MEETING

STATE LANDS COMMISSION

STATE OF CALIFORNIA

ORIGINAL

SACRAMENTO MARINA

2710 RAMP WAY

SACRAMENTO, CALIFORNIA

WEDNESDAY, APRIL 28, 1993

11:00 A.M.

Nadine J. Parks
Shorthand Reporter

1 MEMBERS PRESENT

2

3 Leo T. McCarthy, Lieutenant Governor, Chairman

4 Gray Davis, State Controller, Commissioner

5 Susanne Burton for Thomas W. Hayes,
Director of Finance, Commissioner

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9 Staff:

10 Charles Warren, Executive Officer

11 James Trout, Assistant Executive Officer

12 Robert Hight, Chief Counsel

13 Also Present:

14 Jan Stevens, Deputy Attorney General
Alan Hager, Deputy Attorney General

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Mark Meier
16 Mike Valentine
Dwight Sanders
17 Dan Gorfain

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1 P R O C E E D I N G S

2 --oOo--

3 CHAIRMAN MC CARTHY: Good morning, ladies and
4 gentlemen. At this time, I want to apologize for these
5 crowded conditions for those of you who are outside;
6 and at the same time, express my envy that you're in the
7 sun and we're in here.

8 And there's a lot of testimony, so maybe it'll
9 get a little warmer in this room than outside. We looked
10 at every possible place for a larger hearing room in
11 Sacramento -- I don't know what's happening today. But
12 we went to the Convention Center. We went to hotels
13 around town; every State meeting room is taken in some
14 way. So, I am sorry for the crowded condition here today.

15 At the outset, let me indicate that, without
16 objection, the minutes of the previous Commission meeting
17 are approved. On the consent calendar, we would like to
18 add Consent Calendar Items 40, 41 -- pardon me. I should
19 have started with 29. 29, 40, 41, and 43. 41's already
20 on the list. We deleted -- there are witnesses here on
21 28 and 42.

22 EXECUTIVE OFFICER WARREN: Mr. Chairman, we'll
23 remove Consent Calendar Item 28 from the Consent
24 Calendar and put that on the regular calendar.

25 CHAIRMAN MC CARTHY: It's not on the Consent

1 Calendar yet, so I'm not placing it on there, because I
2 didn't mention it. So, it remains on the regular
3 calendar. It's now on the Consent Calendar now?
4 EXECUTIVE OFFICER WARREN: It's now on there.
5 CHAIRMAN MC CARTHY: All right. We're going to
6 remove Consent Calendar 28 and it is now on the regular
7 calendar. And we're removing from the Consent Calendar
8 Items 20, 34, and 41. 41 wasn't on the Consent Calendar.
9 We're removing removing 20 and 34 from the Consent
10 Calendar.
11 EXECUTIVE OFFICER WARREN: From the calendar
12 completely.
13 CHAIRMAN MC CARTHY: From the calendar completely.
14 EXECUTIVE OFFICER WARREN: Let me walk you
15 through, if I may, Mr. Chairman.
16 CHAIRMAN MC CARTHY: Why don't you? Slowly.
17 (Laughter.)
18 EXECUTIVE OFFICER WARREN: Remove from the
19 calendar entirely, not to be considered --
20 CHAIRMAN MC CARTHY: Not to be considered.
21 Category 1.
22 EXECUTIVE OFFICER WARREN: Yes. -- Consent
23 Calendar Items --
24 CHAIRMAN MC CARTHY: Out of our sight.
25 EXECUTIVE OFFICER WARREN: -- 20 and 34.

1 CHAIRMAN MC CARTHY: 20 and 34, not on any
2 calendar today.
3 (Laughter.)
4 EXECUTIVE OFFICER WARREN: Right.
5 CHAIRMAN MC CARTHY: Category 2.
6 EXECUTIVE OFFICER WARREN: Regular Calendar
7 Item 41 is to be removed from today's calendar.
8 CHAIRMAN MC CARTHY: Regular Calendar Item 41
9 is to be removed from today's calendar.
10 EXECUTIVE OFFICER WARREN: To be removed from
11 the Consent Calendar and placed on the Regular Calendar is
12 Item 28.
13 CHAIRMAN MC CARTHY: 28.
14 EXECUTIVE OFFICER WARREN: That will be
15 considered by you today.
16 CHAIRMAN MC CARTHY: That is to be seen today,
17 but on the Regular Calendar.
18 EXECUTIVE OFFICER WARREN: Regular Calendar.
19 CHAIRMAN MC CARTHY: I'm getting the hang of this.
20 On Category -- 14.
21 (Laughter.)
22 EXECUTIVE OFFICER WARREN: On the Regular
23 Calendar, transfer Items 40 and 43 to the Consent
24 Calendar.
25 CHAIRMAN MC CARTHY: All right. 40 and 43 that

1 were on the Regular Calendar -- if any of you watch the
2 NFL draft on Sunday, you'll get the sense of what we're
3 doing here. 40 and 43 are going on the Consent
4 Calendar from the Regular Calendar. Any other
5 categories here?
6 How about 29?
7 EXECUTIVE OFFICER WARREN: 29 remains on --
8 Mr. Chairman, not seeing any -- would the Chair inquire
9 if there's any person in the audience who wishes --
10 CHAIRMAN MC CARTHY: Does anyone here wish to
11 speak on 29? If not, 29 remains on the Consent Calendar.
12 EXECUTIVE OFFICER WARREN: Yes, that's exactly
13 so.
14 CHAIRMAN MC CARTHY: Now, that's all I have,
15 Mr. Warren. Do you by any chance have any other?
16 EXECUTIVE OFFICER WARREN: That's all I have,
17 Mr. Chairman. My apologies.
18 CHAIRMAN MC CARTHY: Oh, that's all right.
19 All right. Without objection, the Consent
20 Calendar, as amended, is adopted.
21 COMMISSIONER BURTON: That's fine.
22 CHAIRMAN MC CARTHY: Now I'd like to move to the
23 Regular Calendar. And we're going to start with --
24 EXECUTIVE OFFICER WARREN: Item 28.
25 CHAIRMAN MC CARTHY: What about No. 9, which was

on the Consent Calendar? Oh, it's not. That's only if needed. Item 28. Would you step forward, sir, --

MR. CARPENTER: I beg your pardon. I haven't had an opportunity to fill this out (speaking of speaker's slip).

CHAIRMAN MC CARTHY: Supervisor, is this on 28?

MR. CARPENTER: Yes.

CHAIRMAN MC CARTHY: All right.

MR. CARPENTER: Where do I go?

CHAIRMAN MC CARTHY: The podium is fine. If you'll wait just a second; Mr. Warren, who would you like to address this issue from the staff?

EXECUTIVE OFFICER WARREN: Mr. Trout.

CHAIRMAN MC CARTHY: Mr. Trout.

ASSISTANT EXECUTIVE OFFICER TROUT: Mr. Chairman, I think I'm going to take that issue. Item 28 is the consideration of a request by Sonoma County to install in the Russian River four bridge crossings for summer access to facilities on one side of the river.

The application before you is a one-year permit at four locations. There has been considerable interest on the part of the Federal Government, environmental agencies, the National Marine Fisheries Service, U.S. Fish & Wildlife Service, and the State Department of Fish & Game with regard to the long-term impact of these bridges. They have

1 been installed for several years across the river.
2 This year, we have a little different thing:
3 With the additional water available in the river,
4 portions of the river bed that formerly were dry by
5 summertime may, in fact, be wet.
6 We have appreciated the assistance of Sonoma
7 County in working on this item. They've cooperated with
8 us wonderfully. We think we've worked out a solution
9 that would take care of this summer so that they can get
10 the bridges in by May 15th, which is their interest, to
11 beat the Memorial Day weekend.
12 Staff remains concerned about the long-term
13 impacts, and we have suggested that the County look to a
14 long-term permit rather than a year-by-year permit. And
15 we would like to continue to work with the County.
16 However, staff recommends approval of the
17 calendar item as submitted.
18 CHAIRMAN MC CARTHY: All right. Any further
19 testimony for our side? Supervisor Carpenter.
20 MR. CARPENTER: Yes, Mr. Lieutenant Governor,
21 thank you. First, we agree with the permit conditions
22 for this year, and we've come up the freeway simply to
23 address a grievance on the part of Sonoma County. And
24 while we have enjoyed our brief relationship with the State
25 Lands Commission's staff, we haven't enjoyed it that much.

1 (Laughter.)

2 MR. CARPENTER: And really, when they say a
3 short period of year, one bridge has been in for a
4 hundred plus. We can document that two others have been
5 in for fifty-plus years, and the third a mere -- or
6 fourth, a mere 28 years.

7 And the Russian River is artificially controlled
8 as far as releases go. We've had to educate your staff.
9 And we've come to an agreement. We'll agree to it for one
10 year, and we're going to continue to raise some opposition,
11 and we'll have a friendly back and forth.

12 The reason we came up the freeway today to speak
13 to you is that we paid $1,750 for a permit, and then
14 negotiating through conditions -- which simply can't work
15 on the Russian River, because people who are involved with
16 this did not know how the Russian River worked, and we had
17 to educate them -- they're charging us another 2,250 bucks
18 for somewhere around the neighborhood of 4,000. My
19 question is is, is there a nexus to these charges?

