

1 MS. PERRAULT: So that we understood because of
2 that extension of time for public comment that no decision
3 would be made at this particular meeting, that certainly
4 if any --

5 CHAIRMAN CORY: It is not contemplated that any
6 decision on leasing will be made, but that we release the
7 draft report and put on the public record the questions
8 that went through our minds as we read it so that everybody
9 can go ahead and react.

10 MS. PERRAULT: Okay. We would welcome that.
11 And the other question I have is for Ms. Dedrick.
12 Did you mention that the material that you had today would
13 only go to people that requested it specifically?

14 EXECUTIVE OFFICER DEDRICK: No.

15 MS. PERRAULT: Oh.

16 EXECUTIVE OFFICER DEDRICK: The draft report we
17 would contemplate mailing to the hundred and fifty or so
18 people on the mailing list.

19 MS. PERRAULT: Okay.

20 EXECUTIVE OFFICER DEDRICK: The backup material,
21 the public and Peer Review comments on the marine study
22 itself, is a very large pile of things and many of the
23 people on that list are not interested in that. Any of you
24 who are interested in that, if you would let Dwight Sanders,
25 who is right behind you, know, we will start xeroxing, but

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1 strictly as a matter of not wasting too much State money
2 and too many trees, we would want to be sure that they go
3 to people who are truly interested.

4 MS. PERRAULT: Right. It would be helpful if the
5 people on the hundred fifty list were notified of the fact
6 that they could ask for that Peer Review. We have tried,
7 and because of --

8 EXECUTIVE OFFICER DEDRICK: We will add that as a
9 cover letter on the report which we can mail out this
10 afternoon.

11 CHAIRMAN CORY: And a picture of Dwight.

12 MS. PERRAULT: Yes, Dwight has been kept busy on
13 the telephone with many of us, and I think that part of the
14 reason that he has is that the expectations we have had,
15 for example, in following the Federal OCS Program, when
16 your name is on a list, you automatically continue to get
17 all the documents, was a little more difficult. And this is
18 not to say anything against, you know, Dwight's effort, but
19 the public has found it somewhat difficult in having to
20 call constantly to get the things they are missing. And
21 I hope that we can fix that up. It will make it much
22 easier for our process of review.

23 CHAIRMAN CORY: Okay. The staff notes that? You
24 will note that and make sure it is taken care of?

25 EXECUTIVE OFFICER DEDRICK: Yes, indeed.

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1 CHAIRMAN CORY: Okay.
2 Questions from Commissioners?

3 Okay. Thank you very much.

4 Natasha Atkins.

5 MS. ATKINS: Good morning. My name is Natsha
6 Atkins. I am Staff Biologist for Friends of the Sea Otter.
7 This is the first time I have appeared before this Committee
8 but I am sure you know it is not the first time that
9 Friends of the Sea Otter has appeared before you.

10 I would like to say that Friends of the Sea Otter
11 fully supports the position that Michele has given you for
12 the OCS Coalition, so I would like to focus my remarks on
13 the proposed sea otter stipulations that we received from
14 the staff.

15 First, I would like to make it clear that we did
16 not receive a copy of the stipulations until Saturday, so
17 we really haven't had an adequate chance to review them in
18 detail. I can only say that we had hoped the stipulations
19 would have better reflected the strength of the Chairman's
20 previous assurances to include strong stipulations for sea
21 otters, and what we have seen really falls quite short of
22 our expectations.

23 Unfortunately, we never had the opportunity to
24 work with the staff on their draft stipulations.

25 Without rehashing old information, I would like to

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1 repeat one point that I think has gotten lost in this
2 proposed sale. When the California sea otter was listed as
3 a threatened species five years ago, it was the threat of
4 an oil spill that was considered to be the most serious
5 threat to the otter population, and at that time OCS
6 activity adjacent to the sea otter's range was virtually
7 non-existent.

8 Friends of the Sea Otter has recently decided,
9 largely because of the accelerated oil activity adjacent
10 to the otter's range, to petition the Federal Government
11 to reclassify the sea otter from "threatened" to "endan-
12 gered," because not only has the population failed to grow
13 in the last decade, but there is concern that there may be
14 fewer than even 1500 animals.

15 In its recovery plan for the sea otter, the
16 Fish and Wildlife Service has identified what it considers
17 to be necessary measures for restoring the sea otter popula-
18 tion. These measures include the protection of the existing
19 population in its habitat, the minimization of oil spill
20 threats and the establishment of another otter colony. To
21 date, none of these strategies has been implemented even
22 though the threat from oil to the otters grows more serious
23 every day.

24 Well, that's why we were so grateful when the
25 Governor recommended strong stipulations for Lease Sale 53

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1 to protect the sea otter. And his stipulations included
2 specific wording about the seasonal drilling ban, the
3 development of an effective oil spill contingency plan and
4 funding of the measures that were considered necessary to
5 secure the recovery of the sea otter population.

6 Well, if anything, the proposed tidelands sale,
7 we think, poses as great or greater a threat to the sea
8 otter and its habitat than the existing Federal activity.
9 And there are numerous studies documenting the northward
10 flow of near-shore surface waters during the late fall
11 through the late winter, and I have a list of those
12 references if the Commission would be interested in them
13 for the record.

14 There are studies that specifically demonstrate
15 that surface drifters released in the proposed lease area
16 come ashore within the sea otter range, so it's obvious
17 that a spill in the project area could contaminate the sea
18 otter range at certain times of the year.

19 And we were extremely grateful when we heard
20 Chairman Cory at the September 23rd hearing give his
21 assurance that he would take care of the sea otter stipula-
22 tions, and he suggested that the Governor's recommendations
23 for Lease Sale 53 might not even be strong enough, and
24 given our expectations, that is why we were rather disap-
25 pointed with the stipulations that were drafted by the

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1 Commission staff.

