

1 Basin, and as you can see, the activity in this area down
2 here was very much reduced.

3 Again, we have had some buildup in activity
4 in advance of these other sales.

5 Now, this represents the activity in the
6 Santa Barbara Channel which is again where most of the
7 activity has occurred. And it very much looks like a bar
8 chart reflecting activity for the total offshore area. We
9 see the buildup in activity as these sales have been
10 concentrated in time up here. And, again, I won't belabor
11 that point, but I think it's quite evident.

12 All right. Now, let's talk about the factors
13 which influence seismic activity. The first and most
14 important is the perceived opportunity for discovery by
15 industry; that is, the proximity to existing production,
16 to other new discoveries and to favorable geology in an
17 area; in other words, the opportunity for finding oil
18 motivates seismic surveys.

19 Number two in importance would be the economic
20 factors -- the oil price, existing facilities, cost to
21 develop, that sort of thing.

22 Number three would be the size and the frequency
23 of the lease offers. The frequency, of course, is quite
24 evidence and, of course, the size -- the larger the area the
25 more incentive there is to run surveys over a longer period

1 of time. The complexity of the geology -- if the geology
2 is fairly simple, it doesn't take a great deal of survey
3 and mileage to define what the major features are. The
4 more complex the geology, the more lines must be run in
5 order to define those features.

6 The need for different types of information is
7 another factor -- geological concepts, new objectives,
8 revised interpretations cause companies to go back and to
9 run additional surveys to work out some of these new
10 thoughts.

11 Weather windows are influences. There's a
12 portion in the Westco report that shows during the summer
13 months here offshore California -- although the weather is
14 good -- it is more critical for the major companies to be
15 up in Alaska where their weather window is extremely short --
16 lasts about three or four months -- consequently, they
17 tend to send their boats to Alaska and work up there in the
18 summer and then to come back and work offshore California
19 in the fall or perhaps --

20 MR. BOWLES: Mr. Chairman, I'm not sure Carroll's
21 aware -- I don't know whether you're supposed to break for
22 lunch or what your proceeding is.

23 ACTING CHAIRMAN MC CARTHY: We're going to see if
24 we can go through. We would appreciate your having, you
25 know, in a cumulative sense, how long you want your testimony

1 to be for.

2 MR. BOWLES: Excuse me, Carroll, we were concerned
3 about the time.

4 MR. HOYT: The liability and scheduling of
5 offerings. I mentioned a few minutes ago that a number
6 of these sales have been postponed. And in other instances
7 a lot of the areas have been deleted from sales; consequently,
8 there is a reluctance now of some operators to survey these
9 areas until they are a little more assured that the sale
10 is going to, in fact, come off and that the lands they're
11 surveying will be offered.

12 And lastly, advances in technology required new
13 surveys over a period of time.

14 Now, what is the outlook for future activity in
15 State waters? That was the question you asked just a
16 moment ago.

17 I believe the answer to this question has several
18 parts with activity levels and locales being depended upon
19 future lease sale offerings by the State. That, of course,
20 is pretty much in your hands and the response will depend
21 upon some of the things I have mentioned before as
22 response by industry --

23 ACTING CHAIRMAN MC CARTHY: Do you mean along
24 other parts of the coast, Mr. Hoyt?

25 MR. HOYT: Well, the State --

1 ACTING CHAIRMAN MC CARTHY: The future lease
2 offerings right here in this off Santa Barbara area.

3 MR. HOYT: I would say the answer to that would be
4 both. There are unleased areas in the Santa Barbara
5 Channel that I believe industry would probably be
6 interested in. There are others north of Point Arguello
7 and further on up the coast.

8 ACTING CHAIRMAN MC CARTHY: We have a fairly good
9 definition of how much oil exploration is going on off the
10 Santa Barbara coast.

11 MR. HOYT: Yes, sir.

12 ACTING CHAIRMAN MC CARTHY: All right. So why
13 don't, you know, we're in a better position to assess the
14 amount of seismic survey work that's being done in that
15 area.

16 MR. HOYT: In the Santa Barbara Channel area.

17 ACTING CHAIRMAN MC CARTHY: And that's what I'm
18 asking about. I'd like you to address that at some point.

19 MR. HOYT: How much additional work we can expect
20 in Santa Barbara Channel?

21 ACTING CHAIRMAN MC CARTHY: Yes. My questions
22 last time I appreciate that you can't gauge this for
23 off San Diego. You don't know what is going to happen down
24 there, the extent of any oil exploration is going to be or
25 other parts of the California coast. There may be none;

1 there may be some. You can, however, gauge it for the
2 Santa Barbara coast because you already have -- there's a
3 track record. All right.

4 MR. HOYT: Let's go to the next slide.

5 In answer to that, I would give these conclusions.
6 That the recent moderate levels of activity in State waters
7 are probably unique and due to a combination of factors
8 not likely to be repeated. Much of that activity around
9 Point Conception and Point Arguello is related to the fact
10 you had at least three Federal lease sales within a distance
11 of some ten miles of those State lands. And it was
12 announced by the State that these tracts were to be
13 offered. Consequently, there was a great deal of activity
14 there. And I certainly don't believe that that kind of
15 situation will ever repeat itself.

16 Now, there are some other tracts, at least three
17 quitclaim areas, down along the northern side of Santa
18 Barbara Channel, some others along Hueneme, and some other
19 areas up north of Point Arguello between there and the
20 Santa Maria River which are of interest to industry, I
21 believe, and which I have heard the State has from time to
22 time given thought at some future date of offering. As
23 a result, there have been some surveys already conducted
24 on some of these lands. I would anticipate that if a
25 formal announcement was made, some additional surveys would

1 take place there. I would certainly not expect us to see
2 anything like the level of activity that we have just
3 experienced.

4 Over the longer term activity in this area
5 should diminish steadily with occasional increases on a
6 localized basis due to the activity of individual operators.

7 Elsewhere, survey activity levels on State
8 tidelands -- and I'm talking about areas not located in
9 Santa Barbara Channel, other parts of the State -- such
10 activity will depend upon lease offerings made by the State
11 and subject to the same factors at which influence this
12 activity and which I mentioned before. The interest in
13 these areas could be rather high for a very short period of
14 time.

15 That's it. Okay. I have one last couple of
16 little comments and that will conclude my presentation.

17 I would respectfully suggest that before we cut
18 off the issuance of permits, before we implement severe
19 regulations that we study this situation a little bit more.
20 And it appears that this has already been undertaken, or
21 at least steps have been made in this direction.

22 I think one should be aware that the possibility
23 that these concerns about activity levels, use conflicts,
24 and environmental questions may be transitory. And I think
25 we've already discussed that today.

1 The second thing I would like to suggest is
2 that the parties in interest should work together. I think
3 we've already made progress in that direction. The
4 offshore is a new frontier and it is very large. Ultimately
5 it will be used by many different groups and many different
6 people.

7 Our task is to develop guidelines so that all
8 users have equal opportunities to benefit.

9 Lastly, I think we should use the common-sense
10 approach. By this I mean we should recognize that the sea
11 and its underwater land are little different than any other
12 undeveloped area. Such lands should be utilized in ways
13 consistent with preserving the most desirable aspects while
14 benefitting from their natural characteristics and their
15 resources.

16 I thank you for this --

17 ACTING CHAIRMAN MC CARTHY: Thank you, Mr. Hoyt.

18 Do you have any questions?

19 MR. JERVIS: No, I don't.

20 ACTING CHAIRMAN MC CARTHY: Mr. Bowles, your
21 next witness.

22 MR. BOWLES: Thank you. I'd like to make a
23 brief presentation on the steering committee that's been
24 mentioned -- Mr. Faber mentioned in his overview.

25 I've been a participant in both the joint

1 committee and the steering committee as a representative of
2 the International Association of Geophysical Contractors.

3 When they first put the steering committee in
4 context, the joint committee -- as mentioned earlier -- as
5 Craig Fusaro reported on, it's formed of five people
6 representing the commercial fishing industry and five people
7 representing the oil and geophysical companies.

8 One of the issues that we wanted to discuss between
9 the fishermen and my industry was the concern about the
10 effect of seismic exploration on commercial fisheries. So,
11 therefore, we formed a separate committee called the
12 steering committee which has one member representing the
13 fishermen, myself, and then we invited members of the
14 various agencies that are involved to participate.
15 Fortunately, everyone did, including a member of the staff
16 of the State Lands Commission.

