

MEETING  
STATE OF CALIFORNIA  
LANDS COMMISSION

EMPLOYMENT DEVELOPMENT DEPARTMENT  
AUDITORIUM  
722 CAPITOL MALL  
SACRAMENTO, CALIFORNIA

FRIDAY, AUGUST 20, 2010  
10:03 A.M.

JAMES F. PETERS, CSR, RPR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 10063

APPEARANCES

BOARD MEMBERS

Mr. John Chiang, State Controller, Chairperson,  
represented by Ms. Cindy Aronberg

Mr. Abel Maldonado, Lieutenant Governor, also represented  
by Amanda Fulkerson

Ms. Ana J. Matosantos, Director of Finance, represented by  
Ms. Cynthia Bryant

STAFF

Mr. Paul Thayer, Executive Officer

Mr. Curtis Fossum, Chief Counsel

Mr. Brian Bugsch, Chief, Land Management Division

Ms. Vicki Caldwell, Land Management Specialist

Ms. Michelle Clark, Land Management Specialist

Mr. Colin Connor, Assistant Chief, Land Management  
Division

Mr. Mario De Bernardo, Legislative Liaison

Ms. Nicole Dobroski, Staff Environmental Scientist

Ms. Mary Hays, Land Management Manager

Ms. Kimberly Lunetta, Executive Assistant

Mr. Kevin Mercier, Assistant Chief, Marine Facilities  
Division

Mr. Cy Oggins, Chief, Environmental Planning & Management  
Division

Mr. Jeff Planck, Senior Mineral Resources Engineer

Mr. Jim Trout, Retired Annuitant

Ms. Maria Voskanian, Assistant Chief, Mineral Resources  
Management Division

APPEARANCES CONTINUED

ATTORNEY GENERAL'S OFFICE

Mr. Joe Rusconi, Deputy Attorney General

ALSO PRESENT

Mr. Martin Adams, Los Angeles Department of Water and Power

Mr. John Berge, Pacific Merchant Shipping Association

Ms. Janice Dunn, California Space Authority

Mr. Wes Moody, Agate Swim & Pier Club

Ms. Victoria Rome, Natural Resources Defense Council

Ms. Katherine Stone, Seacliff Beach Home Owners Association

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1           The next order of business is the Executive  
2 Officer's report. Mr. Thayer, may we have your report.

3           EXECUTIVE OFFICER THAYER: Good morning, Madam  
4 Chair and members of the Commission. I'd like to devote  
5 the Executive Officer's Report to review of the audit  
6 which will be conducted on the State Lands Commission.  
7 We've provided a lot of material to the Commissioners'  
8 offices, but we're in a public forum here, and I think  
9 it's important to discuss what's happened and what will  
10 happen in the future and be available to answer questions  
11 should the Commissioners have any on the whole process.

12           So this will take several minutes. And we've  
13 distributed copies of several different pieces of  
14 information to the Commissioners that I'll refer to.  
15 There's an initial letter from Senator Cogdill. There's a  
16 staff response, which was mailed to the Audit Committee,  
17 and then finally a revenue history for the State Lands  
18 Commission.

19           So to review this, by way of background, on July  
20 21st, Senator Cogdill released a letter, which he had sent  
21 to the Joint Legislative Audit Committee on which he  
22 serves as a member. It raised concerns about whether the  
23 rents to the State Lands Commission were being kept  
24 current. And the particular concerns that were expressed  
25 in the letter were over the effect of lease holdovers,

1 whether or not the rent reviews were timely, a pipeline  
2 rental formula, and the negotiation results for several  
3 specific leases.

4 I want to start by saying that staff, and we  
5 believe the Commission, operates from the premise that the  
6 public should obtain fair market rent for the public's  
7 lands. And generally, we think, and the regulations  
8 provide, that the annual rent should be nine percent of  
9 the appraised value of the land. And that formula is  
10 pretty good, because it moves with inflation. So as  
11 property becomes valued higher, our rents go up. Each  
12 lease is individually negotiated and sometimes particular  
13 circumstances can cause different results.

14 As I say, I've provided you with copies of the  
15 Commission's revenue history clear back to 1938, which is  
16 when the Commission was established, and I'm sorry for the  
17 fine print there.

18 But Senator Cogdill's letter focuses really on  
19 the sixth column over from the left, the one entitled  
20 "Surface Rentals". These are the rents that are charged  
21 for things like marine terminals or other kinds of  
22 development that are located generally on dry land or  
23 marinas on wet property, but it's meant to be  
24 differentiated from oil revenues.

25 And as you can see, the surface rentals are a

1 fairly small portion of our overall revenue total, which  
2 is almost to the end on the right-hand side as a column of  
3 the total revenues. So our cumulative total through last  
4 year was about \$8.8 billion. And of that, the surface  
5 rentals was about \$200 million.

6 I think you can also see, by looking at this  
7 column, that the annual revenues from the surface rentals,  
8 when you look at the second page there in particular, has  
9 steadily climbed. We were down there a little over \$5  
10 million just 15 years ago in 1994-95. And this has  
11 climbed to what's really around \$12 million to \$13 million  
12 right now. The 20 million, which is shown for '08-'09, is  
13 an anomaly, and we don't want to claim a lot of credit for  
14 that, because it includes back rent that was paid by  
15 Chevron for the Richmond Long Wharf and we renegotiated a  
16 lease there, but we're at about 12 or 13 million right  
17 now.

18 And those increases come, in part, because of new  
19 leases. We steadily have more leases as we progress. But  
20 most of that increase comes from things the staff is doing  
21 to increase the revenue to the State. So we act on the  
22 five year rent reviews, which are part of every lease,  
23 every rent-paying lease. And there are a bunch of those  
24 in this calendar -- this agenda. If you look through it,  
25 you'll see there are a lot of them where we're raising the

1 rent, and they show up in every agenda.

2 Other things that contribute to the amount going  
3 up are the annual Consumer Price Index adjuster that we've  
4 started putting into the leases just in the last 10 years,  
5 with the idea that instead of waiting for the five-year  
6 rent review, we can adjust annually with rents to keep  
7 them current. And then finally, of course, the rent  
8 adjustments that occur when we renew a lease.

9 Commission staff, in response to the letter from  
10 the Senator, prepared a written response, which went to  
11 the Committee and, of course, copies were given to the  
12 Commissioners. Their response was intended to provide  
13 some factual background, correct a couple of mistakes in  
14 the Senator's letter, and suggest improvements that the  
15 Commission could make in response to the concerns raised  
16 by the Senator.

17 Of course, notwithstanding that response, the  
18 Committee did approve the audit, and we expect that audit  
19 will start next month and take somewhere around five  
20 months.

21 And of course, we will cooperate fully with the  
22 audit. As we've already gotten a letter from the Auditor  
23 General's Chief Counsel asking us to notify staff not to  
24 delete material unless it was in the normal course of  
25 business. And we've sent an Email around to staff to make

1 sure that's going to be followed.

2 We'll return to the Commission when that audit is  
3 done and discuss what changes, if any, are suggested in  
4 that audit, and how we should react.

5 However, in the interim, I think it's important  
6 that we -- I think we both can and should move forward  
7 with the changes that we already believe are appropriate  
8 based on the Senator's first letter. And I'd like to go  
9 over those. There are four of them. Three were mentioned  
10 in our response and we've added one more.

11 The first one would put a requirement on all  
12 future leases that the applicant would have to apply for a  
13 renewal two years before the lease would expire. That  
14 would start the whole process that much sooner, if there's  
15 an environmental review that's needed. And that's one of  
16 the reasons the oil terminal leases have gone into  
17 holdover frequently, where we want to see an EIR for that  
18 because of the risk of oil spill. And that's not settled  
19 law.

20 And the oil companies have resisted that at  
21 times, and it's taken awhile to get that done. But I  
22 think starting two years before the lease expires will get  
23 us going sooner and we can resolve these issues sooner.  
24 We've developed this option actually earlier this year,  
25 where we were doing an internal review of the holdovers

1 and looking for ways to prevent them.

2           The second recommendation would be if the lease  
3 is in holdover, we should conduct rent reviews to make  
4 sure that even if we're under the old lease, we're  
5 charging current market rents. We'd already started to do  
6 that. In fact, for the El Segundo Marine Terminal lease,  
7 which is in holdover, we brought a rent review to the  
8 Commission last year. It wasn't the new lease, but it  
9 brought them up to the current rent. And there also will  
10 be -- we'll be bringing an agreement for them to pay back  
11 rent, so that during the holdover period, the rents will  
12 be raised even higher than they've been paying right now.  
13 But we're going to do that on a regular basis.

14           The Senator took note of a pipeline rent formula  
15 that's in our regulations that was established last in  
16 1980. It provides that the Commission will charge rent  
17 for pipelines of two cents per diameter inch per lineal  
18 foot. So the idea is, you know, we're going to charge  
19 based on the length of the pipeline and also the width of  
20 the pipeline.

21           We agree that 1980 is a long time, and that  
22 formula should be updated. And we'll be bringing back an  
23 updated formula for the Commission to approve. And we  
24 have to go through the regulatory process to do that.

25           However, the Senator's letter doesn't take note

1 of the fact that when you look at our regulations, we have  
2 two methods of calculating rent for pipelines. And one of  
3 them is the one that he highlighted, but the other one is  
4 just our standard nine percent of appraised value charged  
5 based on the right of way used by the pipeline. That does  
6 generate a current market rent, and we've been using that  
7 right along. So the effect of not updating that 1980's  
8 formula does take away one tool we have for calculating  
9 rent, but it doesn't limit us from collecting market rate  
10 rents. And that's something that's been lost in the  
11 discussion.

12 We would also probably include a CPI inflator for  
13 whatever we set, because whatever we set will be out of  
14 date a year later, so we need to do something. Rather  
15 than coming back to the Commission every year with a new  
16 regulatory change, let's put something in there so it will  
17 automatically adjust.

18 And finally, the last point is that we're going  
19 to continue to pursue adding auditor positions during the  
20 budget process. We've attempted to do that the last four  
21 or five years. We have one auditor. At one time we had  
22 four. The one auditor is able to do about 30 -- well, he  
23 did 32 audits last year. So we have some limitations  
24 there. We try and, of course, focus that resource on the  
25 leases that pay the most money. But if we had more

1 auditors we could do a better job.

2           So, in terms of how to implement all this, staff  
3 is currently working on an internal process outlined,  
4 which will implement the non-regulatory aspects of these  
5 regulations, which are all of them, except for the \$.08  
6 per -- excuse me, the pipeline formula. This outline will  
7 include other intermediate deadlines and staff review  
8 protocols. The outline will guide staff. It will be an  
9 internal working document that will guide us in the  
10 future. We hope to have that finalized next month. And  
11 we'll certainly send copies to the Commissioners. If you  
12 have any comments, we'd be eager to hear them. But the  
13 point is we want to start doing this now before the audit  
14 is done.

15           The new pipeline formula, because it has to be  
16 done through the regulatory process, will take longer. It  
17 will probably take us a couple months to make sure we get  
18 the right figure. We're going to use our appraiser for  
19 that. We'll probably look at what other states are  
20 charging, what the Feds are charging, what private  
21 landowners are charging to come up with an amount, which  
22 is reasonable.

23           And then I'm told it takes 6 to 10 months to go  
24 through the OAL requirements. Sometimes longer if we get  
25 a lot of negative comments, that kind of thing. But we're

1 going to start that process, but it won't be done until  
2 next year.

3           And obviously, even though we're starting this  
4 now, there may be additional things that the auditor  
5 recommends. And, of course, we'll look at those with the  
6 Commission when that happens.

7           So that's where we are on this. I wanted to make  
8 sure the Commission was up to date on the whole process,  
9 not only how the auditor is working, but in terms of how  
10 staff is responding to that on your behalf. And I'd be  
11 happy to respond if the Commissioners have any questions.

12           COMMISSIONER MALDONADO: Hi-tech here.

13           I just wanted to make a comment that there's no  
14 secret, the State Lands Commission is a Public Trust. And  
15 I just hope that in these next couple of weeks or months  
16 that we are -- we expedite the process to get all the  
17 information to JLAC. You know, it's a review. And if  
18 we've done a good job, then we're going to get a good  
19 review. If we have not, then there's going to be a bad  
20 review. And I just hope that we're up front immediately  
21 on all that they ask. And I think that shows that the  
22 State Lands Commission has been doing their job.

23           Now, on all these other issues that Senator  
24 Cogdill has asked, I'm sure if the staff does that on the  
25 other ones, we can get them, and get them to us sooner

1 rather than later, so we can move on and get this off the  
2 top of the State Lands Commission.

3 EXECUTIVE OFFICER THAYER: Thank you. We'll do  
4 that.

5 Well, that completes the Executive Officer's  
6 Report.

7 ACTING CHAIRPERSON ARONBERG: Do you want to talk  
8 about any enforcement items?

9 EXECUTIVE OFFICER THAYER: No, they're all kind  
10 of percolating along, much as they were last time when we  
11 discussed. We have two new ones on the regular calendar  
12 today, but the others are still works in progress.

13 ACTING CHAIRPERSON ARONBERG: Great. Thank you  
14 very much, Mr. Thayer.

15 The next item of business is the Consent  
16 Calendar. What items have been removed from the Consent  
17 Calendar, Mr. Thayer?

18 EXECUTIVE OFFICER THAYER: Item 37 will be  
19 removed, because there's some discussion about making the  
20 lease a little bigger, and we'll hear that at a future  
21 meeting.

22 Item 25, we thought this issue had been worked  
23 out. However, there's a speaker slip in from the lessee,  
24 and so we removed 25 from the Consent Calendar and hear  
25 that at the end of the meeting.

1 I'd also note that just, as a technical  
2 clarification, Item 31 has an exhibit that shows a pier  
3 down -- not a pier, an outfall down at the El Segundo  
4 facility and it depicts it much shorter than it actually  
5 is, the length is longer. However, the lease is  
6 calculated on the correct area that's the larger area.

7 And then finally, Item 54 which I thought I'd  
8 mention now is on the regular calendar, but it's being  
9 removed because both the notice and the staff report were  
10 based on an agreed upon or a lease which we'd hoped was  
11 going to be agreed upon both by Commission staff and by  
12 the Seacliff Colony Association. The association did not  
13 agree with that lease ultimately. And so that has to be  
14 removed.

15 Just for your information, we have a number of  
16 speaker's slips from them. They would like to address the  
17 Commission in the public comment period. They have a  
18 counter proposal, and we're likely to bring that back in  
19 October when we've had a chance to review it, but the  
20 notice wouldn't allow us to hear that at this Commission  
21 meeting.

22 So, to sum, 25 and 37 are removed from the  
23 Consent Calendar this morning.

24 ACTING CHAIRPERSON ARONBERG: Thank you.

25 I also have a speaker's slip here for Item 44,

1 Janice Dunn. Ms. Dunn, are you here?

2 (Hand raised.)

3 ACTING CHAIRPERSON ARONBERG: It looks like this  
4 item is probably going to go through. Do you still want  
5 to speak on it at the end of the meeting, because we can  
6 remove it from the Consent Calendar or we can just let it  
7 go through.

8 MS. DUNN: No, that's all right.

9 ACTING CHAIRPERSON ARONBERG: Okay, great.

10 So is there anyone else in the audience that  
11 wishes to speak on an item that is still on the Consent  
12 Calendar?

13 Okay, seeing none, let's take the remaining group  
14 of Consent items up for a single vote.

15 Do I have a motion?

16 ACTING COMMISSIONER BRYANT: I'll move approval  
17 of the Consent Calendar.

18 COMMISSIONER MALDONADO: I'll second.

19 ACTING CHAIRPERSON ARONBERG: We have a motion  
20 and a second.

21 All in favor say aye?

22 (Ayes.)