2 On October 15th, we presented Dwight Sanders with
3 our proposed stipulations and we discussed them briefly
4 with him. We were told that we would receive the staff's
5 draft the following week. Although we had been hoping for
6 some meaningful dialogue with the staff on the stipulations,
7 unfortunately we did not receive the staff's version until
8 Saturday, as I mentioned.

9 Well, our initial review of the stipulations tells
10 us that these proposals fall far short of what we expected,
11 given the assurances and given the length of time we had
12 waited. And they also fall far short of the Governor's
13 recommended stipulations for Lease Sale 53. And they
14 certainly fall short of what is necessary to protect the
15 sea otter.

16 Because it is a threatened species, and because
17 it is extremely sensitive to oil threats, more so than any
18 other marine mammal, the sea otter deserves a special
19 stipulation, but what we saw was nothing more than a modifi-
20 cation of a previous stipulation, the mandatory biological
21 survey.

22 Despite the staff's assurances, we do not
23 believe that the Critical Operations and Curtailment Plan
24 is a sufficient safeguard of the sea otter range during
25 the winter. The near-shore current patterns are not

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1 dependent on sea state and weather conditions, and an oil
2 spill during normal operating conditions could occur and
3 oil could be carried north to the sea otter's range at that
4 time of the year, no matter how stringent the State's
5 regulations --

6 CHAIRMAN CORY: Pardon me. Could you go back to
7 that last sentence that you just completed?

8 MS. ATKINS: Yes. Okay. As I understand the
9 Critical Operations and Curtailment Plan, it provides that
10 operations will be curtailed during certain weather condi-
11 tions and certain sea state conditions, and what we are
12 saying is that these currents that flow northward during
13 the late fall through the late winter flow that way
14 regardless of the sea state and weather conditions, and
15 should there be an oil spill caused by some kind of
16 accident during normal operating conditions, when
17 operations have not been ceased, then those currents would
18 continue to carry that spilled oil north to the sea otter
19 range.

20 We don't feel that the State's regulations, no
21 matter how stringent they are, and we do understand that
22 they are more stringent and the inspections are more
23 stringent than the Federal Regulations, that they cannot
24 prevent the scenerio, and so we reiterate the need for a
25 drilling ban during these months.

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The proposed stipulations also make no mention of an oil spill contingency plan. I am part of an inter-agency working group on oil spills and otters, and I can assure you that we are far from being prepared to deal with a major oil spill in the sea otter range.

The Critical Operations and Curtailment Plan itself states that there are certain weather conditions when oil spill containment techniques are not effective.

One other omission that I'd like to bring to light concerns funding. Who is it that is going to pay for the marine surveys and the behavioral studies and the analyses of the project area which the sea otter stipulation calls for? The lessees are going to be benefiting from the very activities that threaten the sea otter population, and we recommend that the lessees must reach agreement with the State, the appropriate State and Federal agencies, to assure that there will be funding for the necessary studies. And we would like to see the establishment of a fund derived from a percentage of the lessees' revenues to support these studies and to support oil spill contingency planning and equipment.

The stipulations are really meaningless unless funding responsibilities are explicit.

And finally, we cannot forget that it is the whole sale that must be evaluated in the light of the

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1 potential threat to the sea otter population.

2 A tract-by-tract impact analysis cannot
3 adequately mitigate the cumulative impact of oil development
4 on the sea otter. Various State agencies to date have
5 expressed their concern that offshore oil activities may
6 jeopardize the sea otter, and they have recommended
7 protective measures, and if verbal commitments suffice, then
8 the State Lands Commission should be included among these
9 agencies.

10 However, the commitment in writing which we have
11 awaited so long, and which is in the form of the stipula-
12 tion, does not reassure us of any meaningful commitment to
13 the protection of the sea otter.

14 Throughout our involvement in the process in the
15 proposed sale, we have been struck by the rapid pace with
16 which the Commission has moved and we still believe that
17 the proposed area is more appropriate as a sanctuary and we
18 think the Commission should reconsider this alternative,
19 and I am considering the entire area, all three miles of
20 the State tidelands.

21 And we also urge that the Commission explore the
22 other alternatives that were presented today in the OCS
23 Coalition statement. The Fish and Wildlife Service and
24 California Fish and Game are in the process of censusing
25 the sea otter population. The report is forthcoming and

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1 we feel that it is very important that the Commission have
2 this information before making any decisions on this area.

3 Indeed, we'd like to believe that the Commission
4 is committed to the protection, not only of the sea otter,
5 but of the marine resources in general that can be affected
6 by the sale, and to prove this commitment, we feel that
7 the Commission must delay any action on the sale to allow
8 sufficient time for the review of the staff's proposals and
9 the biological studies and the Peer Review and the public's
10 concern, and we would welcome the opportunity to work with
11 the staff more closely on developing stipulations that we
12 think would more truly reflect the commitment expressed
13 by the Chairman several months ago. And we would look to
14 you as Commissioners to decide that this sale is not going
15 to go through at the expense of the California sea otter.

16 Thank you. I will be happy to answer any
17 questions.

18 CHAIRMAN CORY: Specifically, the stipulation, as
19 you would like it and as the staff drafted it, you talked
20 about a ban during certain periods of time. What are those
21 specific periods of time?

22 MS. ATKINS: Well, for the sea otter, it would be
23 at least through the end of February.

24 CHAIRMAN CORY: From when?

25 MS. ATKINS: From November through February, at

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1 the very minimum. Those are the periods when all of the
2 studies demonstrate that the Davidson Current is at the
3 surface at that time and flowing northward near shore. It
4 is well-developed at that time, and it obviously fluctuates
5 quite a bit outside of those months. But during that
6 period, it is very well-developed.

7 And then the stipulation, as it was originally
8 drafted, was also to include protection of the gray whale.
9 I am not a gray whale expert, but I understand that gray
10 whales migrate through the area after February, I believe,
11 through the spring, but you'd have to ask an expert on that.

12 CHAIRMAN CORY: Okay. And what other specific
13 areas do you find the staff lacking? You got it on
14 Saturday.

15 MS. ATKINS: Well, as I mentioned, funding. And
16 I think that the critical thing is that funding be avail-
17 able, and we suggested one mechanism for getting that
18 funding, to provide for the studies that have been identi-
19 fied as necessary to protect the sea otter from oil
20 development.

