

1 MR. GLADISH: These lease stipulations may well
2 be the point of subsequent discussion or hearing or whatever.
3 However, I would at this time like to point out our concern
4 in the sense of broadening the criteria for the use of
5 stipulations and the request for consideration for
6 consultation. I have a number of arguments that I could
7 make in that regard. But, if that is in fact to be subject
8 of another discussion, why, I could defer that.

9 CHAIRPERSON CORY: I was asking a question because
10 if it is not essential, it is more a legal lease question,
11 that may be in terms of where we're going to end up.

12 EXECUTIVE OFFICER DEDRICK: Mr. Cory, what I was
13 whispering to counsel over there about was whether or not
14 this is binding at this point. That I think is Mr. Gladish's
15 concern.

16 MR. GLADISH: Right.

17 EXECUTIVE OFFICER DEDRICK: Counsel.

18 MR. TAYLOR: You are going to have a further
19 hearing on the form of the lease in Santa Barbara on the
20 4th of October, as I understand it. You are going to be
21 adopting this today. However, you are going to have a
22 subsequent hearing before any definitive action is taken
23 and if there is a chance for, if there is any reconsideration
24 of what is adopted by the Commission as a result of what
25 comes up at the October 4th hearing, that would be an

1 amendment to what is done today at the meeting in October
2 or November when the final action is taken.

3 EXECUTIVE OFFICER DEDRICK: This would also apply
4 to Dr. Corwin's concerns.

5 MR. HIGHT: Correct.

6 MR. TAYLOR: Yes.

7 MR. GLADISH: Mr. Chairman, I would like to point
8 out, we are not proposing elimination or additional
9 stipulations in that sense. It's merely within the framework
10 of which the stipulations are constructed.

11 CHAIRPERSON CORY: Okay. I'm sort of inclined to
12 think that trying to take this so there is not any great
13 haste, so we're taking some normal steps. If it can be taken
14 care of there, I'm sort of inclined to refer some of this
15 back to staff to continue further hearings and to tidy up
16 those kind of lease technical details where the lease is,
17 that kind of question.

18 MR. GLADISH: Sure.

19 CHAIRPERSON CORY: It's that everybody legally is
20 happy and the Commissioners are sort of inclined that way,
21 then I don't think we need to go into that detail. We're
22 aware of your concerns at this point.

23 MR. GLADISH: I might just summarize in about two
24 sentences the rest of our general concern for the record.

25 There is a second stipulation dealing with pipeline

1 feasibility. Again, we're asking that some consideration be
2 given to the lessee and the builder and operator of the
3 pipeline in the decision process. As it's now constructed
4 it appears to ignore the lessee.

5 I would point out for the staff's consideration
6 that there are two stipulations dealing with geo-hazards,
7 shallow gas hazards that perhaps could be consolidated into
8 one stipulation. They appear to be redundant to us. There
9 may be arguments and things.

10 Lastly, we had a concern relative to the
11 biological surveys in the sense that they seem to be
12 required for almost every activity. We perceive the
13 exploration phase of whatever leases are let to be relatively
14 short term and of minimum duration. In essence, we ask for
15 your consideration relative to those permanent facilities
16 would require appropriate biological surveys and not
17 exploration.

18 That in effect was the essence of our concerns.
19 Again, we are not opposing the concept of any of the
20 stipulations, but it's a matter of their appropriate language.

21 CHAIRPERSON CORY: Questions from Commissioners?

22 COMMISSIONER MORGAN: No. I think their suggestions
23 are valid.

24 CHAIRPERSON CORY: Then you want Bruce --

25 MR. GLADISH: Beyaert.

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1 CHAIRPERSON CORY: -- Beyaert, and Mr. Paul --

2 MR. GUTFREUND: Gutfreund.

3 CHAIRPERSON CORY: Gutfreund.

4 MR. GLADISH: Thank you very much.

5 MR. BEYAERT: Mr. Chairman, members of the
6 Commission, my name is Bruce Beyaert. I'm Chairman of the
7 Environmental Conservation Committee of the Western Oil and
8 Gas Association. With me today is Paul Gutfreund, who is
9 principal meteorologist of Systems Applications,
10 Incorporated.

11 Our joint presentation today on behalf of WOGA
12 will focus on the air quality aspects of the Finalizing
13 Addendum to the program EIR.

14 The Addendum accepts without disagreement most of
15 the factual information that Paul and I presented during your
16 May 15th hearing in Santa Barbara. However, the predicted
17 hydrocarbon emissions and ozone effects were not adjusted
18 accordingly. The result is that the EIR substantially
19 overstates the emissions and air quality effects that are
20 likely to occur. This conflicts with CEQA's requirements
21 that an EIR is to contain "detailed information about the
22 effect which a proposed project is likely to have on the
23 environment."

24 On May 15, I pointed out that 95 percent control
25 of surge tank hydrocarbon emissions is achievable and is,

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1 in fact, required by some regulatory agencies. Yet, the
2 EIR still assumes only 90 percent control which overstates
3 the emissions by a factor of two. I also provided a copy
4 of the authoritative Rockwell Corporation report and
5 methodology for estimating hydrocarbon emissions from valves,
6 pumps and flanges. While not disagreeing with either of these
7 recommendations, your contractor chose not to adjust the
8 hydrocarbon emissions presented in the EIR. Hence, the
9 reactive hydrocarbon emissions rate stated on pages 1-18
10 and 3-566 of the Addendum, are about twice as high as they
11 should be.

12 In other words, we can do a lot better than that
13 and are prepared to.

14 The greatest overstatement of air quality impact
15 in the Finalizing Addendum is in the ozone modeling
16 calculation for hypothetical Trajectory 4. This trajectory
17 assumes movement of polluted air from Los Angeles offshore,
18 northwest up the coast through the lease area and hooking
19 around Point Arguello and coming back into the Santa Ynez
20 Valley.

21 On May 15, Paul Gutfreund told about six major
22 problems with this trajectory and the ozone modeling
23 assumptions that were used. The Finalizing Addendum does not
24 dispute the validity of four very important points, namely:
25 It has not been documented that this assumed trajectory does

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1 in fact occur; the assumed initial hydrocarbon concentration
2 is far too high; the linkage of this trajectory to post-
3 Santa Ana conditions is "nonrigorous"; and the assumed
4 background and inversion layer concentrations of ozone account
5 for 80 percent of the concentrations predicted during
6 so-called model validation run.

7 Despite the serious problems, no changes were made
8 in the Trajectory 4 prediction that the hourly average ozone
9 concentration would increase by six parts per hundred
10 million above the base line level of ten parts per hundred
11 million. In fact, the Finalizing Addendum actually states
12 that this very large impact is "very likely" and even that
13 it "will be considered understated." We believe quite
14 firmly that these statements are without support and that
15 the anomalous Trajectory 4 ozone predictions are at least
16 ten times too high.

17 I want to emphasize that we are not objecting to
18 consideration of Trajectory 4 as long as it is made clear
19 that it is a hypothetical example of a worst-case
20 meteorological situation that might occur. The major
21 problem lies in the assumptions used to predict the air
22 quality effect associated with this worst-case meteorology.