17 Ninety days ago I told you we're about to have
18 a forum which we invited fishermen, other scientists, and
19 people representing the geophysical industry and the oil
20 industry to come and present their information and their
21 evidence about the issue of concerns. The interesting
22 point -- a couple of interesting points I want to make is
23 that first of all, the funding of the joint committee
24 Liaison Office is indeed by CCOG, which are oil companies.
25 But it's interesting -- as I said, there are five fishermen

1 on that joint committee. And any decisions about policy
2 and guidelines is subject to unanimous consent of all 10
3 parties. They -- the joint committee, the fishermen
4 included, would only accept that funding under the condition
5 that it had no strings attached.

6 And, therefore, we feel like it is indeed the
7 direction and the management and policies all result from
8 negotiation with the fishermen. And as far as the effect
9 of the Liaison Office, the joint committee and the steering
10 committee, it is a bipartisan group. And I think the
11 fishermen probably would be as concerned about their being
12 concerned that there is one bent one way or the other (sic),
13 just because of funding. I'm sure they wouldn't want to
14 think that just because they were funding something that
15 it necessarily should make the findings impartial (sic).

16 But in the process to carry on with that attitude,
17 in the process of trying to evaluate just whether there is a
18 real versus a perceived concern about the effect on fish,
19 the fishermen agreed that we probably ought to bring in some
20 experts. And we negotiated a panel of scientific experts
21 who met in March to hear the testimony of different people
22 that had information about the issue.

23 We, subsequent to that committee meeting, the
24 panel's recommendations and the steering committee met and
25 has decided to issue a statement to be distributed to

1 whomever is interested. And I'd like to enter that
2 state in the record as to what we've done, the background,
3 and what we plan to do.

4 The science panel recommended, first of all, the
5 science panel stated that the information presented along
6 with the scientific knowledge they had in their background,
7 could not really answer the questions where there is any
8 significant problem, but they did feel like it needed to be
9 studied and it needed to be studied in a very deliberate
10 stepwise fashion.

11 The first thing they recommended was a field
12 study. And on the last page of the paper that you have
13 is a brief outline of the field study.

14 Now, I won't go into detail on it, but what it
15 amounts to is that we have here an excellent example
16 where my industry and the commercial fishermen have
17 voluntarily agreed to pursue a course of action because we
18 feel that this is better than unilateral action to try to
19 resolve the problems. And not only do we say that, but both
20 industries are willing to put the money where their mouth
21 is.

22 The fishermen have offered to provide five fishing
23 vessels, which will be used as scientific platforms,
24 monitoring platforms, and the geophysical industry and oil
25 companies have agreed to finance the consultant and the use

1 of an actual seismic vessel in the study.

2 It now boils down to a workup of the statement of
3 work which we just had a meeting yesterday on and concluded
4 that. And, then, of course, bring the consultant aboard,
5 and then picking a date in which this study would be done
6 and then planning which geophysical vessel or vessels to
7 put the research flag to do the study.

8 Some -- our goal is to have this study done
9 sometime in the period of August through October. And the
10 major -- the first fishery to be investigated is called
11 the rockfish fishery. The rockfish fishery will continue
12 through that time frame. And then it boils down to the
13 question of when the seismic vessels will be somewhere near
14 the area so that we can use them as opposed to, say, the
15 Gulf or Alaska, or wherever they might be.

16 I'll interject here also that this is just one
17 example, although I think it's one of the more successful
18 examples, of where two parties are conflict about abuses of
19 the same resources can sit down together and talk and work
20 out their problems without a gun being held at their head.
21 And I encourage this industry has already gone on record (sic)
22 that -- and you've heard it today as well -- that we
23 encourage that sort of approach and we're going to sit down
24 as a participant in a multiconstituent group, such as
25 we've done with the fishermen, including the people concerned

1 about whales and other organisms that are in the environment,
2 to discuss their concerns, why they feel that more studies
3 need to be done and to talk about what kind of studies, if
4 any, need to be done and how to proceed.

5 We said this before. We consider ourselves good
6 corporate citizens and we do it, obviously when we're under
7 the gun, such as happened about a year -- almost two years
8 ago -- in the so-called Fort Bragg incident where we asked
9 members of your staff and the Fish and Game to come aboard
10 our vessels so we could go out and demonstrate that we
11 didn't cause any major harm to the environment.

12 But we also did it voluntarily. And the steering
13 committee, the State Lands Commission in this report has
14 pointed out that they have encouraged the gray whale study to
15 be done and the sea otter study to be done, and rightly
16 so, because there's a tremendous amount of help
17 that came from staff in trying to get the studies done.

18 So I want to point out that the people in the
19 room at the time, including Federal agencies, State agencies,
20 and industry, that afforded the opportunity for this program,
21 this gray whale study and the sea otter study be done, was
22 because industry called them together voluntarily, not
23 because they were told to call them together.

24 And we've also voluntarily entered into studies;
25 the International Association of Geophysical Contractors has

1 worked with Texas A & M University to do studies in the
2 Gulf. We've cooperated voluntarily with studies of bowhead
3 whales in Alaska. And there was mention of concern about the
4 effect of larval fish. And although we feel like those
5 studies should be done by government; however, independently
6 there has been a proposal made to the American Petroleum
7 Institute that there be some initial study to look at that
8 concern as well.

9 So, aside from my statement -- besides the written
10 part -- we feel we are corporate good citizens when it comes
11 to being concerned about the environment and we're willing
12 to talk to the people who have some disagreement about what
13 the conclusions of the studies should be or are and so that
14 we can work out our problems with the other users of the
15 oceans. That's all I have.

16 If you don't have any questions, Dr. D.
17 Chamberlain will address more specifics about the
18 environmental concerns.

19 ACTING CHAIRMAN MC CARTER: All right.
20 Dr. Chamberlain?

21 DR. CHAMBERLAIN: Governor, members of the
22 Commission, my name is D. Chamberlain. I represent the
23 Western Oil and Gas Association. I'm a senior science
24 advisor in the corporate environmental science group,
25 Atlantic-Richfield Company in Los Angeles. I hold a

1 Ph.D. degree in marine biology from the University of
2 Southern California, Bachelor of Science degree in zoology
3 from California State University in Los Angeles.

4 For the past ten years I have been working in
5 the field of environmental conservation. I'm chairman of
6 the American Petroleum Institute Task Force on Oil Effects
7 on Salmon and Herring, a member of the Central California
8 Regional Water Quality Control Board Oceanographic
9 Technical Advisory Committee, a member of the Western Oil
10 and Gas Association Sea Otter Task Force, and the API Cold
11 Water Marine Mammal Task Force.

12 I have been asked just to very briefly summarize
13 my written statement which has been introduced. This has
14 been given in. And my -- that written presentation is
15 based on my review of the literature on the effects of
16 seismic work on fish and marine mammals.

17 There is a lot of literature. One recent
18 publication has almost 150 references which deal primarily
19 with the effects of -- not the effects, but with the area of
20 seismic noise on the behavior of whales. There are many
21 fish impact studies and the -- have been done, seismic
22 activities, seismic research has been carried on since
23 about 1942 down to the present on the effect of seismic
24 noise and seismic releases on fish.

25 Seismic operations off California do not employ

1 explosives. The seismic gear now being used off
2 California does not now -- does not harm fish or marine
3 mammals. And from my review of the literature, it's my own
4 feeling and conclusions from this that there's not
5 significant harm from the use of this equipment.

6 Mr. Bowles mentioned the API research that we
7 are proposing is before API. It has passed the first round
8 of funding approval. We hope that will begin -- appropriated
9 this year and begin soon afterward. This will look at the
10 effects of seismic energy releases on larval fishes and on
11 plankton. The idea for this was developed at least a year
12 ago. The Western Oil and Gas Association and industry
13 are committed to resolving the fish dispersal issue by
14 supporting necessary research and by working closely with
15 the fishermen Liaison Office.

16 In concluding my remarks, I'd like to read two
17 statements from reviewers of the literature which parallel
18 my feelings. All published results indicate that acoustic
19 pulse generators are not a significant hazard to fish and
20 have little or no effect on fish eggs. Acoustic pulse
21 generators used in seismic exploration are harmless to both
22 fish and marine mammals according to all results published
23 in the literature.

