completed.

20 Think of it this way: You're going to the
21 doctor. You're 50-years old. These structures are
22 50-years old. You never had a physical. You don't know
23 anything that's wrong with you. This is the equivalent of
24 the blood test, the EKG, the colonoscopy, everything you
25 got to do, this is what it is for a marine oil terminal.

1 It tries to capture every bit of important
2 information relative to the safe and fit-for-purpose use
3 of that terminal.

4 --o0o--

5 MR. ESKIJIAN: Now, we didn't do this in a
6 vacuum. We had two major workshops. We invited everybody
7 that we knew from industry, consulting firms, port
8 engineers, and academia. At these works shops there were
9 around 80 to 100 people. We have the exact numbers in my
10 office.

11 We didn't stop there. That wasn't enough. We
12 gathered the best brains we could, the best seismic-type
13 structural engineers in California and the United States,
14 got them together and formed a technical advisory group.
15 That work was complete and they could find nothing wrong
16 with the structural portions of the MOTEMS.

17 We involved industry. We invited WSPA. We
18 had -- that's the Western States Petroleum Association.
19 They are participants. They are aware of every word,
20 every nuance of this document. They participated. Most
21 of their comments we incorporated into this document.
22 There were some we couldn't, but we did the very best we
23 could to make everybody feel that this was a document they
24 could live with.

25 --o0o--

1 MR. ESKIJIAN: To the best of my knowledge
2 there's never been any technical disagreement over what's
3 in this document. It's about a hundred pages long. It
4 represents the state-of-the-art engineering for marine oil
5 terminals.

6 A couple of ways that we know that that's true:

7 There's an international body called PIANC. And
8 in 2001 they published a book called Seismic Design
9 Guidelines for Port Structures. This is an international
10 accepted document and group. And the seismic criteria and
11 methods and design information in that document were taken
12 exactly right out of the work that was done for us.

13 Item 2 is the National Earthquake Hazard
14 Reduction Program. And I was asked to chair a small group
15 of -- a subcommittee of this group for the past year and a
16 half. And I was tasked to develop standards for ports and
17 harbors for marine structures. And it's just been
18 approved for the 2000 edition. It will reference the
19 MOTEMS and the PIANC document.

20 The work won an award this year in New York.
21 It's called the Silver Award. It's issued by the
22 Consulting Engineers Association of New York. It was
23 recognized as a research and development project for New
24 York state.

25 We believe that this work fulfills the mandate

1 that we have under Lempert-Keene-Seastrand, are providing
2 the best achievable protection and regulations that will
3 take care of the performance standards of marine oil
4 terminals whether they're existing or new.

5 --o0o--

6 MR. ESKIJIAN: There are some things that push
7 buttons with people. And I want to go through a few of
8 these. They are important concerns, but they're concerns
9 that we believe are entirely justified.

10 The first is that you need a registered engineer
11 on the dive team to inspect under water. Now, this is not
12 having somebody like myself being dangled by their feet
13 and swimming two feet under the water. This is having a
14 registered engineer diver person being part of the group
15 that goes down from the mud line to the splash zone and
16 touches or sees, visually observes the piles.

17 It's become a national standard, and we are
18 consistent with the new national standard. I was also on
19 the committee that wrote that book, and I believe in it.

20 Grandfathering of terminals will end. There is
21 no longer, "It was okay yesterday, it's okay tomorrow."
22 Every vessel that comes into California's marine oil
23 terminals will now have to have an engineering
24 justification that is safe for use at that facility. That
25 includes considerations for wind, seismic, and berthing.

1 They say, "Well, that's no big deal." Well, it
2 is a big deal when your berthing system is 50 years old
3 and it's designed for a very small ship and all of a
4 sudden now you're bringing in one that weighs four or five
5 times as much. The impact velocity's much higher. So it
6 is a big deal, and we feel it's very important. We don't
7 want to have any of those pipelines fail.

8 A seismic analysis will be required, unless you
9 can come up to the standard that we have specified. You
10 say, well, where do we come up with that? Well, we came
11 up with the exact same seismic criteria as being used in
12 the refineries. There's something called CalArt, which
13 says that refineries in California have to come up to a
14 certain seismic standard. We're saying that that same
15 seismic standard should include the marine oil terminal
16 which is attached to the refinery, so there's the same
17 level of seismic hardness between the two.