23 Systems Applications, Incorporated, has prepared
24 a detailed critique of the Trajectory 4 assumptions and
25 statements presented in the Finalizing Addendum. We will

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1 leave this with you today, but we don't want to get too
2 technical in our oral statements.

3 Paul will therefore cover only three points with
4 you. First, that the ozone impact for Trajectory 4 is
5 completely anomalous; second, the calculated ozone impacts
6 can't be considered valid unless a realistic initial
7 concentration of hydrocarbons is assumed; and, third, it is
8 incorrect to use a predicted instantaneous ozone
9 concentration at a given location as a measure of the hourly
10 average concentration because the winds change direction
11 over the course of any hour.

12 With that I'd like to introduce Paul. He's the
13 principal meteorologist and manager of the Air Quality
14 Assessments Services Group at Systems Applications, Inc.
15 He's a certified consulting meteorologist with 18 years of
16 experience. He has three degrees from three universities
17 in mathematics, meteorological --

18 CHAIRPERSON CORY: We will likewise stipulate he's
19 an expert.

20 MR. BEYAERT: Fine.

21 CHAIRPERSON CORY: Out of total morbid curiosity,
22 who certifies consulting meteorologists?

23 MR. GUTFREUND: Certified consulting meteorologists
24 are certified by the American Meteorological Society.

25 CHAIRPERSON CORY: Wonderful. Go ahead.

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1 MR. GUTFREUND: I had planned to use some overheads
2 to illustrate my talk. In the absence of that capability,
3 I have prepared some handouts that I'll refer to.

4 So let me take this opportunity to hand them out.
5 I have five copies.

6 I'll attempt to stick to the most fundamental
7 points that we raise in our analysis of the ozone impact
8 calculations that were presented in the EIR.

9 As Bruce noted, we made detailed comments on six
10 aspects of the calculation previously. The EIR authors
11 agreed with most of those comments. Yet, ultimately, the
12 ozone impact estimates were not modified in any way.

13 To begin with, let me refer you to figure 1 which
14 is I think the third page of the handout just by way of
15 explanation of what Trajectory 4 is. If you note the -- if
16 you could look up for a moment -- the Trajectory 4 is the
17 trajectory which is connected by the solid circles. So it
18 originates out here in the channel, easterly flows observed.
19 It passes around Point Conception and Arguello. Moves north
20 and then the sea breeze moves the material inland to Santa
21 Ynez. The idea for simulating this trajectory was that aged
22 urban air mass from Los Angeles would pass out over Santa
23 Monica Bay, find its way to the channel and then pass over
24 the project area in training NOx nitrogen oxides emissions,
25 from the project. Those emissions then would produce a

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1 change in ozone at Santa Ynez. So that's the trajectory
2 that we're talking about.

3 Our analysis of the comments indicates that the
4 technical basis for the predicted ozone impact of six parts
5 per hundred million is still not present. The modeling
6 results presented in the EIR that the injection of 200 pounds
7 per hour of NOx from the project can produce an ozone impact
8 of six parts per hundred million at a distance of 100
9 kilometers is not only inconsistent with Systems Applications
10 modeling experience, it's also incompatible with the other
11 results presented in the EIR that were obtained both by the
12 EKMA model and by the other three trajectories.

13 The first handout provides a table of the other
14 impact estimates presented in the EIR. To note, Trajectory
15 4 which is the result presented at the bottom -- this I
16 believe is the first page of the handout. It's a table
17 entitled, "Maximum Ozone Impacts..."

18 You will note that the Trajectory 4 results differ
19 by a factor of 10 to 15 or more from the other estimates.

20 In the effort to provide a justification for
21 better understanding of these results, we reviewed a set of
22 calculations that we performed with the Systems Applications
23 Airshed Model. The difference in the results from
24 Trajectories 1, 2 and 3 was explained in the EIR on the
25 basis that Trajectory 4 involves the injection of NOx into

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1 aged urban airmass latent with hydrocarbons. Therefore,
 2 we wanted to investigate the effect of changes in NOx
 3 emissions in Los Angeles on downwind ozone levels under
 4 worst-case conditions. We had available a multi-day
 5 simulation of an historical worst-case ozone episode in
 6 Los Angeles, a period during which historically high ozone
 7 values were observed. We exercised the Airshed Model and
 8 validated it on that day at 25 stations basinwide. The
 9 reason why I mention that is that this provided convincing
 10 evidence that the Airshed Model was accurately simulating
 11 all the relevant physical and chemical processes in the
 12 formation of ozone.

13 We then perturbed the model in the sense that we
 14 changed the NOx emissions by 8,000 pounds per hour and we
 15 looked at the effect in Los Angeles of a change of 8,000
 16 pounds per hour of NOx injected into reactive Los Angeles
 17 air. The results of that analysis was the maximum effect
 18 over a 36-hour period at any location basinwide was three
 19 parts per hundred million. Now, I've prepared a bar graph
 20 that depicts these results.

21 It is Figure 4 on the handout. Can I refer you
 22 to Figure 4 in the handout? This shows the difference between
 23 the Airshed Model results and the results presented for
 24 Trajectory 4 in the AIR. The Airshed Model showed 8,000
 25 pounds per hour of NOx produced in effect of three parts per

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1 million in Los Angeles reactive air, whereas the EIR
2 predicts that 200 pounds per hour will result in an impact
3 of six parts per hundred million. This is a difference in
4 impact by a factor of 80. This difference is so great that
5 we undertook further analysis of the TRACE Trajectory 4
6 simulation and we discussed those in detail in our comments.

7 I want to mention that the Airshed Model has
8 undergone extensive model validation in many cities both in
9 this country and Europe and is recommended and used by the
10 Environmental Protection Agency, EPA, as the most
11 sophisticated modeling tool available. I say that only to
12 lend credibility to its results.

13 CHAIRPERSON CORY: What you're saying is that
14 by using the model it is just orders of magnitude different
15 than what the report --

16 EXECUTIVE OFFICER DEDRICK: Assumed.

17 MR. GUTFREUND: Then what the report concluded
18 with a different set of modeling calculations. This led us
19 to believe that there were some possible problems in the
20 way that the calculations were carried out in the EIR.
21 So we analyzed that particular Trajectory 4 and we identified
22 several areas that we thought problems existed in.

23 In the responses to our comments, the EIR authors
24 agreed with most of them.

25 CHAIRPERSON CORY: You had a question?

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1 COMMISSIONER MORGAN: No.

2 MR. GUTREUND: Now, I want to discuss only two
3 of those points. I don't want to discuss all six. I want
4 to discuss briefly the two most important ones.

5 In effect, the two points are the initial reactive
6 hydrocarbon concentration that was assumed in the EIR
7 calculation and the conversion to one-hour average
8 concentration. First, the initial reactive hydrocarbon
9 concentration for Trajectory 4.

10 In our previous testimony we calculated that the
11 quantity of reactive hydrocarbons corresponding to the
12 assumed initial conditions in the EIR calculation of one
13 part per million carbon amounted to eight times the hourly
14 hydrocarbon emission rate of all sources combined in the
15 Los Angeles Air Basin. That's kind of shown in Figure 4 --
16 I'm sorry, Figure 5. In Figure 5, is shown the area of the
17 Los Angeles Air Basin and the area of the TRACE cell.