20 We've been in this condition for 50, 100 years
21 with these summer crossings. They do not impede fish
22 flow; they do not impede canoe traffic, or any other
23 traffic that could go up and down the river. The Army
24 Corps of Engineers has given us a five-year individual
25 permit. We should get some credit for that. That's not

1 The National Marine Fisheries, Fish & Game, and
2 Water Quality Control Board have all signed off. The only
3 people who have a problem at this point is the State
4 Lands Commission. And frankly, we don't quite understand
5 it. We're going to continue to work with you. We protest
6 the fees. We want to see a nexus study. The Attorney
7 General requires the counties to do that. But simply
8 because we negotiate over the telephone and have our
9 legislators involved, they're charging us for this. So,
10 I just don't get it. That's why I'm here.
11 CHAIRMAN MC CARTHY: Okay. Well, I understand
12 your plea. I don't think we're going to resolve this
13 problem today, and I don't think you expected us to. But
14 I would like the staff to diligently pursue this
15 conversation with Supervisor Carpenter, his colleagues,
16 and his staff in Sonoma County, and let's see if we can
17 find a way to simplify this process.
18 MR. CARPENTER: Might I raise one issue? They
19 say they won't write the permit until we pay them $4,000.
20 So, I just --
21 CHAIRMAN MC CARTHY: At this time?
22 MR. CARPENTER: That's the latest communication
23 by fax. They didn't previously warn us of that. They
24 simply sent us a fax saying it's going to cost us four
25 grand. I have to go to my Board of Supervisors to get an

1 authorization. If we could -- well, what's the 1750 for?
2 If we could pay that and get our permit, and then
3 negotiate costs and see a nexus, we might pay it. We may --
4 I don't know. I hate to present you with this quandary.
5 CHAIRMAN MC CARTHY: I don't know the answer
6 to that.
7 MR. TROUT: Well, Mr. Chairman, the fees are
8 based on a schedule which was derived from the actual hours
9 required to process a permit. There's some upfront
10 fees that are required for the processing, and there are
11 post-fees that are required. We'd be happy to work with
12 the Supervisor. However, to be consistent with the
13 Governor and Legislature's request that agencies become
14 self-supporting as much as possible, we have, with the
15 Commission's agreement, established these funds.
16 We'd like to work with the Supervisor and see what
17 we can come up with. We will demonstrate the connection.
18 CHAIRMAN MC CARTHY: Do a good job. All right.
19 We won't give you satisfaction on that today, Ernie, but --
20 MR. CARPENTER: A final comment?
21 CHAIRMAN MC CARTHY: -- we're sensitive to the
22 issue you raised.
23 MR. CARPENTER: Okay. Should I sit down or make
24 a final comment?
25 CHAIRMAN MC CARTHY: No, you can make a final

1 comment.

2 MR. CARPENTER: Well, if you'd get the conditions

3 right, you wouldn't have to charge us, because then we

4 could work with this, and not here on the stand.

5 CHAIRMAN MC CARTHY: Thank you for your

6 clarity. All right.

7 (Laughter.)

8 CHAIRMAN MC CARTHY: All right, without

9 objection, the recommendation is adopted.

10 MR. CARPENTER: Thank you.

11 CHAIRMAN MC CARTHY: Next item on the

12 Regular Calendar.

13 EXECUTIVE OFFICER WARREN: That's Item 42,

14 Mr. Chairman. This is an informational calendar item

15 concerning the matter which you directed the staff to

16 provide you with information. The information is

17 contained in the staff report. And Mr. Robert Faber

18 wishes to address the Commission on the item.

19 CHAIRMAN MC CARTHY: Mr. Faber?

20 MR. FABER: Governor, members of the Commission,

21 generally speaking, working with the staff, since you met

22 with us -- or we met with you in December -- has been

23 satisfactory. There are a couple of points in the calendar

24 item which are, we believe, need correction. There is a

25 statement on the second page that certain information has

1 not been provided. That information has been provided
2 since, apparently, the calendar item was drafted. There
3 is a statement in there indicating that the application
4 is complete as of the date, sometime in the last three
5 weeks. I don't want to belabor it, but simply want to
6 make the point that we do not concur with their
7 determination of when the application was complete. Based
8 on the circumstances surrounding this, we believe the
9 application was complete earlier than that.
10 But, as long as we continue to be working in a
11 productive fashion, there's no need to belabor that.
12 The final issue is that the administrative
13 draft of the environmental impact report is complete at
14 this stage. Mr. Kaveney is responsible for the payment
15 of that document. And what we have is, he has a payment
16 due at the end of the administrative draft stage, a
17 payment due when the draft is released, and a payment
18 when the final is released. And we are faced with the
19 difficulty that between the stage when the administrative
20 draft is completed and when the draft document goes out
21 when the next financial responsibility falls on him, we
22 have no access to the draft. We have no way of knowing
23 whether it's been adequately or appropriately completed.
24 Now, we have been working with staff and we're
25 trying to resolve this issue. I spoke with Dwight Sanders

1 this morning, and we will continue to try and resolve
2 that issue. But I simply wanted to bring it to the
3 Commission's attention. And if we can't resolve
4 somthing, we'll have to get back to you.
5 CHAIRMAN MC CARTHY: Thank you, Mr. Faber.
6 Thank you for the information.
7 Staff, next regular item on the calendar, please.
8 EXECUTIVE OFFICER WARREN: The next items, three
9 in number, can be taken up together.
10 CHAIRMAN MC CARTHY: 44, 45, 46, without
11 objection, we'll do it that way.
12 EXECUTIVE OFFICER WARREN: Mr. Trout.
13 MR. TROUT: Mr. Chairman, at the request of
14 the sand and gravel industry, three parcels of State
15 land were offered for extraction lease, and these three
16 calendar items will provide for the leasing of those
17 three sites. One of the sites is in the Carquinez
18 Straits, two of the sites are in San Francisco Bay. We
19 drafted the lease, submitted it to the industry for
20 comment, advertised for bids, opened the bids, and after
21 review, have selected the high bidders.
22 For Item 44, it is MOE Sand Company. For
23 Items 45 and 46, it is Bell Marine. The contracts were
24 awarded on the basis of a multiplier to a specific
25 formula for royalty.

1 The specific formula provides a percentage
2 not less than .65 cents per yard, and based on material
3 actually sold by -- out of the yard by the dredger.
4 I think that we're prepared -- the staff does
5 recommend the approval of these items. And I understand
6 there may be someone here to speak on one of them. But
7 this has been a very open and public process, and we
8 recommend your approval.
9 CHAIRMAN MC CARTHY: I have a request from
10 Mr. Olin Jones to address this item. Mr. Jones, you're
11 welcome, sir.
12 MR. JONES: I'd like to thank the Commission
13 for the opportunity to speak.
14 CHAIRMAN MC CARTHY: Would you pull that down
15 just a little bit (speaking of microphone).
16 MR. JONES: Point it down like that? Better?
17 CHAIRMAN MC CARTHY: So it's pointed right at
18 you. Thanks very much.
19 MR. JONES: Sure. It's my position that the bids
20 should be rejected at this time because the staff and the
21 Commission does not know and cannot know what royalty the
22 State will receive from each bidder. The bid multiplier
23 is a multiplier that is to be multiplied times the cost of
24 production. And the cost of production cannot be determined
25 or was not given in the bid package.

1 This is a flawed process. It is similar to
2 asking a contractor to bid on the remodeling of your
3 kitchen and asking for a multiplier times his cost. And
4 you pick the multiplier that is lowest, but you have no
5 idea what his cost is going to be.
6 There was only one bidder who submitted a cost
7 per cubic yard that he would pay the State. The other
8 bidders did not submit that. Okay?
9 The questions that I have of the staff are: Is
10 there a better offer in writing than 70 cents per yard
11 and, if so, is it in writing (sic)? And number two, would
12 the bidders object to multiple leases on these sites?
13 I'd also like to ask, you know, if there could
14 be multiple leases on these sites, giving everyone equal
15 access to the public resources -- creating the fastest
16 maximum cash flow to the State? That's all I have to
17 say. Are there any questions?
18 CHAIRMAN MC CARTHY: Just a moment, please.
19 The bottom line is, how do the taxpayers get the most
20 money from this competitive bidding process. Now, you've
21 just heard what Mr. Jones has said. Where are we? If we
22 did it his way, would the taxpayers get more money from
23 this competitive bidding process?
24 MR. TROUT: We don't see so, because the formula
25 that we've established is based on the actual sales price

1 times the number of yards that are actually sold, and
2 then multiplied by a factor greater than one.
3 The bid factor was this multiplier. The higher
4 bidder, for example, Bell Marine, on one of the leases
5 had a 2.3 multiplier. If we assume $7.00 a yard is the
6 price and the multiplier is 2.3, that comes out to a total
7 on the yardage of 1.61, a dollar sixty-one per cubic yard.
8 Mr. Jones bid a bid factor of 1.3. In order to
9 get the same $1.61, Mr. Jones would have to sell the
10 sand for $12.30 as opposed to $7.00. The other thing
11 I'd like to point out is that we sent these leases and
12 this proposed formula out to the industry. We mailed out
13 over 25 bid package -- draft bid packages for industry
14 to comment on. And after receiving comments from
15 industry, we felt that, with the exception of Mr. Jones,
16 that the formula basically was understandable and okay
17 with industry.
18 CHAIRMAN MC CARTHY: Do you have any comment on
19 that, Mr. Jones?
20 MR. JONES: I have two comments. Number one,
21 each bidder has a different wholesale price. No one
22 knows what that wholesale price is, because it wasn't
23 requested in the bid documents. In other words, I could
24 have had a bid factor of 5 and made my wholesale price a
25 dollar. So, you cannot tell what the royalty to the State

1 is, unless what you're saying is that Bell Marine has
2 agreed to a dollar six-one per cubic yard. I don't believe
3 that's true.
4 I have reason to believe that other bidders
5 did not approve of the process.
6 MR. TROUT: Well, the gross sales price -- and
7 it's an auditable price -- is the actual price that they
8 get for the material, for the raw product. And this is a
9 price which fluctuates with the market. If sand is
10 more valuable, the price is higher. The bidders are all
11 bidding on the same sand, the same quality, and all of
12 them would be selling on the market the same sand, and
13 the market would then drive the actual gross sales price.
14 So, while we can't determine what it is, we
15 certainly can't imagine Mr. Jones selling the sand for
16 a dollar just to keep the State royalty down.
17 CHAIRMAN MC CARTHY: Mr. Jones has made the point
18 that some others in the industry tend to agree with his
19 point of view that this method doesn't necessarily give
20 the best yield for the taxpayers of the State. Did I
21 understand you correctly, Mr. Jones?
22 MR. JONES: That's correct.
23 CHAIRMAN MC CARTHY: Did you hear from any other
24 people in the industry -- ideas about how the bid could
25 be reformulated to maximize the return to the taxpayers?