21 CHAIRMAN CORY: Well, does not the draft report
22 do that? Because, as I read it, it seems to say that they
23 must be done on the site specific EIR and they will be
24 funded by --

25 EXECUTIVE OFFICER DEDRICK: By the lessee, but

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1 the study would be under the control of the State Lands
2 Commission. That is to say we would do it as we do all
3 EIRs with the control of the project, the study, laying
4 with the staff of the State Lands Commission, and the
5 funding done --

6 CHAIRMAN CORY: The funding done by the people
7 who wish to benefit.

8 EXECUTIVE OFFICER DEDRICK: That is correct.

9 CHAIRMAN CORY: Which is what you were suggesting?

10 MS. ATKINS: That is correct.

11 CHAIRMAN CORY: Yes.

12 MS. ATKINS: We were merely proposing the estab-
13 lishment of a fund that would be available, not only for
14 the studies, but also for oil spill measures which are the
15 critical part for sea otters.

16 CHAIRMAN CORY: Okay. That is another area that
17 at some point, when we comment, I want to get to, because
18 the question of figuring out how the industry is going to
19 cope with the spill and response time are the areas
20 where I think we can put some teeth into this. But go
21 ahead, I'm sorry.

22 MS. ATKINS: I just wanted to say that in this
23 oil spill working group that I am a part of, I understand
24 that the State, California Fish and Game, is revising their
25 oil spill contingency plan, but they have expressed that

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1 funding is a very serious problem for them and they don't
 2 know where the money is going to come from. And we have
 3 established one site as a base, and very little in the way
 4 of equipment has been stockpiled, and we are not, the state
 5 of the art is pretty bad when it comes to sea otters and oil.

6 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, the
 7 authority, as you know, lies with the SIOSC, which I never
 8 can remember what those initials stand for. We are working
 9 very closely with them, and in addition to that, the
 10 Critical Operations Curtailment Plan does not allow
 11 operations unless oil cleanup equipment is available. Now
 12 that isn't enough, and the point about money is a sound
 13 point.

14 CHAIRMAN CORY: Well, the definition, and it
 15 would seem to me that putting up front what that requirement
 16 is and the kind of equipment and response time is simply
 17 we ought to start laying out to the industry to be fair to
 18 them because I think they are going to have to bear the
 19 burden of that if they want to play. They have got to pay
 20 the band.

21 And at some point as this draft goes ahead, I
 22 would like that refined, because I think it is fair to the
 23 industry and to everyone else that that question be
 24 addressed because I think that is the area that must be
 25 addressed with respect to the otter. I don't know whether

1 it is possible to look at the question of what equipment
2 must be available, but maybe even standards of response time
3 if they want to be in compliance with the lease, because
4 the response time, to me, appears to be the real critical
5 factor.

6 Mistakes may occur, and once they occur, then the
7 question is response time as to how they can probably have
8 to deal with them.

9 MS. ATKINS: Nobody has developed effective ways
10 of herding otters away from oil spills and I think that is
11 a real problem.

12 CHAIRMAN CORY: We have to worry about herding
13 the oil away from otters rather than the other.

14 MS. ATKINS: That, too. We know the problems
15 there.

16 ACTING COMMISSIONER ACKERMAN: I think probably
17 a more detailed staff discussion of state of the art of
18 equipment in the industry and governmental agencies would
19 probably be in order.

20 MS. ATKINS: Well, we would welcome the oppor-
21 tunity to give whatever help we can in discussing our
22 concerns and how we think these could be strengthened
23 within your jurisdictions.

24 ACTING COMMISSIONER ACKERMAN: Just with
25 reference to the sea otter, that isn't the only creature

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1 which is impacted by the possibility of a spill.
2

3 MS. ATKINS: That's right.

4 ACTING COMMISSIONER ACKERMAN: So, I think to rely
5 just the sea otter would probably be a big mistake. You
6 just have to look at oil spill possibilities as a whole.

7 EXECUTIVE OFFICER DEDRICK: That is why we
8 included the operating conditions for biological, little
9 critter protection and marine mammal protection, any
10 threatened or endangered species, all in the same stipula-
11 tion. It was not intended to denigrate the sea otter in
12 any way. The problem really relates to the whole biota of
13 the area, the stuff on the bottom as well as the critters
14 on the top, and so we are trying to get the whole thing in
15 one package so that there is no question that the oil
16 company has got to address that seriously.

17 But that's the reason for the stipulation being
18 phrased that way.

19 ACTING COMMISSIONER MORGAN: Ms. Atkins, I wanted
20 to ask you a question. You mentioned that some regulations
21 of the State were more strict than the Federal Government,
22 and I didn't quite catch what you were talking about.

23 MS. ATKINS: Okay. I am not very familiar with
24 the ins and outs of the regulations, but in my discussions
25 with Dwight, he said that the inspections that were required
on drilling rigs by the State Lands Commission were more

1 stringent and more frequent than on Federal leasing sites.

2 CHAIRMAN CORY: That's why our staff is never in
3 their office. They're always out inspecting.

4 MS. ATKINS: I think he said that, too.

5 CHAIRMAN CORY: Okay. Thank you very much.

6 Ruthann Corwin.

7 DR. CORWIN: Good morning. I'm Dr. Corwin and I
8 am representing Marin County, again.

9 CHAIRMAN CORY: Welcome back.

10 DR. CORWIN: Our concerns are the same, which is
11 to say the precedent that is being set in the sale of these
12 State lands, both in terms of our concerns for the Federal
13 sales that will be occurring and also the possibility that
14 should a State sanctuary, oil and gas sanctuary, be lifted
15 in the vicinity of the Marin County coast, the procedures
16 that you establish in this lease sale will affect those
17 future sales, and we are very concerned to make sure that
18 those provide the maximum protection for the natural
19 environment.