18 The assumption of initial reactive hydrocarbons
19 in Trajectory 4 is tantamount to assuming that eight times
20 the emissions from this area find their way into this area.
21 This area is only three percent the size of this area. The
22 importance of this assumption is as follows: ultimate ozone
23 production from NOx injection into a hydrocarbon-rich
24 atmosphere is strongly dependent on the initial hydrocarbon
25 concentration. So that we suggest that this assumption of

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1 high initial reactive hydrocarbons led to a large over-
2 estimate of ozone impact.

3 I want to briefly summarize the comments. Basically
4 the comment to our observation was that, indeed, and I quote:
5 "SAI correctly points out the apparent discrepancy
6 between the assumed reactive hydrocarbon load in a TRACE
7 parcel in an hour's worth of emissions from the Los Angeles
8 Basin." The response also notes that the high reactive
9 hydrocarbon concentration that was "inadvertently specified"
10 for the uppermost TRACE cell affects the calculation of
11 ground based ozone to a limited degree.

12 It also notes that although the one part per
13 million carbon for dirty Los Angeles air is appropriate for
14 studies in the Los Angeles Basin, it's recommended that this
15 value should be reduced to one-third to one-half of that
16 value for air parcels that have been transported and
17 collected over the Santa Barbara Channel.

18 The point of the response is that it is conceded
19 that an erroneously high value was assumed initially. That
20 in the lower part of the TRACE cell which is the model which
21 was used, it was high by a factor of two to three and in the
22 upper part probably high by a factor of 20. It goes on to
23 say that in effect this won't make any difference in the
24 calculation. We take issue with that view.

25 Let me briefly indicate why. First of all, in our

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1 own studies of hydrocarbon concentrations in rural and urban
2 areas, we find that the factor of two to three which is
3 indicated should be greater. In other words, the hydro-
4 carbons are overestimated by more like a factor of ten in
5 the lower cell and a factor of 20 in the upper cell. Okay.

6 Second we note that the view offered that the
7 result of this error in assumed reactive hydrocarbon
8 concentration may only slightly affect the maximum ozone
9 impact -- that's what the response says -- is purely
10 speculative. No quantitative basis was provided for that
11 position and we don't understand really why the calculation
12 was not performed with the correct hydrocarbon concentration
13 as we recommended.

14 Moreover, there's strong evidence in the EIR
15 itself that in fact there will be a significant difference
16 from this error in the assumed reactive hydrocarbon
17 concentration. One finds this evidence by comparing the
18 results of Trajectory 3 with those of Trajectory 4, and that's
19 the second table in the handout. I think it's page 2.

20 You'll note that the result, for Trajectory 3, the
21 initial reactive hydrocarbon concentration was shown to be
22 .1 and the maximum instantaneous ozone impact was shown to
23 be 0.4 and for Trajectory 4, the corresponding values are
24 .75 and 6. The point of this comparison is the following.

25 Note that Trajectory 4 has a reactive hydrocarbon

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1 concentration assumed 7.5 times that of Trajectory 3, .75
 2 versus .1. Yet, the impact calculated for Trajectory 4 is
 3 15 times this great. In other words, the reactive
 4 hydrocarbons are only 7.5 times as high and, yet, the impact
 5 was 15 times as high. That shows that in fact that over-
 6 estimate, the results of the calculation must in fact be
 7 sensitive to that overestimate. In fact, they're nonlinear
 8 as this table shows. It also suggests the importance of
 9 either qualifying the result or recalculating the result.

10 I want to very briefly now summarize the reactive
 11 hydrocarbon points that I've just made. Number one, the EIR
 12 response concedes that the one part per million assumed value
 13 was too high by a factor of two to three; two, we believe
 14 that it's too high by a factor of probably five to seven.
 15 The response speculates but presents no calculations in
 16 support of the view that these errors "should only slightly
 17 affect calculated ozone."

18 Four, a comparison of the Trajectory 3 and
 19 Trajectory 4 results in the EIR indicate this RHC error
 20 will strongly affect the calculated ozone. The response
 21 concedes that the RHC is overestimated by a factor of 20
 22 in the upper part of the cell and that it may have some
 23 influence on the calculated ozone.

24 We agree with the final part of the response to
 25 our comments in which it is stated: "These considerations

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1 indicate the TRACE results may be considered conservatively
2 high ozone values. The difficulty that we have with this
3 statement is that one does not know if they are high by a
4 factor of two, a factor of ten, or a factor of a hundred.
5 Unless the effects of the conceded errors in initial RHC
6 are quantified, there can be no value in presenting the
7 results in an erroneous calculation and qualifying merely
8 by noting that it's conservative.

9 I have one other point that I want to make and
10 that deals with the conversion of instantaneous to one-hour
11 concentrations. I appreciate that many of the things that
12 I'm saying are perhaps obtuse, and I'll try to present
13 them in lay terms.

14 The calculations that were done in the EIR were
15 done with a model that calculated instantaneous concentrations,
16 not one-hour concentrations. There was not a conversion from
17 instantaneous to one hour. The difficulty is that with
18 Trajectory 4 which is the curve trajectory that passes
19 around the two points, there will be a great difference in
20 times between material released, say, at 9:00 a.m., and
21 material released at 9:30, material released at 8:30. Let
22 me explain that by reference to the first figure again.

23 The line connecting the solid circle is the
24 trajectory that was assumed. That passed through the
25 project area at 9:00 a.m. In order to calculate a one-hour

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1 ozone impact at a location like Santa Ynez which is what
2 was done, it's necessary to consider the effects and the
3 path of emissions that occurred over a full one-hour period.
4 So in order to investigate the displacement, the dispersion
5 of trajectories that would occur over an hour, we plotted
6 the, using the same winds in the EIR, where material that
7 passed at 8:30 will go and where material that passed the
8 project area at 9:30 will go. That's what's depicted in
9 this figure. The upper path is the 8:30 release. The
10 center path is the 9:00 o'clock release, and the lower
11 path is the 9:30 release.

12 The calculation presented or the assumption that
13 instantaneous equals one hour which was done in the EIR
14 basically was tantamount to saying that all the trajectories
15 pass over the center location which is not the case with the
16 assumed change of winds. Winds change a hundred and eighty
17 degrees in six hours. So they're changing quite rapidly
18 over this assumed but not observed trajectory.

19 This effect wasn't considered in converting from
20 instantaneous to one hour.

21 There are several ways of taking this effect into
22 account. One way is to calculate these individual
23 trajectories with the model that was used and in that way
24 convert. For example, one could have four releases in an
25 hour or six releases. That wasn't done. Another way was

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1 to assume, is to evaluate the displacement, the horizontal
 2 displacement as shown in this figure. This distance is
 3 roughly 10 to 15 kilometers, the displacement of the hour's
 4 worth of emissions. All the other trajectories presumably
 5 would pass within this boundary.