18 And so we feel real justified to do that.
19 There's not anybody -- they'll say they don't want to do
20 it, but there's good justification to do it. If your
21 structural analysis shows a large deflection, like your
22 structure's moving a foot or two, you may have to do a
23 pipeline analysis to show that you can handle those global
24 displacements.

25 Underwater volumes are consistent with an

1 international standard, but it hasn't been made in to a
2 regulation. We're making it in to a regulation.

3 --o0o--

4 MR. ESKIJIAN: Another problem in California is
5 that people buy and sell marine oil terminals today, and
6 the third or the fourth owner may not have any idea what
7 the structure is, what the pipelines are, what's going on.

8 Well, to do this you have to come up with
9 drawings. And the drawings have to be sufficient to
10 provide the engineering details necessary to perform the
11 analysis. And we think we're justified to make people do
12 that.

13 ACTING COMMISSIONER LARSON: How many marine oil
14 terminals are there?

15 MR. ESKIJIAN: There's about 45 in today's
16 population that this would affect.

17 ACTING COMMISSIONER LARSON: And how are they --
18 what's the ownership pattern?

19 MR. ESKIJIAN: Major oil companies like the
20 Chevrans and the Tesoros, ConocoPhillips, down to mom and
21 pop.

22 ACTING COMMISSIONER LARSON: And will you involve
23 those folks in the process here?

24 MR. ESKIJIAN: They've all been involved since
25 day one. Some of them choose not to contribute or be

1 involved, but they've all been invited to contribute from
2 day one. They were all invited to the workshops. It's
3 out for public comment right now. Public comments are
4 coming in I think in October, when they can come and give
5 their statements. The document's on the web. It's a
6 hundred pages long.

7 ACTING CHAIRPERSON WESTLY: Is there a pattern
8 here -- and I'm just guessing -- maybe a third or a half
9 of them are sort of good corporate citizens, they're
10 participating, giving you feedback?

11 MR. ESKIJIAN: Yeah. I would say that's probably
12 about a third to a half. That's about right.

13 ACTING CHAIRPERSON WESTLY: Good.

14 MR. ESKIJIAN: The ones that are rated higher are
15 about 14; moderate are about 12; and low, about 15. So
16 the highs and the medium risk people, yes, they're
17 cooperating. Most of them are very much aware of this.

18 ACTING COMMISSIONER LARSON: I'm sorry. What is
19 a high and medium and low --

20 MR. ESKIJIAN: Oh, I don't want to get in to the
21 details, but I should.

22 ACTING COMMISSIONER LARSON: -- participation of
23 them?

24 MR. ESKIJIAN: It has to do with the amount of
25 oil at risk. Four hundred barrels of oil at risk between

1 your flowing oil, your stored oil. And if it adds up to
2 more than 1,200 barrels, you're a high-risk facility.

3 ACTING CHAIRPERSON WESTLY: Okay.

4 MR. ESKIJIAN: And those are the major oil
5 companies, your high flow rates and --

6 ACTING CHAIRPERSON WESTLY: At least a few of
7 those folks are participating and sharing concerns?

8 MR. ESKIJIAN: Oh, yes.

9 ACTING COMMISSIONER LARSON: The large ones --
10 how many of the really large --

11 MR. ESKIJIAN: The largest player -- I'll get to
12 it in a minute -- is -- I would say would be the Chevron
13 long wharf in Richmond. And they have just completed
14 their MOTEMS seismic upgrade. And, understand, that
15 facility was built the year I was born, 1946. And they
16 want to run that structure for another 40 years. And they
17 spent -- they won't tell me how much money they spent, but
18 they spent a lot of -- millions of dollars doing a seismic
19 upgrade so it will withstand the next earthquake.

20 Because they can't tear it down. They want it to
21 remain in use and they want to strengthen it. So this
22 gives them a way to do that. And I'm very happy they use
23 our structure.

24 --o0o--

25 MR. ESKIJIAN: I want to talk about the

1 geotechnical review for one minute. If I'm boring
2 anybody, let me know. I don't want to bore anybody.

3 But you think, "Well, why do we have to do a
4 geotechnical survey here? Why do we need to do any
5 screening?" Well, it turns out that you do. And we had a
6 lease that came up for renewal here about a year and a
7 half go. And we said to these people, "Well, we want you
8 to go out and do a geotechnical screening similar to
9 what's in MOTEMS." And they said -- they hemmed and
10 hawed, but they went out and they did it.