20 I was not clear. I'd like to get a little
21 further clarification on what the 25-day review period
22 that was referred to pertains to? What report was it
23 that it pertains to?

24 MR. FRANK: We are talking about the same report
25 that has been the focus of discussion today, that marine

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1 biological survey. The staff has released that report to
2 all those who have expressed an interest in the EIR last
3 October, and again, just to make sure that we have com-
4 pletely canvassed all interested parties, we are taking
5 advantage of the ongoing machinery provided by the Office
6 of Planning and Research, to use their circulation method,
7 their clearing house, for an additional 25-day review that
8 would extend through, I believe, the second week in
9 December. We are talking about the same report.

10 DR. CORWIN: Can you tell me what time periods
11 would pertain to the review of the material that you
12 received here today which the public has not yet seen;
13 which presumably pulls together the comments on that
14 report and pulls together the staff concerns and response
15 to the Peer Review and so forth? What is the timing on that?

16 CHAIRMAN CORY: That will probably be -- we will
17 probably have the revised staff report back before us
18 about the 16th of December.

19 DR. CORWIN: In terms of its release to the
20 public?

21 CHAIRMAN CORY: It will be released today.

22 EXECUTIVE OFFICER DEDRICK: Today.

23 CHAIRMAN CORY: As soon as we conclude business
24 here.

25 DR. CORWIN: So, in terms of an adequate period

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1 of public review, then, we essentially have 17 days to
2 look at that as the decision document that you will
3 presumably be responding to. Then there won't be any --

4 CHAIRMAN CORY: I am not sure of that this is
5 the decision document.

6 ACTING COMMISSIONER MORGAN: It is a status report.

7 EXECUTIVE OFFICER DEDRICK: It is a status report.

8 It is not at all intended to be a decision document.

9 DR. CORWIN: Then perhaps I'm not clear on exactly
10 what the decision is that will be made on December 16th.

11 CHAIRMAN CORY: I don't know what the decision
12 is that will be made on December 16th. That's the purpose
13 of having another meeting then.

14 DR. CORWIN: Well, okay. Let me go on with my
15 testimony and I will put that in the context, then, of the
16 difficulties that I have had in trying to follow the
17 leasing procedure and determine at what stage various
18 decisions are being made and therefore to look at the
19 materials which you have been working on and figure out
20 where they fit into your process.

21 Since the meeting on the 23rd, I have talked to
22 Dr. Dedrick and I have talked with various other staff
23 members of the State Lands Commission, with Dr. Maurer of
24 the Peer Review Committee, and I have attempted to review
25 a number of the background documents that I could get my

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1 hands on. There was quite a bit of it.

2 I have a few procedural comments that I would like
3 to enter into the record. And please stop me if I speak
4 too quickly. But these are technical points on receiving
5 this material.

6 To begin with, the public received only partial
7 information. This document that was the supplementary
8 data report that I am referring to now, which has been
9 under discussion, was mailed out at the end of October. I
10 received mine at the County on October 26th and it didn't
11 contain in it the supplementary data chart which one had to
12 then have gone through the report, spotted the fact that it
13 was missing, called Dwight specifically and asked him to
14 get it into the mail. Mine came on Veteran's Day and by
15 the time I got the thing it was the same day that the
16 comments were due in on this.

17 I then sent a telegram saying that I would get
18 my comments in a day or two later than that and I did do
19 that. And I notice that other people also felt that that
20 was far too compressed a time period to be able to respond,
21 especially not receiving complete information that should
22 have been along with the documents since it was referenced
23 in the document for us to review.

24 That was a total 17-day comment period on that
25 draft, but which shrank down to zero for some of the

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1 materials.

2 In addition, I didn't receive any notification
3 regarding this meeting, although I was assured that I
4 would. Your minimum notice period, I gather, is ten days
5 for a meeting. So if it had been mailed on the 19th for
6 a meeting on the 29th, assuming that it would be in the
7 mail for two to five days, this really cuts down on the
8 notification period of individuals now. Because I was in
9 contact by telephone, I was able to be informed of this
10 meeting, but I have numerous times requested that I be on
11 the mailing list to receive everything regarding this
12 subject.

13 I also did not receive the Scientific Committee's
14 review comments and I was given to understand that you had
15 to make the decision here at this meeting, whether or not
16 to release those. This seemed a little strange to me. It's
17 all part of the public process that these should be avail-
18 able, and I was hoping to get them prior to this meeting so
19 that I could incorporate those comments, but I think you
20 have heard from Dr. Mohr what the concerns are and I can
21 speak to what he said.

22 I also didn't receive the comments of the other
23 reviewers and I will make an official request in the record
24 now for the fat packet of comments. It seemed to me, with
25 the time period that the reviewers were given to look at

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1 this material, if there were indeed a fair number of these
2 comments, they received them sometimes a day or two before
3 when the Peer Review was meeting and discussing this
4 material, but this is not adequate time, either. And I
5 would agree with Dr. Mohr that there has been unseemly
6 haste in this entire process dealing with the biological
7 review in terms of those of us who are giving our time to
8 look at this, fitting it into our schedules and being able
9 to give you the best possible comments for the concerns of
10 the people of the State of California.

11 In addition, since I have gone into the process, I
12 have received the other documents. I have not had time to
13 prepare written comments on a number of them. I will make
14 some comments today for the record on some of the materials
15 that you are utilizing, which I don't think have had
16 adequate public review.

17 The entire biological study, Public Comment Peer
18 Review Procedure was immensely compressed and I think that
19 this should be taken into account in the haste with which
20 you proceed with the decision.

21 A couple of specific remarks about the long-term
22 impacts. I think Dr. Dedrnick mentioned that the only
23 thing of concern was the drilling muds, but I --

24 EXECUTIVE OFFICER DEDRICK: No, let me correct
25 you. I said that is of the most concern. It is certainly

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1 not the only thing of concern.