1 MR. TROUT: Yes, we did. One other potential
2 bidder, which was Tidewater, which did not actually bid
3 on the leases, but which is in partnership with another
4 company, their concern was that -- that the -- it's set
5 up on a basis of both a minimum and a maximum, and they
6 argued that the bid factor could be lower and that an
7 applicant or lessee extract more sand and ultimately pay
8 a higher amount. But so could the -- the high bidder
9 could also extract that same amount of sand. It's just
10 a question of how much they can sell in the marketplace.
11 So, while anyone who sold -- dredged and sold more sand
12 would have a higher volume, that's nowhere guaranteed in
13 the lease.
14 We set a minimum, we set a maximum to provide
15 a range in which the operator could function.
16 CHAIRMAN MC CARTHY: All right. I think we're
17 going to have to make a decision on what's before us,
18 Mr. Jones.
19 Thanks for your testimony.
20 MR. JONES: Thank you.
21 COMMISSIONER BURTON: I have a question.
22 CHAIRMAN MC CARTHY: Yes, Commissioner Burton.
23 COMMISSIONER BURTON: A couple of questions of
24 staff. How many bids did you receive for these items?
25 MR. TROUT: We received three bids on one -- let's

1 see, one lease, I believe, and two on the other two.
2 COMMISSIONER BURTON: Okay.
3 MR. TROUT: Out of some 25 operators who were
4 advised of this initially.
5 COMMISSIONER BURTON: Why weren't there more
6 bids? Is this not profitable? What's going on?
7 MR. TROUT: Well, we really don't know. These
8 are the bidders that have been involved in the past with
9 State Lands, and that may have something to do with it.
10 The bidders were Olin Jones, Jones Sand; MOE
11 Sand & Gravel, and Bell Marine. And they bid in
12 different numbers in different leases, but those were
13 the three bidders we got.
14 COMMISSIONER BURTON: Okay. And you only had
15 two expressions of concern about the bid packages and the
16 process?
17 MR. TROUT: Right.
18 COMMISSIONER BURTON: Okay.
19 EXECUTIVE OFFICER WARREN: I would like to point
20 out -- and I think, correct me, Mr. Chairman and
21 Commissioners -- that the new bid structure should result
22 in an increased revenue to the State on a cubic-yard
23 basis by a factor of perhaps as much as three or four.
24 So, compared to what we've been getting in the
25 past, this new bid package should result in considerably

1 more revenue to the State.

2 CHAIRMAN MC CARTHY: Why don't you tell us when

3 you have evidence of that? Just give us the information.

4 I think we have no choice but to go ahead on the matter

5 that's before us today. But I think, as soon as you

6 start getting the return in, when this is awarded in

7 these three separate contracts, that you let us know what

8 the return is, because I think there should be some

9 discussion in the industry about what the appropriate

10 formula is for the bid to see whether we could do an

11 increase.

12 But let us know what it is when the return is in.

13 EXECUTIVE OFFICER WARREN: All right.

14 MR. JONES: Thank you.

15 CHAIRMAN MC CARTHY: Thank you, Mr. Jones.

16 Any other questions? All right. The matter's before us.

17 Without objection, approve the recommendation.

18 The next item on the Regular Calendar.

19 EXECUTIVE OFFICER WARREN: The next item on the

20 calendar is the last item on the calendar, and that's

21 Item 47. We have a number of --

22 CHAIRMAN MC CARTHY: Anybody here interested in

23 Item 47?

24 (Laughter.)

25 CHAIRMAN MC CARTHY: All right. I see that

1 Assemblyman Jack O'Connell of Santa Barbara is with us.
2 Do you have a couple of minutes so that we could
3 hear the staff presentation, or would you like to go on
4 now? Whatever your schedule is.
5 ASSEMBLYMAN O'CONNELL: I'll be happy to listen
6 to the staff presentation.
7 CHAIRMAN MC CARTHY: All right. Mr. Warren or
8 whoever you're going to have make this presentation.
9 EXECUTIVE OFFICER WARREN: Mr. Chairman, I'll
10 try to be brief in the presentation of this long-standing
11 controversial and complex issue.
12 The staff report is, I think you you will find,
13 lengthy, perhaps unusually so. It has been distributed
14 to all interested parties previously, who have had an
15 opportunity to review and comment on it.
16 In your package, also, is correspondence from
17 all interested parties concerning the issue and concerning
18 the staff report.
19 Item 47, briefly, concerns an application for
20 an industrial lease by the Gaviota Terminal Company for
21 the operation and maintenance of an existing marine
22 terminal located offshore Santa Barbara for loading of
23 tankers for shipment to the Los Angeles area. The term
24 of the lease is two years and eight months, beginning May
25 1, 1993, and ending January 1, 1996, or sooner, as provided

1 by certain provisions of the lease.

2 The consideration for the lease is a rental in

3 the amount as we've been receiving since the issuance of

4 the first lease, $230,000 per year.

5 Consideration of this item today brings to a

6 near close one phase of a long-standing and complex

7 controversy over the terms and conditions governing the

8 development and transportation of oil from federal leases

9 offshore Santa Barbara County. This phase of the

10 controversy involves the means and manner of transporting

11 oil produced from an offshore field known as the

12 Point Arguello Field by a constortium of companies known

13 as the Point Arguello Producers, which is represented

14 generally by the Chevron Oil Company.

15 The producers, the Point Arguello Producers,

16 have received a shipping permit issued by the California

17 Coastal Commission subject to a number of conditions.

18 CHAIRMAN MC CARTHY: Excuse me. You cannot hear

19 in the back? All right. Why don't you move that

20 microphone a little bit closer to you?

21 CHIEF EXECUTIVE OFFICER WARREN: I'm sorry. The

22 producers have received a shipping permit issued by the

23 California Coastal Commission subject to a number of

24 conditions. The Coastal Commission issued the permit

25 after rejecting certain conditions to a permit issued by

1 the County of Santa Barbara.

2 The point of difference between the County and the
3 Coastal Commission concerns how best to accomplish the
4 commonly held policy objective of exclusive transportation
5 of oil by pipeline.

6 The County's approach was to prohibit tankering
7 until such time as the producers signed a throughput and
8 deficiency agreement with one of three groups of competing
9 pipeline proponents. Such an agreement -- that is a
10 throughput and deficiency agreement -- assures financing
11 for the construction of the favored pipeline proposal.

12 None of the three proposed pipelines have had
13 nor have necessary permit approvals at this time. The
14 Coastal Commission set aside the County's shipping
15 permit and established a set of way points designed to
16 achieve the construction of the desired pipeline by
17 January 1, 1996.

18 Among those conditions -- the major conditions
19 are the following: First, the Coastal Commission permit
20 allows tankering to begin from the terminal as soon as the
21 operators of the terminal have a lease from us to do so,
22 which is the issue before us today.

23 The Coastal Commission shipping permit also
24 sets a limit on the amount of oil to be tankered to no
25 more than 50,000 barrels per day on a quarterly average,

1 provided that at least 40,000 barrels per day are shipped
2 by existing pipelines to various destinations with at
3 least 25,000 barrels per day shipped via an existing
4 pipeline to Los Angeles, known as Line 63.
5 On this point, it should be noted that production
6 of the Point Arguello Field is being presently increased --
7 or as they say in the industry, "ramped up" -- and is
8 expected to peak at 85 -- and some say perhaps as much
9 as 90,000 barrels per day.
10 Presently, production, I understand, is around
11 55 to 60,000 barrels per day level.
12 Now, the Coastal Commission permit also requires
13 that the producers execute a throughput and deficiency
14 agreement for the construction of a pipeline to Los Angeles
15 by February 1, 1994, 10 months from now; or, if not, to
16 cease tankering at that time.
17 If a throughput and deficiency agreement is
18 timely executed, then tankering may continue beyond
19 February 1, 1994, until January 1, 1996, when it must
20 terminate. In the event a pipeline is, in fact,
21 constructed and becomes operable before that date, then
22 the tankering would cease at the time of the pipeline's
23 availability.
24 It is assumed by the Coastal Commission permit
25 that by such time -- that is, January 1, 1996 -- the

1 throughput and deficiency favored pipeline will have been
2 constructed and will have the capacity to transport all
3 of Point Arguello's production.
4 All that now remains is the issuance of the
5 lease sought by the application before you. The applicant
6 is the Gaviota Marine Terminal Company, again, which is
7 composed of a number of oil companies, but is headed
8 nominally and in fact, and represented by the Texaco
9 Oil Company.
10 Now, there are a number of subsidiary, but
11 significant, factors which you should consider. There has
12 been a petition filed with the Coastal Commission to
13 revoke its shipping permit because of certain specified
14 reasons.
15 The Coastal Commission will not consider the
16 matter until its next meeting, presently scheduled, I
17 believe, for May 12, 1993.
18 Secondly, the second subsidiary factor which you
19 should have in mind, is that the Point Arguello Producers
20 have not as yet elected to pick up the Coastal Commission
21 permit and, in fact, has filed a legal action challenging
22 the Commission's authority to condition the permit.
23 The producers have indicated to your staff,
24 however, that upon the issuance of an acceptable lease,
25 they will, in fact, pick up the permit and dismiss the