24 Thank you. And I will be available for questions
25 if there are any.

1 ACTING CHAIRMAN MC CARTHY: Let me just ask this
 2 question to you, if I may, Dr. Chamberlain. Do you in your
 3 written statement, which I have not read yet, do you
 4 characterize the various studies in the entire literature
 5 that you cited there as some being very influential on the
 6 thought of anyone concerned about these problems across the
 7 country? Are there two or three books among all the
 8 literature that you identify in your written statement as
 9 more important, more complete studies using modern
 10 equipment?

11 DR. CHAMBERLAIN: Yes. Yes, I do, especially
 12 the one by Bolt, Bernack and Newman. It's just recently
 13 published, I believe in October of last year. It's an
 14 excellent review of the literature, plus they did fieldwork
 15 on the gray whale off the coast here with various noise-
 16 generating sound equipment and observed the behavior
 17 of the gray whale. That is probably the most significant one.

18 There are a number of -- there are two others
 19 done by IGO, which -- and I believe the staff have most
 20 of these publications, if not all of them.

21 ACTING CHAIRMAN MC CARTHY: Yes. I just wanted
 22 your personal assessment of which of these were the most
 23 important studies.

24 DR. CHAMBERLAIN: I think the one I mentioned,
 25 the first one, by Bolt, Bernack and Newman, and then there

1 are numerous ones that I mentioned on the effects on seismic
2 noise impulses on fish.

3 There's a book on the effects of noise on fish.
4 It covers seismic noise and other things. That's a
5 significant -- based on a symposium which occurred about
6 1975. That's a good one. Then there are two good reviews
7 of the literature on the seismic effects and noise effects
8 on fish.

9 ACTING CHAIRMAN MC CARTHY: Does the literature
10 you refer to, has that been funded by different sources?
11 Obviously, in a situation like this environmental groups
12 are not inclined to trust research done by the oil industry
13 and on the other hand, the oil industry would not be
14 inclined to trust -- I'm not saying 100 percent trust -- but
15 let's just say they view a little more skeptically studies
16 that are totally funded or originated by the combatants in
17 this kind of setting.

18 The studies that you're referring to, are they
19 funded by a variety of -- and I'm not personally trying to
20 characterize their validity one way or the other. But I
21 deal in realities and perceptions of people that have
22 different points of view in a situation like this.

23 Now, those studies you're referring to, are they
24 funded by a variety of sources or a mix of sources?

25 DR. CHAMBERLAIN: Yes, they are. And I don't know

1 of any one that I cited that were funded by industry. Most
2 of them by government and academic research.

3 ACTING CHAIRMAN MC CARTHY: All right. Thank you.
4 Are there any questions by the Commissioners?

5 Thank you very much. Mr. Bowles, who's your
6 next witness?

7 MR. BOWLES: That would be Doug Barman of Texaco.

8 ACTING CHAIRMAN MC CARTHY: Mr. Barman?

9 MR. BARMAN: My name is Doug Barman. My statement
10 today is on behalf of the Western Oil and Gas Association.

11 I am a consulting exploration geophysicist in
12 Texaco's Producing-Exploration Department of the Los
13 Angeles Division.

14 I am a registered geophysicist, No. 24, and
15 Geologist No. 1893 in the State of California, having
16 served as vice-president and president of the Society of
17 Exploration Geophysicists for the Pacific Coast, including
18 Alaska.

19 In addition, I have served as president of the
20 Society of Exploration Geophysicists during 1982, represent-
21 ing over 18,000 geophysicists worldwide in over 120
22 countries. The Western Oil and Gas Association wishes to
23 thank the Commission, Dr. Claire Dedrick and her staff
24 for being given the opportunity to comment. And I thank
25 you, Commissioners.

1 From a scientific and resource management
2 viewpoint, it makes good sense to allow industry to continue
3 to explore State waters as tremendous strides in locating
4 oil and gas reservoirs are being made. We are using seismic
5 methods to look deep in the earth for oil and gas reservoirs
6 which heretofore could only be located by extensive drilling
7 programs.

8 In other words, we send waves from our acoustical
9 generators located in the back of the boat down into the
10 earth and then pick up the reflected waves with sensors
11 located in the cable behind the seismic boat. We have found
12 that very small but perceptible changes occur in the
13 amplitude of these waves, the polarity, velocity, and other
14 changes in the reflected waves when passing through oil
15 and gas reservoirs, with the greatest changes being caused
16 by gas reservoirs.

17 Now, this is a very recent phenomenon. This
18 developed in recent years to see that we can actually
19 detect changes in these waves as they go through oil and
20 gas.

21 We are able to detect these very minute changes
22 through the use of very sophisticated computers, modeling,
23 advanced interpretative techniques, and very sensitive
24 recording and detection instruments. We are using three-
25 dimensional seismic surveys involving billions of bits of

1 information in the evaluation of offshore tracts, which
2 allows us to isolate and accurately map structural folds,
3 like those anticlines you saw, that were previously hidden
4 by the effects of surrounding subsurface topography.
5 This, again, is a recent development.

6 These techniques are being used to accurately
7 locate stratigraphic traps that were previously undetected.
8 Industry's recently developed the ability to use three-D
9 surveying effectively has given birth to a new subset of
10 exploration geophysics called exploitation geophysics,
11 which because of increased accuracy, we can look for
12 previously passed over reservoirs. Now you're seeing a
13 cause and effect for going back into some of these areas
14 I wish to allude to.

15 We are experiencing some of the most rapid
16 scientific advancements in geophysical exploration history.

17 Some pundits say that we have an oil glut and we
18 should get all the oil we need from foreign sources and not
19 tap our own resources. That is, we should save our oil and
20 gas for later years.

21 Our nation has an average daily consumption of
22 more than 230 cubic feet of natural gas, approximately three
23 gallons of oil, approximately 17 pounds of coal, and more
24 than six kilowatt hours of nuclear and water-generated
25 electricity. Crude oil and natural gas supply almost 70

1 percent of that energy, but unfortunately, not all of that
2 energy comes from domestic sources.

3 The United States is forced to import more than a
4 third of the oil we use, approximately 2.1 billion barrels
5 annually from foreign sources, such as the countries in the
6 Middle East and North Africa.

7 As you know, these are highly volatile countries,
8 which for political or military reasons could abruptly
9 cut off these imports. We have had many interruptions in
10 oil exports from foreign countries, such as the 73-74 Arab
11 oil embargo and the cutoff of supplies following the
12 Iranian revolution.

13 These have seriously affected our economy, our
14 daily lives, and did damage to our country's economy. In
15 fact, of the 63 billion dollar trade deficit experienced
16 by the United States, about \$52 billion is attributable
17 to oil and gas imports. This means that about 30,000 jobs
18 are lost due to each one billion dollars in trade deficit
19 or about 1,560,000 jobs are lost annually because of
20 importing oil and gas. Let's not make it worse.

21 It normally takes about seven years to come on-
22 stream with a maximum production after the initial discovery
23 with five years needed for presales seismic exploration to
24 postsale deacquisition processing, interpretation, and
25 assimilation. So, really, a five-year permit is the

1 ideally situated (sic) for orderly exploration. If we
2 added to this already lengthy time by using artificial
3 constraints through seismic permit delays, it would mean a
4 further lengthening in developing production, greater
5 imports, a further loss of jobs, and greater dependence
6 on foreign oil and gas.

7 This affects the pocketbooks of all, as foreign
8 sources would use our reluctance to develop our own oil
9 and gas with raised prices and the threat of economic
10 blackmail to cut off supplies would always be over our heads.

11 It would exacerbate an already dangerous situation.
12 Now, how does this affect the State Lands Commission and
13 the people of California?

14 The State of California by permit stipulation can
15 acquire all of these very expensive and complex data on
16 State waters for the price of reproduction. It costs
17 industry about \$1 million per tract for these data that the
18 State of California can obtain for less than \$10,000 or
19 less than one percent of the total acquisition costs.

20 It means the State can inventory the mineral
21 wealth of California at a very nominal cost to the taxpayer.
22 Without seismic data, this cannot be done. The State will
23 benefit most by allowing all companies to survey, as the
24 greater number of seismic surveys using their own proprietary
25 methods and interpretive techniques, the greater the odds

1 are for finding production for the State to collect the
2 highest bonus and taxes.

3 It is axiomatic, the greater number of surveys
4 on any tract, the greater the chances are for finding the
5 most anomalies. Therefore, to restrict surveys reduces the
6 chances for optimal discovery of hydrocarbons and thereby
7 reduces tax revenue to the State and increases the need for
8 more drilling.