2 DR. CORWIN: Well, I would say that there are a
3 number of long-term concerns, not just from the drilling
4 muds, but we have had evidence from the deposition of oil
5 from the oil spills in sediments and the interference with
6 the breeding success of a number of organisms of long-term
7 damages from oil spills on the biota, and I was particularly
8 concerned in light of what you were saying just earlier
9 about spill response and the ability to get in there and
10 clean up spills, I have looked at oil spills around this
11 country and around the world and I have worked with a
12 group at MIT, which collected data on spill response
13 capability, on the efficiency of the equipment that is
14 utilized, and there is nothing now that can clean up in
15 seas that is greater -- the average that they claim is six
16 to eight feet, and with the new Norwegian booms, they can
17 get up to ten feet or twelve of sea state maximum, and that
18 means with an efficiency that decreases directly as you get
19 into the higher wave and sea state. You are talking about
20 lease sales which are directly on top of or in the
21 immediate shoreline zone, so that spill response time is
22 really not a realistic factor to consider unless you have
23 got large boats and booms sitting right out there at those
24 platforms at that time trying to pick this material up.
25 That's certainly a possibility that you should consider for

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1 mitigation, but you are talking about some expensive
2 dedicated equipment, million-dollar boats and expensive
3 clean-up equipment to get out there and get the stuff before
4 it can get into the shoreline. And you are on top of the
5 shoreline. So spill response time is certainly a critical
6 concern and I would hope that the public will have the
7 opportunity to review your staff report of their review of
8 the state of the art and how it applies to this region
9 because I for one would be very interested to see what
10 their conclusions are and what they are going to be able to
11 tell you about the ability to respond to these oil spills
12 in any realistic time to prevent oil from getting into
13 the sediments, from adhering to the rocks, covering the
14 organisms that you were referring to earlier, the inter-
15 tidal organisms and subtidal invertebrate organisms which
16 are unusual and important to the food chain in this region.

17 So again, in terms of making a decision on
18 December 16th, I would hope that in fact you would make
19 public then the information that the staff provides to you
20 in response to those comments. A couple of other areas,
21 and I am referring now to Page 2-3, this is in the
22 Finalizing Addendum of the EIR on the resumption of explor-
23 atory drilling operations by the Shell Oil Company, and
24 this is called the Pierpont Prospect Study that was done
25 by the State Lands Commission, and this is the one to which

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1 you refer in your Environmental Impact Report on the
2 discussion of drilling muds and so forth comes up. There
3 is a summary in there that states that "Short-term impacts
4 of a cumulative nature include increased vessel traffic,
5 temporary decreases in air and water quality, temporary
6 loss of fishing space, aesthetic impact, increased risk of
7 oil spill and localized destruction of benthic organisms."

8 "I have already pointed out, in fact, some of those
9 are not necessarily short-term impacts. They are long
10 term, and possibly cumulative impacts, particularly giving
11 in terms of the question of chemical uptake in organisms
12 of materials that are dispersed, whether it is through
13 oil spills or through drilling muds that are deposited,
14 toxic or stress conditions that may be exceeded for already
15 stressed species. Now, this is particularly of concern in
16 relation to the cumulative effects of the Federal Lease
17 Sale. And the concern there is that we haven't had any
18 analysis to say whether or not there are any species that
19 might be pushed over the borderline, particularly some of
20 these rare species, the endemic species and the new
21 species that we have really not even had a location given
22 for. We've just had an indication that they have been
23 found in that area.

24 The increased risk of accident, the permanent
25 effect possibly, certainly in terms of the human spirit of

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1 the change of Point Conception from the American Indian
2 perspective. Those are all long-term effects, and they are
3 in the latter case probably not mitigatable there unless
4 there is a way found to avoid any kind of aesthetic impact
5 on that development as well.

6 So these are statements that are in a document to
7 which you refer which I have questions which I am entering
8 into the record which there is evidence that contradicts
9 the statement that these are only short-term impacts and
10 which I think that you have to pay increased concern.

11 CHAIRMAN CORY: What do you call short term and
12 long term?

13 DR. CORWIN: Well, to give you an example, a
14 short-term impact might be something that disappears in a
15 month or perhaps a year, but a longer-term impact might be
16 five to ten years or you might think of a generation, a
17 lifetime of a human being. When you have platforms, for
18 example, in an area, you are talking about a 20- to 40-year
19 field development lifetime, so in terms of the aesthetic
20 impact, I would say that would have to be considered a
21 long-term impact. It's going to be there for most of the
22 enjoyment of the seashore that people will be expecting to
23 have over their lifetimes. A 20- to 40-year period is a
24 pretty long-term effect. In terms of oil spills damages,
25 we now have studies from spills that have occurred elsewhere

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1 in the country showing effects up to ten years and more.

2 The spill that occurred in San Francisco Bay,
3 which affected Duxberry Reef, the striped crab out there
4 has not yet returned and may never return to the numbers it
5 was in prior to that spill. That has been over ten years
6 and that is an example, I think of a serious long-term
7 effect to the marine biota, Duxberry Reef, from that spill.
8 And these are things that you will not see in the oil
9 company reports. These are things which tend to get over-
10 looked also in the Environmental Impact Report, and you
11 have to ask Dr. Gordan Chan directly what the story has
12 been since that spill occurred, and you will find out what
13 the long-term effects are.

14 Let me turn briefly to the schedule and raise
15 this question that I began with. It was clear to me that
16 the staff made a fundamental error in not pursuing more
17 information on the biological resources of this environment
18 earlier in the planning schedule. Now, I was relying on
19 the figures for what was called the Point Conception
20 Energy Project that was in the report submitted to the
21 Legislature in December of 1981 and the Supplemental Report
22 of May of 1982. And there is some strange gaps in the
23 schedule, and I think Dr. Dedrick tried to explain earlier
24 that the process was changed this summer. Well, I have not
25 seen any documentation indicating what the actual schedule

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1 is and what the time table of when the sale was to occur.