1 legal action. I think that it would be worthwhile to
2 have that representation confirmed on the record.
3 Staff has concluded that there are four
4 options available to the Commission. Each of the options
5 has its adherents and its opponents. The first of these
6 options is to deny the application. This option or its
7 refinement is proposed by a number of groups, such as the
8 American Oceans Alliance, the Environmental Defense
9 Center, Get Oil Out, and by a number of elected officials
10 and private individuals.
11 Although they are here today to describe their
12 views, I think generally they contend that, first, that
13 existing piplines are adequate for the transportaion of
14 Point Arguello production and, secondly, if the existing
15 lines are not, in no event should tankering be permitted
16 until such time as a throughput and deficiency agreement
17 is, in fact, executed.
18 The second option is to delay action on the
19 application before you until such time as the Coastal
20 Commission has acted upon the revocation petition. As I
21 said, that will not be until May 12th. However, I must
22 say that none of the interested parties in their written
23 comments to us on the issues involved in this matter seem
24 to be urging this course.
25 The third option before you is to approve the

1 lease, but limit the use of the terminal to shippers who
2 hold a shipper's permit issued by the Coastal Commission,
3 but subject to the same conditions imposed by the
4 Commission on the permit holder.
5 COMMISSIONER DAVIS: Coastal Commission.
6 EXECUTIVE OFFICER WARREN: Yes.
7 This view is supported by the producers, by the
8 terminal operators, by the Coastal Commission, by the
9 Wilson Administration, and certain other private groups
10 and individuals. It is opposed by the anti-oil group,
11 the composition of which has been heretofore described.
12 The County of Santa Barbara has responded to the
13 staff analysis by a letter received today, but does not
14 indicate a position one way or the other.
15 The fourth option available to you is to approve
16 the lease, but limit the use of the terminal to shippers
17 who hold a shipper's permit from the Coastal Commission,
18 as provided by the preceding option that I've just
19 described, but who agree further to transport on a
20 quarterly basis through Line 63 to Los Angeles that amount
21 of oil determined sufficient to fully utilize the
22 existing pipeline capacity.
23 This option was developed by your staff in order
24 to deal with the issue of the extent to which pipeline
25 capacity presently exists. Presumably, this option would

1 be supported by the existing pipeline companies and, to a
2 limited extent, by those who are otherwise opposed to the
3 Coastal Commission's shipping permit issuance.
4 The applicant, the producers, and others, however,
5 strongly object to the refinement of the Coastal Commission
6 permit.
7 As I indicated at the outset, a detailed staff
8 report on this matter has been provided you and all
9 interested parties. You will today from all of the
10 groups mentioned. Copies of their correspondence have
11 been provided you.
12 We have a number of requests to speak. I have
13 attempted to sort out the requests into groups who are
14 for the lease, subject only to the Coastal Commission
15 permit terms, and there are others who wish to speak to
16 the alternative options.
17 It would be my recommendation, Mr. Chairman, that
18 we first hear from the applicant, and then from the
19 producers and others who support Option 3.
20 CHAIRMAN MC CARTHY: After we call on
21 Assemblyman O'Connell, here's what I would like to
22 recommend to my colleagues on the Commission and to all
23 of you in the audience here to testify: That each side --
24 and that's a rough categorization, since we have several
25 options in front of us -- but we've roughly grouped them

1 into those that we think are here to support adoption of
2 the application and those who will have total or qualified
3 opposition to that action, or may like some aspects
4 of one or the other options; that we give 45 minutes to
5 each side, and then if you could be thinking about this --
6 and I appreciate this is sometimes hard to do -- but if
7 each side could think of the one, or two, or three people
8 that they want; then, once a motion is made and is before
9 the Commission for consideration, one, or two, or three
10 people from each side can rebut or argue further at that
11 point to ask clarification or to challenge assertions that
12 have been made so that the Commissioners can get fully
13 rounded testimony on this issue.
14 Now, if that's an acceptable approach on this
15 issue, I'd like to proceed on that. Does anyone have any
16 serious objections to that?
17 COMMISSIONER BURTON: I just need at some point,
18 before 1:30, a chance to make a phone call to rearrange my
19 schedule. It sounds like the 45 plus 45 puts us past
20 1:30.
21 CHAIRMAN MC CARTHY: We'll take a 90-second recess.
22 COMMISSIONER BURTON: That'll be fine.
23 CHAIRMAN MC CARTHY: All right. Then, may I first
24 have the pleasure of inviting up to testify Assemblyman
25 Jack O'Connell, who represents Santa Barbara County.

1 ASSEMBLYMAN O'CONNELL: Thank you very much,
2 Mr. Chairman and members of the Commission. I appreciate
3 the time that you've put in on this already; the focus
4 that you've given this is very gratifying for all of us
5 that live in the area. And also to your staff; your
6 staff's practically been living in the area trying to work
7 on the four options that Mr. Warren so eloquently that's
8 before us.
9 UNIDENTIFIED SPEAKER IN AUDIENCE: Turn the mike
10 up, please.
11 ASSEMBLYMAN O'CONNELL: I'm speaking on behalf
12 of both myself and Senator Gary Hart. We have submitted
13 written testimony, and I'd like to just briefly summarize
14 our testimony.
15 As you know, the oil development and the
16 transportation issues in our area have been long-standing
17 concerns. And we believe that the Commissioners should
18 first deny the Lease Option 1, which Mr. Warren stated,
19 on the following grounds: That insufficient environmental
20 information has been accumulated thus far; notwithstanding
21 the staff findings, we believe that the EIR submitted for
22 approval on the Point Arguello tankering permit is not
23 sufficient for the questions that continue to arise as
24 a result of the application. Also, the inadequacy of the
25 data about the production levels, the varying degrees of

1 interpretations of the capacity levels and the availability
2 therein. And to date, we're not convinced that there is
3 inadequate capacity to currently carry the Point Arguello
4 crude through the existing pipelines from this area.
5 We're also concerned with the lack of a signed
6 throughput and deficiency agreement, also which Mr. Warren
7 stated. And, as the Commissioners, oil producers made a
8 commitment a decade ago to transport this crude from
9 Point Arguello by pipeline. Since then, they have expended
10 considerable capital in attempting to try to circumvent
11 that earlier commitment. And the incompatability with
12 Santa Barbara County's local coastal plan is also a
13 concern for many of us in the community.
14 And in 1987, the County of Santa Barbara approved,
15 as the sole consolidated marine terminal, Exxon's Las
16 Flores Canyon Marine Terminal, and that designation remains
17 current to this day.
18 As an added note, we're also concerned with the
19 level of inaccurate information that has, unfortunately,
20 been circulated during this process and throughout the
21 earlier Coastal Commission process where Senator Hart and
22 I also provided testimony. And for that reason alone,
23 we would urge the Commissioners to, at minimum, exercise
24 extreme caution in considering this lease.
25 In an absence of an outright denial of the lease,

1 we request that the Commissioners delay a decision until
2 you have had an opportunity to further deliberate the
3 outcome of the forthcoming Coastal Commission meeting,
4 which Mr. Warren also referenced.
5 The action on that could affect the potential
6 revocation of the permit to tanker oil in the Santa Barbara
7 Channel.
8 In any case, the lease that could be granted
9 should contain the following conditions, which we believe
10 to be not only necessary, but also extremely reasonable,
11 to ensure the health and safety of the people of this
12 community be preserved.
13 Line 63, which was mentioned, does have the
14 capacity to be fully utilized before any tankering can
15 occur, and a limit of the 50,000 barrels per day should
16 be placed on the terminal capacity.
17 We also believe that the users of the terminal
18 should be required to complete and sign the unconditional
19 throughput and deficiency agreements, which have yet to be
20 forthcoming, for the pipeline construction prior to any
21 tankering. And also the users of the terminal should know
22 with certainty that the permit will not continue past
23 January 1st, 1996, regardless of any real or imagined
24 extenuating circumstances.
25 I hope that the Commissioners will seriously

1 consider our reuqest and those similar requests that'll
2 be forthcoming before you here this afternoon. I know
3 that the issue is very complex. And, again, I appreciate
4 the time that not only the Commissioners have put in on
5 this issue by the thorough understanding, but also that
6 of your staff. And in behalf of Senator Hart and
7 myself, thank you for your time.
8 CHAIRMAN MC CARTHY: Thank very much,
9 Mr. Assemblyman. Any questions of the Assemblyman?
10 ASSEMBLYMAN O'CONNELL: Thank you very much,
11 Lieutenant Governor. Thank you.
12 CHAIRMAN MC CARTHY: We've identified the
13 proponent's side of the matter before us, and we have
14 arranged the witnesses that turned in these requests
15 to testify in the following order:
16 Mr. Jim Shamas, President of Texaco; Mr. Dan
17 Mihalik, Manager of the Gaviota Terminal Company;
18 Mr. Andy Moynagh of the Building Trades and Colab Council;
19 and Mr. Richard Kasa, President of the Essence Engineering,
20 Inc., representing the California Energy Service &
21 Supply Association; Mr. Angelo Castagnola of the Gaviota
22 Interim Marine Terminal; Mr. Cliff Monyama, representing
23 the California Chamber of Commerce, Mr. Daniel Kramer,
24 the Acting Executive Director of the California
25 Independent Petroleum Association; Mr. Frank Marin of the

1 Coalition of Labor, Agriculture & Business of Ventura
2 County; Mr. Robert Foote, Vice President of Finance for
3 H & H Oil Tool Company, Inc. Forty-five minutes for that
4 group. My apologies if some of you get squeezed if
5 you're towards the end of that list. And we would like
6 to start now at the hour of noon with Mr. Shamas.
7 MR. SHAMAS: Thank you, Mr. Chairman and
8 Commissioners. We will try to hold our presentation to
9 30 minutes in the interest of time, or shorter, if we
10 can do that.
11 My name is Jim Shamus. I'm currently President
12 of Texaco Trading & Transportation, which is the
13 subsidiary of Texaco that has constructed a new state-of-
14 the-art terminal at Gaviota. I'd like to trace a little
15 bit about the history of that terminal.
16 I've been associated with it since 1977, when I
17 was Manager of Transportation for Getty Oil Company.
18 Getty Oil was merged into Texaco in 1984. In 1983, I
19 presented to the Getty executive committee a $15 million
20 brand new terminal to be constructed at the site of the
21 Gaviota Terminal.
22 Gaviota Terminal has been located where it is,
23 26 miles west of the City of Santa Barbara, since 1896.
24 In 1896, Tidewater Oil Company shipped asphalt crude to
25 China. We've gone back through the records; since 1896,

1 we can't find a recorded spill, accident, or
2 environmental incident at Gaviota Terminal.
3 In 1953, we modernized that terminal. We put in
4 the first vapor recovery system in the County of
5 Santa Barbara. We also invented a new color called
6 Gaviota Green, which we painted all the tanks to match
7 the surroundings and try to blend in.
8 When we appeared before the Santa Barbara
9 Planning Commission with our new terminal idea, a lot of
10 people didn't know that the terminal was out there. It
11 had been operating since 1896, and not many people knew
12 of its existence.
13 We donated three acres of land, along with the
14 Hollister Ranch, to support a school, a ten-acre school
15 across the highway from our terminal. That terminal is
16 now -- that school has now been moved and a brand new
17 modern school has been provided by the industry.
18 So, what I want to address today is a little bit
19 about good faith, a little bit about what we've learned.
20 We shut down that terminal in 1985. It was then loading
21 from one to two tankers a month. We've spent more than
22 $60 million on a brand new terminal. The vapor recovery
23 and balancing system designed by Exxon that's been
24 employed at this terminal is duplicated nowhere else in
25 the world. It's the best state-of-the-art vapor recovery.