23 ACTING CHAIRPERSON ARONBERG: The Consent  
24 Calendar is approved.

25 Let's move on to the next item. I think we've

1 got an informational report from the Lieutenant Governor,  
2 who's requested an opportunity to address the Commission  
3 about his recent trip to the Gulf of Mexico.

4 COMMISSIONER MALDONADO: First of all, thank you  
5 for that. And I just wanted to give a brief report to the  
6 Commissioners obviously on what I did when I went over to  
7 the Gulf. To me it was a trip on July 26th that I didn't  
8 know what to expect, but obviously was very excited about  
9 going to this area to see what has happened under the  
10 circumstances that they were in with connection to what we  
11 have here in California.

12 First of all, I learned that no one could tell me  
13 how many off-shore platforms were in the Gulf of Mexico.  
14 Some people said 3,100, some people said 5,400, some  
15 people said 2,800. I came away that there is a hell of a  
16 lot of platforms off the coast of Louisiana. And I think  
17 that's what was very, very important. In California, we  
18 have 27.

19 I also came away that the ones in Louisiana are  
20 very, very high pressure and several of them are very,  
21 very deep, which are the ones that created the problem.  
22 In California, we're not as deep. We're very shallow  
23 wells.

24 But I can tell you that when I first arrived in  
25 Houma, Louisiana, I first went to the Incident Command

1 Center. And by that, there was three Incident Command  
2 Centers, one in Houma, one in Houston, and one in Florida.  
3 And they were all somewhat mirrored after what we do here  
4 when we have a fire with Cal Fire. So we had some retired  
5 Cal Fire folks there that were going through the process  
6 of telling them how we do it in California. So I was  
7 happy to see that.

8 Also, to see a lot of environmental folks from  
9 California, from UC Davis, doctors, on the wildlife that  
10 were there. They would wink an eye at me and say we're so  
11 far ahead of what they're doing here, which I thought made  
12 me feel very, very good. But nevertheless, what had  
13 happened was so, so big and no one would know what the  
14 ramifications would be down the road.

15 Through that process, I had the opportunity to  
16 fly out over the Deep Horizon Well. And as you can see  
17 that they call that sheen toward the area. I arrived 10  
18 days after they had capped it. There was still a leak,  
19 but we could still see some remnants. And through that  
20 process, I got to learn a little bit about boom, which is  
21 a material that holds and contains oil after there's a  
22 spill to keep it from coming to the mainland and so forth  
23 or different protected areas.

24 There was about 836 miles of boom laid out there.  
25 And I don't remember the name, but there was a hurricane

1 that came in right after that, and displaced about 650  
2 miles of boom. And they had to go back and place it. So  
3 it was amazing to see all these fisherman everybody coming  
4 together to try to place that. And then obviously then we  
5 arrived to the incident area, which, you know, it was kind  
6 of sobering to see what had gone out there.

7           And what you see there on the top was a big  
8 floating platform, which was a relief well. And here you  
9 have a group of folks who are drilling a relief well.  
10 First of all, they go through about 5,000 feet of water,  
11 and then there's no drilling there obviously. But once  
12 they get to the base of it at 5,000 feet, which is a mile,  
13 they drill about another 15,000 to 16,000 feet into the  
14 ground, ocean bottom. And then they curve it at the  
15 bottom, and they have to hit about a seven and five inch  
16 pipe, which really is amazing.

17           And the guy that was doing that said he's never  
18 missed. And it just goes to show you the technology. And  
19 they did one on the right side and they did one on the  
20 left side. And I didn't realize how they were trying to  
21 cap it, but the goal was to drill into that pipe and load  
22 it up with mud and cement. And load it up so much that as  
23 it filled up, the pressure of it eventually would stop the  
24 well from leaking.

25           And obviously they did it. And what was really

1 interesting, and it hurt a lot, was to see in the middle  
2 of it, you can see there that ship in the middle. That's  
3 where Deep Horizon was. That platform sunk all the way to  
4 the ground, but there was, I think, about 160 people  
5 working on the platform, 11 died. It's really a miracle  
6 that more people didn't die. But they jumped off and they  
7 went to ships that were in the area. And I can tell you,  
8 that that's for that, it was just -- I kind of got  
9 teary-eyed when I saw that.

10 But through that process, there was a couple of  
11 things that I take away from that process, and I hope that  
12 California can implement here.

13 Number one, you know, going through this process,  
14 looking at a, what we call, a oil response plan.  
15 Currently, we have a seven day response plan in  
16 California. The Gulf had a seven day response plan in  
17 California. And I think it's important that maybe this  
18 Commission look at maybe implementing or looking at what  
19 the federal government is now doing and maybe implementing  
20 a 30-day response plan from the 27 oil leases that we have  
21 off the coast. Not saying that they're going to blowup  
22 like they did out there, but just to be prepared.

23 I represent coastal California. And I must tell  
24 you that in my district, in my former district, the life  
25 blood was tourism, and, of course, the protection of the

1 coast. And I just think we need to be on par, because the  
2 whole coast of California is what brings a lot of tourism  
3 to this great state, and maybe looking at a 30-day  
4 response plan from the folks that have leases.

5 And also what I learned, I had an opportunity to  
6 sit down with our colleagues in Louisiana, State Lands  
7 folks. And I asked them about their plans. Obviously,  
8 the lobbying core is a lot different in Louisiana when you  
9 5,000 wells compared to 27 wells. It just goes to show  
10 you the influence that's in Louisiana. They explained  
11 that to me.

12 Through that process, I was kind of surprised to  
13 hear from them that this could have been prevented.  
14 However, they were waiting to see what the reports were  
15 going to be after a 30- or 40-day or six-month process of  
16 how this happened. Some folks said that, you know, there  
17 was just mistakes made, and they will be getting to the  
18 bottom of that. They did mention that some of the  
19 mistakes were probably tied to money, you know, but they  
20 weren't sure about that. They wanted to get to the bottom  
21 of that. So I'm looking forward to seeing what's going to  
22 happen with that.

23 One thing that they are going to be implementing  
24 and it's something that I think we ought to maybe take a  
25 look at it. I oppose off-shore oil drilling. I always

1 have, so I don't see any wells popping up on our  
2 California coastline. But we do have property that's off  
3 the California coast, that's in the federal hands.

4 I think we need to look at having a third-party  
5 verification if that process ever goes through again.  
6 That's something they're going to be doing. And I think  
7 it's important, as it moves forward for them that when  
8 they start the process of drilling, there is a third-party  
9 verification there watching what they're doing so there  
10 isn't any shortcuts. I'll repeat myself.

11 When you have 4,000 to 5,000 wells in the Gulf,  
12 they're going to continue to drill. And that's something  
13 they're looking at. Us, it's totally different, but I  
14 think it's something that we ought to look to if something  
15 was to change in the future.

16 You know, I just think just to synthesize of what  
17 the outcome of the whole trip was, is that the people of  
18 Louisiana were hit hard by Katrina. And many businesses  
19 said to me, you know, we were so happy when we won the  
20 Super Bowl, and it was bringing back the morale in the  
21 city that was hit so hard by Katrina, and to have this  
22 hit, a lot of the people says what's next for us. And I'm  
23 hoping that there's nothing next for them. Maybe they can  
24 win a Super Bowl again, I don't know.

25 But all I can say is that their tourism was

1 somewhat hit. We visited some hotels. We visited a bed  
2 and breakfast that was very popular there in Louisiana.  
3 And I asked them how it was. And it was kind of a repeat  
4 of, you know, it's the life blood -- tourism is the life  
5 blood of Louisiana, but so is off-shore oil. How do we  
6 keep them together. And third, but not least, the fishing  
7 industry. And we have that here too.

8 I mean, we have the fishing industry, we have  
9 tourism, and we have oil wells. So I think those two  
10 things that I'm looking at recommending is something that  
11 this Commission ought to look at. I'm not stuck on the  
12 language. I think I can be open minded and reasonable,  
13 but it's something that coming back from the trip brings  
14 it up. I am going to have a meeting with some of the  
15 folks that do have platform leases out here. I'd like to  
16 see their plans on oil spill prevention.

17 And, you know, we heard a lot of rumors of what  
18 the plans were in Louisiana. Some of them were what we  
19 heard, but all in all, people were doing their best to  
20 clean this place up.

21 And just a shout out to the State employees of  
22 California. They were over there working very, very hard.  
23 And, you know, we always get caught up in this notion of  
24 State employees taking a beating for pensions and all this  
25 other thing. All I can say is that they were dedicated

1 State employees of California working very, very hard to  
2 help the people of Louisiana, whether it be in prevention,  
3 clean up, wildlife protection. I was thoroughly,  
4 thoroughly impressed with that. And we ought to commend  
5 them for all their hard work during these difficult times.

6 There were tours. They would show up for 10  
7 days, leave for 10 days, come back. People were  
8 exhausted. But to see 42,000 people in action trying to  
9 clean up an oil spill was really, really amazing.

10 And, you know, at the end of the process, I think  
11 they were somewhat organized, and I'm glad that California  
12 had input in that. So I just wanted to give the  
13 Commission that briefing.

14 ACTING CHAIRPERSON ARONBERG: Thank you.

15 EXECUTIVE OFFICER THAYER: If I could just  
16 respond to a couple of the points that the Lieutenant  
17 Governor made. We've been in contact with the Lieutenant  
18 Governor's office on several of -- these two points, the  
19 third-party verification, and the seven-day contingency  
20 plan. And we're looking at how we can respond to those  
21 suggestions.

22 As I know the Lieutenant Governor knows, the  
23 contingency plans deal with how to respond to an oil spill  
24 should it occur. And those respond to regulations that  
25 are put out by the Office of Spill Prevention and Response

1 and the Department of Fish and Game. We also look at  
2 those plans, but we don't have the same kind of review  
3 authority over them. But we're partners really with OSPR,  
4 and we'll be working with OSPR on what would work best.  
5 And we can certainly convey the Lieutenant Governor's  
6 concerns. Although, I know he's doing that personally as  
7 well.

8           On third-party verification, we're looking at  
9 that as well. We think that it may be, and we have a  
10 report coming up later in this agenda, about what we can  
11 do to better or improve our programs that -- the State  
12 Lands Commission programs, and looking at a third-party  
13 verification issue.

14           We think the problem in the Gulf might very well  
15 have been that you had all the wells and the leases that  
16 the Lieutenant Governor refers to. And I understand that  
17 they MMS staffing in the Gulf is the same as it is for the  
18 Pacific. And as we know, the Pacific is a fraction of the  
19 activity that you have in the Gulf. And so a lot of the  
20 oil companies in the Gulf were self reporting, and self  
21 monitoring.

22           And so in that circumstance, there wasn't MMS  
23 staff to go out there and do their verification. And in  
24 that circumstance, third-party verification makes a lot of  
25 sense. Because we have so many fewer wells and fewer

1 platforms and don't have new leases going, our staff is  
2 able, along with Department of Conservation that also has  
3 a regulatory role over the safety equipment on wells  
4 throughout California, including offshore, is able to go  
5 out there. And when wells are drilled, they're so  
6 infrequent these days, we're out there witnessing it and,  
7 in effect, providing perhaps the equivalent of that.

8 But we need to look further into that to see  
9 what's meant by third-party verification. Are we really  
10 accomplishing the same thing or do we need to do something  
11 more about it?

12 COMMISSIONER MALDONADO: Thank you.

13 EXECUTIVE OFFICER THAYER: And we'll do that.

14 ACTING CHAIRPERSON ARONBERG: Thank you.

15 Item 48 is a report regarding the Bolsa Chica  
16 restoration project. Jim Trout is here to give the  
17 report.

18 (Thereupon an overhead presentation was  
19 presented as follows.)

20 MR. TROUT: Thank you. It will only take a  
21 couple of minutes. The Commission staff has been involved  
22 in the restoration and saving of the Bolsa Chica Lowlands  
23 since 1970, when the title issues first came up. This was  
24 a proposed site of some 5,800 dwelling units, as Orange  
25 County proposed to expand significantly in the residential

1 area.

2 In 2004, the Commission, along with several other  
3 State and federal agencies, started on the physical  
4 restoration of the Bolsa Chica area, and this is just a  
5 quick update on what's happened so far.

6 --o0o--

7 MR. TROUT: Thank you.

8 And I guess I don't know what I'm doing here.

9 Okay, this is what it looked like in 2004, and  
10 this is an active oil field with about 300 to 400 wells.  
11 And they're spaced throughout this whole area. And it's  
12 been a producing oil field since 1950.

13 --o0o--

14 MR. TROUT: Here's what it looks like now. The  
15 oil wells in that area were removed. As you can see, an  
16 ocean entrance was put in here to restore this area to the  
17 ocean, to complete marine cycling.

18 --o0o--

19 MR. TROUT: And then we're monitoring the  
20 progress. We're trying to determine how successful the  
21 area has been. So this is the second annual report.

22 --o0o--

23 MR. TROUT: And these are the areas that are  
24 involved. This is the full tidal area that you saw. It  
25 has full influence of the tide. This is a limited marsh

1 area that is very restricted. These areas back here are  
2 muted tidal areas, and they receive just a portion of the  
3 daily tides. And then seasonal ponds are down here. This  
4 is a future restoration area. And this is a very actively  
5 remaining oil field, although there's some wells in here.

6 This is what we call the future full tidal area,  
7 that as soon as the oil plays out -- right now under oil  
8 prices probably 25 years. We have funds set aside to also  
9 restore that to tidal influence.

10 --o0o--

11 MR. TROUT: And this is just -- I'll go through  
12 these quickly.

13 --o0o--

14 MR. TROUT: These are some of the birds that have  
15 been there. The Savannah Sparrow is a federally  
16 endangered species.

17 --o0o--

18 MR. TROUT: The Snowy Plover is a threatened  
19 species that tends to nest in the area.

20 --o0o--

21 MR. TROUT: And we're seeing excellent  
22 restoration of a fisheries nursery. For example, we have  
23 halibut here. And these are -- this is a Round Ray, and  
24 perch and the fish here.

25 These are all young of the year. These show that

1 the restored wetlands are a significant nursery area for  
2 pacific fisheries. And these are -- this gives you an  
3 example of the fishes that the birds prey on mostly,  
4 although bigger fish also eat them. But these are the  
5 basic food chain for the marine birds.

6 --o0o--

7 MR. TROUT: And this is the vegetation  
8 monitoring, just to show what's going on. The benthic  
9 monitoring that's what's in the mud at the bottom of the  
10 lagoon. We've got scallops. We've got crab, shrimp and  
11 sea slugs, if anybody is interested in a sea slug.

12 --o0o--

13 MR. TROUT: The problem with any ocean inlet is  
14 that it tends to silt up. And under natural conditions,  
15 they will totally silt up until a big winter storm comes  
16 and reopens the inlet.

17 Now, because of all the dams and other  
18 activities, these natural occurrences are no longer there.  
19 So we have to dredge this area about every two years.  
20 That's where it's showing.

21 And this was what it was two years ago. And then  
22 the right-hand slide was during the dredging when we got  
23 rid of most of the sand. We're just about to start  
24 another dredging episode this fall, probably in early  
25 October.

1                   --o0o--

2           MR. TROUT:  And then this is what's yet to be  
3 done.  We're going to monitor in year four to just  
4 birds -- sensitive birds on the beach.  And year five,  
5 which starts in October, will be a full monitoring year.  
6 And then 6, 7, 8, and 9 will just be beach and sensitive  
7 monitoring.  And then year 10, we'll have a full and final  
8 monitoring year.  And, at that point, we'll have met all  
9 the permit requirements.  And we hope that it will be as  
10 successful then as it has been up till now.  So just to  
11 give you an update.

12                   --o0o--

13           MR. TROUT:  Ms. Aronberg, I think, is the only  
14 one that's been there.  She was there for the  
15 groundbreaking in 2004.

16           Thank you.

17           ACTING CHAIRPERSON ARONBERG:  Thank you, Jim.

18           EXECUTIVE OFFICER THAYER:  Jim, we didn't tell  
19 you about this, but we have one other part of the show  
20 that we want you to participate in, if you wouldn't mind  
21 coming up on the stage.