6 In the EIR there is presented a calculation of
 7 the cell average concentration which is a cell average over
 8 ten kilometers. So that the use of that calculation would
 9 be a reasonable and albeit approximate way of converting
 10 from instantaneous to one-hour averages. That would be one
 11 way of doing it.

12 Another way, as we suggest, would be to calculate
 13 the individual trajectories.

14 We raised several other points and I don't want to
 15 get into them because they're even more esoteric than the
 16 ones I've discussed. But let me make my recommendations now.

17 COMMISSIONER MORGAN: Let me ask a question. I
 18 don't get the significance of the last point.

19 CHAIRPERSON CORY: I think what he's trying to say
 20 is that there is an assumption that over a one-hour period
 21 of time at this point over here a given quantity of material
 22 is released, but because factors are changing over here with
 23 the wind, that all of that doesn't come to the middle point.
 24 It's spread.

25 MR. GUTFREUND: That is correct, over an hour.

1 CHAIRPERSON CORY: Over the hour period of time.
2 So the concentration of the reactive hydrocarbons is what
3 we're questioning all doesn't occur right at that point.
4 It's spread out and it's like putting ink into water, it
5 dilutes it --

6 COMMISSIONER ACKERMAN: You're basically saying --
7 CHAIRPERSON CORY: -- is the theory of what you're
8 telling us.

9 MR. GUTFREUND: Yes. Let me illustrate by
10 reference to Figure 6 here. Note Figure 6 which is third
11 from the last figure. It's the box.

12 The six parts per hundred million that was
13 presented is the value in that center very narrow box.

14 COMMISSIONER MORGAN: Okay. Thanks.

15 MR. GUTFREUND: So it's assumed that that very
16 narrow box passes over Santa Ynez where in fact this box is
17 moving all over the place. So a way of taking that into
18 account is by taking a cell average or by simulating
19 individual trajectories. But this wasn't done.

20 COMMISSIONER ACKERMAN: You're basically saying
21 the EIR assumed a much higher concentration than it
22 actually happens out there.

23 MR. GUTFREUND: Than could be expected for these
24 conditions, yes.

25 COMMISSIONER ACKERMAN: But what factor?

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1 MR. GUTFREUND: For this -- Pardon me.

2 EXECUTIVE OFFICER DEDRICK: Nothing. Go ahead.

3 I was going to say that's arguable.

4 MR. GUTFREUND: It certainly is. It is.

5 EXECUTIVE OFFICER DEDRICK: Various people have
6 different opinions on how --

7 COMMISSIONER ACKERMAN: This is not a finite
8 science.

9 EXECUTIVE OFFICER DEDRICK: That is correct,
10 Commissioner.

11 MR. GUTFREUND: But it's very clear that the
12 failure to take this effect into account leads to a
13 substantial overestimate.

14 COMMISSIONER ACKERMAN: We don't know by what
15 degree.

16 MR. GUTFREUND: That's correct. But we don't even
17 know if this trajectory occurs, let alone what the dispersion
18 under that trajectory might be.

19 CHAIRPERSON CORY: I think seven angels is all that
20 can be --

21 (Laughter.)

22 COMMISSIONER ACKERMAN: Does the difference in
23 degree have a measurable health impact?

24 EXECUTIVE OFFICER DEDRICK: It has a very strong
25 regulatory impact.

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1 COMMISSIONER ACKERMAN: Now, I have two questions.

2 CHAIRPERSON CORY: Tell me, former Commissioner,
3 what were you trying to tell us?

4 (Laughter.)

5 EXECUTIVE OFFICER DEDRICK: If you like, I'd really
6 like to comment on this. Bruce and I have met many times
7 on the subject.

8 I think that straight-line trajectories are easy
9 too, right? So you've got three trajectories there nobody
10 is arguing about. It is known that the winds do that
11 changing, that the stuff swings around that point and goes
12 over Santa Ynez. Now, nobody has ever tested that
13 trajectory, put markers in the air and followed them around.
14 So to that extent, it's a theoretical trajectory. Bruce
15 says and he's right. The EIR admits it. Nobody is
16 trying to pull any fast ones. But the point is that it is
17 an important trajectory to be studied and all of Bruce's
18 points are sound points. He's done some good work.

19 CHAIRPERSON CORY: You're Paul and you're Bruce.

20 EXECUTIVE OFFICER DEDRICK: I'm sorry. I've been
21 doing that for a solid year. But my point is --

22 CHAIRPERSON CORY: You frequently come as a set?

23 (Laughter.)

24 EXECUTIVE OFFICER DEDRICK: Frequently.

25 CHAIRPERSON CORY: Okay.

1 EXECUTIVE OFFICER DEDRICK: "I'm sorry, Commissioners.

2 At any rate, models are in a constantly changing,
3 developing, moving and wonderful way to get argument state.
4 So what I would suggest here, and I think is a reasonable
5 recommendation, the EIR is intended to address the worst-
6 case situation. It is not intended to cast that worst-case
7 in concrete. In this particular instance, there is no
8 question that Trajectory 4 is very high, very conservative
9 worst case. The Addendum to the EIR states that. What will
10 happen and what probably should happen is that, okay, we've
11 got this new trajectory. It has not really been studied.
12 We don't have the numbers in the right place. But as leases
13 go on and site-specific EIR's are done, the local air
14 pollution control district will certainly require refinement
15 of those numbers and I think it has no bad impact in the
16 way it's handled in the EIR. I think it's a good red flag
17 for the air pollution people to look at in the future and
18 it's a worst case. It's an awful worst case. But it's, you
19 know, just a worst case. There's a lot more work to be done
20 before you know what it really means.

21 COMMISSIONER ACKERMAN: "Is this worst-case example
22 then determined by the local air pollution control district
23 what extent the scrubbers have to be --

24 EXECUTIVE OFFICER DEDRICK: "No, not as it relates
25 to this particular EIR.

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1 COMMISSIONER ACKERMAN: This is where you get to the
2 regulatory aspect where it actually translates into dollars
3 and cents and cost benefits.

4 EXECUTIVE OFFICER DEDRICK: I think the important
5 thing here, Commissioner, is that this is a program EIR and
6 all of the comments that we see from our other two
7 witnesses so far are addressed to those broad effects. When
8 the dollars and cents come in, when an actual site-specific
9 EIR is done and an actual air pollution control district
10 permit is gained, this trajectory will not of itself impact
11 that decision by the local air district. There are too many
12 other factors that will have to be studied. So it doesn't
13 have a long-term effect.

14 COMMISSIONER ACKERMAN: The EIR in the selection
15 of this particular trajectory only raises a flag that it's
16 something to be considered, but it's not conclusive as to the
17 evidence and the data that it presents?

18 EXECUTIVE OFFICER DEDRICK: That is correct in my
19 judgment.

20 COMMISSIONER ACKERMAN: That will be refined when
21 the air pollution control district actually issues a permit?

22 EXECUTIVE OFFICER DEDRICK: That's right.

23 MR. BEYAERT: The problem is that the words in the
24 Addendum are contradictory in various places. In one place
25 it says it's conservative, not how conservative. Another

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1 place it says it's very likely to occur and might even be
2 understated.