9 Without seismic surveys, offshore evaluation by
10 drilling will not take place. Therefore, I say it makes good
11 sense to do seismic surveys as there is no known scientific
12 evidence to support harm to marine life, damage to the
13 environment, or a better way of finding oil and gas
14 prospects off California.

15 Thank you.

16 ACTING CHAIRMAN MC CARTHY: Thank you very much.

17 Any questions? All right.

18 Thank you.

19 MR. BOWLES: Mr. Savit.

20 MR. SAVIT: Governor, members of the Commission,
21 I have good news. I am the last industry speaker and I
22 have no visual aids.

23 EXECUTIVE OFFICER DEDRICK: Introduce yourself,

24 Mark.

25 MR. SAVIT: My name is Mark Savit. I'm with the

1 Washington law firm of Cottondale and Doyle. I'm here
2 today representing Western Geophysical Company and also
3 the International Association of Geophysical Contractors.

4 I've been asked to make brief remarks addressing
5 specifically Calendar Items 10 and the proposed amendment
6 to Calendar Item 11 by all of the representatives here today
7 from the oil and geophysical industry.

8 Now, with regard to Calendar Item 10, I think the
9 Commission should be aware that we have worked very closely
10 with staff in the last several months and with the fishing
11 industry and other interested parties over the last several
12 years to develop a program of cooperation in terms of
13 ensuring that studies that are undertaken by -- into the
14 effects of seismic activity on the marine ecology would be
15 targeted at the areas of greatest concern. And I think the
16 staff is aware of that and I hope that the public interest
17 groups to whom we have made ourselves available and
18 especially the fishing industries are aware of that as well.

19 You've heard of the groundbreaking effort we have
20 made with regard to the Liaison Office, which is initiated
21 and funded by the industry. And I'd like to point out,
22 Governor, that at least to my understanding I've never heard
23 Dr. Fusaro described as anything less than impartial and
24 I've not heard anybody tell me that he's pro oil. Maybe
25 there's somebody that disagrees with that, but I have not

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heard it,

ACTING CHAIRMAN MC CARTHY: May Dr. Fusaro's
flag always wave.

(Laughter.)

MR. SAVIT: Congratulations. We believe that
Calendar Item 10 appears to provide a mechanism for us to
be able to continue in a process through which we can
communicate with other interested parties as to the best
application of limited research funds and the formulation
of the most effective research methods.

With regard to the amendment to Calendar Item
11, however, I would summarize our remarks by saying we are
very much opposed to it. Seismic activity, exploration
activity, has been ongoing off the California coast for
almost 40 years. During that time those lay people in the
audience I think will be struck by the fact that there are
more whales than there were 40 years ago. The population
has been increased. The fish catches have been going up.
There are other, numerous other effects, which need to be
studied with their effects on the marine environment --
El Nino and other things -- But, in fact, after 40 years
there is no noticeable effect on the environment.

Now, in the last couple of years various groups
have become very sensitive to certain questions about
whether or not seismic activity has an effect on certain

1 specific animals. In those cases we have done our very
2 best to cooperate in the planning and arrangement and
3 funding and in any other way possible in the studies that
4 have been proposed to investigate that.

5 In view of that history, I think we were all very
6 surprised to hear that the permit might now contain an
7 amendment, a condition, which would require us to
8 cooperate, quote, "cooperate adequately in the planning and
9 funding -- and perhaps funding in certain studies." We
10 have exhibited a voluntary will to do that over the last
11 years and our industry has frankly been benign to the
12 environment.

13 We believe that the amendment is onerous and
14 punitive and, in fact, might be counterproductive. We
15 think that companies that might be willing to contribute
16 funds and efforts towards studies on a voluntary basis would
17 withhold those voluntary efforts waiting to see what the
18 State might consider us to be required to do by virtue of
19 the permit.

20 I want to make sure that everybody understands
21 that none of the companies here are opposed to doing the
22 kinds of studies that are necessary to determine whether or
23 not our industry has a significant effect on marine biota.
24 We are participating in them now. We are funding them now,
25 to some extent we contribute equipment to them now, and we

1 have engaged in dialogue with all interested parties.

2 I would reiterate that we're available to discuss
3 this matter with all of the interested people, but we think
4 that the proposed amendment is certainly unnecessary and
5 could in effect be counterproductive.

6 We'd just remind the Commission that there are
7 lots of ocean users. The geophysical industry is only one
8 of them and we think that it is very much unfair that we
9 should be singled out as the only people to be have their
10 permits conditioned on our participation in the studies.
11 We don't see that happening in other ocean user industries
12 and we think it's unfair that we're singled out as the only
13 one. Available for questions.

14 ACTING CHAIRMAN MC CARTHY: Any questions?

15 Thank you very much. Mr. Bowles, did you have
16 any sum-up statements you wanted to make?

17 MR. BOWLES: No, sir. That concludes our
18 remarks. Thank you very much.

19 ACTING CHAIRMAN MC CARTHY: All right. Thank you
20 very much.

21 Incidentally, I think each member of the
22 Commission would want to commend any level of cooperation
23 that has been building. It's certainly markedly different
24 than it was 10 or 15 years ago. And I think we're heading
25 in the right direction. I think we'll all be able to say

1 if we're here on this Earth 10 years from now, that the
2 level of cooperation and communication between the various
3 parties interested in to what use our offshore areas are
4 put will find that there's yet even a greater level of
5 cooperation and a greater level of trust.

6 Do either of the Commissioners have anything to
7 add at this point?

8 COMMISSIONER ORDWAY: Is there anybody else who
9 wants to speak?

10 ACTING CHAIRMAN MC CARTHY: Oh, I'm sorry. Is
11 there anybody else who wants to speak?

12 (There was no response.)

13 ACTING CHAIRMAN MC CARTHY: Thank you. What
14 about the specific time frame?

15 MR. FABER: I read it in to 10 as part of the
16 additional recommendations.

17 ACTING CHAIRMAN MC CARTHY: All right. The
18 matter as I shall state it before the Commission for a
19 vote is Item No. 10 as Mr. Faber described it; Item No. 11
20 with an amendment. And I think I should add I was a little
21 bit alarmed by the characterization of the amendment as
22 perhaps punitive. We certainly did not want it to be seen
23 that way. To the contrary, we're very pleased with the
24 progression of conversations that are occurring among
25 the different parties. I had people of contrary interests

1 contact me over the last several weeks on this issue. We
2 were called upon to make some judgments here. One of the
3 judgments that we would want to make is based on the best
4 possible information we could get, information that would
5 be perceived as trustworthy by everyone. So we're not
6 going to assume that anyone is going to be intentionally
7 misrepresenting or coloring information. Of course we
8 don't.

9 But we know that perceptions by parties that have
10 contrary views can legitimately differ. So, our notion --
11 my notion of this after talking to parties with contrary
12 views was to try to get them to help define the studies
13 together and this is being done to some degree by what
14 Mr. Bowles described to us as the conversations between
15 some of the commercial fishing interests and some groups
16 in the industry. That's excellent. Now, we just want to
17 push that along the road. Quite frankly, what we want to
18 achieve are a couple of things. One, a common trust in
19 the information that's developed and, two, a possible
20 reduction of lawsuits that are filed by any of the parties
21 going down the line in connection with what we're trying to
22 do here. That's stated in the most forward on-the-table
23 fashion that we possibly can.

24 I'd like to ask the Chief Executive if she has
25 something she'd like to add.

1 EXECUTIVE OFFICER DEDRICK: Only that before you
2 close the record, there are a couple of other points that
3 Bob Faber and Dwight Sanders would like to raise.

4 ACTING CHAIRMAN MC CARTHY: All right. Thank you.
5 Mr. Faber?

6 MR. FABER: The only thing that I would like to
7 request in particular on ~~Calendar~~ Item 10 if it's the
8 Commission's desire, that we have both the geophysical
9 and oil industry indicate an individual who can work with
10 staff and the environmental groups indicate an individual
11 who can work with staff in putting these studies together.