22           EXECUTIVE OFFICER THAYER:  It looks like it was a  
23 surprise.

24           Jim is probably one of the longest working staff  
25 for the State that's ever been.  He started working for

1 the State in 1953. I was in diapers at that point, and  
2 I'm retiring now. So it kind of shows how long he's been  
3 around. He first retired -- and he worked for a number of  
4 different State agencies, including the State Architect's  
5 Office, the Department of Finance. He was a budget  
6 analyst there working on capital outlay. And then he came  
7 to the State Lands Commission in 1967. I was starting Cal  
8 at that point and he already had a career under his belt.

9 So among the things that he worked on was  
10 obviously Bolsa Chica. And he's been doing that, what,  
11 since the seventies?

12 MR. TROUT: Yes.

13 EXECUTIVE OFFICER THAYER: And it's a job that's  
14 taken a long time to get done with. There were  
15 originally -- the State only owned a small portion of the  
16 eventual wetlands. The State Lands Commission helped  
17 broker a deal with the ports of L.A. and Long Beach, where  
18 mitigation that they needed for important infrastructure  
19 projects was going to be created at Bolsa Chica and they  
20 contributed over \$100 million to the restoration there.

21 So Bolsa Chica not only has restored wetlands,  
22 but it also has facilitated important economic development  
23 in the state.

24 And Jim retired in 1995. And since then, he's  
25 been a retired annuitant. And thank God he's kept working

1 on Bolsa Chica for us, because nobody knows it the way he  
2 does.

3 Now, he's not indicated when he's going to stop  
4 yet. He hasn't said I'm done at the end of this year, and  
5 this sort of thing. But some of the staff came to me  
6 several weeks ago and said, you know, he's beginning to  
7 check out.

8 (Laughter.)

9 EXECUTIVE OFFICER THAYER: You know, he's got  
10 other things he wants to do.

11 (Laughter.)

12 EXECUTIVE OFFICER THAYER: He's training up his  
13 replacements, so that somebody else can handle it. He  
14 even missed one of the working group meetings, which was  
15 unheard of. He's been chair of that group for a long  
16 time. So we didn't want him to fade away like the  
17 Cheshire Cat without recognizing everything he's done for  
18 what is really one of the most important environmental  
19 resources in southern California.

20 Let me just say a couple words about that too.  
21 The State now has lost 91 percent of the coastal wetlands  
22 in southern California. So the thousand acres or so or  
23 1,200 acres at Bolsa Chica is a really significant portion  
24 of what's left. And the fact that we are able to bring  
25 that back from the unremediated, degraded wetlands that

1 they've become because of the oil development and other  
2 diking and leveeing is really great for the State, and is  
3 really a tribute to all of Jim's hard work.

4           So in order not to let this pass, I'm -- he may  
5 be back before us. I don't know. I don't want him to  
6 think that we're trying to kick him out the door here.  
7 It's just we want to make sure that he's recognized while  
8 he's still here.

9           So we have a resolution here that we'd like the  
10 Commission to present to honor Jim for all of his hard  
11 work. We don't have signatures on it, but we're going to  
12 circulate this and everybody can -- we can get all the  
13 Commissioners to sign it that way. And I don't know if  
14 any of the other Commissioners wanted to make any comments  
15 as well.

16           ACTING CHAIRPERSON ARONBERG: You know what, I  
17 would like to read this excellent resolution into the  
18 record, Jim, if you don't mind.

19           MR. TROUT: Go ahead.

20           ACTING CHAIRPERSON ARONBERG: This resolution  
21 honors you and you deserve to have it read into the  
22 record.

23           "Whereas Jim Trout served the California  
24 State Lands Commission with distinction for over  
25 28 years as a full-time employee and has served

1 the State for a total of 57 years; and,

2 "Whereas Jim has served the California State  
3 Lands Commission as a retired annuitant since  
4 November 6th 1995, most of that time in the  
5 capacity of Project Coordinator for the Bolsa  
6 Chica Lowlands Restoration Project in Orange  
7 County; and,

8 "Whereas the restoration of Bolsa Chica is  
9 one of the largest wetlands projects ever  
10 undertaken in the United States of America; and,

11 "Whereas Jim has long had a vision and a  
12 passion for preserving and restoring the Bolsa  
13 Chica as habitat for the benefit of fish and  
14 wildlife and for the enjoyment of citizens of  
15 California and elsewhere; and,

16 "Whereas Jim worked tirelessly in many  
17 capacities to ensure that the Bolsa Chica  
18 Lowlands would be available for restoration,  
19 including traveling to Washington D.C. to meet  
20 with members of Congress and the federal  
21 administration; and,

22 "Whereas Jim has been a friend, advisor,  
23 supporter, cheerleader, and chair of the Bolsa  
24 Chica Wetlands Steering Committee of  
25 representatives from eight agencies, both State

1 and federal, providing insightful direction,  
2 crucial analysis, and meaningful comment  
3 regarding its actions; and,

4 "Whereas Jim's leadership, good judgment, and  
5 calm and pleasant demeanor have been instrumental  
6 in the Steering Committee's ability to achieve  
7 consensus on all major decisions, a feat rarely  
8 achieved in government or the private sector;  
9 and,

10 "Whereas Jim's unique combination of insight,  
11 intelligence, and persuasive ability have  
12 provided a steady direction to the restoration  
13 project when lesser individuals would have  
14 abdicated the responsibility; and,

15 "Whereas future generations of Western Snowy  
16 Plover, Belding's Savannah Sparrow, California  
17 Least Tern, and over 40 species of fish and other  
18 assorted rare plants and wildlife will owe their  
19 very being to Jim's unstinting dedication to  
20 their cause; and,

21 "Whereas the Commission and the people of  
22 California have truly benefited from Jim's wise  
23 counsel and guidance leading to the adoption of a  
24 final design for the restoration project through  
25 the opening of the ocean inlet on August 24th,

1           2006, and the critical first years of the  
2           project's operation;

3           "Therefore, be it resolved, that the  
4           California State Lands Commission expresses its  
5           admiration and appreciation to Jim for these  
6           significant accomplishments and wishes him the  
7           very best as he winds down", or doesn't, "his  
8           exceptionally productive and long extended career  
9           as a retired annuitant."

10           MR. TROUT: Thank you very much, Cindy.

11           (Applause.)

12           EXECUTIVE OFFICER THAYER: Jim, before you go, I  
13           think we should have a presentation, perhaps a picture  
14           with all the Commissioners.

15           COMMISSIONER MALDONADO: Let's do it.

16           (Thereupon pictures were taken.)

17           ACTING CHAIRPERSON ARONBERG: The next item is  
18           Item 51. And this is starting the regular agenda, is that  
19           right, Mr. Thayer?

20           EXECUTIVE OFFICER THAYER: 50, I think is next.

21           ACTING CHAIRPERSON ARONBERG: Woops, okay.

22           EXECUTIVE OFFICER THAYER: And that is --

23           ACTING CHAIRPERSON ARONBERG: Is this the oil  
24           spill report?

25           EXECUTIVE OFFICER THAYER: This is the oil spill

1 report. And presentations will occur by several different  
2 staff members. Greg, are you first, Greg Scott?

3 Marina is. Never mind. Marina Voskanian, our  
4 Assistant Division Chief with the Mineral Resources  
5 Management Division.

6 (Thereupon an overhead presentation was  
7 presented as follows.)

8 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
9 CHIEF VOSKANIAN: Thank you, Paul, and good morning,  
10 Commissioners.

11 As Paul mentioned, my name is Marina Voskanian  
12 and I am the Commission's Mineral Resources Management  
13 Assistant Division Chief.

14 At its June Commission meeting, the Chair  
15 requested the Commission staff to review oil production  
16 and marine terminal operations in State waters. And in  
17 light of the British Petroleum incident in the Gulf of  
18 Mexico, a report on the Commission's oil spill prevention  
19 activities, the effectiveness of the programs --

20 --o0o--

21 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
22 CHIEF VOSKANIAN: -- and evaluate opportunities for  
23 improvement in the oil spill prevention programs.

24 Commission staff has prepared a report addressing  
25 this subject that is included as Exhibit A in the calendar

1 item. And we will now be presenting a brief overview of  
2 the report's content.

3 --o0o--

4 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT

5 CHIEF VOSKANIAN: This report was prepared by four  
6 divisions of the State Lands Commission, each addressing  
7 their specific functions and responsibilities with regard  
8 to oil and gas operations in State waters.

9 I represent the Mineral Resources Management  
10 Division that is responsible for all oil mineral leasing,  
11 drilling, and production activities on State lands. I and  
12 one other staff member from our Division will discuss  
13 those responsibilities.

14 Following that, brief discussions of marine  
15 terminal operations, surface leasing, and environmental  
16 planning and management will be discussed by staff  
17 representing the other divisions.

18 --o0o--

19 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT

20 CHIEF VOSKANIAN: The MRMD Division, as I said Mineral  
21 Resources Management Division, oversees all offshore State  
22 oil and gas leases. We carry out those responsibilities  
23 through broad regulatory structures developed by this  
24 division, and also through comprehensive safety and spill  
25 prevention programs. The ability to operate these leases

1 in the safest and most environmentally responsible manner  
2 allows for the most efficient Development of the State's  
3 natural resources and resulting in significant revenues to  
4 the State.

5 Our staff are highly trained engineers and  
6 technicians with considerable experience and background in  
7 the oil industry. All offshore State oil and gas  
8 activities are closely reviewed and analyzed by engineers.  
9 And if approved, they are carefully observed and monitored  
10 by State engineers, inspectors, and audited for safety and  
11 technical compliance by State facility auditors.

12 --o0o--

13 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT

14 CHIEF VOSKANIAN: There are generally 18 active leases in  
15 State waters that produce oil and gas from four offshore  
16 platforms and two man-made islands. As shown in this  
17 slide, Platform Holly is located in Santa Barbara county.  
18 Rincon Island in Ventura County, and in Orange County, we  
19 have Platform Esther, Eva, and Emmy.

20 Although it's not a State lease, the Long Beach  
21 Unit operates from four man-made islands and contributes a  
22 significant amount of revenue to the State.

23 --o0o--

24 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT

25 CHIEF VOSKANIAN: 168 million barrels of oil have been

1 produced from those operations over the past 10 years, and  
2 have generated revenues of over two and a half billion  
3 dollars to the State general fund during that time.

4 Spills are extremely infrequent and of very small  
5 size. From the oil production in the last 10 years that I  
6 just mentioned, spills totaling less than half a barrel  
7 occurred on the average each year. Even though most of  
8 these spills are recorded in ounces and even drops, we  
9 strive to achieve a zero spill record.

10 To maintain safety of these operations, it's  
11 important to have comprehensive regulations, strong spill  
12 prevention and safety programs.

13 I would like to now introduce Mr. Jeff Planck our  
14 Division's Planning and Development Manager. He will  
15 review our Division's regulations and safety programs that  
16 will include specific recommendations to further improve  
17 the Division's safety and spill prevention programs. Jeff  
18 will also discuss the BP oil spill that occurred in the  
19 Gulf of Mexico.

20 Jeff.

21 --o0o--

22 SENIOR MINERAL RESOURCES ENGINEER PLANCK:

23 Thank you, Marina. Good morning, Commissioners.

24 Commissioner Maldonado actually gave most of my  
25 presentation already.

1 (Laughter.)

2 SENIOR MINERAL RESOURCES ENGINEER PLANCK: All  
3 oil and gas projects submitted to the State are processed  
4 through the Commission's Mineral Resources Management  
5 Division, which coordinates the review with engineering,  
6 operations, and the Commission's environmental division,  
7 and other sections and divisions as needed, depending on  
8 the scope of the project.

9 The review is rigorous and comprehensive, ensures  
10 conformance with all State regulations, Commission  
11 policies, and current industry practices, as well as a  
12 thorough California environmental CEQA Act review, which  
13 will be discussed by our Environmental Division.

14 If the project is to be done from an existing  
15 platform, an assessment of the structural integrity of the  
16 platform to perform the project may be required as well.  
17 A current oil spill contingency plan is also submitted by  
18 the applicant and reviewed by our Operations Section.

19 If the project is approved, each and every well  
20 plan is reviewed again in specific areas to ensure  
21 adherence to the same factors I just described. Our  
22 regulations cover every aspect of the well from the  
23 initial site inspection to well completion and production.

24 Each well plan must be submitted along with an  
25 approval from the State's Division of Oil and Gas for

1 review by our staff drilling and production engineers, and  
2 structural or civil engineers if warranted.

3           At the end of the drilling phase, a production  
4 plan is reviewed by our production engineers, and  
5 reservoir engineers.

6                           --o0o--

7           SENIOR MINERAL RESOURCES ENGINEER PLANCK: MRMD  
8 inspectors make daily visits to each facility and observe  
9 the pipeline routes offshore and facility for any signs of  
10 pollution and to verify general operations and royalty  
11 production.

12           The detailed monthly platform inspections have  
13 been an essential part of MRMD duties for more than 40  
14 years. The heart of the inspections is function testing  
15 of the platform's system safety, alarm, and control  
16 devices to ensure that they are working properly.

17           The monthly inspection program is vital to  
18 ensuring that the platform pollution prevention systems  
19 and equipment operate reliably. In 2009, less than one  
20 deficiency per platform was found during the monthly  
21 inspections.

22           We believe the low number of deficiencies found  
23 during the inspections confirms our programs and our lease  
24 operator's strong commitment to pollution prevention.

25                           --o0o--



1            SENIOR MINERAL RESOURCES ENGINEER PLANCK: We've  
2 come to understand the contributing factors and weaknesses  
3 that led to the failure to control the British Petroleum  
4 Macondo well. However, more information will be  
5 forthcoming once the well is permanently capped to  
6 determine the exact sequence of events that led to the  
7 well's blowout.

8            Information gathered at government inquiries and  
9 industry reports have pointed to certain events and  
10 decisions that played a critical role. And a preliminary  
11 assessment of our regulations and policies can be made in  
12 light of those disclosures.

13            Even though offshore drilling occurs in both the  
14 Gulf of Mexico and California, as Commissioner Maldonado  
15 pointed out, the differences between drilling environments  
16 are considerable, especially when discussing this Macondo  
17 well. The extreme depth of the water, in the Macondo  
18 well's case, 5,000 feet, presents a unique set of  
19 engineering problems unseen in California State waters.

20            The depth affects almost every aspect of the  
21 well, including the blowout prevention equipment, the rig  
22 type, the mud properties, the casing design, and the  
23 surveillance of the well in general. Wells in California  
24 State waters are rarely drilled in water depths over 200  
25 feet.

1           The production formation or oil reservoir in the  
2 Macondo well was 13,000 feet below the sea level or 18,000  
3 feet below the drill floor, with an estimated formation  
4 pressure in excess of 10,000 pounds per square inch.

5           Most oil reservoirs in State waters produce from  
6 formations between 4,000 or 5,000 feet with formation  
7 pressures at or near normal hydrostatic pressure, that is  
8 under about 3,000 psi.

9           Most wells are not exploratory, but are rather  
10 drilled in known mature fields where oil cannot naturally  
11 flow to the surface on its own, but needs to be pumped to  
12 the surface by artificial means, either by surface or  
13 subsurface pumps.

14           While this does not mean that a blowout cannot  
15 occur, the risk is greatly reduced. Unfortunately, our  
16 wells are drilled within three miles from shore, and any  
17 large spill will almost immediately hit the shoreline as  
18 opposed to the 50-mile buffer the Macondo well had.

19           The blowout prevention equipment on the Macondo  
20 well did not close off the well bore and shut in the well  
21 as it was designed to do. Although the cause of the  
22 failure is still unknown. The equipment appeared to be  
23 configured with the necessary redundancies to conform to  
24 industry and regulatory standards as shown in this  
25 diagram. There were two of each type of preventer present

1 in the stack and two control pods, which initiate the  
2 opening and closing of the equipment.