2 If you look, there is an extremely simple sort
3 of vague kind of schedule. There was an earlier schedule
4 which showed that these studies began back in 1981 and were
5 to be completed by December of '83. And this included the
6 Site Specific Hazard Cultural Survey and the exploratory
7 EIR and so forth, the specific site studies.

8 At that time it said 1985 you would then make
9 the sale decision. There is a gap period there when I
10 wondered what exactly the specific stages of the decision
11 process were. There is no point on this chart that says
12 sale at this point. Now, from what I am hearing you say,
13 you are talking about holding the sale or possibly making
14 a decision to go ahead and accept bids. I take it you
15 are not scheduling that for December 16th, then, but that
16 is an option that you are leaving open to yourselves?

17 That is a question regarding December 16th.

18 EXECUTIVE OFFICER DEDRICK: Ruthann, I think you
19 have a fundamental misunderstanding of the process.

20 CHAIRMAN CORY: No.

21 DR. CORWIN: Well, I think I have been following
22 leasing processes for a number of years. When you put a
23 point on a chart and you say "sale," that is the point at
24 which a specific area is offered to the company and bids
25 then are received.

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1 CHAIRMAN CORY: No.

2 EXECUTIVE OFFICER DEDRICK: No.

3 CHAIRMAN CORY: The sale is when you conclude the
4 deal. You don't have a sale until you have entered into
5 a contract.

6 DR. CORWIN: When you have accepted the bid, you
7 call that the sale?

8 CHAIRMAN CORY: I think that's the sale.

9 DR. CORWIN: Then what do you call the decision
10 to then go ahead and offer a specific area?

11 CHAIRMAN CORY: I don't call it anything.

12 DR. CORWIN: Well, I think in a public process
13 where individuals are trying to follow and to say what the
14 stages are of the procedure, to look at the studies that
15 you are doing and assign them to specific decision points,
16 which is what open government is about, it makes it very
17 difficult if you do not specify what the stages of the
18 decision processes are and when each of these things is
19 supposed to be prepared for them.

20 Now, I was making the assumption that at this
21 point receiving a program EIR you would then indicate
22 specific areas and these areas would be the areas where
23 the site specific studies would be done. I am very sorry
24 to hear that you have decided to give that over to the oil
25 companies and say that all that work would not be done by

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1 the State in the sense that Glaire was saying earlier you
2 said that you would have control of those studies by the
3 State Lands Commission but these would be funded by the
4 oil companies.

5 I have looked at a number of the proposed sale
6 studies that have been done by the oil companies on Sale
7 Number 53. These were biological surveys. They do not direct
8 themselves specifically to the question. It was very
9 difficult to decide from them what the decisions were that
10 you could make to mitigate the circumstances that were
11 turned up.

12 There were new organisms turned up. There were
13 interesting and unusual habitats. Since it was post-sale,
14 there was very little you could do. The State does not
15 want to put itself in the position of having to buy back
16 leases. Once they have been leased, if you find out new
17 and interesting information from post-sale studies, it is
18 far better to do that work in the pre-sale stage. And it
19 seems to me that there is an avoidance of a clear specific
20 sale process and the stages, based upon looking at these
21 various schedules that have been made public and the
22 statements that the Commission has made to the public about
23 what decisions will be made when.

24 The staff is confused. I have gotten very
25 different stories talking to the staff about what kinds of

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1 decisions would actually be made when. And I think that's
2 something that I hope you will clear up today for us.

3 I was prepared today to point out to you that I
4 didn't feel you are ready to do an adequate job for the
5 entire site in terms of programmatic decisions which need to
6 be made. I requested, called up this morning and asked
7 whether or not you were going to have a bulletin board.
8 Dwight said he thought there was some kind of a chart up
9 here, some kind of board, but I am going to put this up on
10 the wall anyway and talk to it very, very briefly.

11 (Thereupon the aforementioned chart was put on
12 the wall.)

13 DR. CORWIN: Well, I can't point too directly,
14 but I will do my best.

15 Okay. The line along the top shows the 20-year
16 period over which the sale was considered and the letters
17 that are in circles, starting with A at the year zero, and
18 going on are the two scenarios that were considered in the
19 draft EIR.

20 EXECUTIVE OFFICER DEDRICK: Excuse me, for the
21 record, you are referring to the draft EIR.

22 DR. CORWIN: Yes. The leasing schedule, the two-
23 scenerio schedule that is in the EIR. There was a distinc-
24 tion between a high end and a medium end but I will ignore
25 that for these points.

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1 Now, what I have put on the chart are a rough
2 sketch of what I believe are the leasing blocks 1 through 8.
3 The circles and the red letters are the centers of the
4 hypothetical prospect areas which were analyzed in the
5 Environmental Impact Report. One of the problems and one
6 of the things that people have been saying here today is
7 that we have never had any maps that pull all this infor-
8 mation together and allow you, the Commission, to look at
9 these areas and to look at what has been learned about
10 these areas, look at what the knowledge, the state of the
11 knowledge is on these areas, and ask the questions, which
12 areas are advised to go ahead and release now, given the
13 information that we have?

14 I notice that in area A which you have first on
15 both scenerios on there, is the one in which -- I have to
16 leave this to point.

17 ASSISTANT EXECUTIVE OFFICER TROUT: Hold your
18 breath for a moment and I think I can give you some more
19 wire.

20 CHAIRMAN CORY: With all these engineers in here,
21 a non-engineer is going to handle the technical problem.

22 (Laughter)

23 DR. CORWIN: I think you have got it.

24 Okay. This is the area here which is of high
25 interest and has a potential for a fair amount of oil return

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1 on it, but the biological surveys, these little red Xs
2 here and here, just in the near-shore area, almost nothing
3 covering this tract A area, it's in an area that slopes off
4 very suddenly out here to depths of 459 feet at the base of
5 this tract, and the biological studies didn't go out beyond
6 200 feet.

7 Now, somewhere in this area, I presume the six
8 new species were found. We were not given the specific
9 locations of these new species but I would not be surprised
10 if there were not other new species to be found.