12 ACTING CHAIRMAN MC CARTHY: All right.

13 MR. FABER: And then Dwight Sanders has a comment
14 on the environmental process that was raised.

15 ACTING CHAIRMAN MC CARTHY: Would you like them
16 to indicate that at this point? Or are you asking --

17 MR. FABER: If they're available to do it at this
18 point in time, it would be very useful.

19 ACTING CHAIRMAN MC CARTHY: Mr. Bowles, would you
20 help us out in that regard? Would you like to designate
21 someone who would work with the State Lands Commission
22 staff? You could obviously substitute later on if your
23 collective judgment is to do so

24 MR. BOWLES: Dr. Chamberlain, we'll volunteer
25 him to represent the Western Oil and Gas Association members.

1 (Laughter)

2 ACTING CHAIRMAN MC CARTHY: All of us who have
3 been in the Service have a sense of that volunteerism.

4 (Laughter)

5 MR. BOWLES: And I'm a subject to the draft as
6 well to represent the International Association of
7 Geophysical Contractors.

8 ACTING CHAIRMAN MC CARTHY: All right. Thank you.
9 On the environmentalist side, Miss LeFever, are
10 you in a position to designate someone today to -- and I
11 appreciate there's several separate interests on the
12 environmental side and the commercial fishing side. So, do
13 you want to give a preliminary indication today of someone
14 you might designate to participate with the State Lands
15 Commission staff?

16 MS. LE FEVER: Yeah.

17 ACTING CHAIRMAN MC CARTHY: To try to bring this
18 forward in a very agreeable fashion?

19 MS. LE FEVER: Yeah. I've already spoken to the
20 staff about myself being the person for the environmentalists.

21 MR. FABER: Thank you very much.

22 ACTING CHAIRMAN MC CARTHY: All right. Thank you.

23 EXECUTIVE OFFICER DEDRICK: What about fishing
24 interests?

25 ACTING CHAIRMAN MC CARTHY: Are the commercial

fishing interests represented here today? All right.

2 UNIDENTIFIED SPEAKER: I think Doug Knapp would
3 be the person to choose to represent the fishing industry.

4 MR. FABER: That would be fine.

5 ACTING CHAIRMAN MC CARTHY: All right. Mr.
6 Doug Knapp. He's testified before us. All right.

7 EXECUTIVE OFFICER DEDRICK: Yes.

8 ACTING CHAIRMAN MC CARTHY: Mr. Faber, any other
9 comments?

10 MR. FABER: Yes, Mr. Sanders.

11 ACTING CHAIRMAN MC CARTHY: Mr. Sanders, I'll call
12 upon you.

13 MR. SANDERS: Thank you, Governor. I think there
14 are two points that need to be addressed that were raised
15 by representatives of the Environmental Defense Center and
16 Fishermens Protection Institute, particularly as they
17 related to matters before the Commission, specifically the
18 adoption of the negative declaration.

19 The disagreement that EDC spoke of in staff's
20 review of the evidence on the record is not over the
21 potential or substantial impacts but rather the dearth
22 of information that is available and the necessity to
23 require more information on such matters. That is the
24 point of Calendar Item 10. The second item, public
25 controversy, public controversy is not based on substantial

1 data or information. It is not, in the staff's opinion,
2 sufficient to trigger a requirement for the preparation
3 of an EIR. The staff has available to it no evidence to
4 indicate that this is a serious public controversy. And
5 those are the two matters that I wished to clarify for the
6 Commissioners' consideration.

7 ACTING CHAIRMAN MC CARTHY: I think the Commission
8 is prepared to act at this point. Do I have a motion?

9 MS. ORDWAY: Motion to move Item 10.

10 ACTING CHAIRMAN MC CARTHY: It's moved.

11 MR. JERVIS: Second.

12 ACTING CHAIRMAN MC CARTHY: Thank you. Seconded.

13 Without dissent, that is unanimous. Is there a motion on
14 No. 11?

15 MS. ORDWAY: Motion to move Item 11.

16 MR. JERVIS: Second.

17 ACTING CHAIRMAN MC CARTHY: Item 11 is moved,
18 seconded. Without dissent, Item 11 as amended is approved.

19 MS. ORDWAY: And 10 is amended.

20 ACTING CHAIRMAN MC CARTHY: And 10 as amended
21 is approved. Thank you very much.

22 We're going to have a one-minute recess. For
23 those of you who are connected with Items 10 and 11, you may
24 kindly and quietly leave the committee room, and we can
25 proceed with the rest of our calendar. Thank you very much.

(Thereupon a brief recess was taken.)

1
2 ACTING CHAIRMAN MC CARTHY: Ladies and gentlemen
3 in the audience, I think the only other item that may take
4 some time is Item 17, 14, 15, and 17. What we'll try to
5 do is get to the items that are going to be noncontroversial
6 and the few people that are going to intend to testify are
7 here to watch that. Let's see if we can move by that.

8 EXECUTIVE OFFICER DEDRICK: We'll begin with
9 Item 12, Mr. Chairman.

10 ACTING CHAIRMAN MC CARTHY: All right. Item No.
11 12.

12 EXECUTIVE OFFICER DEDRICK: It's an approval of a
13 geological survey permit for Chevron USA.

14 ACTING CHAIRMAN MC CARTHY: Any questions?
15 All right. Approved as recommended.

16 13?

17 EXECUTIVE OFFICER DEDRICK: Approval of a
18 geophysical turning permit for Chevron USA.

19 ACTING CHAIRMAN MC CARTHY: Any questions?
20 Approved as recommended. And then we're going to skip over
21 to No. 16.

22 MR. TROUT: Mr. Chairman, No. 16 is the approval
23 of the City of Redondo Beach's request to reimburse itself
24 from grant funds for city funds expended on behalf of the
25 tideland trust. And we recommend your approval.

1 ACTING CHAIRMAN MC CARTHY: All right.

2 MR. TROUT: It includes the requirement for a
3 staff audit which will occur sometime during the next
4 two years.

5 ACTING CHAIRMAN MC CARTHY: Any questions?
6 All right. That's approved as recommended.

7 17.

8 MR. TROUT: Mr. Chairman, Item 17 is a denial of
9 application of the City of Avalon without prejudice. The
10 staff of the city and the State have not quite come to
11 terms on the provisions of the lease. We'll be meeting
12 with the city manager on the 7th of June and it's the
13 provisions of AB 884 that requires to take this action
14 at this time.

15 ACTING CHAIRMAN MC CARTHY: Any questions?
16 Approved as recommended. No. 18.

17 MR. TROUT: Mr. Chairman, you can consider 18, 19,
18 and 20 together if you wish. They're the sales of timber
19 from State school lands over -- for this current timber
20 season. No. 18 is about \$60,000 over minimum bid. We
21 think we got a good set of bids. Items 19 and 20 are at the
22 minimum bid and we only had one bidder each. We recommend
23 these three items be approved.

24 ACTING CHAIRMAN MC CARTHY: Any questions?
25 Approved as recommended. 21 is off calendar. 22.

1 MR. HIGHT: Prospecting permit for gold and silver
2 to American Colloid Company.

3 ACTING CHAIRMAN MC CARTHY: Any questions?
4 Approved as recommended. 23.

5 EXECUTIVE OFFICER DEDRICK: This is a negotiated
6 subsurface oil and gas lease under the Tule Elk Reserve
7 for the Quintana Oil Company.

8 ACTING CHAIRMAN MC CARTHY: Any questions?
9 Approved as recommended. 24.

10 EXECUTIVE OFFICER DEDRICK: 24 is the deferment of
11 drilling obligation for Shell Western.

12 ACTING CHAIRMAN MC CARTHY: Any questions?
13 Approved as recommended.

14 EXECUTIVE OFFICER DEDRICK: 25 is the extension of
15 initial drilling term on a State oil and gas lease in
16 San Joaquin County for Lowell Garrison.

17 ACTING CHAIRMAN MC CARTHY: Any questions?
18 Approved as recommended. 26.

19 EXECUTIVE OFFICER DEDRICK: Assignment of a
20 partial interest in State Oil and Gas lease No. 145,1,
21 OXTEX to Seahawk.

22 ACTING CHAIRMAN MC CARTHY: Any questions?
23 Approved as recommended. 27.

24 MR. TAYLOR: The authorization to settle the
25 litigation between the State of California and The Jonathan

1 Club at Santa Monica Beach and to resolve the ownership
2 interests of the respective parties. This action is
3 recommended by the office of the Attorney General and is
4 without prejudice and is expressly understood with the
5 Jonathan Club without any prejudice to any discussions
6 or problems or anything else that might happen with regards
7 to the policies of their membership.