3 It's known that the drilling crew was trying to  
4 close the preventers and knew there was a problem prior to  
5 the blowout. However, none of those men survived the  
6 explosion to document their actions.

7 There were also reports that at least one of the  
8 rounds was not hooked up right and that there were leaks  
9 in the hydraulic lines to the blowout preventer stack, the  
10 latter of which conceivably may have been one of the  
11 factors leading to the failure of the equipment. The  
12 exact cause of the failure will only be known once the  
13 well is completely capped and the blowout preventer stack  
14 can be brought back up to the surface.

15 The State blowout prevention equipment  
16 requirements also provide for redundancies in design on  
17 both surface and subsea applications. The equipment is  
18 required to be fully tested at regular intervals. And the  
19 initial installation pressure tests are to be witnessed  
20 and approved by the Division of Oil and Gas personnel.

21 The Commission requires the function test, in  
22 other words making sure that they actually operate on the  
23 preventers on a daily basis. And they have to be fully  
24 tested at least once a week while drilling. The test must  
25 be reported on the drilling record sheet on the daily well

1 report sent to the Commission staff.

2           Since all state wells are currently drilled from  
3 fixed platforms or onshore sites, the blowout prevention  
4 equipment is located on the surface, which makes testing,  
5 maintenance, and witnessing easier and safer.

6           The details of the Macondo well and the decisions  
7 made by the BP personnel for the casing design are still  
8 under investigation. It's also not known what level of  
9 technical review was made by the regulatory agency.  
10 However, the record shows that the decision to run the  
11 final casing string to the surface may not have been based  
12 on the best engineering principles, and as such, lacked  
13 another mechanical seal that most other deep water and  
14 deep wells in general possess.

15           The casing program on each individual state well  
16 is reviewed by qualified engineers in MRMD. And the type  
17 of casing and proposed setting depths are based on all  
18 relevant geologic and engineering factors, and must be  
19 justified by calculations of competency of the preceding  
20 casing shoe, estimated reservoir pressure, and the  
21 estimated fracture gradient. That is the point at which  
22 the formation would fail at the previous casing shoe.

23           Staff reviews the cementing procedure for each  
24 casing string included in the drilling program. That is  
25 after the steel casing is lowered into the well after it's

1 been drilled. After the casing is lowered into the hole,  
2 liquid cement is pumped down the well in such a manner  
3 that it fills the space between the drilled hole and the  
4 outside of the casing.

5           It's critical to give the cement enough time to  
6 go through this semi-solid stage, so that when it hardens  
7 or sets, it creates an impermeable seal between the casing  
8 and the drilled hole. Commission regulations require  
9 production casings, cement coverage to a minimum of 500  
10 feet above the highest oil and gas zones, which I believe  
11 is also the federal requirement. Indications are that  
12 there may not have been enough cement pumped into attain  
13 this on the Macondo well.

14           Our regulations also require a minimum of 24  
15 hours waiting on the cement to cure or the time indicated  
16 by pre-testing of the actual cement used at the  
17 temperature and pressure of the setting depth to determine  
18 the proper setting time to achieve the required strength.  
19 It's believed that the Macondo well failed to do either.

20           And finally, a cement bond log or equivalent  
21 survey is required on intermediate and production casing  
22 in the state to ensure adequate cement fill and cement  
23 bonding has been achieved. The log is submitted to staff  
24 for review. No such log was run on the Macondo well.

25           Finally, the Commission requires daily drilling



1 renew our effort from 2000 for legislation to give the  
2 Commission cease and desist authority over operations in  
3 State waters. We don't have the authority right now to  
4 shut down an operation.

5 We would like to see the -- we've been hit with a  
6 rash of retirements over the last year or so, and we'd  
7 like to see the MRMD staff vacancies filled.

8 And finally, we'd like to reclassify the Mineral  
9 Resources Inspectors Series to include the Inspector  
10 Specialist position and adjust the pay scales to  
11 functionally -- to provide a modern fully functional  
12 inspection program.

13 I'd like to introduce now Kevin Mercier with our  
14 Marine Facilities Division to discuss the operations on  
15 marine terminals.

16 --o0o--

17 MARINE FACILITIES DIVISION ASSISTANT CHIEF

18 MERCIER: Good morning, Commissioners. I am Kevin  
19 Mercier. I'm the Assistant Division Chief of the State  
20 Lands Commission Marine Facilities Division.

21 The Marine Facilities Division was established in  
22 1990, subsequent to the Lempert-Keene-Seastrand Oil Spill  
23 Prevention and Response Act. We regulate and oversee  
24 operations at marine oil terminals, where tankships load  
25 and unload. MFD has field offices in Long Beach and

1 Hercules in the Bay Area. We monitor the operations of  
2 terminals from Eureka all the way down to San Diego.

3 The Act was actually a reaction to an oil spill  
4 in 1990 off of Huntington Beach at a State Lands leased  
5 offshore terminal. MFD is a fourth generation quality  
6 management organization with an experienced marine safety  
7 and engineering staff.

8 --o0o--

9 MARINE FACILITIES DIVISION ASSISTANT CHIEF

10 MERCIER: Our mandates and style -- I guess I should get  
11 there. Okay, there we go.

12 Our mandates and style are depicted in this  
13 slide. We use a Plan-Do-Check-Act process. At the top,  
14 we develop regulations and standards. We review and  
15 approve operations manuals. We monitor all transfers, and  
16 inspect facilities. Terminals are onshore, offshore, and  
17 mobile transfer units.

18 Our inspectors are in the field seven days a  
19 week. We take the information that we gather from the  
20 field operations and continuously feed it back into our  
21 operations, new regulations, new procedures.

22 We routinely form technical advisory groups to  
23 consult with us on our proposed regulations.

24 --o0o--

25 MARINE FACILITIES DIVISION ASSISTANT CHIEF

1   MERCIER:   Starting in 1991, our inspectors were in the  
2   field immediately upon hiring, and we were out there  
3   ensuring that the marine terminals were conforming with  
4   the Coast Guard regulations.

5           Realizing that we could do more, in late '91 and  
6   '92, we accepted most of and improved upon the Coast Guard  
7   regulations, by stewarding through California rules  
8   through the regulatory process.

9           In 1994, we added regulations to increase the  
10   training standards for personnel at terminals, including  
11   the transfer of workers, management and even the outside  
12   contractors that work at terminals.

13           Terminal pipeline regulations were added in 1998,  
14   requiring more stringent and effective testing and  
15   maintenance requirements than the federal rules required.  
16   After 9/11/2001, marine terminal safety regulations were  
17   adopted to ensure that terminals performed security risk  
18   assessments and had security plans in place.  These were  
19   the first regulations at oil terminals in the country  
20   after 9/11.

21           In 2006, the Building Standards Commission  
22   adopted MFD crafted regulations for Marine Oil Terminal  
23   Engineering and Maintenance Standards, MOTEMS.

24           The average age of the 30 California onshore  
25   terminals is 50 years.  MOTEMS is the first in the world

1 comprehensive set of policies and procedures to evaluate  
2 the fitness for purpose of onshore marine terminals.

3 --o0o--

4 MARINE FACILITIES DIVISION ASSISTANT CHIEF

5 MERCIER: Every day, more than 91 million gallons are  
6 transferred across California docks. Spills at the  
7 terminals are few and far between and they're very small.  
8 They are often measured in just drops or sheens.

9 In 2009, there were nine oil spills that totaled  
10 only 124 gallons. That's roughly three barrels. The  
11 numbers are even smaller when you discount -- when you  
12 only count the terminal spills and not the vessel spills  
13 at the docks.

14 Contrast that with more than 33 billion gallons  
15 transferred at the docks every year. While the amount  
16 transferred has been fairly flat over the last few years,  
17 the actual number of spills are going down.

18 --o0o--

19 MARINE FACILITIES DIVISION ASSISTANT CHIEF

20 MERCIER: Annually, the total number of transfers at  
21 California terminals is between 6,000 and over 7,000. The  
22 MFD Marine Safety staff has a presence at 45 percent of  
23 these transfers. They are actually the cops on the beat.

24 Our Marine Safety staff averages more than 31  
25 years of maritime experience. Transfers are prioritized

1 using an algorithm relating to the degree of risk assigned  
2 to the vessels and the terminal's history. All vessels  
3 calling California for the first time are met by our  
4 staff.

5 MOTEMS audits reveal existing conditions of the  
6 terminals, determine their actual safe working parameters,  
7 and identify remedial action priorities. Audits include  
8 above and below water inspections, seismic analysis, and  
9 mooring and berthing analysis. Fire detection and  
10 suppression system, pipelines and mechanical and  
11 electrical systems are evaluated.

12 --o0o--

13 MARINE FACILITIES DIVISION ASSISTANT CHIEF

14 MERCIER: Completed audits are required to provide time  
15 tables for any rehabilitation necessary from the findings.  
16 Twenty-seven high- and medium-risk terminals have  
17 submitted their audits and the audits are being reviewed  
18 by our staff. MOTEMS compliance is expected in 2015.

19 --o0o--

20 MARINE FACILITIES DIVISION ASSISTANT CHIEF

21 MERCIER: We have a couple of recommendations, actually  
22 three. Our Division needs two more engineering inspectors  
23 to oversee the actual implementation of the MOTEMS  
24 rehabilitations at the docks. There's going to be a  
25 tremendous amount of construction at the California oil



1 morning, Commissioners. Only two more of us to go, so  
2 hang in there.

3 (Laughter.)

4 LAND MANAGEMENT DIVISION CHIEF BUGSCH: We'll try  
5 and keep it quick. And I guarantee we'll get it done  
6 quicker than BP plugged that well out there.

7 The Land Management Division has primary  
8 responsibility for the --

9 --o0o--

10 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Let me  
11 move this first -- for the surface leasing and for the  
12 surface management of all sovereign and school lands in  
13 California.

14 With respect to the oil-related activities, LMD  
15 is responsible for leasing of marine oil terminals, and  
16 many of the rights of way accommodating oil pipelines and  
17 other conduits linking offshore oil facilities with the --  
18 or offshore oil platforms with the onshore facilities.

19 We work cooperatively with our other divisions  
20 that you're hearing from here today, MRMD, MFD, and DEPM  
21 staff to put provisions in the leases that are applicable  
22 to these types of leases.

23 Some of the key provisions that we cover that are  
24 pertinent to our discussion today here are those dealing  
25 with the use and maintenance of the lease premises and the

1 steps to be taken in the event of an oil spill or other  
2 discharge.

3           So I'll go through those very quickly. For new  
4 construction, leasees must provide construction plans,  
5 construction monitoring, reports and as-builts once the  
6 construction is complete.

7           Lessees maintain their records of all  
8 inspections, repair, testing and maintenance activities,  
9 and provide copies of those to SLC staff. Lessees provide  
10 copies of all pipeline test procedures prior to testing  
11 for State Lands staff's review and approval.

12           The lessees need prior approval from staff for  
13 any repairs, modifications or improvements to the  
14 pipeline. And from the safety perspective, the lessee's  
15 operators must conduct training classes and periodic  
16 drills simulating a pipeline leak and the procedures they  
17 would follow in the event of a leak.

18           They must provide copies of the hazardous spill  
19 contingency plans. And every lessee also has specific  
20 notification requirements in the event of a spill. They  
21 have to provide a 24-hour emergency contact phone number.  
22 And then other information they need to provide are the  
23 date and the time of the spill, source of the spill, the  
24 responsible parties, the substance spilled, the quantity  
25 spilled, the cause of the spill, if known, and the action



1           Consent Item number 42 today is an example of  
2 that. There was a transfer in ownership for the San Pedro  
3 Bay pipeline as a result of a bankruptcy. And we worked  
4 with the new owners who are here today, I think, back  
5 there to increase the insurance levels on the lease from  
6 10 million to 50 million.

7           We're also looking to add provisions to new  
8 leases allowing State lands staff to review and adjust  
9 insurance bond amounts at the five-year anniversary rates  
10 as much as we do the rent reviews.

11           And then we're also looking at requirements to  
12 retrofit or modify old pipelines to allow for smart  
13 pigging, so we can keep those clean, and then allowing  
14 State Lands staff to review oil contingency plans.

15           That's it for me. I'd like to introduce Cy  
16 Oggins who's the Chief of our Environmental Planning and  
17 Management Division.

18                           --o0o--

19           ENVIRONMENTAL PLANNING AND MANAGEMENT DIVISION  
20 CHIEF OGGINS: Good morning, Madam Chair and members of  
21 the Commission. Again, my name is Cy Oggins and I'm Chief  
22 of the Division of Environmental Planning and Management.

23           We are the smallest of the four aligned divisions  
24 of the Commission with 11 staff, including nine of our  
25 environmental scientist professionals. Our primary role

1 is to ensure compliance with the California Environmental  
2 Quality Act. Our primary objective is to provide -- to  
3 ensure that the Commission has, that is you have,  
4 sufficient information to approve, to approve with  
5 conditions, or to deny proposed projects that have the  
6 potential to result in an oil spill.

7 As you know, the Commission receives numerous  
8 applications for projects that have the potential to cause  
9 an oil spill. Proposed oil development projects have  
10 included Tranquillon Ridge offshore Santa Barbara County,  
11 which the Commission denied in 2009.

12 Other applications relate to marine oil  
13 terminals. They include lease renewals for the Chevron  
14 Long Wharf Marine Terminal in San Francisco Bay, and the  
15 Ellwood Marine Terminal offshore Goleta that the  
16 Commission approved in 2007 and 2009.

17 Planning staff analyzed potential impacts  
18 associated with oil spills in Environmental Impact  
19 Reports, or EIRs, prepared by staff, assisted by  
20 Environmental consulting firms that are working for the  
21 Commission.

22 Our CEQA process is designed to ensure that other  
23 agencies and the public are provided with multiple  
24 opportunities to participate in the environmental review  
25 process, to ensure that potential significant impacts,



1 Thank you.

2 EXECUTIVE OFFICER THAYER: Thank you. Batting  
3 cleanup here. Again, a long presentation, and a lot to  
4 get through here. But we felt in light of what happened  
5 in the Gulf and the media attention to the potential for  
6 oil spills, it was important for the Commissioners to know  
7 of the detail and the particularities of our oil spill  
8 programs. And there are many. And as you heard today, we  
9 have a lot of dedicated staff who are highly trained and  
10 whose purpose is to prevent oil spills in California.

11 We have a variety of recommendations. And to  
12 summarize those just quickly, we believe the current  
13 regulations need to be updated, particularly with respect  
14 to bonding requirements, training requirements, and  
15 equipment requirements. We think new legislation is  
16 appropriate to give us cease and desist authority.

17 Right now, we cannot, on our own, go out in any  
18 of our programs and say this practice is unsafe. You  
19 should stop operating. For marine oil terminals, the only  
20 way we have to do this is to go to the Coast Guard and get  
21 them to stop it, the operation, or to go to the oil spill  
22 administrator in Fish and Game. So we'd like to have our  
23 own authority to do that.

24 COMMISSIONER MALDONADO: How many times have you  
25 done that, Paul?

1 EXECUTIVE OFFICER THAYER: Kevin, do you know?

2 COMMISSIONER MALDONADO: How many times have you  
3 gone to the Coast Guard and said you need to stop?

4 MARINE FACILITIES DIVISION ASSISTANT CHIEF

5 MERCIER: Probably --

6 EXECUTIVE OFFICER THAYER: You need to use the  
7 microphone.

8 MARINE FACILITIES DIVISION ASSISTANT CHIEF

9 MERCIER: I don't really have it handy exactly, but it  
10 probably happens two or three times a year at least.

11 Frankly, we've been training the Coast Guard personnel in  
12 current years or recent years. And so they really trust  
13 us. I mean, they know that we're out there. And when we  
14 ask for it, we typically get it.