11 And it turned out that -- a very large propane
12 tank right against the water when they checked it. They
13 said, "We've got a problem here."

14 So we have a very good verification that our
15 screening process for geotechnical issues is relevant, it
16 works, and it has been used. So we feel real confident
17 about that.

18 If discrepancies or deficiencies are found, they
19 don't have to be corrected the same day. All you have to
20 do is come in with an approach and a schedule, tell us how
21 long it takes. And if we agree and you agree, then you
22 just follow through with that program and rehabilitate
23 over the next one, two, three, or four years. If it's ten
24 years, you may have a problem.

25 --o0o--

1 MR. ESKIJIAN: And the audit process repeats.
2 You have to go in and do your underwater inspection in
3 five or six years later. If your structure's ready to
4 fall down now, you may have to come back in a year.

5 What's going on outside of this project? A
6 number of items.

7 The Port of Oakland did a strengthening project.
8 And they've used the MOTEMS in their strengthening
9 project. So it's been tried and tested by the Port of
10 Oakland.

11 The Chevron long wharf, I've already alluded to.
12 It's done this. It's completed. And they're very happy
13 with what they came out with.

14 The third item. I'm a member of the State Strong
15 Motion Instrumentation Program, and I've twisted some
16 arms. And Chevron long wharf has put accelerometers onto
17 their wharf. And so in the next earthquake we will know a
18 number of things:

19 1) Did that structure respond as it was estimated
20 to in the analysis?

21 2) Did it respond? Is the acceleration high
22 enough for me to call everybody in northern California and
23 say, "You may have a problem."?

24 And 3) it's known -- within five or ten minutes
25 we'll have that record of that event.

1 So it's an extremely useful item. Chevron went
2 out of their way and fought an uphill battle to get it
3 intrinsically safe and mounted on the wharf, which they
4 did, and everything's moving ahead.

5 The Port of Oakland has also mounted
6 accelerometers on their wharves as a result of the
7 subcommittee I'm on. And also the Port of L.A. and Long
8 Beach are planning the same.

9 It's interesting that to date there is only one
10 record, from Loma Prieta, in the United States of an
11 earthquake on a wharf. There is one record. It's an old
12 record. It's 1989. One grad student is currently looking
13 at it at the University of Oregon.

14 --o0o--

15 MR. ESKIJIAN: We had an opportunity on this next
16 item to do a full scale test. This is in the Port of Long
17 Beach. They were going to demolish an 1,100 foot long
18 Navy pier. And we asked if we could test the piles and
19 some of the pile groups before they destroyed it.

20 We came in and tested aesthetically and
21 dynamically. Professor Scott Ashford at the University of
22 California at San Diego is looking at the results now and
23 interpreting them. It's probably the only known full
24 scale test of a pile in silt. So it's extremely useful to
25 the academia and to the profession. And we're real happy

1 data and compare it with the equations. So we're doing
2 that right now. And that to me is real exciting.

3 And that's the end of the program. I hope to be
4 back in January and we'll tell you that it's time for a
5 vote.

6 ACTING CHAIRPERSON WESTLY: That was a terrific
7 report. You certainly covered a lot of ground. And I'm
8 eager to hear some of the data as it comes back. I think
9 we're all looking forward to the report.

10 You said it will come back in November or
11 January?

12 MR. ESKIJIAN: Whenever we can get done with the
13 public comment. And we're guessing December, January, I
14 think, for the vote, I believe. Right?

15 EXECUTIVE OFFICER THAYER: I think the next phase
16 we're entering into is the one that's dictated by the
17 Office of Administrative Law in terms of how we need to go
18 about adopting regulations. And that involves more public
19 input to ensure that the standards we come up with have
20 been reviewed by the people who will be -- and the
21 companies that will be affected by that. That will happen
22 this fall.

23 And at the end of that process, once there's been
24 full public involvement in the proposed regulations, then
25 we'll bring them back to the Commission.

1 ACTING CHAIRPERSON WESTLY: That's terrific.

2 This is just an informational item. There is no
3 vote. But I'd like to ask either of the two other
4 Commissioners if they'd like to ask any questions.