1 And we've checked every terminal that we can find; it's
2 the best there is.
3 We're very concerned about the environment and
4 about discharges into the atmosphere. And so, we've
5 done tanker modeling studies. All of the studies show
6 that we are far below the emissions which were allowed by
7 the County; even though we haven't been allowed to load
8 one barrel since we completed the terminal in 1989, we've
9 bought more than $2 million worth of air quality permits
10 so that we can improve the quality of the County.
11 We've also paid close to a million dollars in
12 fees to State Lands, even though we weren't allowed
13 to load one barrel of oil.
14 I want to address a little bit about the pipeline.
15 We in Texaco operate more than 20,000 miles of pipeline.
16 We have made two attempts -- one in 1982, with Chevron,
17 Getty, Arco, and Shell -- to build a pipeline from Emidio
18 to Los Angeles. We spent more than two years and a
19 million dollars trying to find permitting in viable
20 routes. We folded up that effort. We couldn't find a
21 pipeline route to Los Angeles.
22 In 1984, when we started looking at the Gaviota
23 development, Texaco, Chevron, and Arco spent more than
24 $6 million trying to find a pipeline route and a viable
25 way to get a pipeline into the City of Los Angeles.

1 Again, it came down to, after three years of
2 study and multimillion dollars, we couldn't find a way
3 to get a pipeline there.
4 As you know from the staff's report, there are
5 now three proposals. We're not against pipelines. Since
6 we operate more than 20,000 miles of them, we're certainly
7 for pipelines. The problem is, after our attempts, we're
8 not convinced the pipelines can be built into the
9 Los Angeles area; therefore, we're hesitant to back any.
10 As terminal partner and operator, we feel that
11 this is an issue that's already been addressed in front
12 of the Coastal Commission and is not proper.
13 What we're suggesting and wanting now is a
14 terminal permit to follow through with what we were
15 granted in 1985, before we spent the $60 million, and to be
16 able to load at what I consider to be the most
17 environmentally safe and state-of-the-art terminal in
18 the world.
19 Thank you.
20 CHAIRMAN MC CARTHY: Any questions of Mr. Shamas?
21 All right. Thank you, Mr. Shamas.
22 Mr. Mihalik?
23 MR. MIHALIK: Thank you very much, Mr. Chairman
24 and Commissioners. My name is Dan Mihalik, Manager of the
25 Gaviota Terminal Company project for Texaco Trading and

1 Transportation, the operator.

2 This terminal was built to satisfy the oil
3 storage and marine transportation requirements of OCS
4 production. Our project was approved by the County of
5 Santa Barbara for the express purpose of primary
6 transportation services, both pipeline and marine
7 terminal, for production as it comes on line at
8 Point Arguello.

9 I hope you become convinced today, if you're not
10 convinced already, that we have done everything possible
11 to provide the utmost in safety. As you know, the
12 facility will only use relatively small, 250,000 barrel
13 double-hulled tankers. Also, presently, in Southern
14 California, we feel the system that exists to respond to
15 oil spills is the best available.

16 The facility has been built using a safety
17 inspection, maintenance, and quality assurance plan
18 agreed upon by the various agencies, including the State
19 Lands Commission and Santa Barbara County. It's also
20 important to note that a tanker can only enter the Gaviota
21 Terminal under very restrictive, relatively mild weather
22 conditions.

23 On another subject, there were 283 permit
24 conditions on the original interim marine terminal project
25 in 1987. These were decided on after a very extensive

1 environmental impact report was completed.

2 In 1990, the County added 14 more conditions

3 after a marine emergency management study was completed.

4 In 1992, a supplemental EIR was completed. It

5 cost in excess of $1 million. And at that time, the

6 County added 30 more conditions. This was this past

7 summer. Your State Lands Commission staff was very

8 involved as part of the joint review panel in deciding

9 on these various conditions.

10 In addition to this, GTC has committed to an

11 extensive list of various plans which have the force and

12 effect of permit conditions. We literally have bookshelves

13 full of plans that have the force and effect of permit

14 conditions.

15 Your staff today is recommending that you

16 approve more conditions. And I'm fairly certain, after

17 being involved in this process for quite a long time, that

18 every issue imaginable having to do with marine safety,

19 having to do with pipelines has been studied as part of

20 this process.

21 We ask you to not cause further delays in the

22 startup of the Gaviota Terminal. If you do so, it will

23 jeopardize the significant compromise that occurred with

24 the Point Arguello Producers. As you know, the compromise

25 with the producers was based on the assumption that the

1 Gaviota Terminal would be allowed to start up relatively
2 soon, hopefully in June.
3 We ask you to support the basic lease option
4 presented in the staff report. But we also urge you to
5 delete two proposed requirements in the basic lease
6 option. They appear on page 22 of the staff report.
7 CHAIRMAN MC CARTHY: Do you want to refer to them
8 specifically?
9 MR. MIHALIK: Yes, sir. First of all, paragraph
10 H(1), this paragraph talks about the State Lands
11 Commission reviewing and approving a throughput and
12 deficiency agreement. And this would seek to interpose
13 the State Lands Commission's judgment on the adequacy
14 of the T & D agreement being signed by the shipper. This
15 approval process is already part of the Coastal Commission
16 permit.
17 And then in Paragraph H(2) --
18 CHAIRMAN MC CARTHY: Well, before you leave that --
19 MR. MIHALIK: Yes.
20 CHAIRMAN MC CARTHY: How does this requirement
21 differ from what the Coastal Commission has already
22 imposed as a condition?
23 MR. MIHALIK: I think the wording is virtually
24 identical, Mr. Chairman. The only difference is it adds
25 the State Lands Commission as a reviewing agency in

1 addition to the Coastal Commission.

2 Presently, the Coastal Commission's Executive

3 Director, I believe, reviews the adequacy of that

4 throughout and deficiency agreement.

5 CHAIRMAN MC CARTHY: Well, I might as well

6 introduce this statement as this point, just so witnesses

7 can address it if they wish. And I speak only as one

8 member of this Commission. If you want us to, in

9 balancing the equities in everything that will come

10 before us here, to consider what the Coastal Commission

11 has done, we will not give you a blank check. We will

12 not say, if the Coastal Commission decides to materially

13 alter the deadlines they have imposed -- I'll retract

14 the "we," I'll use "I." We will not simply say,

15 "Whatever the Coastal Commission does, we will endorse."

16 So, we don't know what's going to happen. I

17 don't know what's going to happen at the next Coastal

18 Commission meeting.

19 They have imposed three time lines here that

20 everyone is telling me on your side of the picture that

21 they're quite serious about meeting and will meet. Now,

22 that's very critical to me on how I decide on how I

23 decide on this issue. So, the way this is worded, we

24 don't require another meeting of the State Lands

25 Commission if the Coastal Commission is not going to

1 materially revise their deadlines. So, you don't --
2 Mr. Warren, help me on this one now. We don't necessarily
3 have to have a Commission meeting, but we have the option
4 of having a Commission meeting if the California Coastal
5 Commission materially revises its first requirements.
6 EXECUTIVE OFFICER WARREN: That is correct,
7 Mr. Chairman.
8 CHAIRMAN MC CARTHY: Go ahead, sir.
9 MR. MIHALIK: Thank you very much.
10 The other item on page 22 I'd like to point your
11 attention to -- it's paragraph H(2). This also deals with
12 throughput and deficiency agreement, and it deals with
13 other shippers, shippers other than Point Arguello. And
14 this would require any shipper in the future who received
15 a shipper's permit from the County or the Coastal
16 Commission after February of '94 to first sign a T & D
17 agreement. And there is no shipper that has gone through
18 the environmental review that has had the hearings, other
19 than the Point Arguello shippers. So, this applies to
20 another shipper. And I think it also is something that
21 would be most appropriate to delete. A slightly different
22 matter but, again, our position is to delete.
23 And let me just kind of give you our general
24 feeling on both of these. Both of these matters are
25 shippers' matters. One, paragraph H(1), deals with the

1 Point Arguello shippers. H(2) deals with other shippers,
2 certainly Exxon has applications possibly in the works.
3 But these are shippers' matters.
4 Inclusion in our lease would be fundamentally
5 at odds with the respective roles of the Coastal Commission
6 and the State Lands Commission. These are not terminal
7 matters, the marine terminal that's in front of you for a
8 lease today.
9 We believe that such matters are the province
10 of the County and the Coastal Commission and are beyond
11 the proper scope of the State Lands Commission's action
12 on the GTC lease. And we believe there is no legitimate
13 concern that the other agencies -- County and Coastal
14 Commission -- will not discharge their obligations as
15 they should.
16 The Coastal Commission is the reviewing agency
17 for this T & D agreement. Under paragraph H(1), you've
18 described -- again, under paragraph H(2), we don't have
19 any company in front of you or in front of any agency
20 right now with, you know, with an EIR complete or with
21 an application in front of you.
22 CHAIRMAN MC CARTHY: We'll address that when you
23 finish your points.
24 MR. MIHALIK: All right. I'm finished,
25 Mr. Chairman. One other just procedural matter that I'd

1 like to bring up with you.