15 But it's kind of squeezey when we've got to go  
16 ask them to come out and enforce something for us. And  
17 although we may never use it or we may not use it very  
18 often, it would be nice to kind of have that little  
19 hammer, you know, available to us when somebody, you know,  
20 decides that they don't want to stop doing what they're  
21 doing in the middle of the night.

22 EXECUTIVE OFFICER THAYER: And then the allied  
23 concern is that we do not -- our regulations currently do  
24 not allow us to shut down a platform if we think there is  
25 an unsafe condition. Our regs only provide for us to be

1 able to keep a platform closed if it's already been  
2 shutdown because of an accident. And we think we need the  
3 authority to be able to say no, you have to stop.

4 Another one of the legislative recommendations  
5 was that the per barrel fee, which funds most of our oil  
6 spill programs, as well as Fish and Game's Oil Spill  
7 Response Programs should be raised. And, in fact, there  
8 is legislation that's been introduced this year to raise  
9 that another penny, and to put a CPI on that to keep that  
10 fund healthy.

11 As one of the other speakers mentioned, our  
12 programs are funded by that. There had been a surplus in  
13 that fund, but the operations of the State now cost more  
14 than what we're annually putting to that fund, so that  
15 surplus is soon to disappear.

16 On the next one, we're talking about filling  
17 vacancies which recently have occurred. And I want to  
18 apologize earlier on, when we were discussing the audit, I  
19 mentioned that we needed -- we'd like to see if we can get  
20 some more appraisers. We understand fully that the State  
21 is in, you know, almost an unprecedented economic  
22 situation, and that funds -- that a variety of agencies  
23 have vital functions and are not being funded.

24 And in some respects, this is exactly the same  
25 sort of thing. We understand that we may need to use our

1 existing resources until we get past this situation.

2           Nonetheless, we felt it was important to identify  
3 these needs and establish the basis, so that in the future  
4 when more resources are available, we'll go after them.

5           Although, again, the MRMD vacancies, as well as  
6 the MFD vacancies, are often funded by OSPAF fund, so that  
7 we may be able to obtain some of the relief on that,  
8 because they're not reliant on the general fund.

9           We're looking to reclassify the inspector series,  
10 so that we're able to compete more successfully for  
11 skilled staff, skilled new staff.

12           And as Cy mentioned, we'd like to do more to  
13 enhance and organize the EIR data that we accumulate, so  
14 that we can use them, in a general sense, to deal with  
15 these issues.

16           So that concludes staff recommendation -- or the  
17 staff report. I should mention a couple of things.  
18 First, as we've continuously alluded to, the final  
19 investigations on the Deepwater Horizon spill aren't done  
20 yet. And we are likely to come back with more  
21 recommendations, depending upon what's found there. You  
22 know, we want to be educated by that.

23           And the other thing I wanted to note before  
24 closing is that we've had two staff that have been down  
25 there. We had one staff that was called up active duty

1 Coast Guard. He's in the reserves to go down there and  
2 assist in the spill cleanup. And Gary Gregory, who's  
3 Kevin's boss, Chief of our Marine Facilities Division, was  
4 offered a job down there for a month doing management,  
5 high-level management, and took a month's vacation to go  
6 down there. We think the net result for us is going to be  
7 great, because he's had all this training down there and  
8 experience and he'll be able to benefit California's  
9 program as well. He just got back this week.

10 So that concludes our presentations, unless there  
11 are any questions from the Commissioners. Otherwise, we  
12 would ask -- the calendar item indicated this was for  
13 information purposes, but we'd like the Commission stamp  
14 of approval on those so that, you know, that we'd be able  
15 to go out and seek the legislation and understand that  
16 we're satisfying the Commission with our other recommended  
17 actions.

18 ACTING CHAIRPERSON ARONBERG: Thank you, Paul,  
19 very much, and thank you, staff, for the comprehensive and  
20 important report.

21 Are there any comments from the Commissioners?

22 Ms. Bryant.

23 ACTING COMMISSIONER BRYANT: I find myself in  
24 a -- kind of in a quandary here, because I think when I  
25 read the staff report, I was really impressed with it, and

1 thought, you know, we're doing a lot of things to --  
2 within our lands to prevent oil spills. And, you know, I  
3 remember '69, I was actually alive and remembered tar on  
4 my foot. And, you know, so I'm really always concerned  
5 about it.

6           But I think something happened to me here today,  
7 and it started, I think, with the Lieutenant Governor's  
8 presentation and his photographs from the Gulf. And it  
9 got me thinking that maybe what we didn't really do in  
10 this report is challenge ourselves to really ask the hard  
11 questions. Because in some ways, I think, our -- and we  
12 don't have -- I agree we don't have all the information,  
13 in terms of what happened in the Gulf.

14           But I don't think we really -- I don't think we  
15 ask ourselves are we doing everything that we can possibly  
16 do to prevent oil spills? I think we accepted that -- I  
17 think that the report reflects an acceptance by the staff  
18 and by the Commission that we are doing what we need to  
19 do. But I don't think we really -- it answers that really  
20 hard question of is there more that we should be doing?

21           And I don't know, I don't think I'm explaining  
22 this too well, because I was thinking of it as I was going  
23 through, but it's like, it articulates this is what we're  
24 doing, and we're doing a lot. And we have really  
25 competent, able staff that's doing a good job, and maybe

1 we need a few more.

2 But to me, it's like we're kind of tiptoeing  
3 around the edges. It's like we didn't start with a blank  
4 piece of paper and really challenge ourselves is there  
5 something that we should be doing differently?

6 And maybe that's a conversation that needs to  
7 take place across the entire state, because I know we have  
8 a lot of great agencies that are doing -- that do oil  
9 spill prevention work and look at this. But I've got to  
10 tell you if the Lieutenant Governor from the State of  
11 Louisiana has to fly out here and look at something that  
12 happens off our coast, and we are saying well, we just  
13 couldn't hire enough inspectors or we didn't have enough  
14 money, I just -- it's just not going to be a satisfactory  
15 answer.

16 So I think -- I don't know how to move forward on  
17 this, but I think that we owe it to ourselves to make sure  
18 that in our lands that we are doing everything humanly  
19 possible. And maybe just -- you know, maybe it's a  
20 question of each division looking at the other divisions'  
21 work, and really -- rather than starting with a here's  
22 what we do now and we think it's working if we add a  
23 little bit more around the edges, it would be great.

24 It's asking the harder question, is it -- are we  
25 doing everything we absolutely can to protect the coast of

1 California from a catastrophic spill.

2           And I get the fact that all the conditions in the  
3 Gulf are dramatically different than ours. But it's  
4 like -- it would be like we just had an earthquake and we  
5 didn't go back in and ask those hard questions. And I  
6 don't know exactly how to move that forward, but I think  
7 that's kind of the heart of what the Controller's original  
8 question was, and I think it's the heart of what the  
9 Lieutenant Governor brought to the table today.

10           And I think that we should take a page out of  
11 both of those playbooks and ask the question a different  
12 way.

13           Does that make sense?

14           EXECUTIVE OFFICER THAYER: I guess in response  
15 I'd say that it is true that a large part of this  
16 presentation focuses on what we're doing already. But I  
17 think that after something like the Louisiana spill  
18 occurs, there's this presumption that the existing  
19 programs there didn't work, and therefore, you know,  
20 California must be unprepared itself. There's kind of an  
21 immediate jump to that. And we felt it was important to  
22 present what we were doing as kind of the base from which  
23 we would then make further advances.

24           There may be fundamentally different ways that we  
25 can approach things. But in all likelihood, we're going

1 to build off of the successes we've had already, the kinds  
2 of processes that we've learned through a lot of  
3 experience that makes sense. I agree with the  
4 Commissioner entirely though, that we cannot be  
5 complacent.

6 And, I mean, I think the stats show that we have  
7 caused the oil spills to decline. There has been some  
8 success, but we're still not down to zero. And as long as  
9 we can keep coming up with more ways to be a more  
10 effective program, that's what we should be doing.

11 I'm not quite sure what you would like -- what  
12 your comments imply in terms of next steps, what you would  
13 like us to do differently.

14 ACTING COMMISSIONER BRYANT: I think maybe I can  
15 take it -- we can think about it a little bit. It might  
16 be a statewide response, looking really -- you know, kind  
17 of a tabletop exercise, really challenging ourselves to  
18 think this through.

19 And part of it is, is all of resources in State  
20 government are dwindling, and it is -- you know, you see a  
21 headline in the LA Times and you want to immediately go  
22 out and draft legislation. You want to immediately go out  
23 and fix this problem. I see it every day in my day-to-day  
24 life, you know, something is mentioned. In some ways, the  
25 audit has a little bit of that flavor to it too.

1           But I think on the question of oil spill, it's  
2 just so fundamental to California. It's having our  
3 coastline destroyed would be similar to having the Golden  
4 Gate Bridge collapse or having some -- you know, having  
5 Yosemite cave in on itself, because of some man-made  
6 disaster. It's something that I think that, just at the  
7 very highest level, we need to think about.

8           So we can talk about it some more. I don't know  
9 if my fellow Commissioners have any thoughts. I think we  
10 have -- you know, we're doing little things here like we  
11 have our resolution in a later agenda item. I think it's  
12 really worth taking the recommendations the Lieutenant  
13 Governor made and very seriously thinking about maybe a  
14 third-party inspection on top of the stuff we're already  
15 doing might be something we should think about, or do we  
16 need to change our worst case scenario from seven days to  
17 30 days.

18           And it probably is a statewide effort, but I  
19 think as the State Lands Commission, we should think about  
20 leading on this issue.

21           EXECUTIVE OFFICER THAYER: I understand. Curtis  
22 passed me a copy of the flier, the announcement, you know,  
23 the Commission does sponsor the Prevention First  
24 Conference, which occurs every other year. And the next  
25 version of that is going to be October 19th and 20th.

1 And, of course, the Commissioners have a standing  
2 invitation not only to attend, but if -- we always make  
3 space available if they would like to make presentations.

4 But this is one of a whole variety of efforts.  
5 Spills are caused by so many different things. It's not  
6 just Deepwater Horizon. It can be because some guy wasn't  
7 trained properly, or the corporate culture is not safety  
8 conscious. And when we look at the breadth of our  
9 programs, we're trying to -- each year it seems like we're  
10 looking for some other thing that can be done that will  
11 help cut off the next spill.

12 You look at two of the significant spills that  
13 have occurred over the last 10 or 15 years, they were both  
14 caused not because there was a lack of equipment or even  
15 warning that the spill was occurring, the operator turned  
16 off the safety device. I mean, these were the ones where  
17 we had the pipeline break that affected Platform Irene oil  
18 coming ashore.

19 And the same thing happened in Suisun where  
20 pipelines -- the systems detected that there was a drop in  
21 pressure and therefore likely to be a spill. And the  
22 operator said, "Oh, well, we don't see any spill. Let's  
23 turn it on again and then we'll see the spill when it  
24 comes out," and that kind of thing.

25 So you look at that and you go, God, you know,

1 what do you do? And you think well, that's not an  
2 equipment problem. That's a person problem. We need to  
3 do the training.

4           So it's -- you know, I hate to use this analogy,  
5 but it's a little bit like nailing jelly to a wall that  
6 you cannot have one approach to it. You have to come up  
7 with a whole lot of different methods of dealing with  
8 this. There's just so many ways an accident can happen.

9           And having been to a bunch of these Prevention  
10 First conferences through the years, the Commissioners  
11 might be very interested in this, because you look at the  
12 detail and the science involved in what's being looked at.  
13 I remember one of them in particular, that unfortunately  
14 he's not here, Martin Eskijian was running. But they were  
15 modeling the effect of passing ships on tankers that were  
16 tied up. So what's the effect? How much does the ship  
17 that's tied up move? How do you engineer so that the arm  
18 that's coming over and taking the oil off that tanker  
19 isn't going to break or what speed should the passing  
20 tanker be kept to to prevent that from happening. That's  
21 just one example of a gazillion different ways.

22           But you're right, we can get down in the bushes  
23 sometimes and maybe miss the forest for the trees. And  
24 any assistance the Commission can give us, in terms of  
25 making sure we don't do that, would be great.

1           Frankly, although we -- you know, as a staff, we  
2 understood we needed to look at the spill for how it will  
3 inform our process, the Commissioner's interest, and, you  
4 know, their actions at the last meeting in telling us  
5 they'd like to see a comprehensive review in the  
6 preparation of this report, helps staff in terms of making  
7 sure that -- it let's us know that the Commissioners are  
8 interested and that there's a mission here that we need to  
9 focus on. But any other direction from the Commission is  
10 appreciated.

11           ACTING CHAIRPERSON ARONBERG: As Cynthia said, a  
12 spill would be extraordinarily devastating, especially a  
13 big spill. And so it's a great idea to pursue additional  
14 self-examination, but that I think that the  
15 self-examination that occurred in this report is  
16 worthwhile.

17           And so I'll move to adopt these recommendations.  
18 And also, if Cynthia likes, to give direction to pursue  
19 something in addition.

20           ACTING COMMISSIONER BRYANT: Is this an action  
21 item?

22           EXECUTIVE OFFICER THAYER: It was noticed as an  
23 informational item. However, we want to make sure that,  
24 for example, on the legislation is that something the  
25 Commission wants us to pursue.

1           As I indicated, there were only two  
2 recommendations. One of them is already being carried  
3 out. And we could support that bill that would raise the  
4 fee -- per barrel fee by one penny. The other one was to  
5 pursue the cease and desist authority.

6           And then the other portions are staff-generated  
7 concepts. So if the Commission would rather wait until we  
8 bring that back and doesn't have any problem with what  
9 we're doing, and could somehow indicate that to us, that  
10 would be great.

11           COMMISSIONER MALDONADO: But just, Madam Chair,  
12 since it wasn't an action item, I didn't make the calls  
13 that I like to make to people who are in industry, people  
14 that will be affected to see what their opinions are.

15           EXECUTIVE OFFICER THAYER: Sure.

16           COMMISSIONER MALDONADO: And it's difficult for  
17 me to say yes on something that I wasn't prepared to just  
18 vote for today.

19           I'd love to bring it back, if we may, and then I  
20 can be prepared, fully prepared, on step by step what I'm  
21 voting on or maybe we separate them.

22           But I think this is very, very important. But  
23 like I said, I wasn't prepared today to cast a vote on  
24 something that was not an action item. I thought it was  
25 just a presentation. We were going to have comments from

1 Commissioners and public comments, if any, and then we  
2 would go from there.

3 EXECUTIVE OFFICER THAYER: We'd be glad to bring  
4 it back in that circumstance then.

5 ACTING CHAIRPERSON ARONBERG: Is there any public  
6 comment?

7 And so there's a motion on the table.

8 Okay, the motion has died for lack of a second.  
9 And we'll look at this next time and hopefully get these  
10 recommendations moving then.

11 EXECUTIVE OFFICER THAYER: Certainly.

12 ACTING CHAIRPERSON ARONBERG: Okay, so Item 51 is  
13 next. It's to consider approval of the report to the  
14 legislature involving ballast water treatment systems for  
15 use in California waters.

16 Can we have a staff presentation.

17 EXECUTIVE OFFICER THAYER: Nicole Dobroski will  
18 be making this presentation

19 ACTING CHAIRPERSON ARONBERG: There are two  
20 speaker slips for this item. So if there's anyone else  
21 who wants to speak, please fill out a speaker's slip and  
22 turn it in.

23 Thank you.

24 EXECUTIVE OFFICER THAYER: The Commission will  
25 recall that this was brought to the Commission at the last

1 meeting. And at the direction of the Commissioners, we've  
2 gone back and reviewed the report and tried to make it  
3 more consistent in tone both at the beginning and the end  
4 to match up with the facts that are in it. And Nicole  
5 will discuss this.

6 (Thereupon an overhead presentation was  
7 Presented as follows.)