5 ACTING COMMISSIONER GONZALEZ: I have no
6 questions. I just have a small comment.

7 I want to thank you. It was a great
8 presentation. I really appreciate you bringing together
9 something that we can work on, and I think that that's
10 vital.

11 However, I want to emphasize on behalf of the
12 Lieutenant Governor, you can't be too aggressive when
13 we're talking about safety. We would hate for you to --
14 you know, you brought up issues. They're important
15 issues, and we're glad that you're working it out. That's
16 very important, so we don't have people saying that they
17 think it's unbearable and that's a part of this.

18 MR. ESKIJIAN: That's why I said it.

19 ACTING COMMISSIONER GONZALEZ: But absolutely go
20 out there, be aggressive as possible, because the last
21 thing we want is a catastrophe in our waters.

22 MR. ESKIJIAN: Thank you.

23 ACTING COMMISSIONER GONZALEZ: And that's exactly
24 what this would be. This to me scares me a little, I
25 mean, because it -- can't you bring it to us tomorrow for

1 a vote, you know --

2 MR. ESKIJIAN: I'd love to.

3 ACTING COMMISSIONER GONZALEZ: -- before the next
4 major earthquake?

5 But thank you very much for all your work on
6 this.

7 ACTING COMMISSIONER LARSON: One question.

8 Have you had a chance yet to estimate how much
9 this is going to cost totally in terms of to the industry?

10 MR. ESKIJIAN: Yes, we have. We have some
11 numbers that went in with the filing with the Office of
12 Administrative Law. And those numbers are being processed
13 right now. And basically something like five or six
14 hundred thousand a year for major operators. And the cost
15 of losing the 1,200 barrels of oil based on \$20,000 a
16 barrel, which is kind of a rough number, we're talking 24
17 million.

18 And then if you happen to do this in the Port of
19 L.A. or Long Beach -- you remember the longshoremen's
20 strike? And the L.A. Times reported that the cost to
21 close down one of those ports was around \$1 billion a day.
22 So we're talking about small change compared to the risk
23 that you lose -- shut down a port for a day.

24 ACTING COMMISSIONER LARSON: So you don't think
25 it would cost more than about half a million --

1 MR. ESKIJIAN: A year.

2 ACTING COMMISSIONER LARSON: -- per company per
3 year --

4 MR. ESKIJIAN: Yes.

5 ACTING COMMISSIONER LARSON: -- to maintain
6 these --

7 MR. ESKIJIAN: And that's over a number of years.
8 I mean that's not -- your first year's going to be
9 expensive. But after five or six years, it becomes about
10 that number.

11 ACTING CHAIRPERSON WESTLY: For my part, I just
12 wanted to add two points.

13 First, I used to do that -- the Director of
14 Economic Development for San Jose. And I know firsthand
15 from an economic development standpoint what a huge
16 stimulus the ports are in this state. You know, L.A. and
17 Long Beach in particular are an incredible engine for
18 economics to draw production in the state. And we have to
19 make sure those ports continue to operate.

20 The second thing is I would just love it if the
21 staff could, at some point, come back to us and help a
22 little bit. When you put the standards out, I think that
23 will be a great step forward. But as a rule, you know,
24 what I've tended to observe over time is that some
25 companies, usually the most profitable ones, are the good

1 corporate players. They tend to do the right things.
2 Sometimes larger firms. But there are often companies
3 that are struggling a bit, having tougher times, and those
4 are the ones we most worry about. Here we are in a free
5 market system. I would just love to see any
6 recommendations on what we could do to provide the
7 appropriate stimulus for companies to do the right thing,
8 above and beyond simply saying, "Here are the standards.
9 Go meet them."

10 And any feedback you can give us, qualitative or
11 quantitative, as to how to provide the right incentives
12 for the corporations would be much appreciated.

13 MR. ESKIJIAN: Okay. That may go beyond my
14 engineering expertise. But I will say that there are --
15 I've seen a lot of engineering, good and bad, provided to
16 us when companies come in with proposals. And I've seen
17 the best and I've seen the worst. And we've done our very
18 best to close the loopholes in this 100 page document. So
19 that the bad player's going to get caught. He's going to
20 get caught.

21 And we have a staff of engineers to look at that
22 and look and review of what's submitted. And if it's not
23 adequate, it will be returned and they'll have to do some
24 part of it over again.