11 These are also area locations of endemic species,
12 the high commercial abalone species value is in this area,
13 the unusual abalone species were found, these are the rocky
14 areas and so forth. We don't have enough data to have A
15 up here at the beginning of your schedule. A should be
16 moved back farther and the areas where you feel you have
17 less environmental concern, perhaps should be moved up
18 forward in that schedule.

19 I think Dr. Mohr made a very clear point when he
20 said you only have the ability at this stage to make some
21 very vague distinctions between these areas in terms of
22 the type of decision that you are supposed to be making
23 when you are making a programmatic decision, and you are
24 laying out that this is a program option and this is a
25 program option and you are trying to compare these two

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1 options and ask which of them then would lessen the damage
2 to the environment and would provide the income and revenue
3 to the State and would give the State the greatest benefit
4 for the costs that are likely to be incurred?

5 This is the kind of thing that people are talking
6 about when they are saying they need better maps and they
7 want to understand what is actually going on out in that
8 area.

9 Now, my second one,

10 (Thereupon another map was placed on the wall.)

11 DR. CORWIN: Okay. This illustrates about what
12 you know now from the biological survey that came in. It
13 doesn't pull together a lot of the other information that
14 is in the EIR and in the report that should be taken into
15 consideration, but it seems pretty clear that an awful lot
16 of your interesting and important species, your important
17 species from a commercial perspective, in terms of the
18 unusual features that were found in this area, organisms
19 that have not been found, for example, *Corymorpha bigelowi*
20 which is a hydra that has never been found in a form that
21 it was found in this area before down in this sort of rocky
22 reef area here. This area is considered to be soft, sandy,
23 silty bottom area. There is a very high density of organ-
24 isms here which we would be concerned about in terms of
25 what the drilling mud impact might do to that area. And

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1 again, up in the northern part, you have got rocks, you
2 have got marine bird colonies up there, you have the harbor
3 seals, as you have down here in the Point Conception area,
4 and so forth. So you can begin to make a picture for your-
5 self of what the sensitivities, the various sensitivities,
6 are of the different tracts, of the hypothetical lease
7 sales, the circles that are on the map, and then make your
8 schedule of which of them you will offer when, based upon
9 when these various forms of information may come in.

10 That, to me, is a programmatic type of decision
11 and the sort of thing I was expecting to see in the
12 Environmental Impact Report or in the Finalizing Addendum
13 to it. I will now be looking at the staff report, the one
14 that came to you today, and that may be revised and again
15 come to you on December 16th to see whether this kind of
16 analysis has even begun.

17 The concern that we have is that this analysis
18 does not take into account what you have heard, which is
19 the distribution of materials on the sea floor, the distri-
20 bution of oil spills, because you don't have the current
21 data yet, the impacts, the interactions with the sea otters,
22 the effects on the grey whale migration and the interference
23 with marine productivity in the fisheries. Those four
24 areas, in particular, if you had begun environmental studies
25 at the same time as you began the geophysical studies and

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1 the cultural resource studies, you would have this data
2 and you would be able to make good programmatic decisions
3 along those lines. But you do not yet have them, and on
4 that ground I would say that your Environmental Impact
5 Report is inadequate.

6 I would also point out to you that you have not
7 discussed alternatives in terms of the value of the renew-
8 able resources to this region. For example, I went through
9 just a few things in the literature and I came out with
10 pharmaceuticals for marine organisms and agricultural
11 chemicals for marine organisms. These are things like
12 anti-inflammatory agents, biocides, insecticides, things
13 that interfere with insect growth. They come from red
14 algae. They come from sponges. They come from soft corals,
15 brown algae and a number of other species that are found in
16 this region. There is a value to that to the State. There
17 is a growing industry in this State that is trying to take
18 advantage of these marine resources, and this being an
19 extremely interesting area genetically and evolutionarily.
20 It is almost a laboratory for that kind of research,
21 research which the Japanese have been doing for hundreds of
22 years which we have just barely begun doing on our species
23 here. So there is a cost benefit to be considered in terms
24 of the total impact only going for hydrocarbon resources
25 from this area rather than considering the value of other

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1 resources." Certainly the value of the commercial abalone
2 and the value of the halibut trawling grounds which is up
3 in blocks 7 and 8 in the north end of this leasing area,
4 at a minimum comparison of what the impacts of the develop-
5 ment might be on those areas versus the benefits of oil is
6 something that the State should consider.

7 To summarize, and I haven't even talked much
8 about the cumulative impact, the effects from the Federal
9 sales, I didn't draw all the tracts on here, but they are
10 right immediately adjacent to the red lines, and the large
11 finds are out there, you are talking about adding another
12 182 wells.

13 Even if you have a mitigation measure that
14 requires --

15 CHAIRMAN CORY: What?

16 ACTING COMMISSIONER ACKERMAN: What?

17 DR. CORWIN: From the Environmental Impact Report,
18 the maximum development in this area, you have talked about
19 25 exploratory wells and 110 production wells and 47 waste
20 disposal wells. Every time you drill a well you have got
21 cuttings and you have drilling muds to be disposed of.
22 Even if the muds are barged ashore, when the cuttings are
23 sifted out and dropped, they still retain usually about
24 20 percent of the mud on them, and these muds, as Dr. Mohr
25 testified, have all kinds of things in them which are

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1 harmful to the marine organisms. So that unless you have a
 2 stipulation requiring everything that is brought up, and
 3 that's tons and tons of material of cuttings, that would
 4 be disposed of on land, then you are bound to have effects
 5 from this many wells on the organisms in those regions. So
 6 you are going to have some kind of interference with the
 7 productivity and a potential for damage to the unusual
 8 marine organisms, particularly in the area around the
 9 two rocky points, around Point Conception and Point
 10 Arguello. The damage to the areas in the sandy bottom
 11 may be slightly mitigated by that fact of the turnover and
 12 the change in that area, but then we have to ask the
 13 question about the uptake of cumulative effects of metals,
 14 heavy metals, and other materials that may be in those
 15 drilling muds.