8 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: Good  
9 morning, Madam Chair and Commissioners. My name is Nicole  
10 Dobroski. I'm a Staff Environmental Scientist with the  
11 Commission's Marine Facilities Division. I'm here today  
12 to present to you the revised report, 2010 Assessment of  
13 the Efficacy, Availability, and Environmental Impacts of  
14 Ballast Water Treatment Technologies for Use in California  
15 Waters.

16 The report, which is mandated by statute,  
17 examines the availability of ballast water treatment  
18 systems to meet California's performance standards for the  
19 discharge of ballast water. Specifically, this report  
20 assesses the availability of treatment systems for newly  
21 built vessels with a ballast water capacity greater than  
22 5,000 metric tons. These vessels must comply with  
23 California performance standards beginning January 1 of  
24 2012.

25 The first draft of the report was brought before

1 the Commission on June 28th of this year. The  
2 Commissioners requested that staff revise the report to  
3 ensure that its conclusions more thoroughly reflected the  
4 variability and uncertainty regarding the assessment of  
5 available ballast water treatment technologies to meet  
6 California's performance standards.

7 Staff has made the requested revisions. The  
8 executive summary and the conclusions have been amended to  
9 reflect the fact that while multiple treatment  
10 technologies have demonstrated the potential to meet  
11 California's performance standard, further development  
12 will be necessary in order to deem them ready for use in  
13 California waters.

14 Additionally, as requested by the Commission,  
15 staff has indicated in the report that they will prepare  
16 an updated report by September 1st of 2011. This update  
17 will allow the Commission to closely track the progress of  
18 technology development to ensure that systems will be  
19 available prior to the implementation of the standards on  
20 January 1st of 2012.

21 Staff continues to believe that based on the  
22 available data and the lead time available for further  
23 technology development and refinement, that technologies  
24 will be available by the time these vessels are  
25 operational in California waters, which will likely be in

1 2014 or later.

2           The recommendations to the legislature from the  
3 first report have not been changed. Staff recommends that  
4 the Commission proceed with implementation of the  
5 standards as planned for vessels with construction  
6 initiated on or after January 1 of 2012.

7           And then with approval of this report, staff will  
8 submit it to the legislature for their information and  
9 review. And I would be happy to answer any questions.

10           ACTING CHAIRPERSON ARONBERG: Thank you.

11           Comments from Commissioners, questions?

12           ACTING COMMISSIONER BRYANT: Thank you. It's so  
13 much better. And I really, really appreciate it. I know  
14 it was a pain to have to redo it, but it reads a lot  
15 better.

16           Thank you.

17           COMMISSIONER MALDONADO: I agree.

18           ACTING CHAIRPERSON ARONBERG: Great. We've got  
19 two public commenters. The first is John Berge followed  
20 by Victoria Rome.

21           MR. BERGE: Thank you, Madam Chair and  
22 Commissioners. My name is John Berge. I'm Vice President  
23 with Pacific Merchant Shipping Association. We represent  
24 shipping lines that serve California's ports.

25           I'd like to begin by thanking the Commission for

1 their action at the June meeting to remand the report back  
2 to staff for these additional edits. And those edits did,  
3 we believe, correct misleading statements regarding the  
4 current state of treatment technology, which suggested  
5 that technology could perform acceptably in meeting the  
6 State standard.

7           While we greatly appreciate those efforts, we  
8 must still respectfully disagree with the report's  
9 predictions that existing technology will be able to meet  
10 the standard in 2012 or shortly thereafter. As documented  
11 in the evidence presented in our earlier comments,  
12 academics, researchers, regulatory agencies, and treatment  
13 technology vendors are on record as agreeing with our  
14 conclusion.

15           And this is partly, I think, due to -- or a  
16 function of the current lack of testing and verification  
17 protocols designed around this more stringent State  
18 standard than the protocols that they're using right now  
19 for testing, and also partly a function of the  
20 capabilities of these technologies.

21           Now, there are several studies underway at the  
22 federal level to address the same issues we're dealing  
23 with and some of the questions we're asking here in  
24 California.

25           The results of those studies should be available

1 in 2011, and we believe they will further support our  
2 conclusions. Therefore, it was -- the Commission showed  
3 good foresight in requesting an interim report in 2011.  
4 And we hope that those -- that report will incorporate the  
5 findings of these other studies.

6 But unfortunately 2012 is approaching rapidly and  
7 ship owners are needing to plan on design and system  
8 utilization soon. So we therefore must again urge the  
9 Commission to more clearly recognize the limitations of  
10 technology in meeting the California standard and would  
11 recommend that either the standard be modified, the  
12 implementation schedule be delayed or a combination of  
13 those two.

14 And again, thank you very much for considering  
15 our comments.

16 ACTING CHAIRPERSON ARONBERG: Thank you.

17 Ms. Rome.

18 MS. ROME: Good morning. I'm Victoria Rome. I'm  
19 with the Natural Resources Defense Council. I'm here to  
20 urge you to approve the Commission staff's revised  
21 legislative report regarding ballast water treatment  
22 systems, and I have just a few brief points.

23 California has been a national leader in  
24 developing long overdue regulations to address invasive  
25 species discharged in vessel's ballast water, and is

1 critically important that this effort continue on  
2 schedule.

3 Thanks to the Commission's leadership, California  
4 was the first State to adopt strict standards to limit the  
5 amount of invasive species that vessels can dump along our  
6 coast in their ballast water.

7 Similar standards should have been required by  
8 U.S. EPA and the Coast Guard under federal law, but is  
9 only because of the leadership of California and other  
10 states that any significant progress has been made at the  
11 federal level.

12 The Commission staff's report accurately finds  
13 that technology is developing rapidly and that at least  
14 eight treatment systems are commercially available that  
15 demonstrate the potential to meet California's standards.

16 Again, we support approval of the staff report  
17 today. Thank you very much.

18 ACTING CHAIRPERSON ARONBERG: Thank you.

19 ACTING COMMISSIONER BRYANT: I'd like to move  
20 approval of the staff report.

21 COMMISSIONER MALDONADO: I'll second that.

22 ACTING CHAIRPERSON ARONBERG: We have a motion  
23 and a second.

24 All in favor say aye?

25 (Ayes.)

1           ACTING CHAIRPERSON ARONBERG: The report is  
2 approved.

3           The next item, 52, is to consider termination of  
4 a recreational pier lease and to authorize ejectment  
5 proceedings.

6           Can we have the staff presentation.

7           EXECUTIVE OFFICER THAYER: That presentation will  
8 be made by Vicki Caldwell who is from our Land Management  
9 Division.

10           (Thereupon an overhead presentation was  
11 Presented as follows.)

12           LAND MANAGEMENT SPECIALIST CALDWELL: Good  
13 morning, Commissioner. My name is Vicki Caldwell. I'm a  
14 Public Land Management Specialist with the Commission's  
15 Land Management Division. I'm here to present information  
16 on Calendar Item 52. This item asks the Commission to  
17 confirm staff's finding that Larry M. Hamilton and Laura  
18 B. Hamilton, trustees of the Larry and Laura Hamilton  
19 trust dated January 3rd, 2006 are in default of their  
20 lease for the reasons to be described in this  
21 presentation.

22           As background, Commission staff received a lease  
23 application on June 4th, 2007 from the Hamilton's  
24 consultant for the construction, use, and maintenance of  
25 an uncovered floating boat dock, pilings and a gangway

1 located on the Sacramento River adjacent to their upland  
2 home located at 14065 River Road in Walnut Grove.

3 --o0o--

4 LAND MANAGEMENT SPECIALIST CALDWELL: This  
5 exhibit is what the Commission approved in the lease. The  
6 lease application included information regarding permits  
7 that had been obtained from the Department of Fish and  
8 Game, the State Reclamation Board, and the Reclamation  
9 District number 554.

10 In addition, the application reported that  
11 several other permits and consultations from the Central  
12 Valley Regional Water Quality Control Board, the U.S. Fish  
13 and Wildlife Service, and the U.S. Army Corps of Engineers  
14 were under review, but not yet completed.

15 The application was deemed complete and staff  
16 negotiated a lease that included construction-related  
17 lease provisions, in Section 3 Paragraph 3 and 4, that  
18 required the Hamiltons to provide the Commission 15 days  
19 notice prior to the start of construction and within 60  
20 days of completion of construction; confirm when  
21 construction was completed and submit photographs and  
22 as-built drawings of the authorized improvements.

23 And in Section D Paragraph 8, that required the  
24 Hamiltons to obtain and maintain all federal, State, and  
25 local permits and entitlements for the term of the lease.



1 of Violation from the Army Corps that the Hamiltons  
2 remained in violation and staff learned that the Hamiltons  
3 had not responded to the first notice of violation in  
4 2009.

5           On July 14th, 2010, Commission staff gave formal  
6 written notice to the Hamiltons that they were in default  
7 of their lease, and pursuant to the terms of their lease,  
8 they had 30 days to cure the default. Staff further  
9 notified them that if they did not comply within 30 days,  
10 staff would recommend termination of the lease for  
11 consideration by the Commission.

12           On July 29th, 2010, staff received a letter from  
13 the Hamilton's consultant, in which they advised that the  
14 Hamiltons would be pursuing this matter with the Army  
15 Corps of Engineers to rectify the situation regarding the  
16 Army Corps permit and requested a postponement of this  
17 action before you, while they are engaged with the Army  
18 Corps and compiling the photographs and as-built drawings.

19           On August 9th, 2010, staff responded to the  
20 Hamiltons and their consultant that the item would remain  
21 on the agenda, because the Hamiltons knowingly constructed  
22 the docking facility without obtaining the required  
23 permits, and because of their failure to comply with the  
24 term of their lease pertaining to the construction of the  
25 dock.



1 Two, authorize staff to issue a Notice of  
2 Termination of lease PRC 8765.9.

3 And three, authorize staff and the Office of the  
4 Attorney General to take all necessary steps, including  
5 litigation, to eject Larry M. Hamilton and Laura B.  
6 Hamilton, trustees of the Larry and Laura Hamilton Family  
7 Trust dated January 3rd, 2006 from State sovereign land,  
8 to seek removal of the docking facilities, to seek  
9 restoration of sovereign lands at this location to its  
10 natural condition prior to the placement of the  
11 improvements to the satisfaction of the Commission, to  
12 seek other such remedies available for the breach of the  
13 lease, and to recover the Commission's damages and costs.

14 That concludes my presentation.

15 ACTING CHAIRPERSON ARONBERG: Thank you.

16 Comments from Commissioners?

17 COMMISSIONER MALDONADO: Yeah, I've got a  
18 question. Why is this going this route?

19 They can't afford to pay it or they don't want to  
20 pay it or --

21 LAND MANAGEMENT SPECIALIST CALDWELL: They  
22 haven't contacted the Army Corps to set up a meeting to  
23 resolve this issue.

24 EXECUTIVE OFFICER THAYER: Given their recent  
25 letter, they might finally be seeing the light of day that

1 this is something that needs to be done. I mean, to their  
2 credit, they got the authorization from us, and from  
3 several different agencies, but just neglected to do it  
4 from the other two and neglected to give us the as-built  
5 plans and all the other things that every other lessee  
6 needs.

7           From my perspective, I'm hoping the fact that  
8 we've gotten this letter, and if the Commission takes this  
9 action today, that they'll understand they could lose  
10 their dock, and that they'll take the appropriate steps to  
11 fix the situation.

12           And from our perspective, that would be a  
13 satisfactory result. The dock could stay, if they would  
14 get the Corps permit, give us the as-builts, and the  
15 pictures and everything else that needs to be done and  
16 we'd be done with it. But we've reached the point as a  
17 staff where we need your help to bring that about.

18           ACTING CHAIRPERSON ARONBERG: Thank you. Do we  
19 have a motion?

20           ACTING COMMISSIONER BRYANT: I'll move the staff  
21 recommendation.

22           COMMISSIONER MALDONADO: And I'll second the  
23 staff recommendation.

24           ACTING CHAIRPERSON ARONBERG: We have a motion  
25 and a second.

1 All in favor say aye?

2 (Ayes.)

3 ACTING CHAIRPERSON ARONBERG: Staff's  
4 recommendation is approved.

5 Item 53 is to consider termination of a holdover  
6 month-to-month occupation of State Lands denial of an  
7 application for a lease and to authorize ejectment  
8 proceedings.

9 May we have the staff presentation.

10 EXECUTIVE OFFICER THAYER: Thank you. Ms. Clark  
11 also from our Land Management Division, one of the other  
12 land agents will make this presentation.

13 LAND MANAGEMENT SPECIALIST CLARK: Good morning,  
14 Commissioners.

15 (Thereupon an overhead presentation was  
16 Presented as follows.)

17 LAND MANAGEMENT SPECIALIST CLARK: My name is  
18 Michelle Clark. I am with the Land Management Division.

19 MR. LLOYD: Ms. Clark, can you pull the  
20 microphone closer to you.

21 LAND MANAGEMENT SPECIALIST CLARK: Oh, sure.

22 Today, I'll be presenting information on Calendar  
23 Item 53. The item before you involves an application for  
24 a commercial lease from Ron Sorenson, doing business as  
25 the Rio Ramaza Marina for the continued use of a

1 previously authorized commercial marina, now consisting of  
2 a boat launch --

3 --o0o--

4 LAND MANAGEMENT SPECIALIST CLARK: -- gangways,  
5 walkways, uncovered floating boat docks, and pilings on  
6 approximately 3.5 acres of sovereign land in the bed of  
7 the Sacramento River adjacent to 10000 Garden Highway in  
8 Sutter county.

9 As background, on July 30th, 1970, the Commission  
10 authorized a 25-year commercial lease to 4-Jay Investments  
11 Incorporated, doing business as the Rio Ramaza Marina.

12 That lease expired on July 31st, 1999 and went  
13 into holdover status. A little over a month later, the  
14 upland property and the marina were sold to Ron Sorenson.  
15 And shortly thereafter, staff of the Commission became  
16 aware of the ownership transfer and began notifying Mr.  
17 Sorenson that a new lease was required for the marina  
18 facilities.

19 Between 1999 and 2008, staff sent several letters  
20 made phone calls and performed several site visits in  
21 attempt to bring Mr. Sorenson under lease. During that  
22 period, Mr. Sorenson made periodic rent payments, which  
23 staff accepted. Staff considers the lease to be in a  
24 month-to-month holdover tenancy.

25 During the site visits, staff observed that the

1 docks had fallen into disrepair and continued to  
2 deteriorate.

3           In October 2008, Mr. Sorenson finally -- excuse  
4 me, finally submitted a lease application along with the  
5 \$6,000 minimum expense deposit to process the application.  
6 At that time, Mr. Sorenson owed outstanding rent,  
7 including penalty and interest for the period of August  
8 1st 2006 through July 31st, 2009.

9           Staff informed Mr. Sorenson that in order to  
10 process the application, the back rent must be paid, and  
11 he agreed to apply the \$6,000 deposit toward the  
12 outstanding rent. Staff then requested an additional  
13 \$3,000 to cover the minimum expense deposit to continue  
14 processing the application.

15           At that time, the marina manager notified staff  
16 that the deteriorated floating docks had been removed and  
17 that work on replacing the docks had begun.

18           Staff then performed a site visit and confirmed  
19 that eight of the original 12 docks had been removed, and  
20 that four docks with approximately 60 exposed pilings  
21 remained in the bed of the river.

22           As part of the application, staff required a  
23 repair plan detailing how and when the marina would be  
24 reconstructed and restored. Throughout 2009 and up until  
25 last month, staff repeatedly sent letters and made calls

1 to both Mr. Sorenson and his manager, requesting that they  
2 submit a complete application, submit a repair plan for  
3 the marina, provide the minimum expense deposit to cover  
4 the application costs and pay the rent that had been  
5 accruing since August 1st, 2009. Mr. Sorenson did not  
6 respond.

7 On July 14th, 2010, Mr. Sorenson was sent formal  
8 notice of the staff's intent to recommend termination of  
9 the holdover tenancy and denial of the application for the  
10 Commission's consideration at this meeting.