2 Lastly, we understand that all of our

3 correspondence with your staff concerning this lease is

4 part of the administrative record of these proceedings,

5 and we'd like you or your staff to acknowledge that this

6 is correct.

7 CHAIRMAN MC CARTHY: It is correct.

8 MR. MIHALIK: Thank you very much.

9 CHAIRMAN MC CARTHY: Mr. Warren, would you

10 have your staff address that last point, please, on

11 Mr. Mihalik's remarks regarding H(2).

12 MR. HIGHT: Yes. Mr. Chairman, it was the

13 staff's thought that, if you so chose to take this

14 option, that the same conditions that apply to the

15 existing shippers should apply to any other shippers in

16 the future, and that it just put everybody on the same

17 level playing field.

18 CHAIRMAN MC CARTHY: Is that any objection to

19 that logic, Mr. Mihalik?

20 MR. MIHALIK: Well, regarding future shippers,

21 again, they haven't gone through the County process; they

22 haven't gone through the EIRs. I'm not sure what sort

23 of conditions are going to be put on them in addition to

24 T & Ds. It's too hard to predict at this point. I think

25 that your staff has made it clear that any other future

1 shippers that may want to use the Gaviota Terminal will
2 have to come to you or GTC will come to you for a lease
3 modification. And it's certainly a matter that could be
4 addressed at that time.
5 And I think it's most appropriate to address
6 when we come to you for a lease modification, if that
7 happens.
8 CHAIRMAN MC CARTHY: Is there any objection
9 to the view that any future shippers -- and I take it
10 we are anticipating there may be future --
11 MR. MIHALIK: Yes.
12 CHAIRMAN MC CARTHY: All right. -- other
13 shipment of oil from -- not from Point Arguello Producers
14 but from others. Is there any objection to the point that
15 any such future shippers should comply with the same set
16 of conditions materially that Point Arguello Producers
17 are being asked to comply with?
18 MR. MIHALIK: Yeah. I can't represent those other
19 future shippers.
20 CHAIRMAN MC CARTHY: I'm not --
21 MR. MIHALIK: But I think the point, Mr. Chairman,
22 is this: When another shipper comes in, he's going to be
23 faced with going through a whole process with the County,
24 the Coastal Commission. I don't know what the conditions
25 are going to be, but I think it's most appropriate to

1 look at them at that point, and then the State Lands
2 Commission, if they decide to make them consistent with
3 the Coastal Commission, they could. But we don't have
4 them in front of us.
5 COMMISSIONER DAVIS: Why would you want to
6 subject any future shippers to a less reigorous standard
7 than the existing shippers have been subjected to? Why
8 do you want to make it easier on future shippers than
9 we've already made it on existing shippers? What's the
10 logic in doing that?
11 MR. MIHALIK: I don't know that it would be
12 easier, Mr. Commissioner. I'm just not sure. I just
13 can't predict the future and what the Coastal Commission
14 permit is going to look like if some other shipper gets
15 it.
16 I think we just ought to have -- or the Commission
17 should have everything in front of them at that time and
18 make a decision. I don't think it's a decision that
19 the Commission needs to make now. And, you know, they
20 don't have the environmental impact report and all the
21 review for other shippers in front of them.
22 I don't know that I can answer whether it's
23 easier or harder. It's certainly a complex set of
24 circumstances and facts, and hard to predict the future.
25 COMMISSIONER DAVIS: I just would refer you to

1 Mr. Shamas' testimony, which I thought was quite cogent;
2 that, as time went by, partly due to developing
3 technology and the conditions increased rather than
4 diminished. And I would suspect, if anything, that would
5 be likely to happen in the future.
6 UNIDENTIFIED SPEAKER IN AUDIENCE: We can't
7 hear you.
8 COMMISSIONER DAVIS: I just challenged the
9 wisdom of asking us to delete Item 2, because it would
10 seem to suggest that we should treat future shippers
11 less vigorously than we've treated existing shippers.
12 And I noted your testimony, which I thought was quite
13 cogent, where you've clearly indicated that, as time went
14 by, standards and conditions increased, not diminished.
15 MR. SHAMAS: (From the audience) We don't think
16 the problem is making the playing field level, all the
17 conditions equal. We do have a problem -- I don't think
18 there's six people in this room who have ever seen the
19 20-page throughput and deficiency agreement (sic). We
20 do have a problem with having another hurdle to go through
21 with every T & D agreement having to be reviewed by
22 every agency. That was our point Dan made first.
23 But, secondly, we don't have a problem with
24 everyone having the same conditions. We think that's
25 fair. So, we just feel like that by putting it in there

1 in advance, you know, we don't really see the purpose of
2 that.
3 CHAIRMAN MC CARTHY: All right. If I may also
4 address this, I think the point of this is not to keep
5 creating additional hoops, but the point is to try to
6 get enough clarity on the point of whether anyone in the
7 future will attempt oil tankering or use whatever pipeline
8 or pipelines will ultimately be selected after an
9 economic judgment is made by the shippers using one or
10 two pipelines.
11 Now, I can't envision all of the circumstances.
12 But if there are oil companies who wish to ship in the
13 future that are not immediate parties to the matter
14 before us, if they want to come in, we're not so much
15 thinking about additional loopholes or trying to stop
16 them from doing their shipping, but rather in the other
17 direction. We're trying to maximize the use of the
18 pipline, and we're trying to make it clear that there
19 won't be oil tankering.
20 MR. SHAMAS: (From the audience) You know, we
21 believe in the date certain that's shown in our permit,
22 that that's when the tankering will stop.
23 CHAIRMAN MC CARTHY: We're not challenging that.
24 We're not on that point now. We can address that as they --
25 MR. SHAMAS: (Interjecting) If they're going to

1 come in, they're going to have to hurry to get in, because
2 we're looking at two years and six months, maybe. And
3 the thing we're worried about is if every agency reviews
4 the T & D agreement -- and I'm an engineer, but I also have
5 a law degree -- a lot of attorneys like to change things.
6 And if every one of them changes a 20-page agreement,
7 we'd never get approval of T & D agreements. So, you're
8 right when you mentioned other hoops to go through. We'd
9 just like to have a level playing field and one agency
10 approve all the T & Ds.
11 CHAIRMAN MC CARTHY: Is there any difference of
12 opinion that anybody who produces oil along this coast
13 is going to ship through the pipeline and is not going
14 to ship by tankers? Is there any difference of opinion
15 on that?
16 MR. SHAMAS: Ultimately?
17 CHAIRMAN MC CARTHY: Well, by the dates we're
18 talking about here.
19 MR. SHAMAS: Well, no. We don't have any
20 difference of opinion with the dates that are set out
21 in the lease.
22 CHAIRMAN MC CARTHY: All right. Now, what we want
23 to do is make it absolutely clear in the action that we
24 take here that that, in fact, is what we're reaching for.
25 We're not attempting to complicate the series of

1 governmental agencies that need to do this recurringly.
2 But we do want to make sure that there's no misunderstand-
3 ing here about the ultimate result of that. That by the
4 dates we're talking about, should this be the option
5 that's exercised -- it's the good faith that you indicated
6 in your opening remarks, Mr. Shamas that's needed all
7 around here -- these dates have meaning. Are they going
8 to be taken seriously; are they going to be complied
9 with? And will any other oil company that wants to ship
10 through these pipelines understand that there is no
11 oil tankering after this 1996 date?
12 MR. SHAMAS: (From the audience) Well, to my
13 knowledge, they all understand that. They've all seen the
14 terms and conditions. You know, Exxon is coming along at
15 a different pace than the Point Arguello Producers. But
16 I shouldn't speak for one of the world's largest
17 corporations. But they understand and have lots of
18 people who can read, too.
19 COMMISSIONER DAVIS: Can I ask a related
20 question? You said in your testimony, Mr. Shamas -- and
21 I meant to ask you at the time, but it didn't occur to me
22 until after you left the podium. You mentioned the
23 difficulty you had in 1982 and in 1984 in trying to
24 develop plans to site pipelines to Los Angeles.
25 Why do you think you'll be successful in doing

1 that by January 1, 1996, when you were unsuccessful
2 in '82 and '84?
3 MR. SHAMAS: Well, those conditions grew out
4 of three or four months of negotiations. We, the industry,
5 had tried it. We, the industry, didn't think that the
6 All American Pipeline would ever be built. And, yet, it
7 was constructed. So, we really can't say "can't be,"
8 and the Southern Pacific people, the railroad -- the
9 people that have the railroad right-of-way -- seem to have
10 one of the things we could never overcome. We couldn't --
11 the last part of our pipeline, after we closed our
12 $6 million study, went down the middle of Western Avenue
13 for about 10 miles. And we were told by the City of
14 Los Angeles that wasn't very practical.
15 And so, we finally gave up after three years and
16 $6 million. They have a different way in. The Line 90
17 reversal is a different way in that we didn't have available
18 to us. And the Cajon is even a third way. So, we're going
19 to try to back something that has a real good chance of
20 being successful.
21 But we had two attempts where we struck out both
22 times. I didn't want the inference to be left that we
23 didn't try to do that, because we certainly did. And I
24 was involved. And after you keep putting more money and
25 more money and 27 or 28 different agencies tell you you can't