3 EXECUTIVE OFFICER DEDRICK: I think all of those
4 debatable points are the ones I heard for a solid year on
5 the Air Resources Board. I never heard a definitive
6 conclusion.

7 COMMISSIONER ACKERMAN: Doesn't there come a time
8 to actually draw the bottom line somewhere, though?

9 EXECUTIVE OFFICER DEDRICK: When they apply for
10 their permit.

11 COMMISSIONER ACKERMAN: How much weight is given
12 to the EIR and the data presented in it? Does that
13 prejudice an argument?

14 EXECUTIVE OFFICER DEDRICK: I do not believe that
15 that's true. Not when it's so clearly stated that this
16 particular calculation is a model calculation that has not
17 been verified. It would take verification.

18 MR. BEYAERT: The problem here, the potential
19 problem is that this trajectory suggests that the activities
20 ensuing from the lease sale might result in a violation of
21 the national ambient air quality standard for ozone, and we
22 believe it's quite apparent that the assumed initial
23 hydrocarbon concentration is far too high and it does have
24 a major effect in reducing the predicted ozone concentration.

25 COMMISSIONER ACKERMAN: Does that mean if you

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1 exceeded that standard, that would result in a denial of
2 a permit?

3 EXECUTIVE OFFICER DEDRICK: It could. Santa
4 Barbara is already in violation of the national standard.
5 That's the reason for the great concern about air pollution.
6 The trip that we went on the other day, that offsets will have
7 to be found for every oil project in the channel because of
8 the fact that already they are in violation. I do not think
9 that this thing will in any way change that situation.

10 CHAIRPERSON CORY: Is there any place in the world
11 that doesn't exceed the EPA standard?

12 EXECUTIVE OFFICER DEDRICK: I don't know. I was
13 on Mono Pass the other day. There's a lot of ozone, but I
14 think it was generated by ultraviolet.

15 MR. BEYAERT: What we'd like to suggest, because
16 of the clearly inappropriate assumption that just doesn't make
17 sense on the initial hydrocarbon and the evidence that it
18 strongly affects ozone concentrations and also the
19 inappropriate assumption that the instantaneous maximum
20 ozone concentration is the same as the hourly average which
21 is the basis for the national air quality standard, yet we'd
22 like to respectfully request that you do two things.

23 First, you adopt a table that's in the Draft EIR.
24 It's Table 4.6-37, as a conservative estimate -- it's the
25 last page in your handout and this is from the Draft EIR.

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1 It suggests that you adopt this as a conservative estimate
2 of the worst-case hourly ozone impact associated with
3 Trajectory 4. This represents the cell average. The box
4 that Paul had and the other thing would approximate the
5 movement of the winds over a period ~~of~~ an hour from one side
6 of the cell to another. So one simple and straightforward
7 way to clarify this difficulty, this overestimate, would be
8 to adopt this table as a reasonable proximation. It would
9 still be a worst case because it's still based on the
10 erroneously high reactive hydrocarbon concentration.

11 EXECUTIVE OFFICER DEDRICK: Just a moment. I
12 realize we're not doing this in the order you started, but
13 this is a sufficiently esoteric subject that I don't think
14 you want to take it in pieces. Dwight I'm sure has a
15 comment.

16 MR. SANDERS: I think Bruce could conclude.

17 EXECUTIVE OFFICER DEDRICK: Oh, I'm sorry. I
18 thought he had.

19 MR. BEYAERT: Well, there's a second point. At
20 the outset I described that we could do better at controlling
21 hydrocarbon emissions. We could control at half the rate
22 that's assumed. The Finalizing Addendum doesn't recognize
23 that. So we would like to ask secondly that it be clarified
24 that the hydrocarbon emission rates are very likely to be
25 about half of the value contained in the Draft EIR.

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1 CHAIRPERSON CORY: Are you suggesting that that
2 would be a requirement you could live with for the term of
3 the lease?

4 MR. BEYAERT: Yes. We're already doing that in
5 the South Coast Air Basin and we're doing it in Kern County.
6 This is the 95 percent control on the well vent.

7 CHAIRPERSON CORY: But you think, as WOGA, you're
8 saying you think you could accept that as a requirement of
9 the lease if we made that change for you? Can you live up
10 to it for the duration of the lease?

11 MR. BEYAERT: Santa Barbara County Air District
12 will have the authority to stipulate the emissions control.
13 But if we can do it -- we are doing it. We're confident
14 knowing Santa Barbara County --

15 CHAIRPERSON CORY: I'm just trying to make sure
16 that you were prepared to live with that specifically.

17 MR. BEYAERT: We're not suggesting it as a
18 stipulation, but we can live with it because we have to
19 offset the hydrocarbon emissions.

20 CHAIRPERSON CORY: You said enough. We can hang him
21 with that.

22 MR. BEYAERT: So, there are two straightforward
23 changes we're suggesting --

24 COMMISSIONER ACKERMAN: Always leave the door
25 open a little bit.

1 MR. BEYAERT: -- and with those we think the
2 Final EIR would present a credible estimate of the
3 emissions and air quality effects with still a substantial
4 degree of conservatism.

5 CHAIRPERSON CORY: Before we go on to the other
6 points, just in terms of esoteria, I recall somewhere in my
7 background, I think it was -- I can't remember which class --
8 a chemistry class in which we ended up doing some
9 calculations on length of time it took for things to go into
10 solution. Now, that's a liquid. But there's certain
11 similarities in my mind between liquids and gases. Is the
12 science that you deal in with all the computers we have where
13 you are able to take those kinds of formulas and deal
14 with them or are there just too many variables to cover?

15 MR. GUTFREUND: They're certainly dealt with
16 explicitly, yes. In fact, that bears directly on the
17 question of the effect of the very high initial reactive
18 hydrocarbons. The response to our comment noted that this
19 could result, this would result in a delay in the timing of
20 the ozone (O_3). That is in fact correct. What actually
21 occurs, if you recall the trajectory, by the time it gets
22 to Santa Ynez, it's about 4:00 o'clock in the afternoon.
23 It's because the initial reactive hydrocarbon concentration
24 is, if it's way too high, then the reactions will proceed
25 far too rapidly. If the correct value had been used, not

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1 "only would the impact be less, but it would occur much later.
2 If it occurred later, there wouldn't be any sun left to
3 provide photochemistry. So that's really an important part
4 of the effect of the initial reactive hydrocarbons also.

5 CHAIRPERSON CORY: Aren't you assuming that that's
6 a continuing, that if it doesn't start at 9:00 it would have
7 started at 4:00 a.m.?

8 MR. GUTFREUND: No. Because the sun's radiation,
9 is essential to these reactions that produce ozone. It
10 won't produce ozone at night or in the late afternoon at
11 all.