11 Mr. Sorenson responded and met with staff on July  
12 27th to discuss his ability to pay the outstanding rent,  
13 provide the funds necessary to cover staff costs to  
14 process an application, and maintain a lease and the lease  
15 premises.

16 Mr. Sorenson stated that he has met with personal  
17 financial difficulties and that the marina is subject to  
18 economic obstacles due to its remote location and the  
19 current levee repair work taking place along Garden  
20 Highway.

21 He assured staff that he is committed to  
22 providing the processing fees, the rent, and outstanding  
23 information, and wants to move forward with the new lease  
24 and continue repairs to improve the marina facilities.

25 On August 5th, 2010, after this meeting agenda

1 was finalized, staff performed a site visit, and the  
2 photos you are seeing today were taken at that visit.

3           While at the site, Mr. Sorenson's manager  
4 provided staff with a check for \$2,500 toward processing  
5 the application. And as late as this week, Mr. Sorenson's  
6 manager provided an additional \$500. The \$3,000 dollars  
7 has now been applied toward the outstanding staff costs  
8 incurred during the past two years.

9           In conclusion, because of the circumstances that  
10 have occurred over the past 10 years, staff is  
11 recommending that the Commission, one, authorize staff to  
12 terminate the month-to-month tenancy of a general lease,  
13 commercial use, lease number PRC 4485.1.

14           If the applicant fails within 60 days to complete  
15 the lease application process, including the submission of  
16 the application processing fees, submission of a  
17 deteriorated repair plan, and payment of accrued back  
18 rent, plus penalty and interest.

19           And two, authorize staff of the State Lands  
20 Commission and the Office of the Attorney General to take  
21 all steps necessary, including litigation, to eject  
22 Richard Sorenson, to seek removal of all improvements from  
23 sovereign land in the bed of the Sacramento River, to  
24 restore the sovereign lands at this location to their  
25 condition prior to the placement of the improvements, and

1 to recover the Commission's damages and costs, including  
2 unpaid back rent, penalty and interest upon failure of the  
3 applicant to comply with the conditions authorized in  
4 Paragraph 1 above.

5 Staff is available to answer any questions.

6 ACTING CHAIRPERSON ARONBERG: Thank you.

7 Comments from Commissioners?

8 Comment from the public?

9 I don't have any speaker cards here.

10 Do we have a motion?

11 ACTING COMMISSIONER BRYANT: I'll move approval.

12 COMMISSIONER MALDONADO: I'll second.

13 ACTING CHAIRPERSON ARONBERG: We have a motion  
14 and a second.

15 All in favor say aye?

16 (Ayes.)

17 ACTING CHAIRPERSON ARONBERG: Staff  
18 recommendation is approved.

19 The next item -- Paul, where are we? Are we  
20 circling back to --

21 EXECUTIVE OFFICER THAYER: Probably 55.  
22 Fifty-four has been taken off. Although, it will be  
23 subject to public comment, during the public comment  
24 period, but we still have 55 remaining.

25 ACTING CHAIRPERSON ARONBERG: Okay, so Item 55.

1 Mario, hi.

2 LEGISLATIVE LIAISON DE BERNARDO: Good morning,  
3 Madam Chair and Commissioners. My name is Mario De  
4 Bernardo. I'm the Legislative Liaison for the State Lands  
5 Commission.

6 As you well know, Washington D.C. has been very  
7 busy with the Deepwater Horizon oil spill. There are at  
8 least 10 major investigations occurring by the federal  
9 government, at least -- on Capitol Hill at least 47 bills  
10 addressing the oil spill. And there are several  
11 discussion drafts that are being discussed and possibly  
12 introduced.

13 This resolution supports several key provisions  
14 in these bills. These provisions repeal or increase the  
15 cap of liability on oil spills, impose stronger standards  
16 and technology for oil spill response and prevention,  
17 including standards and technology requirements for  
18 blowout preventers, mandates worst case scenario planning  
19 for oil spills, calls for monthly inspections of offshore  
20 facilities with an increase in inspections if there are  
21 safety violations found, regulation of the chemical  
22 dispersants used in oil spills, protection for whistle  
23 blowers, and improvement of federal agencies' roles in oil  
24 spill prevention and response, including an increase in  
25 training and response within the Coast Guard, EPA, and the

1 successor of MMS.

2           This resolution supports all of these key  
3 provisions. It also supports or urges Congress and the  
4 President to support a permanent ban on offshore oil  
5 leasing or new offshore oil leasing off the California  
6 coast. The Commission in the last decade, as well as the  
7 Governor, has strongly pursued this with the federal  
8 government

9           EXECUTIVE OFFICER THAYER: This resolution would  
10 reiterate that position once again.

11           Thank you.

12           EXECUTIVE OFFICER THAYER: To add, if I may, to  
13 what Mario said, we see this as kind of a bookend to the  
14 staff report on the State programs that obviously, as has  
15 been testified, as the Lieutenant Governor referred to,  
16 there are 27 offshore oil platforms, offshore California,  
17 and we only have four of them in State waters. The rest  
18 of them are in federal waters. So we could do all the  
19 work in the world in improving our State program, but the  
20 risk is still, at least in a quantity perspective, from  
21 the federal waters.

22           We can't regulate that, but we think some of the  
23 measures that are being proposed in Congress are worthy of  
24 support for attempting to improve that situation. We  
25 didn't try and go through on a bill-by-bill basis picking

1 bills that should be supported. A lot of that is  
2 changing. Instead, it seemed more sense to pick out the  
3 kinds of policy improvements and program improvements that  
4 made the most sense and then have the Commission take a  
5 stand on those.

6           Again, this resolution was something that was  
7 proposed by the Controller's Office.

8           LEGISLATIVE LIAISON DE BERNARDO: I would add  
9 that it's likely that several of these proposals, which  
10 are in separate bills now, will be consolidated into more  
11 comprehensive bills. And so as Paul said, that's the  
12 reason why we didn't go with specific bills, but went with  
13 general concepts, so that if those bills are combined into  
14 bigger pieces of legislation, that we can send a support  
15 letter.

16           ACTING CHAIRPERSON ARONBERG: Thank you, Mario.  
17 Thank you, Paul.

18           CHIEF COUNSEL FOSSUM: Madam Chair, on a  
19 procedural point, before the Commission can vote on this,  
20 I have to let them know that we have two alternates now to  
21 the Constitutional officers. Only one is allowed, so only  
22 one of you can participate and vote on the matter. This  
23 does not apply to the Director of Finance's Office.

24           ACTING CHAIRPERSON ARONBERG: Thank you, Curtis.  
25 That's a good point.

1           So may I have a motion.

2           ACTING COMMISSIONER BRYANT: I was confused by  
3 that.

4           ACTING CHAIRPERSON ARONBERG: Curtis can explain  
5 the rule.

6           ACTING COMMISSIONER BRYANT: I'm sorry. I didn't  
7 realize that the Lieutenant Governor had left.

8           CHIEF COUNSEL FOSSUM: The Lieutenant Governor is  
9 Absent and so Amanda Fulkerson is taking his place.

10          ACTING COMMISSIONER BRYANT: Moving on, I'm  
11 sorry. I just didn't -- I'm not paying attention.

12          I'm only paying attention to staff.

13          (Laughter.)

14          ACTING COMMISSIONER BRYANT: Just on this, I just  
15 want to double check, in light of my earlier comments, the  
16 eight things that we're asking to do -- suggesting that  
17 federal government do, those are all things that we  
18 currently do on our own California platforms, is that --

19          EXECUTIVE OFFICER THAYER: They're either things  
20 that we already do or are encompassed in the  
21 recommendations we included in our prior report. And we  
22 did that. We kind of did a cross-check to make sure we're  
23 being consistent.

24          ACTING COMMISSIONER BRYANT: Okay, and then just  
25 in the final resolved about permanently banning offshore

1 oil. I think we're all talking about new offshore oil and  
2 new gas leases. It doesn't say that. It almost implies  
3 that we were suggesting that they cease immediately, which  
4 may be --

5 EXECUTIVE OFFICER THAYER: And it makes reference  
6 not to the leases, but to the sales. So we're saying ban  
7 sales. And that's what makes the lease -- if you're more  
8 comfortable, we can introduce the word "new" into the --

9 ACTING COMMISSIONER BRYANT: Yeah, that would be  
10 good, and then I'll move approval.

11 EXECUTIVE OFFICER THAYER: Okay, we'll put that  
12 in after "new" -- or after "ban".

13 ACTING COMMISSIONER BRYANT: Okay, then I move  
14 approval.

15 Thank you.

16 ACTING CHAIRPERSON ARONBERG: And I'll second the  
17 motion. And it carries unanimously, with one not  
18 participating, pursuant to law.

19 EXECUTIVE OFFICER THAYER: And which?

20 ACTING CHAIRPERSON ARONBERG: Oh, I think I'm  
21 participating. Amanda is okay with me participating, yes.

22 EXECUTIVE OFFICER THAYER: Just for our records.

23 Thanks.

24 So that completes our regular calendar. And now,  
25 as the Chair was alluding to, we could, if the Commission

1 agrees, circle back to Consent Item 25, where again we had  
2 thought there was no opposition to this, but have received  
3 notification that Mr. Wes Moody, who is associated with  
4 the Agate Pier Swim Club, objects to the rent review that  
5 the staff had recommended that the Commission adopt. I  
6 believe the staff recommendation will be presented by Mary  
7 Hays from our Land Management Division.

8           ACTING CHAIRPERSON ARONBERG: Thank you.

9           PUBLIC LAND MANAGER HAYS: Good morning,  
10 Commissioners.

11           I'm going to give you just a quick summary of  
12 Calendar Item 24. My name is Mary Hays. I'm with the  
13 State -- with the Land Management Division, and I'm a  
14 Public Land Manager.

15           Calendar Item 25 is regarding a revision of rent  
16 for an existing lease at Lake Tahoe. Our lessee is Agate  
17 Pier and Swim Club Incorporated. And they're located at  
18 5690 North Lake Boulevard in Agate Bay, which is in Placer  
19 County at Lake Tahoe.

20           Agate Bay Pier and Swim Club is a private club,  
21 and they have on the State sovereign lands an existing  
22 pier, 21 mooring buoys, and one marker buoy.

23           The lease was approved by the Commission in  
24 December 16th of 1998. And at that time, the rent was  
25 set -- minimum rent with a percentage of gross, because it

1 was our understanding that they were also renting their 21  
2 buoys to their members. So the rent was based, at that  
3 time, on an existing benchmark that we had at Lake Tahoe  
4 is an appraisal that is applied within the bed of Lake  
5 Tahoe for recreational and commercial. Actually, we have  
6 commercial and recreational type leases there.

7 Pursuant to the terms of the lease, the  
8 Commission reviews the rent every five years. Just as a  
9 little background, in 2007, we did a new benchmark. The  
10 prior benchmark had been set in 1992. It's been many  
11 years in between. We did update it in 2007, so there was  
12 a significant increase in rents at Lake Tahoe.

13 Just to give you a little background, the rent  
14 for the use of State Lands for a single use buoy went from  
15 \$93 a year to \$340 a year. And the rent per square foot  
16 for recreational and commercial use went from 21 cents a  
17 square foot to 80 cents a square foot. So there's a  
18 significant jump in rent.

19 Pursuant to the terms of the lease, we are  
20 bringing this item to the Commission to increase the rent  
21 beginning July 1st of 2010. And we are requesting that  
22 the Commission approve the revision of the minimum rent  
23 for the lease PRC 3994.1 from \$3,220 a year to \$11,720 a  
24 year effective July 1st of this year.

25 ACTING CHAIRPERSON ARONBERG: Thank you, Mary.

1 PUBLIC LAND MANAGER HAYS: And we're available  
2 for anymore questions.

3 ACTING CHAIRPERSON ARONBERG: Thank you. We have  
4 a speaker card from Wes Moody.

5 MR. MOODY: Good morning. My name is Wes Moody.  
6 I'd like to thank the Commission for hearing me on this  
7 important matter to my community.

8 I'm a volunteer director. One of several for the  
9 Agate Pier and Swim Club. We're are a 501(c)(7) nonprofit  
10 organization. We're effectively a community service  
11 entity, and we're doing our best to provide vacation and  
12 recreational opportunities for a small community in North  
13 Lake Tahoe.

14 The Agenda Item C25 is staff's recommendation to  
15 increase the lease fee on an annual basis. You just heard  
16 from staff on that. The increase again is from \$3,220 per  
17 year to a little over \$11,700 per year. That's a 264  
18 percent increase in a single year.

19 We have twice written to the staff over the  
20 course of the last year seeking a more moderate increase.  
21 Our first proposal was to increase it from the \$3,220 per  
22 year to a little more than \$5,000 a year, which would  
23 itself be a 57 percent increase in a single year.

24 When staff advised us of the benchmark study  
25 they'd done in 2007, we compiled some information about

1 the real estate price declines in the Tahoe area since  
2 2007. And on that basis, we revised our requested lease  
3 terms from the original \$3,220 up to \$8,204, which is  
4 again itself a \$155 -- 155 percent increase in a single  
5 year, compared to the 264 percent increase that staff was  
6 recommending.

7 Both of our offers have been rejected by the  
8 staff. And most recently, their offer was to simply delay  
9 the effectiveness of the 264 percent increase. But if I  
10 understand staff this morning, that offer is not on the  
11 table. If I understood correctly, the recommendation this  
12 morning is the increase be effective on January 1st --  
13 July 1st, 2010.

14 By way of background -- and it's been a long  
15 morning, so I'll try to be as brief as possible. In the  
16 early 1950s a man by the name of Buzz Davis bought  
17 property between -- on the north shore of Tahoe between  
18 what is today Carnelian Bay and Kings Beach, and  
19 subdivided that property for residential vacation use for  
20 the most part, and had the vision of providing vacation  
21 and recreational opportunities for what amounts to working  
22 class people.

23 These are not waterfront homes. These are not  
24 estates. These are relatively small lots, where, as I  
25 mentioned, working class people can provide a vacation

1 opportunity for their family.

2           Buzz had the vision of creating something good  
3 for families, and particularly children. And in the early  
4 years, Buzz would bring burros and livestock ponies to the  
5 area and give kids pony rides. A pool was constructed.  
6 He came up with a bunch of goofy games that were geared  
7 toward the children that we continue today. Penny dives  
8 in the pool, and an opportunity to guess how many pieces  
9 of candy are in a jar and win the jar of candy.

10           We have a 4th of July parade, where one of the  
11 members of the community has a truck with a PA system and  
12 we play patriotic music as we drive the truck around the  
13 neighborhood. And all the kids in the neighborhood have  
14 their bikes decorated with red, white, and blue, and come  
15 back to the pool and have a barbecue.

16           Again, Pledge of Allegiance. It's a little slice  
17 of Americana. It's, in some ways, a look back in time,  
18 but it's intended for the families there in Agate Bay.

19           It's very clear we are not a homeowners  
20 association, because when Buzz Davis, the original  
21 developer, grew ill and decided to attempt to sell the  
22 amenities to the community, it was offered to all members  
23 of the community, but only a fraction of the residents in  
24 the community decided to opt in to the purchase of the  
25 pier and the pool.

1           But we still represent 238 families in the area,  
2 and provide this pier and buoy, that's the subject of the  
3 staff's recommendation, for use by those 238 family  
4 members, as well as guests that they have or, in some  
5 cases, renters.

6           We've, as I mentioned, tried to stay true to the  
7 spirit of Buzz's original vision for the area. It's again  
8 kind of a throwback to an earlier era. We're not a  
9 homeowners association, but we're also not a commercial  
10 venture. We simply collect dues from our member families  
11 in an effort to recover the cost. Again, we're a  
12 nonprofit organization.