1 get into Los Angeles, then you finally give up. So, that
2 was all I was trying to say.
3 COMMISSIONER DAVIS: So, would I be correct
4 in deducing that there may be a pipeline constructed by
5 January, 1996 --
6 MR. SHAMAS: There better be --
7 COMMISSIONER DAVIS: -- but there may not be.
8 MR. SHAMAS: -- because we're going to shut the
9 terminal down.
10 CHAIRMAN MC CARTHY: Did vou hear his alternative?
11 COMMISSIONER DAVIS: Yes. In other words --
12 CHAIRMAN MC CARTHY: There may or may not be.
13 MR. SHAMAS: Right.
14 CHAIRMAN MC CARTHY: Did you hear it?
15 COMMISSIONER DAVIS: No. I'm saying that I
16 think it's important that everyone realize that these
17 discussions, which began back in 1983, before -- at least
18 before I was on the Lands Commission, but I had just been
19 elected -- were all premised on the Gaviota Terminal being
20 built and the oil being shipped by pipeline.
21 Now, you've run into a lot of hurdles, presumably
22 not of your making. And I have some empathy for the
23 difficulties you've faced. But this lease assumes that
24 something will be built by January, 1996. And what I just
25 said was that I think it's important to realize that it

1 may be built; it may not be built. Would you quarrel
2 with that characterization?
3 MR. SHAMAS: No, I think that's exactly true.
4 I might also add that when we proposed this in 1983,
5 we had a 30-inch pipeline that went from Gaviota over to
6 Emedio. When All American called us and said, "Could we
7 use that same route," we said, "Fine. Go ahead and use
8 it. We don't think we're going to be able to build it."
9 And then they built it and showed us they could
10 get through the National Forest, and they did it.
11 So, I'm here to tell you that we believe those
12 dates are real. And I can't speak for the producers.
13 They'll have to cut back production; they'll have to take
14 whatever actions are necessary, or they will have had to
15 have chosen a viable pipeline in time to meet the end of
16 January, 1996.
17 COMMISSIONER DAVIS: Just one final question.
18 Recognizing the difficulty you faced in the eighties,
19 why wouldn't you sign a throughput agreement conditioned
20 on obtaining the permits? In other words, why wouldn't
21 you enter into --
22 MR. SHAMAS: (Interjecting) We could do that,
23 but it's not meaningful. T & D agreements are taken to
24 the bank. And the bank says, "All right. We'll look at
25 the credits you've got. Six people have signed it. Here's

1 a strong one. Here's one that we think is in financial
2 trouble. And then they take and they value that, and
3 they'll loan you a hundred million, 200 million, whatever
4 you're seeking.
5 If you go to them with a conditional, then
6 they're not going to loan you any money. It's got to be
7 ironclad.
8 And so, conditional T & D agreements don't do
9 much good. We could give them out to each one of the
10 three competing things, and they'd be meaningless until
11 they got all their permits and could convince a bank that
12 they were really going to go into construction.
13 COMMISSIONER DAVIS: So, a T & D agreement
14 is really not appropriate until the pipelines have been
15 permitted?
16 MR. SHAMAS: Till you know that you can build
17 a pipeline, that's when T & D agreements are really
18 important. Then you go to a bank for some money. Or,
19 really, in this case, it'll be five, or six, or ten banks
20 that come together to finance it.
21 COMMISSIONER DAVIS: But you wouldn't have any
22 objection to signing one that -- on a conditional basis,
23 even though I understand you to mean that no bank would
24 lend any money based on that?
25 MR. SHAMAS: We offered that -- there's some people

1 here in the crowd -- way back when these negotiations
2 started, and then it was decided through the three or
3 four months of negotiations that conditional T & D
4 agreements really weren't worth it.
5 COMMISSIONER DAVIS: Charlie, is that your view?
6 EXECUTIVE OFFICER WARREN: It's my view that
7 the purpose of the T & D agreement is to enable the
8 pipeline proponent to obtain the necessary financing for
9 construction. And that, if it's conditioned, that that
10 financing will not be forthcoming.
11 COMMISSIONER DAVIS: But it is a demonstration
12 of good faith if you're willing to sign that agreement.
13 EXECUTIVE OFFICER WARREN: There is the -- at one
14 time, staff was giving consideration to the possibility
15 of having conditional T & D agreements signed with each
16 of the three pipeline proposals. Because of -- well, for
17 reasons which Mr. Shamas has indicated and others, we
18 abandoned that alternative, because we felt and were so
19 informed that the entire arrangement would be collapsed.
20 We didn't -- consequently, we concluded that
21 the limited value of pursuing that option was not worth
22 the effort to be made, that seemed to be necessary to
23 push it.
24 We favored -- we thought that, inasmuch as there
25 were only ten months --

1 CHAIRMAN MC CARTHY: Can you hear back there?
2 EXECUTIVE OFFICER WARREN: -- inasmuch as there
3 were only ten months between now and February 1, and
4 inasmuch as at least two of the proposed pipelines appeared
5 to be on the verge of obtaining necessary permits,
6 conceivably, we would -- a full T & D agreement could be
7 executed months before the February 1 date. For example,
8 we understand that Pacific Pipeline to be within four to
9 eight weeks from receiving a PUC permit. By receiving
10 a PUC permit, we understand that Pacific Pipeline would
11 then be entitled to the designation of a utility, and being
12 a utility, could push its pipeline -- it could overcome
13 local objections, any local objections to the construction
14 of the pipeline.
15 On the other hand, Line 90 reversal is a pipeline
16 that already exists. It has the permits. The only
17 thing I understand that would be necessary for Line 90
18 is for there to be some agreement on the tariffs that it
19 will -- it will take one to two years to put -- to install
20 necessary pumps and stations on Line 90, but that could
21 be done.
22 But the question is, is Line 90 the preferred
23 pipeline? The producers make the point that within the
24 next few months, that question will be -- could be better
25 answered. Line 90 might not be the best way to go because

1 of limitations on capacity and other reasons.

2 MR. SHAMAS: Mr. Chairman, you can tell from all

3 the confusion that this is not a simple solution. And

4 what we've asked you to do is let that be the Coastal

5 Commission's problem. We, the terminal who are not the

6 producers, would just like to have a straight State Lands

7 lease. And those other things will have to work out,

8 however they work out, in the next five or six months.

9 EXECUTIVE OFFICER WARREN: Let me speak to this

10 one point, if I may, Mr. Chairman and members.

11 Mr. Shamas and Mr. Mihalik seem to indicate that

12 we have no option other than to give a lease, an open

13 lease for the operation of the terminal, and have no

14 interest in imposing conditions; we would accept whatever

15 conditions are imposed by some other agency. We're

16 dealing here with a lease of State property. And we have

17 an -- it seems to me we have the responsibility of seeing

18 to it that known State policies are implemented by us in

19 the execution of that lease.

20 We have a further interest here of a proprietary

21 nature. We have some assets offshore of a considerable

22 amount. Conceivably, sometime in the future, the State

23 will determine that it might be worthwhile to develop

24 those mineral assets. It is clear to me at this time,

25 however, that if those development opportunities are to be

1 pursued, it will have to be within the context of a
2 pipeline transportation.
3 So, the State Lands Commission, in the interests
4 of its own responsibilities, should ensure that there will,
5 in fact, a construction of a pipeline.
6 Now, this H(2) condition, which seems to be
7 troubling the lease applicants, I don't know why they
8 should be bothered. Another producer group should be --
9 perhaps should be troubled by this lease condition, but
10 the terminal operator shouldn't be inhibited or troubled
11 by this condition. It's really none of their business.
12 But it is ours.
13 CHAIRMAN MC CARTHY: Yes, except that they want
14 as many companies pumping as much oil as possible through
15 those pipelines, because it affects the price that they
16 pay.
17 And we, on the other hand, want the other side
18 of the coin, a guarantee that there's no slippage anywhere
19 for oil tankering under circumstances that even we, in our
20 wisdom, may fail to envision.
21 EXECUTIVE OFFICER WARREN: I think that's a
22 legitimate and responsible exercise of our responsibility.
23 CHAIRMAN MC CARTHY: Commissioner Burton.
24 COMMISSIONER BURTON: I had a question. It
25 seemed to me that the reason these issues were being raised

1 had to more to do with potential time delays than with
2 any intention of trying to get around Commission staff.
3 Because it's clear the applicant has accepted these
4 conditions from the Coastal Commission.
5 And so, my question -- it seemed to me the
6 point is that there is a question about how long it would
7 take for our staff to determine that the T & D agreement
8 is, quote, "adequate"?
9 Because the phrase here says that, ". . .determined
10 to be adequate by the Commission staff." And I'm
11 assuming in the Coastal Commission case, it was meant
12 to be the Coastal Commission. And you're supplanting or
13 adding that it be adequate -- be determined to be
14 adequate by our staff as well.
15 So, my question is: Do our staff have any
16 different way of determining adequacy of the T & D
17 agreement than the Coastal Commission staff has, or is
18 that something that could be jointly done in order to
19 expedite meeting the time lines?
20 What was envisioned when you put this in here?
21 EXECUTIVE OFFICER WARREN: Well, what was -- first
22 of all, if I may say, the lease requires staff to do
23 a 20-day turnaround on T & D review. So, if staff makes --
24 that's 20 days within which to make that review. If for
25 some reason they would find the T & D agreement to be

1 unacceptable, then I assume the matter would be brought
2 to your attention.
3 But what we had in mind here, frankly -- and
4 this is -- I cannot underscore the importance of this
5 component in the whole mix -- is that there is a widespread
6 suspicion on the part of a number of folks and
7 organizations that the -- that the producers will in the
8 future seek an opportunity to amend or vary the terms of
9 the Coastal Commission's permit; that they will concoct
10 some excuse for not complying with the terms of the
11 Coastal Commission's permit; that they will then petition
12 the Coastal Commission for an amendment relieving them
13 from the burdens of these way points, and then we will
14 have nothing to say about it.
15 And because of thelength of this controversy and
16 the nature of the controversy, these suspicions exist.
17 And this is our effort, I think, to assure folks that in
18 the event we concur with the terms of the present
19 Coastal Commission's shipping permit, that those conditions
20 will not change -- cannot be changed exclusively by the
21 Coastal Commission, but will also be subject to review
22 by you folks.
23 COMMISSIONER BURTON: Okay. More specifically,
24 though, are you uncomfortable with the adequacy of the
25 Coastal Commission's staff review of the T & D agreement,