16 Michele Perrault was correct, there is a National
 17 Academy of Science study ongoing that has run into enough
 18 problems trying to deal with this issue that they origin-
 19 ally were going to come out in December and they are now
 20 talking about coming out with their findings next year.
 21 And it would certainly be in the State's interest and in
 22 the interest of the people of the State who are concerned
 23 to take a look at those findings and see how they apply in
 24 terms of the effects of drilling muds to this area before
 25 we go ahead and choose specific areas which you are going

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to lease.

I had just a quick comment on the issue of the value of speeding up this lease sale. It doesn't seem to me that if you were deciding next December 16th to actually offer specific areas for lease, that you will have answered the questions that we have raised. Your own documentation points out that the value of the hydrocarbon resources will go up over time. Now, I know it takes a few years to bring things on line, but you will get some immediate value now, but because of the debate that we have had on the Federal Lease Sales over whether or not the glut on the oil market is depressing the prices at this time, I wonder whether it is even wise from the economic perspective to throw additional leases on the market and thus add to this situation for the oil companies which may then depress the bidding prices.

Time would allow for better consideration of the alternatives for development and for meeting the State's goals through alternative means. It would allow for a better definition of the State's resources and a setting of the value of specific parcels for the sale area.

Your staff asked for more time on September 23rd just to define the hydrocarbon resources down in the Point Conception region. And it would seem to me reasonable to take the same time to also look at the biological resources

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1 in the areas that haven't been studied and answer some of
2 these questions about biological resources and the cumula-
3 tive impact.

4 I would suggest that the certification of the
5 EIR be suspended today and that you finish the biological
6 supplement and come out with a final report on that docu-
7 ment, that you complete the other studies that have been
8 recommended and come out with a complete program EIR and
9 then recertify the EIR. You would then set a leasing
10 schedule by the prospect area and then choose and do your
11 site specific EIRs. That would be a leasing process that
12 would respond to the public's concerns, I think, and would
13 make us feel that the State is doing the kind of job which
14 we can hold up as a model for the Federal Government.

15 CHAIRMAN CORY: Any questions?

16 Thank you very much.

17 Is there anybody else that wishes to comment from
18 the audience?

19 Any comments from Commissioners?

20 ACTING COMMISSIONER MORGAN: No.

21 ACTING COMMISSIONER ACKERMAN: No.

22 CHAIRMAN CORY: In terms of reviewing the staff
23 report, the question I mentioned earlier, both the spill
24 containment and if somebody finds oil and develops oil,
25 some reference to what our options are in terms of getting

1 that to market and whence to market, because that seems to
2 me the impact on the question of the amount, location and
3 response time of spill containment.

4 We are going to be shipping it out by pipeline.
5 There is another draft in there which I had asked somebody
6 to take a look at, the question of force majeure and make
7 sure that that language has not been expended to what I
8 would consider the overutilization of force majeure because
9 the price went up and you don't want to change it, but we
10 ought to just at least make sure what we are doing on that
11 section.

12 And the question of the boundaries of the tracts.
13 I guess the comparison of Exhibit 2 and 3 --

14 EXECUTIVE OFFICER DEDRICK: Correct.

15 CHAIRMAN CORY: -- that's one I in my own mind
16 am not sure where I am on that one. And so, to the extent
17 between now and the decision date, whenever we get around
18 to that, the recommendations in 3 are to conform the outer
19 boundaries to the outer boundaries of the Federal Lease.

20 EXECUTIVE OFFICER DEDRICK: As far as it can
21 reasonably be done, yes.

22 CHAIRMAN CORY: Any the reason for that is
23 unitization?

24 EXECUTIVE OFFICER DEDRICK: Well, it's to reduce
25 the kind of property argument that one gets, yes, when

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1 unitization is necessary.

2 CHAIRMAN CORY: I guess what I am troubled about
3 is how that relates to the onshore as opposed to the off-
4 shore and there may be a reason to only correlate them to
5 the offshore, but at some point I am looking at if you
6 guys can explain to me why you did it that way rather than
7 the other. You have got the same problems with multiplicity
8 of ownerships onshore, and we have just said that maybe the
9 end is so large that you can't conform, so to hell with it,
10 but I would just like to know why we are doing that.

11 And those are the general areas that I would like
12 to see answered. I may have missed the part or misun-
13 derstood it, so if the staff can come over, those are the
14 areas that I have concerns about. But I would think that
15 the staff report of the current status should be released
16 to the public and I presume that's what the other
17 Commissioners wish as well?

18 ACTING COMMISSIONER MORGAN: That's fine.

19 ACTING COMMISSIONER ACKERMAN: Yes.

20 EXECUTIVE OFFICER DEDRICK: Thank you.

21 CHAIRMAN CORY: Okay. And our next meeting is
22 scheduled for when, the 16th?

23 EXECUTIVE OFFICER DEDRICK: The next scheduled
24 meeting is the 16th.

25 CHAIRMAN CORY: Okay. If you can get that back

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1 on the agenda?

2 EXECUTIVE OFFICER DEDRICK: I will calendar it.

3 CHAIRMAN CORY: Yes, if it can be, so we can
4 keep updating our process.

5 Any other items to come before us?

6 ACTING COMMISSIONER ACKERMAN: None.

7 ACTING COMMISSIONER MORGAN: No.

8 CHAIRMAN CORY: Okay. We stand adjourned.

9 (Thereupon the November 29th meeting of the
10 State Lands Commission was adjourned at 11:55
11 A.M.)

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CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

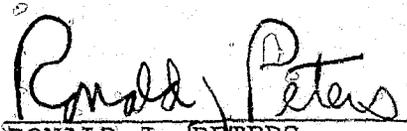
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I, RONALD J. PETERS, a Certified Shorthand Reporter of the State of California, certify:

That I am a disinterested person herein, that the foregoing Public Hearing of the State Lands Commission was reported in shorthand by me, Ronald J. Peters, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of December, 1982.



RONALD J. PETERS
Certified Shorthand Reporter

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