12 CHAIRPERSON CORY: So it's a combination of the
13 two?

14 MR. GUTFREUND: Uh-huh.

15 EXECUTIVE OFFICER DEDRICK: Three things.
16 Hydrocarbons, oxides of nitrogen and ultraviolet produce
17 ozone, but they produce them in a very unusual way. That
18 is, if you plot the oxides of nitrogen concentration this
19 way and the hydrocarbon concentration that way and then you
20 plot ozone, you will get something that looks like a contour
21 map of Mendocino County. That's in the laboratory. When
22 you then take that complex reaction and stick it out in
23 nature where the winds are doing funny things and the
24 mountains are here and the hills are there and the radiation
25 is different all over the place, you get something that is

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1 extremely difficult to follow. I think that in regards to
 2 this particular trajectory, the sensible thing to do is to
 3 red flag it because I think it is adequately red flagged
 4 both in the EIR and through the record of this hearing.
 5 But it will never be used per se as a decision-making point
 6 by an air pollution control district because it is clearly
 7 fuzzy and just getting started.

8 CHAIRPERSON CORY: Have you concluded the points
 9 you wished to make?

10 MR. BEYAERT: Yes, I think so. If it's clear
 11 that it won't be used in decision-making by an air district
 12 or by this Commission, then that's --

13 EXECUTIVE OFFICER DEDRICK: I think that the
 14 conclusion of the results from these calculations where you
 15 have raised substantive concerns, those substantive
 16 concerns are acknowledged in the EIR and your whole case is
 17 on record here. The Commission isn't going to give you an
 18 air pollution control permit and the air pollution control
 19 district is extremely sophisticated.

20 MR. BEYAERT: Yes.

21 I think this concludes our presentation unless
 22 you have any further questions.

23 CHAIRPERSON CORY: Hang around, we may have some,
 24 but we may be able to get them resolved from the staff.

25 The next person is Carol Fulton, Friends of the

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1 Sea Otter, Coalition on OCS Lease Sale Number 53.

2 MS. FULTON: Good morning. I'm testifying on
3 behalf of the Coalition on OCS Lease Sale 53, a group of
4 environmental organizations with a keen interest in ensuring
5 safe and sane development of California's offshore oil and
6 gas resources only in areas where the benefits outweigh the
7 risks to both the environment and the economy. Among the
8 organizations participating in the Coalition are the Sierra
9 Club, Friends of the Earth, the Natural Resources Defense
10 Council, the Oceanic Society, the Whale Center, and Friends
11 of the Sea Otter, of which I am the Executive Director.

12 We are not here today in an adversary position.
13 We have worked closely with the State in the development
14 of its position on OCS oil and gas development in federal
15 waters. We have commented on OCS Lease Sales 53, 68, 73,
16 the reoffering sale as well as the Secretary of Interior
17 Watt's five-year plan. We have joined with the State in
18 suing the Department of Interior when it sought to lease
19 inappropriate areas for offshore oil development in the
20 Northern Santa Maria Basin, immediately offshore the
21 established range of the threatened California sea otter
22 which is threatened precisely because of its vulnerability
23 to oil.

24 We are grateful to the State for the strong role
25 it has played in protecting our coastal resources from

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1 imprudent offshore oil development, and look forward to
2 continuing to work with the State in watchdogging, and where
3 necessary, opposing appropriate offshore oil development.

4 We understand that the State Lands Commission
5 feels itself compelled to offer the State tidelands between
6 Point Arguello and Point Conception for oil and gas leasing
7 to avoid drainage of shared reservoirs by federal lessees
8 drilling on the OCS just beyond the State's three-mile limit.
9 We agree that the State should not lose revenues on its own
10 oil resources. However, we disagree about the best way to
11 obtain those revenues.

12 We propose that the State pursue revenue-sharing
13 agreements with federal lessees drilling on the OCS, and
14 investigate the feasibility of permitting slant drilling into
15 the State waters from rigs already located just beyond the
16 three-mile limit. No rigs need be placed in these waters,
17 and the only areas which need be considered for leasing are
18 those where there is concern about drainage from federal
19 tracts.

20 We realize the State is currently in litigation
21 to obtain acceptable revenue-sharing agreements. Until the
22 State and Federal Governments reach an acceptable
23 understanding on this issue, the funds could be placed in an
24 escrow account. The State would not lose the revenues.

25 We also are aware of the State's current immediate

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1 need for funds. However, it is our understanding that under
2 the system you would use, no revenues would be generated
3 to the State until after production is under way. So either
4 way there will be considerable delay before the State
5 actually obtains any funds from the sale.

6 We do not agree with the premise that it is
7 inconsistent for the State to oppose drilling within its
8 own waters because it has already agreed to drill just
9 beyond this area in federal waters. The EIR adequately
10 demonstrates that the nearshore waters are biologically
11 unique, pristine and fragile. It is within the three-mile
12 limit where most of the marine mammals and the seabird
13 rookeries are found.

14 What is known about this area demonstrates that
15 it is most inappropriate for offshore oil development, in
16 fact, it might be more appropriate for a marine sanctuary.
17 What is not known about this area is substantial. To quote
18 from the EIR's description of the "Characterization of
19 marine biota between Point Arguello and Point Conception:
20 The survey is designed to fill an identified data gap, the
21 lack of information on the marine communities between Point
22 Arguello and Point Conception. The survey places particular
23 emphasis on the biota at depths below 100 feet because, with
24 the exception of a few grab samples taken by the Allan
25 Hancock Foundation 20 years ago, the marine life at deeper

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1 depths in this area is totally unknown. This survey will
2 provide a characterization of the biota in this area to
3 supply additional biological information with which to make
4 leasing decisions."

5 We are very pleased that the State is undertaking
6 these studies and we ask that the results of the recent
7 BLM deep water work be reviewed to establish the best
8 sampling procedures. We also ask that this Commission
9 postpone certifying the Final EIR until the studies, which
10 I believe are designed to take 60 days, have been completed
11 and assessed. California has asked that of the Federal
12 Government, we can do no less in our own State waters.

13 We are generally pleased with the various
14 stipulations contained in the Final EIR to improve safety
15 requirements for OCS operations. However, two glaring
16 omissions must be addressed.

17 In the Governor's December, 1980, response to the
18 proposed notice of sale for OCS Lease Sale 53, stipulation
19 number 11 required that prior to approval of exploration
20 plans, the lessees shall reach agreement with the U. S. Fish
21 and Wildlife Service -- that's the Federal Fish and Wildlife
22 Service -- to fund measures necessary to ensure the survival
23 of the southern sea otter is not jeopardized by OCS
24 development.

25 Stipulation number 12 was a seasonal drilling

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1 requirement that required no drilling or workover operations
2 would occur in tracts bordering the State Lands project area
3 during the period from December 1 through April 1, to avoid
4 undue risk to sea otter populations and gray whales and
5 calves which migrate north during the winter.

6 During the winter a spill in the project area, this
7 project area, could move directly north to the established
8 sea otter range at the very time when we have the largest
9 numbers of otters in the region.

10 As there is growing concern that the small sea
11 otter population may not have grown at all in size since
12 1973, and as the past two years have brought dramatic
13 increases in recorded sea otter mortality, the additional
14 risk from opening the southern border of their range to
15 oil development in nearshore waters could be catastrophic.
16 We urge you to immediately include the proposed stipulations
17 11 and 12 in the Final EIR.