8 ACTING CHAIRMAN MC CARTHY: Anybody here in the
9 audience representing the Jonathan Club?

10 Okay. I stated some views privately that I would
11 like to state publicly. And that is that I appreciate that
12 the thrust of this agreement is to resolve a long-pending
13 boundary dispute for the very worthwhile public purpose of
14 freeing up some beach area for use by people in this area
15 of the California coast. On the other hand, part of this
16 settlement involves a removal of the antidiscrimination
17 provisions that are normally within this kind of a lease,
18 which are intended to execute State policy against discrim-
19 ination by any entity doing business with State government
20 on the basis of race, religion, or sex. It is a Hobson's
21 choice. And I am asking not to be put in this position
22 again as one member of this Commission to make two choices
23 between competing public policies, The Jonathan Club or
24 any other similar group.

25 I appreciate the complexity of the issue that we

1 face. I just do not wish to be put in this position
2 again. Thank you.

3 Now, any other Commissioners have any comments?

4 MS. ORDWAY: Just a question. This is an agreement
5 which was approved by the Attorney General?

6 MR. TAYLOR: Yes. And I was going to make that --
7 the Office of the Attorney General, the Attorney General
8 personally has reviewed this and we recommended, in light
9 of the long-standing controversy, and the fact that we
10 don't believe and it's understood by the parties whether
11 that clause is in there or not, they're required to comply
12 with the law is not affected by either the inclusion or
13 exclusion of this item from the lease. And that's been
14 made clear to the Jonathan Club. The same statement, Mr.
15 Chairman, was also made by the City of Santa Monica after
16 they approved it by their membership.

17 ACTING CHAIRMAN MC CARTHY: Any other comments or
18 questions by the Commissioners?

19 Approved as recommended. No. 28.

20 MR. HIGHT: 28, Mr. Chairman, is a settlement
21 of the compromise title agreement with the City of Hayward,
22 \$20,000 will go into the Land Bank Fund.

23 EXECUTIVE OFFICER DEDRICK: Solely in this
24 instance, Commissioners, you are acting also as Land Bank
25 trustees.

1 ACTING CHAIRMAN MC CARTHY: Any questions?

2 Approved as recommended. 29.

3 MR. HIGHT: 29, Mr. Chairman, is a request to
4 settle a Federal quiet title condemnation statute on the
5 Stanislaus River.

6 EXECUTIVE OFFICER DEDRICK: This is under New
7 Melones Dam, under New Melones Reservoir, excuse me.

8 MR. TAYLOR: The effect of the settlement is to
9 revest the State with title to all of the currently wet areas
10 and that we will disclaim any interest in the dry areas
11 of the riverbed. It will help clarify the title problems
12 the State has always in determining where its boundaries
13 are. So, from that standpoint, it will be helpful.

14 ACTING CHAIRMAN MC CARTHY: Any questions?

15 Approved as recommended. Item 30.

16 MR. HIGHT: 30 is the approval of retrocession
17 of partial jurisdiction and the establishment of concurrent
18 jurisdiction at Carroll Canyon Navy family housing area
19 in San Diego County. It will allow the Federal police as
20 well as local police to have jurisdiction in that area.

21 ACTING CHAIRMAN MC CARTHY: Any questions?

22 Approved as recommended.

23 Let's turn back to No. 14.

24 And I have expressing a desire to discuss this
25 issue Mr. Jack Chalabian and Mr. Robert Holland, representing

1 KTJ Properties, Inc.; Mr. Richard Harlow, representing
2 the Molo Development Corporation, and Mr. James Palin --
3 that's No. 15.

4 EXECUTIVE OFFICER DEDRICK: Mr. Chairman --

5 ACTING CHAIRMAN MC CARTHY: I'd first like to ask
6 our staff for a report on on the issue.

7 EXECUTIVE OFFICER DEDRICK: I'm sorry. I
8 anticipated you. Lance Kiley is chief of the lands
9 division and will present the issue.

10 MR. KILEY: Mr. Chairman, this is a long-standing
11 item that's had kind of a complex history with the Commission.

12 KTJ took out a lease from the State Lands
13 Commission or had a lease approved by the Commission about
14 seven years ago that required them to develop our property
15 in conjunction with another parcel that's adjacent to it in
16 the City of Huntington Beach.

17 For various reasons they were unable to do that.
18 One of the reasons that they cite is that the fact that the
19 zoning was changed from commercial to residential during the
20 process of development. Another is the fact that hard
21 economic times in the housing industry during that period
22 of time.

23 In any event, they were unable to perform under
24 the lease and they also lost title to the upland property
25 in a foreclosure by the Crocker Bank. During their course

1 of ownership there were some attempted assignments made
2 of the leasehold, one of which was to Crocker Bank which
3 was foreclosed upon by Crocker Bank, at least on paper, and
4 the situation has increasingly complex and staff
5 believes that the course of action for the Commission
6 is just to terminate the lease and start from scratch.

7 ACTING CHAIRMAN MC CARTHY: Have you finished your
8 testimony?

9 MR. KILEY: Yes.

10 ACTING CHAIRMAN MC CARTHY: All right. Are
11 there any other staff testimony? Mr. Kiley's finished.
12 Any other staff testimony?

13 EXECUTIVE OFFICER DEDRICK: I don't believe so,
14 sir, not at this time.

15 ACTING CHAIRMAN MC CARTHY: All right.
16 Mr. Chalabian? Mr. Holland, you're certainly welcome to come
17 up together?

18 MR. HOLLAND: Mr. Chairman and members of the
19 Commission, my name is Robert B. Holland. I'm an attorney
20 in Orange. I am here primarily as a principal in KTJ
21 Properties and Mr. Chalabian is a principal in the company,
22 and Mr. Ashby, who is in the audience, is a principal in the
23 company.

24 Our purpose in being here is to endeavor to
25 persuade the Commission to take action contrary to that

1 recommended by the staff. Incidentally, the -- as the
 2 Commission knows, the lease in question is in the main
 3 channel of Huntington Harbour and the three of us who are
 4 principals in KTJ are residents of Huntington Harbour and
 5 that's one of the reasons that we are here asking that the
 6 lease to KTJ be reinstated.

7 In the report from the staff to the Commission
 8 that we've received a copy of, the staff indicates that
 9 there are two primary reasons why the staff recommends
 10 termination of the lease. The first is failure to construct
 11 improvements by KTJ by July 1st, 1981 and the resulting loss
 12 of rental income to the Commission. We admit that that
 13 occurred and that the Commission has been deprived of rental
 14 income as a result of.

15 Mr. Chalabian will address some of the series of
 16 events which resulted in the noninstallation of the docks.
 17 We can't unring that bell, but we can suggest and have
 18 submitted to the staff is that if the lease were reinstated,
 19 we would offer to pay at this time the sum of money which
 20 from a staff letter of a year or so ago appears to be around
 21 \$10,206. It would be either the exact amount or a substantial
 22 amount of the rent which would have been realized by the
 23 Commission had the docks been installed when they were
 24 supposed to have been installed almost three years ago.

25 In addition, for such reinstatement, we would also

1 offer to pay additional rent at that same rate until the
2 docks are constructed.

3 And, of course, after the docks are constructed,
4 there would be rental income. There wouldn't be any until
5 then and we would certainly agree to pay a higher rent
6 at that time.

7 The second point raised by the staff in its
8 report is the loss of ownership of littoral land by KTJ.
9 Again, that did occur. No question about that. Incidentally,
10 Mr. Wiley made reference to the fact that the lease in
11 question was assigned to Crocker Bank. That's not
12 technically correct. What did occur is that KTJ transferred
13 its interest in the littoral land to a limited partnership
14 and on the deed by which the land was conveyed there was a
15 description of the submerged lands that is the subject of
16 the lease. That same description was carried onto a trust
17 deed, which the limited partnership of which KTJ was a
18 limited partner, that same legal description of the sub-
19 merged land was on the deed -- pardon me, the trust deed.
20 And seven days -- on December 28th, 1982, seven days after
21 that limited partnership obtained approval from the City of
22 Huntington Beach in the form of a tentative tract map
23 approval and a conditional use permit, which occurred on
24 December 21st, 1982, seven days later Crocker Bank instituted
25 foreclosure by the recordation of a notice of default.

1 I believe it is correct that Crocker Bank contended
2 during the period that it had ownership of the littoral
3 land, which I think occurred about May 18th or last -- of
4 1983 until on or about May 14th of this year when we believe
5 it transferred title to the littoral land to Mol^a Development
6 Company. It is our understanding that Crocker Bank contends
7 it became the owner of the lease by virtue of the foreclosure.