13           Over the course of the past five years, not  
14 withstanding the benchmarking that the staff has referred  
15 to, we've increased our buoy fees to our members about  
16 nine percent a year. And our revenues to the club --  
17 again nonprofit organization. We've been losing a little  
18 bit of money, but our revenues have been increasing at  
19 about six percent, as a result of the rental fees.

20           Those are pretty typical increases, I believe,  
21 under the circumstances. And our club, this group, this  
22 community cannot withstand an increase that the staff is  
23 recommending. This 264 percent increase in a single year,  
24 even if it was spread over a couple years is just totally  
25 untenable to us.

1           And so I would respectfully request that the  
2 Commission consider some more reasonable increase than  
3 what has been recommended by the staff.

4           ACTING CHAIRPERSON ARONBERG: Thank you, Mr.  
5 Moody for the presentation. What's the pleasure of the  
6 Commission?

7           Any comments?

8           ACTING COMMISSIONER BRYANT: Can staff comment  
9 back on that a little bit. I just -- it is a dramatic  
10 rent increase, but albeit, we've been getting criticized  
11 for not getting good rent, so it's a Catch 22 here.

12           EXECUTIVE OFFICER THAYER: Well, and I think I  
13 would say that, if anything, that probably the rent had  
14 been too low before. That when it was originally set, it  
15 was several years after the earlier benchmark had been  
16 set. So the association has been -- or the club has been  
17 enjoying kind of below market rents, and so the shock is  
18 harder.

19           We ran into the exact same thing on the marine  
20 oil terminals that the Senator was concerned about, where  
21 we had 65-year old leases with no opportunity to change  
22 them, and we ended up in one case multiplying the marine  
23 oil terminal rent by 40 times to bring it current, which  
24 was one of the reasons it was difficult.

25           So our approach has been it's best to set market

1 rent at this point. We're going to avoid that way having  
2 large rent increases in the future, if we set them at the  
3 right rate now. This is the same rate we're using  
4 everywhere else. I don't know how they prorate costs of  
5 the buoys, whether the person who enjoys the buoy pays for  
6 it or whether it's paid for by the entire association.  
7 It's obviously about 500 a year for the -- if the rent  
8 were imposed on the buoy holders, it's about \$50 a year  
9 per family, if it were distributed over the whole thing.

10 But regardless of that, we don't charge  
11 corporations or people who have a lot of money more money  
12 to use the State property or less money. We just -- we  
13 crank in the appraised value, and try and get the fair  
14 market rent without other regard.

15 We do have the ability to charge less or no rent,  
16 if there's a public benefit. But again, although this may  
17 be a community, in the sense that everybody knows each  
18 other and has parades and that sort of thing, it's also a  
19 private membership club that some elect to belong to and  
20 others don't. And so it's not equivalent to a town  
21 facility or anything like that.

22 So given all of that, we think we've set the rent  
23 at the rate that our appraisal from back in 1997 indicated  
24 was the appropriate bench mark. And it's consistent with  
25 what we're doing in other places in Tahoe.

1           ACTING CHAIRPERSON ARONBERG: Thank you.

2           It looks like Mr. Moody wants to make a point.

3           MR. MOODY: If I could just make two quick  
4 points. Number one, I am under the understanding that the  
5 State Lands Commission does offer a different lease fee  
6 for homeowners associations, although we are not a  
7 homeowners association in many respects. In this regard,  
8 we're very like a homeowners association, much more like a  
9 homeowners association than we are a business that's  
10 trying to make money on buoy rental.

11           The second point I'd like to make is what  
12 business, or for that matter, what government would  
13 neglect to make periodic assessments or reappraisals of  
14 costs, and then expect to be reasonable to recover all of  
15 that in a single year. That's just not a reasonable  
16 practice, in my judgment.

17           EXECUTIVE OFFICER THAYER: I want to be clear,  
18 we're not recovering past rents where the rate might have  
19 been higher in the past. We're only setting a rent for  
20 the go forward, not trying to make up for lost time. This  
21 is the rent that we would have charged if they were paying  
22 10,000 a year prior to this. So we're not trying to  
23 recover. We're trying to get to the market rate.

24           ACTING CHAIRPERSON ARONBERG: Okay, and I think  
25 there was a question that probably relates to the fact

1 that homes owned by the upland owner -- I'll let Curtis  
2 chime in and explain the rule.

3 CHIEF COUNSEL FOSSUM: The Legislature has  
4 prohibited the Commission from charging rents for  
5 homeowners who have piers or buoys out in the lake if they  
6 are the upland owner and they have a residence on that.  
7 And that is applied to homeowners associations on a  
8 percentage basis as well. I think there's something on  
9 the calendar, in fact, in that regard.

10 So when you are not a homeowners association or  
11 individual upland owner, then the Commission is required  
12 to charge a fair market rent and that's what we're doing  
13 here.

14 ACTING CHAIRPERSON ARONBERG: Thank you.

15 ACTING COMMISSIONER FULKERSON: May I ask one  
16 more question?

17 ACTING CHAIRPERSON ARONBERG: Sure.

18 ACTING COMMISSIONER FULKERSON: Would you please  
19 reiterate -- you said there was an agreement or an  
20 offer -- two offers that you guys had made with the  
21 association -- or he -- I'm sorry, he said that, and those  
22 offers were rejected?

23 MR. MOODY: I was the one that referred that  
24 those were offers from our association.

25 ACTING COMMISSIONER FULKERSON: They were offers

1 from your association to the State Lands Commission?

2 MR. MOODY: Correct, written offers.

3 EXECUTIVE OFFICER THAYER: That's right.

4 ACTING COMMISSIONER FULKERSON: And what were  
5 they? What were the offers?

6 EXECUTIVE OFFICER THAYER: One was, what, 5,000  
7 and the other one was 8,000 approximately?

8 MR. MOODY: The first one was 5,048 per year, and  
9 the second one was \$8,204 per year.

10 ACTING COMMISSIONER FULKERSON: And what did you  
11 base that on?

12 MR. MOODY: The first one was -- I'm sorry, I  
13 can't remember what the basis for the first one was. I  
14 believe it was a percentage increase based on the prior  
15 period of time, but I can't be sure about that.

16 But for sure, the second one was based -- we had  
17 heard in the meantime from the staff that they had done  
18 this 2007 benchmarking study. And so the second offer was  
19 based on what we believe to be the decline in values since  
20 January 1st, 2007. And that's how we arrived at the  
21 \$8,204.

22 ACTING COMMISSIONER FULKERSON: Okay, thank you.

23 ACTING CHAIRPERSON ARONBERG: Okay, and, Mr.  
24 Moody, I'm just going to point out something that you may  
25 not be aware of. It was during the Executive Officer's

1 report. Paul talked about this. But the timing of your  
2 request is simultaneous with the Joint Legislative Audit  
3 Committee's decision to examine the State Lands  
4 Commission, to make sure that the State Lands Commission  
5 is receiving market rate rents for all of its properties.

6 And so that's just a timing issue. And I think  
7 it's in everyone's mind. So I'm just going to inform you  
8 of it, because I know you don't -- probably don't follow  
9 our -- all of our goings on as carefully as we do.

10 MR. MOODY: As long as we're talking about  
11 coincidences in time, this also occurs at a time when the  
12 TRPA has imposed upon all buoy owners in the basin  
13 enormous increases in fees. So it's breaking the back of  
14 our community association.

15 ACTING CHAIRPERSON ARONBERG: We understand.

16 EXECUTIVE OFFICER THAYER: And I want to make  
17 sure the record is clear that the rent that we're  
18 proposing be adopted for this was set before Senator  
19 Cogdill's letter was issued. So the staff was not  
20 influenced by that in making this proposal.

21 ACTING CHAIRPERSON ARONBERG: I was just pointing  
22 out, so that Mr. Moody -- it seems like it's come up, but  
23 I wouldn't -- I didn't know if Mr. Moody was aware of it,  
24 so I thought I would just let him know.

25 What's the pleasure?

1           ACTING COMMISSIONER BRYANT: I'll move approval  
2 of the staff recommendation.

3           ACTING CHAIRPERSON ARONBERG: And I'll second.  
4           And so it's adopted by two with one not  
5 participating.

6           EXECUTIVE OFFICER THAYER: That concludes the  
7 regular calendar, and we would move to public comment.

8           ACTING CHAIRPERSON ARONBERG: We have a number of  
9 speaker cards for public comment. So I'm informed that  
10 our timer may be malfunctioning.

11           EXECUTIVE ASSISTANT LUNETTA: I think it may be  
12 functioning.

13           ACTING CHAIRPERSON ARONBERG: Okay, it may be  
14 functioning. Okay, there are three minutes for each  
15 person who makes public comment. And if you could get --  
16 I will call the names out three in a row. Just please get  
17 ready so that you can approach the podium without walking  
18 all the way from your seat.

19           We're going to start with Marty Adams, followed  
20 by Katherine Stone, followed by J. Roger Myers.

21           MR. ADAMS: Good afternoon. Marty Adams from the  
22 Department of Water and Power in Los Angeles.

23           I don't have an item on the agenda this time for  
24 a change, but I promised that I would give you a report  
25 every meeting and so I intend to do it real quickly.

1           Just to let you know, the master plan for Owens  
2 Lake is proceeding very well. I would like to thank Paul  
3 Thayer and his staff Colin Connor and Marina Brand have  
4 been involved with the process. Paul has made them  
5 available. They make a two-day trip going to Owens Valley  
6 every month to participate very actively in the master  
7 plan. And we expect to have a draft plan out by the end  
8 of the calendar year. So we're looking real good on that.

9           And we do think we have agreement across the  
10 board, that it is the way ahead for the lake. And Item 44  
11 on your Consent Agenda for the EIR consultant was in  
12 conjunction with the master plan, so we're happy to see  
13 that move ahead.

14           Last meeting in June, you did award us a lease  
15 for tillage on the areas that Great Basin Air Pollution  
16 Control District found suitable on the lake, the Phase 7  
17 areas.

18           Yesterday, I was at the lake. We have done test  
19 tillage areas in all the Phase 7 -- all the Phase 7 areas.  
20 On Monday, they'll be evaluating it with our scientists  
21 and Great Basin to find out which areas we believe are  
22 suitable.

23           And so hopefully we'll have some significant  
24 interim dust controls in the Phase 7 areas to help with  
25 the dust season coming ahead.

1           As far as what we see in the future, in terms of  
2 compliance, we do know that October 1st, we will be  
3 technically out of compliance with the State  
4 implementation plan.

5           We believe that the correct path ahead, because  
6 there is an exposure of fines for the City of L.A. is that  
7 we'll be entering into probably a stipulated order of  
8 abatement for dust control. That order will address  
9 controls for Phase 7 in lieu of the Moat and Row not  
10 moving ahead, and something that's permanent that meets  
11 the requirements of the Great Basin, and also controls for  
12 Phase 8, Phase 9 and potentially Phase 10 as well.

13           Recently, we put out a Mitigated Negative Dec for  
14 a gravel project on two square miles of Phase 8. Staff  
15 has given us comments and we are responding to comments at  
16 this time.

17           We believed we had some time to work with staff  
18 on trying to find a way to make that workout. Yesterday,  
19 we had a meeting with Great Basin and it looks like in  
20 order to work on our stipulated order, we're going to have  
21 to try to move that ahead to get that in front of the  
22 Board, so we have a response to a gravel project, so we  
23 can know whether that can be included in our stipulated  
24 order or not.

25           So that's kind of where we stand in a nutshell.

1 If you have any questions, I'd be glad to answer them.

2 ACTING CHAIRPERSON ARONBERG: Thank you, Marty.

3 MR. ADAMS: Thank you.

4 We have Katherine Stone followed by J. Roger  
5 Myers, followed by David Johnston.

6 MS. STONE: My name is Katherine Stone, and five  
7 of the people who signed cards are not going to speak.  
8 They're going to yield their time to me. Although, I  
9 won't take it all. Those are David Johnston, who's  
10 president of the Seacliff Beach Homeowners Association,  
11 Pat McDonald, who's the vice president of the HOA, Ed  
12 McDonald, who's a member of the HOA, and J. Roger Myers, a  
13 trial attorney.

14 I am also an attorney for the homeowners  
15 association. I mailed you the letters with the exhibits,  
16 express mail yesterday -- no, Wednesday, and I provided  
17 you with copies today.

18 And I hope you will take a look at them. And I  
19 understand we may be back before you in October, if we can  
20 come to some kind of an agreement with staff. I want to  
21 thank the Lieutenant Governor's office very much for all  
22 the efforts they have made to try to resolve this issue.

23 It involves the repair of a revetment that  
24 protects 49 homes at Seacliff Beach. We've been trying to  
25 get it repaired for four years through the various

1 approvals. And we finally got Coastal Commission approval  
2 two years ago.

3 We took a proposed compromise to the association  
4 on Sunday, but they did not approve it. And that's  
5 because they believe that the revetment was built on  
6 private property, and so does CalTrans, who actually built  
7 it in 1972 as mitigation for the highway that goes out  
8 over the ocean now.

9 And the project, the highway project, including  
10 the revetment, was before the State Lands Commission in  
11 1970. Exhibit 1 to the packet is the transcript of that  
12 hearing. And the CalTrans engineer testified that the  
13 revetment had been designed by their expert and was part  
14 of the project. And CalTrans attorneys and staff have  
15 stated emphatically that they built it on private  
16 property.

17 A settlement -- there was a lawsuit for damages,  
18 and a settlement was reached in 1977, which repeatedly  
19 emphasizes that the revetment was built on private  
20 property. And it refers to the right to repair the  
21 revetment, the landowner's right to repair it.

22 We have proposed a boundary line agreement at the  
23 design toe of the revetment. That location, the design  
24 toe of the revetment, has been approved by the Coastal  
25 Commission. It's under the sand, of course.

1           Exhibit 15 shows the design toe of the revetment  
2 and the 1953 ordinary high-water mark. The compromise  
3 would be to pull in that 1953 ordinary high-water mark and  
4 pull out a small portion in front of 10 or 12 lots.

5           We are eager and willing to pay all of staff's  
6 costs, past and future, and a boundary line assessment  
7 fee, a reasonable fee. Staff has now indicated a  
8 willingness to consider a boundary line agreement, just  
9 today -- or yesterday I got a letter, and to put it on the  
10 October calendar.

11           So we respectfully request that you ask staff to  
12 follow through with this. If we don't get the revetment  
13 repaired this year, and there are heavy storms, there may  
14 be serious damage.

15           Thank you very much.

16           ACTING CHAIRPERSON ARONBERG: Thank you.

17           Apart from the people that Ms. Stone mentioned, I  
18 don't have any other speaker cards. Is there anyone else  
19 who wishes to speak during public comment?

20           EXECUTIVE OFFICER THAYER: I would just say that  
21 we believe that we've received in, the equivalent of an  
22 application, a proposal for this boundary line agreement.  
23 Our intent is to analyze that and bring it back to the  
24 Commission at its next meeting. And so rather than get  
25 into a long discussion of all the issues today, it would

1 make more sense to do it then.

2           But we'll analyze that proposal. And, as I think  
3 the Commissioners realize, and the association would  
4 agree, we've met several times in an attempt to work out  
5 our issues with the association. And we expect that we'll  
6 have more of those meetings, and that we'll bring back the  
7 results, either in terms of an agreement that we support  
8 or an analysis, in any event, of the proposed boundary  
9 line agreement with the staff recommendation on that. And  
10 we hope to be able to do that at the next meeting, which  
11 is not yet scheduled, but we would anticipate being in  
12 October.

13           ACTING CHAIRPERSON ARONBERG: Thank you.

14           Well, that concludes the regular calendar.

15           Seeing no other members of the public that wish  
16 to address the Commission, are we going to have a closed  
17 session?

18           CHIEF COUNSEL FOSSUM: I don't believe it's  
19 necessary at this point.

20           ACTING CHAIRPERSON ARONBERG: Okay. Thank you.  
21 The meeting is adjourned.

22           (Thereupon the California State Lands Commission  
23 meeting adjourned at 12:34 p.m.)

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