18 Again, California asked it of the Federal
19 Government. We expect no less of California.

20 We are also very pleased with stipulation number
21 5 which calls for mandatory biological surveys. However,
22 we have several suggestions which we believe are necessary
23 to adequately strengthen the stipulation and after hearing
24 the earlier comments of the gentleman from WOGA, I would
25 emphasize that the surveys must take place prior to

1 exploration as proposed by your staff. We would strongly
2 oppose any weakening of this stipulation.

3 The specific concerns we have on the stipulations,
4 the way it's written now, is studies would be conducted to
5 determine if the tract or site contained areas of special
6 biological significance that may be adversely affected.

7 As worded, the stipulation does not require a
8 determination whether areas of biological significance
9 outside the tract or site would be adversely affected by
10 operations at the site. For example, it is possible that
11 operations could impact the sea otter range or pinned
12 haul-outs which might not be contained in a site or tract.

13 We therefore recommend rewording the paragraph to read:

14 "The lessee shall conduct site-specific biological surveys
15 ...to determine if any lease operations on the tract or site
16 may adversely affect areas of special biological
17 significance."

18 Also, "The biological survey should include a
19 characterization of the area within a one kilometer radius
20 of the development site..." according to the EIR. We feel
21 a one kilometer radius does not accurately reflect the area
22 that is likely to be affected by drilling or construction
23 activity.

24 Obviously, downcurrent areas will be affected to
25 a greater distance than upcurrent areas. There's a 1981

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1 BLM study which concluded that drilling muds and cuttings
2 could accumulate three kilometers downcurrent, suggesting that
3 the area to be characterized should be redefined, taking
4 into account the effect of currents.

5 The final comment on the stipulation, "A remote
6 camera survey (video and/or film) may suffice in soft
7 bottom areas. These observations should be accompanied by
8 photo documentation and the taking of samples." We
9 recommend that this section be reworded to require the
10 taking of samples in addition to camera surveys. The
11 California Academy of Sciences stated that, "Only the
12 largest and best-known forms can be identified by inspection
13 of photographs or videotape, unless samples are collected
14 in addition."

15 We would also remind the Commission that in
16 commenting on OCS Lease Sale 53, the California Department
17 of Fish and Game recommended a 12-mile buffer from Point
18 Purissima to Point Conception, an area which includes the
19 entire State tidelands project area. Further, in reviewing
20 the Draft EIR on the State tidelands sale, Fish and Game
21 commented there was no new information which would make them
22 change their original position.

23 We reiterate our belief that this area is
24 inappropriate for offshore oil development, and that it
25 poses a critical threat to the California sea otter

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1 population, whose entire established range has been proposed
2 for offshore oil leasing by Secretary of Interior James
3 Watt, a gentleman who's responsible for protecting the sea
4 otter.

5 We do not feel this sale should proceed further
6 until cumulative impacts from federal leasing in the
7 Santa Barbara area have been assessed and mitigated.

8 At the very least, today, we again urge you not to
9 certify the Final EIR until your own studies have been
10 conducted and assessed. For how can you possibly know what
11 the environmental impacts are when you don't even know what's
12 out there?

13 Finally, we call upon you to ensure that any
14 leasing of State tidelands is consistent with the State's
15 federally-approved Coastal Plan. California has demanded
16 of the Federal Government presale consistency on size,
17 timing and location. We expect no less of California and
18 there is much at stake.

19 Thank you.

20 COMMISSIONER ACKERMAN: When you testified on
21 Secretary Watt's five-year plan, did you recommend that in
22 areas where California had parcels leased against unleased
23 Federal parcels that the Federal Government exercise
24 agreement for slant drilling off State platforms into the
25 Federal OCS?

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1 MS. FULTON: No, I don't think I did.

2 CHAIRPERSON CORY: Okay.

3 Kirk Neuner.

4 MR. TROUT: Neuner.

5 EXECUTIVE OFFICER DEDRICK: He was here earlier.

6 CHAIRPERSON CORY: Well, that's the last of the
7 people. Would the staff like to --

8 MR. CHARTER: I submitted a request to participate.

9 CHAIRPERSON CORY: Come forth. Identify yourself
10 for the record. I'm sorry; somewhere we lost the sheet.

11 MR. CHARTER: I understand.

12 My name is Richard Charter. I serve as
13 Coordinator for Local Governments along the Central and
14 Northern California Coast and in that capacity over the last
15 three and a half years, I have provided under a program
16 staff support and coordination for counties from Del Norte
17 to Santa Barbara and about 30 cities. This has dealt
18 primarily with the Lease Sale 53 proposal.

19 I would like to remind you --

20 COMMISSIONER MORGAN: You're representing how many
21 counties and cities?

22 MR. CHARTER: Eleven counties and 30 cities, and
23 I would point out that local governments throughout this
24 process on the State tidelands sale I think you will find
25 in your Final Addendum testimony from a number of individuals

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1 including Supervisor Bill Wallace of Santa Barbara County.

2 I am here in the hopes of helping you make the
3 best possible decision about this sale. That may be a
4 decision that involves more information than you have at the
5 current moment. In bringing this point to light, I would
6 like to cover three major points. The relation of this
7 decision to the decision-making process on the federal lease
8 sales, primarily Lease Sale 53.

9 The second point I'd like to bring to light is
10 the unique biological situation in the Point Conception,
11 Point Arguello area, and the third thing that nobody seems
12 to have pointed out is that there are some very severe
13 economic implications of making a mistake at this point.
14 I don't think that it should be any surprise to anyone in
15 this room that Point Conception to Point Arguello is a very
16 unique biological area. There has been an interest among
17 the community of marine scientists in fact in studying the
18 transition zone where the warm southern waters meet the
19 cold northern waters and create very unusual conditions which
20 create very unusual biological circumstances, and that
21 interest goes back probably 25 or 30 years. The problem is
22 that nobody has ever really taken the trouble to study this
23 area.

24 The sensitivity of Point Conception has been
25 recognized all through the decision process on Lease Sale

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1 53. There is a kind of consensus in the State of California
2 that while, as the decision went forward in Lease Sale 53,
3 a balance was achieved and the places that really counted
4 were left out of that sale. In other words, the Mendocino's
5 and the Sonoma's and the Santa Cruz areas that were
6 ultimately deleted in the decision.

7 I would like to point out that the decision to go
8 forward with the Southern Santa Maria Basin of Lease Sale
9 53, and I think it relates because it's apparently the
10 decision that triggered the State tidelands sale, the
11 drainage sale. Actually, through the whole process agencies
12 of the State of California had been raising concerns about
13 the proximity of those tracts to Point Conception. Carol
14 mentioned that Cal Fish and Game in responding to the
15 original proposed notice of sale, the Andrus proposed notice
16 of sale on Sale 53, asked for a 12-mile buffer zone around
17 Point Conception. That was originally a 12-mile buffer
18 zone which became in the Governor's response to the Secretary
19 of Interior on that sale a request for a seasonal drilling
20 stipulation to protect the sea otter range basically the
21 range of the sea otter which will be in this area during
22 the life of this sale.