8 However, the lease with the Commission provided
9 very specifically that, one, you cannot transfer title to
10 the lease without the consent of the Executive Officer,
11 which was not given so far as the transfer to the -- the
12 purported transfer to the limited partnership is concerned.

13 The lease further provides that no encumbrancing of the
14 lease may occur without the consent of the Executive
15 Officer, without the execution by the encumbrancer of the
16 security -- the secured party lender's agreement. That
17 didn't occur with reference to the Crocker Bank trust deed
18 either.

19 The lease further provides that the Commission
20 in its discretion declare any such purported transfer and/or
21 any such purported encumbrance void or voidable; based on
22 the facts of this particular situation, our request is the
23 Commission declare the purported transfer to the
24 Warmington partnership void and the purported encumbrancing
25 to the Crocker Bank void.

1 Insófar as -- getting back to the loss of
2 ownership of the littoral land, --

3 MS. ORDWAY: Excuse me. (May I interrupt? Would
4 you go through that one more time? I'm not sure that I'm
5 tracking.

6 MR. HOLLAND: Yes, na'am.

7 MS. ORDWAY: Your request is to ask for what
8 specifically be voided and why?

9 MR. HOLLAND: The purported transfer of title
10 to the lease to the limited partnership because it was --
11 there was no consent of the Executive Officer of the
12 Commission to such a transfer. As a matter of fact, the
13 limited partnership was in the process of seeking that
14 consent at the time that the foreclosure took place and
15 many times a document that, if executed, would have granted
16 that permission, went back and forth in the mails, but it
17 was never docu-- it was never executed because the foreclosure
18 took place in the interim. That's the first request.

19 The second is that the purported encumbrancing
20 of the lease also be declared void because that was not
21 done with the consent of the Executive Officer and I think
22 also without the knowledge of the Executive Officer,
23 although the Executive Officer and/or her staff certainly
24 knew that there was -- there were negotiations by the
25 limited partnership to try to obtain the consent of the

1 Commission. But the Executive Officer not only did not
2 approve of the encumbrancing of the lease by Crocker Bank
3 nor did it -- nor did the Executive Officer obtain from
4 Crocker Bank the secured party lender agreement, both of
5 which are required under the lease.

6 MR. JERVIS: Is it your contention that the
7 lease has never been transferred?

8 MR. HOLLAND: That the lease -- there's a little
9 more complexity that I haven't mentioned. The lease was
10 assigned at an early point to Imperial Bank, Mr. Chalabian
11 advises me, with the consent of the Executive Officer.
12 That was -- incidentally, that's a proper way to assign a
13 lease, by assignment. You don't attach to a grant deed the
14 legal description of the lease and say you have transferred
15 the lease. This isn't the way it's done legally.

16 That assignment to Imperial Bank I believe was
17 done with staff approval, was never reassigned by Imperial
18 Bank until November of 1983.

19 MS. ORDWAY: When was it assigned to Imperial
20 Bank?

21 MR. HOLLAND: At the time of the acquisition,
22 almost concurrent with the acquisition of the property by --
23 and the lease by KTJ, I believe.

24 MS. ORDWAY: Could you tell me about when that was?

25 MR. CHALABIAN: July 30th, 1980. There was a

1 letter from State Lands to --

2 MS. ORWAY: So that would have been during the
3 second extension period? Is that correct?

4 MR. CHALABIAN: That's correct.

5 MR. HOLLAND: Mr. Jervis, have I answered your
6 question or was there more?

7 The ownership of the littoral land by the limited
8 partnership of which KTJ was a limited partner did occur by
9 the foreclosure sale that occurred on or about May 18,
10 1983. And, again, we can't unring that bell. Staff, in
11 its report, indicates that that's the reason to terminate
12 the lease.

13 Incidentally, staff also indicates in their
14 report that they -- that KTJ is unable to successfully
15 complete the development. We don't know the basis for that
16 conclusion, because staff has never advised us. But we
17 think perhaps one of the reasons is that there has been
18 some difficulty in negotiations with the City of Huntington
19 Beach as to the ultimate granting of permit or permits to
20 build docks insofar as the parking problem is concerned.

21 As a matter of fact, a representative of the
22 City of Huntington Beach told the Commission staff on
23 December 7th, 1983, last year, that a permit would never be
24 issued KTJ because it didn't own the littoral land. That,
25 of course, is an incorrect statement. It was at the time.

1 It may have been misinterpreted. But we submitted in a
2 package that was delivered to you earlier this week and
3 an attached letter, a letter dated March 22nd of this year
4 from the administrator of the City of Huntington Beach who
5 confirms in that letter that docks can be installed by a
6 nonowner of the littoral land who meets the parking and
7 other requirements.

8 In that same connection, insofar as parking is
9 concerned, on April 3rd, 1979, a reciprocal parking
10 agreement was entered into by KTJ's predecessor in title
11 and the City of Huntington Beach and that covered the
12 property at which I believe is the subject of Item 15 on
13 your agenda today.

14 In that reciprocal parking agreement which was
15 executed at a time when it was proposed that KTJ develop
16 the littoral land as a commercial development in that
17 reciprocal parking agreement, reference was made to the
18 fact that parking in that area covered by the reciprocal
19 parking agreement should be made available to the users
20 of the commercial development. And the commercial
21 development included the docks. So, even though -- and
22 incidentally, Exhibits F and G in the packet that were
23 delivered to you are memoranda from the Commission which
24 indicates that it was the intent of the Commission that
25 parking in the area covered by the reciprocal parking

1 agreement be made available to the users of the beach,
2 reference to which I'll make in a moment, the park, and
3 the commercial development. And, as I say, the commercial
4 development included docks. And also in the packet that was
5 delivered to you there's some reference to docks in the
6 permit that was -- the approval that was granted by the
7 Coastal Commission and the approval, both of them being
8 of the commercial development, by the City of Huntington
9 Beach.

10 I alluded to the fact we'd had some difficulty
11 with the City of Huntington Beach insofar as parking is
12 concerned. The city has recently taken the position that
13 that reciprocal parking agreement and its provisions as to
14 parking wasn't available to KTJ were KTJ to install docks
15 in the main channel. That may or may not be the permanent
16 position of the city, but that's a problem we've had with
17 them.

18 And we couldn't understand that until finally
19 we ascertained that on the 15th of March of this year the
20 city wrote a letter to the Commission seeking the granting
21 of a lease to the -- of the submerged land in the main
22 channel and the Bolsa Chica Channel. So, perhaps there's
23 a conflict of interest there that the city has had.
24 Nevertheless, we think that the parking problem can be
25 resolved. Number one, we proposed that the docks, if

1 installed, and we were the developer of them, would be
2 available exclusively for the occupiers of the littoral
3 land, i.e. residents in the development developed by the
4 present owner.

5 MS. ORDWAY: Excuse me. They would or they would
6 not?

7 MR. HOLLAND: Would exclusively.

8 MS. ORDWAY: So, all docks, there would be no
9 public access?

10 MR. HOLLAND: Public access is another point.

11 MS. ORDWAY: There'd be no public use of any
12 of the docks?

13 MR. HOLLAND: We think there would only be 40 of
14 them. And the development is for, as approved by the
15 city on the 19th of September last year, is for 77 units.
16 Our calculations are we could only construct 40 docks,
17 assuming solution of another problem which I haven't
18 referred to yet, the egress problem.

19 The city's requirement for parking for docks that
20 would be used by adjacent property owners is less
21 stringent, fairly easy to comply with, because they have
22 those owners of residences on the littoral land have
23 garages or places to park, so the city's attitude is, well,
24 if the docks are used for those people, then, you don't have
25 a stringent parking requirement. But if you propose to have

1 the docks available to the public and for nonresidents
2 of the littoral land, then the city says you have to have
3 .75 parking spaces for each dock that is to be used in such
4 a manner.

5 Well, again, that's a problem we haven't worked
6 out with the city.

7 MS. ORDWAY: How many parking spots are you
8 looking at?

9 MR. HOLLAND: Well, I'm not sure how to answer
10 that. The -- if there were .75 -- if all of those 40
11 docks were available only to --

12 MS. ORDWAY: Tell me how much parking? What are
13 you looking at for public parking?

14 MR. HOLLAND: If all of those docks were used only
15 by the public, then under the city ordinance you'd need
16 30 parking stalls. .75 for each one. For each dock.