25 EXECUTIVE OFFICER THAYER: But what I hear the

1 Chair also focus on is that in addition to catching the
2 bad actors, we should recognize the ones that are
3 undertaking their responsibilities appropriately and pay
4 attention and reward that.

5 ACTING CHAIRPERSON WESTLY: Yeah, there's a
6 balance hear. Again, I want to make sure we have the
7 highest standards. That's terrific. But I guess I'm
8 looking for a carrot and stick approach. And rather than
9 simply saying, "Here's the next set of regulations in the
10 State of California. Go do it," that we're also providing
11 some incentives for people to do the right thing and
12 certainly making sure we recognize people who are doing
13 the right thing.

14 That's terrific.

15 Any other comments on that?

16 And now we come to my favorite item, Item C7, an
17 application for a residential pier along the Sacramento
18 River.

19 May we have the staff presentation?

20 CHIEF COUNSEL RUMP: Certainly. I'll make the
21 presentation. I'm Jack Rump, the Chief Counsel.

22 Normally this item is so small it would not bring
23 it to our regular calendar. However, it's an application
24 by a Commission employee, Paul Thayer and his wife.

25 This is intended as a regular discussion item to

1 afford a full and open disclosure, which I think it's
2 appropriate that we maintain the highest standards
3 possible.

4 A little background on this lease. It's
5 basically a dock along the Sacramento River. The first
6 lease for this site was issued in 1981. And then Mr.
7 Thayer applied for a new lease as the new purchaser of the
8 property in 1993 before he worked for the Commission. The
9 Commission at that time granted a ten-year lease. And it
10 is set to expire August 26th of this year.

11 Before the renewal process began, Mr. Thayer
12 disclosed his interest, he recused himself, and has not
13 participated in any manner with the issuance of this
14 lease.

15 I have worked with internal staff. I've been
16 authorized to contact Commissioners directly. But, again,
17 this is such a regular, routine small item. For example,
18 there are approximately 70 of these types of leases along
19 the Sacramento River from Discovery Park to the Sutter
20 County line.

21 Before you today, this is basically a renewal
22 situation, with no change in conditions or improvements.
23 All fees, costs have been paid. It's in full conformance
24 with the Commission's regulations and standards, and is in
25 my opinion indistinguishable from any of the other leases

1 which come before you in this manner.

2 So, again, Mr. Thayer's not participated, and you
3 are free to consider this for renewal at this time.

4 So that's my presentation. I'll be happy to
5 answer any questions.

6 ACTING CHAIRPERSON WESTLY: All right. Let me
7 establish for the record. And was Mr. Thayer charged the
8 same fees as the other applicants for the recreational
9 pier?

10 CHIEF COUNSEL RUMP: That is correct.

11 ACTING CHAIRPERSON WESTLY: Is there anything
12 different about this pier from other recreational piers?

13 CHIEF COUNSEL RUMP: None.

14 ACTING CHAIRPERSON WESTLY: I suspect this is
15 probably the most controversial thing Mr. Thayer has ever
16 done.

17 (Laughter.)

18 CHIEF COUNSEL RUMP: I assure you I have given it
19 the greatest scrutiny possible.

20 EXECUTIVE OFFICER THAYER: It's the one that made
21 me most nervous.

22 ACTING COMMISSIONER LARSON: Move approval.

23 ACTING COMMISSIONER GONZALEZ: Second.

24 ACTING CHAIRPERSON WESTLY: Okay. All in favor?

25 (Ayes.)

1 ACTING CHAIRPERSON WESTLY: Great. Passes
2 unanimously.

3 All right, Mr. Thayer.

4 That concludes --

5 (Laughter.)

6 ACTING CHAIRPERSON WESTLY: -- the regular
7 calendar.

8 Are there any speakers who wish to address the
9 Commission during the public comment period? We want
10 these meetings to be known for their openness.

11 And by the way, I think the way in which we
12 handled Mr. Thayer's request goes to the professionalism
13 of what we're trying to do at the State Lands Commission.
14 We want these meetings to be open, absolutely fair. And I
15 welcome any public comment or questions if there are any.

16 Otherwise, that concludes the meeting.

17 And we'll now adjourn into closed session. If we
18 can have the room cleared, please.

19 (Thereupon the California State Lands
20 Commission adjourns at 10:45 a.m.)

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