23 Neither of those things were given to the State
24 of California by the feds when they held Lease Sale 53.
25 They leased right up to the three-mile State tidelands and

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1 the three-mile State tidelands then became the buffer between
2 the federal leasing and these sensitive intertidal areas.
3 So I don't think that I'm out of line in pointing out that
4 you are leasing the buffer zone and that in so doing there
5 is no spill response time. You are on top of the sensitive
6 resource.

7 So I think it's important not to use the
8 justification that while leasing has occurred on federal
9 OCS, we must lease this. Because, in fact, this is the
10 buffer zone.

11 The thing about the Point Conception area is that
12 there is hardly anything known about the biological
13 communities there. We know that there's a sensitivity.
14 We know that there's a lot going on. We have found out
15 some things about the leasing in Sale 53 as a result of
16 biological site surveys that took place prior to drilling.
17 We have about six drill ships in the Santa Maria Basin right
18 now. Prior to that activity there were biological site
19 surveys which discovered topographical tides, islands under
20 the ocean, one of which contained 11 species that nobody
21 had ever seen before. This is on the federal OCS.

22 It's important not to underestimate the importance
23 of these shallow or inshore areas to the total biology of
24 the ocean and the fact that this inshore marine fringe has
25 a distinct zonation of environmental conditions which provide

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1 one of the most diverse habitats for life on earth basically.
2 Now, your staff in your Final Addendum has apparently
3 recognized that there is a lack of information about this
4 area and in your Final Addendum has proposed a 60-day
5 biological characterization study which we and our
6 consultants have reviewed in some detail. It looks like
7 a pretty good study. It's a high resolution study. It
8 involves sampling on a grid spacing which probably would
9 identify biological hot spots. What I mean to say, people
10 have a habit of looking at the ocean, and because they
11 cannot see below the surface other than reflections, they
12 visualize that there's fish sort of equally distributed out
13 there and there are critters on the bottom sort of evenly
14 spread out. That is not the way it is.

15 There are concentrations of communities that you
16 cannot find any other way than by the type of study you're
17 talking about. It looks like a pretty good study. Our
18 concern is -- and I say "our concern," because this is
19 setting a precedent that other counties are watching in the
20 event that drainage sales follow federal sales of the
21 California coast.

22 There have been numerous comments to the Bureau
23 of Land Management, now Mineral Management Service, that
24 the results of studies should be obtained prior to the
25 decision and used in the decision. We have said that

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1 probably four or five hundred times in the last four years.
2 I'm afraid that we have to say it to the State Lands
3 Commission. There has been a need for this study accepted
4 by your agency. You've funded it. You're going forward with
5 it. It's my understanding that the results of the study
6 will not be available prior to the proposed notice of sale
7 for this sale.

8 I think that you should know that there's a
9 precedence for this in the State of Alaska. There have been
10 mistakes made with State tidelands sales and they have been
11 very, very expensive to states. I happened to be in Homer,
12 Alaska on Ketchimec (ph) Bay in the mid-1970's when Shell Oil
13 Company got a jack-up rig stuck in the glacial silt in the
14 bottom of Ketchimec Bay. This was a State tidelands sale
15 and a sensitive area. Everybody recognized that. It's
16 like a giant version of Tomales Bay, a long, narrow bay fed
17 by glacial-fed rivers. The Fox River has an extremely large
18 intertidal tide flat area with a lot of birds on it, has an
19 extremely productive trout fishery and everybody said: You
20 better watch out because you're going to have trouble with
21 glacial silt at the bottom of Ketchimec Bay. Alaska went
22 ahead and leased it. Shell came in with a jack-up, got it
23 stuck, spent -- it was very prominent in the news media down
24 here that summer. You may even recall it -- spent the better
25 part of that summer trying to extricate that rig with

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1 ocean-going tugs, explosives, divers, you name it. Finally
2 got it loose. The problem was that the rig was stuck right
3 in front of the only town in Ketchimec Bay and it created
4 a public backlash that was so strong in the State of Alaska
5 that they were forced to buy back the state leases in
6 Ketchimec Bay.

7 Now, I was in a meeting in Alaska this June and
8 the topic of that sale came up and the people who administer
9 state tidelands leases in the State of Alaska said to me:
10 God, please don't talk about that. You would not believe
11 how expensive that was for the State of Alaska.

12 So what I'm asking you to do, what my recommendation
13 is, is that you not certify this EIR today, that you provide
14 a 60-day period for the completion of your own study that
15 you recognize the need for, a period of time for the
16 information from that study to be digested, subjected to
17 peer review in the scientific community, maybe another
18 30 days. We're not talking about a big hurry on this
19 lease sale where 90 days would make that much difference.
20 I think the goal of such study of the results of your
21 biological characterization survey, would provide information
22 of sufficient resolution that you could identify biological
23 hot spots in the Point Conception-Point Arguello area and
24 perhaps make some windows in your sale, but you're not going
25 to know where those windows are until you have the results

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1 of the study that you have in motion. Now, I see on the
2 agenda an item determining just how the sale is going to
3 proceed, what areas will be leased first and I heard rumors
4 to the effect that, well, the whole thing may be leased.
5 There may be two circles first and then two circles. Well,
6 just suppose that the first two circles are the wrong two
7 circles and that they're on top of hard rock outcrops that
8 happen to be the biologically sensitive areas. That's not
9 the way to find out where the biologically sensitive areas
10 are to lease them. The way to find out is to conduct the
11 study that you funded and decided to proceed with, get the
12 results of it, use that information in a full disclosure
13 document. We're supposed to be creating a model here for
14 how to do this for the feds, and we're making the same
15 error.

16 I'd like to close by saying that I conclude that a
17 State tidelands lease sale should be subject to the same
18 consistency determination that federal sales are. If
19 anything, it has more of an effect on the land and water uses
20 of the State's coastal zone and I would like to ask you to
21 defer certification of the EIR until you have full
22 disclosure of the environmental impacts of this project.

23 Thank you very much.

24 CHAIRPERSON CORY: Questions from Commissioners?

25 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, I see

1 that Kirk Neuner is here. He just came.

2 CHAIRPERSON CORY: Kirk, do you wish --

3 EXECUTIVE OFFICER DEDRICK: Do you want to testify?

4 MR. NEUNER: No.

5 CHAIRPERSON CORY: Staff.

6 I'd like the staff to start responding to some of
7 the points that were brought up. Who's going to lead this
8 off, Claire, you, Dwight?

9 EXECUTIVE OFFICER DEDRICK: I'm sorry, Mr.
10 Chairman. Dwight has been in charge of the whole process
11 and has been meeting with everybody and I think he can
12 respond more completely.

13 I would like to point out one thing, particularly
14 in regard to Mr. Charter's testimony and also Carol's and
15 our other two witnesses.

16 The biological study is ongoing currently. The
17 EIR included studies of all rocky areas, and Dwight can
18 elaborate on that if you choose. So that the areas that we
19 know would be biologically sensitive are already investigated
20 and examined in the existing document. The Commission
21 decided to go beyond that requirement and to provide
22 information for your leasing decisions, more information
23 than was actually required by law, and ordered that
24 biological study. The study is completed and is being
25 written and it will be available to the Commission and

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