17 MS. ORDWAY: You were talking about talking. I'm
18 getting very confused.

19 I started this confused, so, I haven't moved
20 anyplace. You referred to parking. How much parking is
21 in your proposal aside -- don't talk to me about docks
22 right now. How much parking for the public is in your
23 proposal, is in your plan, or you are anticipating building?

24 MR. HOLLAND: The only --

25 MR. LABIAN: We'll show her.

1 MR. HOLLAND: All right. The only proposal
2 we're making is with reference to the installation of
3 docks.

4 MS. ORDWAY: You have no involvement in parking
5 at all?

6 MR. HOLLAND: We don't own the littoral land.

7 MS. ORDWAY: Okay.

8 MR. HOLLAND: We're not the proposed developer of
9 the littoral land, of the adjacent land.

10 MS. ORDWAY: Okay. So that it would be impossible
11 for you to develop docks for any use other than the
12 residents of the property. Is that correct?

13 MR. HOLLAND: It would not be impossible, but
14 at the present time the city's position is we don't believe
15 that you have a right to use the parking area and the
16 reciprocal parking area. Our interpretation of that position
17 is different. We think that that reciprocal parking
18 agreement was intended by the Commission to be used by
19 users of the commercial development and that commercial
20 development back in 1979 included docks.

21 We may be able to enter into an agreement with the
22 owner of the littoral land to provide parking on the
23 littoral land. If the docks were used only by residents
24 of the littoral land, they have their own parking. The
25 parking problem we think can be worked out. We're willing

1 to accept that challenge.

2 ACTING CHAIRMAN MC CARTHY: Why don't you go
3 ahead?

4 MR. HOLLAND: There is a precedent in the City of
5 Huntington Beach for the development -- where's the --
6 for the development of docks by a firm that does not own the
7 land (indicating on map). It's the development directly
8 across this main channel. It couldn't be more apropos as
9 an example or illustration and in that particular case
10 the developer of 244 condos owned the land but did not own
11 the rights to install the docks. The docks were installed
12 by another firm. That firm granted a first right of
13 refusal to the owners of the condos. And except for a
14 parking problem that has developed over in that area, which
15 is a different problem, because they have a commercial
16 marina over there, there hasn't been any problem with the
17 development of docks by a nonowner of the littoral land.

18 And under the Section 2000(c) of the Administrative
19 Code, the Commission is given its discretion to grant a
20 lease. -- This is a proposed reinstatement of a lease that is
21 in default. This is not a proposal to grant a new lease --
22 to the best qualified applicant irrespective of littoral
23 status. In other words, that Administrative Code section
24 says to us that the lessee or the lease of submerged land
25 need not be the owner of the adjacent land if in the

1 discretion of the Commission that a nonowner of the littoral
2 land is the best qualified applicant.

3 It is KTJ's contention that it is the best
4 qualified applicant because of the long association with
5 the overall development of Mr. Chalabian who has practically
6 lived with it for six years. He is, as indicated, a
7 principal in KTJ. His firm is licensed as a general
8 contractor. He has built homes and had docks built in the
9 harbor. The three principals of KTJ all reside in the harbor
10 and are not interested in that which the usual developer
11 does. And I'm not pointing a finger at the Mola firm.
12 But the usual developer comes in and develops land, sells
13 what's there, and moves on.

14 We're interested in being the developers and
15 owners and operators of those docks for the period of time
16 of the lease.

17 Insofar as the alleged inability of the -- of
18 KTJ to complete the development, I've alluded to the fact
19 that we don't know what was in the minds of the staff
20 in making that conclusion. It may have been the parking
21 problem. It may have also been in the minds of the staff
22 an access problem. The tentative map that is now on the
23 littoral land which was approved by the city on the 19th
24 of September last year, and to my knowledge it hasn't been
25 changed, excluded any public walkway around it. However,

1 on the 13th of January of this year the Coastal Commission
2 in its approval of the concept of the development mandated
3 that there be a public walk around the property. That walk
4 would be along the bulkhead wall along the main channel
5 and it's our position that that would give access to the
6 docks over that public walkway. In other words, you need
7 ramps to get from this level down to the docks and it's
8 our position that the ramps could be from that public walkway
9 down to the docks. And we think that there would be
10 adequate access.

11 KTJ -- on the subject of equity -- KTJ has
12 expended \$1,502,000 to this point on this overall project.
13 KTJ paid for the property which was conveyed by KTJ's
14 predecessor to the City of Huntington Beach for a beach.
15 KTJ paid for an area that was conveyed to the City of
16 Huntington Beach for a park. KTJ paid for the
17 development of that park, that beach in the area and the
18 park now owned by the city cost the city initially nothing.

19 In addition, there is a street running down
20 to the littoral land, KTJ paid for the improvement of that
21 street, paid for stormdrains, paid for underground
22 utilities. Since the property has been lost through the
23 foreclosure, there's only one way that KTJ could hope by
24 any stretch of the imagination to recoup any of that million
25 and a half dollar investment, and that's if you were to

1 permit KTU to install the docks by reinstatement of the
2 lease.

3 I've made reference to the problems we've had with
4 the city, which we think we can work out. There's another
5 problem that we also have already worked out. In its
6 approval on January 13th, the Coastal Commission mandated
7 that there could be no docks, no permit issued by the
8 Coastal Commission to install docks until the eelgrass
9 problem is resolved to the satisfaction of the Executive
10 Officer of the Coastal Commission.

11 When we got deeply involved into that problem,
12 we found out that from three advisory agencies -- the
13 California Department of Fish and Game, the U.S. National
14 Marine Service, and the U.S. Fish and Wildlife Service --
15 that right off of the bulkhead wall at only this location
16 in Huntington Harbour, there is an eelgrass bed which is
17 a habitat which is favorable for marine life is the only
18 one in the harbor. And those advisory organizations, of
19 course, want an eelgrass bed preserved in the harbor for
20 the marine life.

21 The average width of the eelgrass bed is six feet.
22 It doesn't start until about 10 feet out from the wall.
23 And at the present time if one were to try to avoid that
24 eelgrass and put docks there, which is mandated by the
25 Coastal Commission -- in other words, you can't do it until

1 you respect that, docks would have to be installed so that
2 the edge closest to the eelgrass bed would be 30 feet
3 beyond the eelgrass bed and the bottom line is that you
4 can't install docks in that area. You just can't do it
5 presently.

6 We worked out a solution, what those agencies
7 call a mitigation measure. They would -- by the proposed
8 agreement that we worked out with them at an estimated cost
9 of \$22,000, they would plant eelgrass in another location
10 and they would then let our firm, if we were permitted by
11 this Commission, to install docks in that area, even though
12 eelgrass is there. Because, in their opinion, they would
13 have substitute eelgrass elsewhere and that would satisfy
14 their needs. Many, many hours of work were involved in
15 arriving at that solution and, as I indicated, without that
16 solution nobody's going to build any docks there.

17 The staff alluded to the fact that they don't
18 believe KTJ has the ability to build the docks, but yet
19 we submitted to the staff a commitment for financing of the
20 docks, a commitment that we will post a performance bond
21 for the construction of the docks, a commitment that we
22 would not transfer the lease to any homeowner's association,
23 which we understand if that were to occur, the Commission
24 would be deprived of the income. We also made a commitment
25 that we'd construct the docks within six months after

1 obtaining necessary permits. We estimated that we would
2 need eight months to obtain the permits. We would apply
3 for them simultaneously everywhere, but you can't apply to
4 the city concurrently or simultaneously. You have to get
5 your other permits and go to the city. We offered to pay
6 increased rent as indicated, and we think we have the
7 ability to do it. We're interested in it. We admit the
8 defaults have occurred. We've tried to explain those, but
9 we think that KTJ is the best qualified applicant and we
10 ask your favorable consideration to our request.

11 ACTING CHAIRMAN MC CARTHY: Thank you. Does that
12 sum up your testimony?

13 MR. HOLLAND: It sums up mine.

14 Mr. Chalabian might --

15 EXECUTIVE OFFICER DEDRICK: Before we begin,
16 the court reporter has asked for a few minutes to rest her
17 fingers.

18 ACTING CHAIRMAN MC CARTHY: All right. We'll
19 recess for 90 seconds.

20 (Laughter.)

21 (Thereupon a short recess was taken.)

22 ACTING CHAIRMAN MC CARTHY: Mr. Chalabian, would
23 you like to testify?

24 MR. CHALABIAN: Thank you, Governor. I'd like
25 to give a brief chronological schedule of some significant