1 so that you feel it's necessary for your staff to
2 also have review and a determination of, quote, "adequacy"?
3 EXECUTIVE OFFICER WARREN: You ask me an
4 embarrassing question.
5 COMMISSIONER BURTON: Thereby adding another
6 month's --
7 EXECUTIVE OFFICER WARREN: Do we have confidence
8 in the ability of the Coastal Commission staff to do an
9 objective and thorough review of a T & D agreement?
10 COMMISSIONER BURTON: To determine adequacy,
11 which is what this says.
12 Okay.
13 COMMISSIONER BURTON: Want to go into closed
14 session?
15 (Laughter.)
16 EXECUTIVE OFFICER WARREN: Well, perhaps my
17 pause is answer enough.
18 COMMISSIONER BURTON: Let me put it a different
19 way.
20 CHAIRMAN MC CARTHY: All right. Answer it a
21 different way.
22 MR. SHAMAS: You know, this is exactly what we're
23 worried about. Every attorney on every staff wants to
24 look at it. Every attorney has a certain favorite phrase
25 that they like to use. And in the end -- at the end of

1 the day, it doesn't matter what every one of those
2 attorneys did, because either the financial institutions
3 are going to accept them or they're going to turn them down.
4 And if you didn't write them the way they think
5 they should be written, they're not going to loan you
6 the hundred million dollars.
7 So, we don't feel that this is the appropriate
8 thing to be in a request for State Lands lease. We want,
9 because we were led to believe if we modernized, we put
10 a new 30-inch line -- further adding to the water, we
11 put two new 12-inch lines to recover vapors. We spent
12 $8.5 million on vapor recovery. We put the best system
13 in the world in. And now, somebody wants to change the
14 rules and inject producer issues into this. This is not
15 the right thing to do.
16 I'm not against the State having other prospects
17 of other people that would use a pipeline. We think
18 pipelines are very safe, or we wouldn't have so many
19 miles of them.
20 But you're changing the conditions. You're
21 making what could be a rather simple lease into a very
22 complicated thing. I don't know if that's another attorney
23 calling or what! (Speaking of ringing telephone)
24 (Laughter.)
25 MR. SHAMAS: So, our plea is don't get us enmeshed --

1 don't get us enmeshed in all of these other issues that
2 were between the Coastal Commission and the producers.
3 COMMISSIONER DAVIS: Mr. Shamas, with all due
4 respect, I've dealt with Texaco in many different
5 capacities for many years. They're a very fine company.
6 But it's not fair to come before us and say
7 you've accepted the Coastal Commission terms, when, in
8 fact, you've sued the Coastal Commission challenging the
9 validity of its lease, and then, say, "Don't you,
10 Lands Commission, tinker with the Coastal Commission,
11 because we think that's just fine. Forget the fact that
12 we've sued them, because we'll drop that suit as long as
13 we get you to sign it off."
14 I mean, this has to all be done in good faith.
15 And we may or may not agree with what the Coastal
16 Commission did, but I don't think you can come before us
17 and say, "We're happy with the Coastal Commission. Don't
18 change a thing. Oh, by the way, we got a lawsuit against
19 them, because we think they acted illegally."
20 MR. SHAMAS: We've had to file, from the time I
21 started on this, 12 lawsuits to protect our interest, not
22 because --
23 COMMISSIONER DAVIS: No, I mean, just looking at
24 it from our perspective --
25 MR. SHAMAS: -- we ever wanted things to happen.

1 But everytime we would do something, someone else would
2 change something. So, to preserve those rights, we've
3 kept the attorneys of California employed to the full
4 extent possible.
5 (Laughter.)
6 COMMISSIONER DAVIS: And we may follow your lead.
7 CHAIRMAN MC CARTHY: Suppose we put a time limit
8 on our own staff review of this.
9 EXECUTIVE OFFICER WARREN: There is a time limit,
10 Mr. Chairman, 20 days.
11 COMMISSIONER BURTON: Where is that?
12 MR. SHAMAS: Does it run concurrent with --
13 CHAIRMAN MC CARTHY: Excuse me. Point to where
14 that is.
15 MR. HIGHT: It's in the lease between the
16 Commission and the terminal company, which you don't have
17 and I can give you a copy.
18 CHAIRMAN MC CARTHY: Is that a problem for
19 you, Mr. Shamas? 20 days?
20 MR. SHAMAS: If it could run concurrent with some
21 other reviews, it'd be great. But if the County took
22 20, and the Coastal Commission took 20, and the State
23 Lands took 20, two months are gone.
24 EXECUTIVE OFFICER WARREN: It's 20 days after we
25 receive it. So, as soon as they get it to us, we have 20

1 days.

2 COMMISSIONER BURTON: Okay. And then, what

3 happens if you find it, quote, "inadequate"?

4 MR. HIGHT: Then we would come to the Commission

5 with that issue, and you would be the ultimate

6 arbitrator.

7 CHAIRMAN MC CARTHY: So, within 20 days after

8 our Commission staff receives the T & D -- proposed T & D

9 agreement, we'll have a response to you, specific

10 response.

11 MR. SHAMAS: Could there be another 20 days until

12 the final action?

13 CHAIRMAN MC CARTHY: That will depend upon the

14 members of the Commission. But if this materially

15 meets the statutory obligations of this Commission to

16 serve the public with what are our clear mandates, we

17 won't automatically set a Commission meeting.

18 MR. SHAMAS: Okay.

19 CHAIRMAN MC CARTHY: Two other members of the

20 Commission could overrule me on that. But it would not be

21 my assumption that we would set a Commission meeting

22 unless there are significant problems in the proposed

23 T & D agreement that our own staff points out to us.

24 EXECUTIVE OFFICER WARREN: On that point,

25 Mr. Chairman, the lease provision specifies that in the

1 event the staff determines the throughput agreement to be
2 insufficient, the lessee has the right to request the issue
3 to be brought to the Commission. And we do so within
4 five days after that request has been filed.
5 COMMISSIONER DAVIS: And there's nothing to
6 prevent you from submitting that to all the agencies
7 and look at it at the same time?
8 Am I right about that, Charlie?
9 EXECUTIVE OFFICER WARREN: Yes, sir.
10 COMMISSIONER DAVIS: In effect, that would be
11 running concurrently.
12 COMMISSIONER BURTON: Thanks, I understand it
13 better.
14 CHAIRMAN MC CARTHY: Thank you, Mr. Shamas.
15 Mr. Mihalik, do you have a comment?
16 MR. MIHALIK: Yes, Mr. Chairman, just one
17 procedural issue. If it would please your Commission,
18 we would appreciate just a very short moment at the end
19 to rebut or discuss any comments?
20 CHAIRMAN MC CARTHY: I don't know if you were in
21 the room when I announced it, but after both sides have
22 roughly 45 minutes -- which may be a little longer than
23 45 minutes -- to present their main case, case in chief
24 for those in the legal profession -- then there will be
25 a chance for rebuttal.

1 MR. MIHALIK: Thank you.

2 CHAIRMAN MC CARTHY: Incidentally, those of you
3 among the proponents of this application, I wanted to
4 ask, are there any pipeline company representatives in
5 this audience? All right. Which pipeline companies
6 do you represent?

7 UNIDENTIFIED SPEAKER IN AUDIENCE: Four
8 Corners Pipeline.

9 UNIDENTIFIED SPEAKER: All American Pipeline
10 Company.

11 CHAIRMAN MC CARTHY: All right. So that's Line 90
12 reversal option.

13 EXECUTIVE OFFICER WARREN: And 63.

14 CHAIRMAN MC CARTHY: And 63. All right. I
15 take it that the proponents, as a group, the Point
16 Arguello Producers, would create a company to build
17 the Pacific Pipeline, or is that some other entity? How
18 does that come about?

19 MR. HIGHT: It's another entity entirely,
20 Mr. Chairman, that they would contract with.

21 CHAIRMAN MC CARTHY: The railroad company --

22 MR. HIGHT: Yes.

23 CHAIRMAN MC CARTHY: -- that owns the right-of-way.
24 All right. Are they represented here? The railroad
25 company represented here?

1 UNIDENTIFIED SPEAKER IN AUDIENCE: The
2 producers are represented here, however.
3 CHAIRMAN MC CARTHY: All right. The next
4 speaker for the proponents is Andy Moynagh. Thank you,
5 Mr. Moynagh.
6 The pipeline from Four Corners did not ask to
7 testify. If you have something you'd like to say, we'd
8 welcome your testimony. Not at this moment. I'd be
9 happy to call you up.
10 Are you able to testify?
11 UNIDENTIFIED SPEAKER: If I could just clarify
12 what you're asking. We will testify if there are any
13 misstatements or you need any clarification. But all of
14 our testimony has already been submitted. We have nothing
15 further to say at this point in time.
16 MR. SECUNDY: I'm Jerry Secundy, President of
17 Four Corners Pipeline.
18 CHAIRMAN MC CARTHY: Mr. Secundy, let me just
19 ask you -- I'll pose to you one question, and then you
20 can decide whether you ought to answer it representing
21 your company after we go through the other witnesses.
22 The question is: Within the time limits that the
23 Coastal Commission adopted for action by the producers to
24 ship through pipelines, within those time limits, can you
25 conceive of any reason why your company could not make

1 the changes necessary to increase capacity so that the
2 producers, if they chose -- they're obviously going to make
3 the best bargain they can through a couple of pipeline
4 companies. If they chose to do so, if they get a
5 competitive price from you, is there physically or in
6 any other way any obstacle that would prevent the use of
7 your pipeline, your company's pipeline by the dates we're
8 talking about that the Coastal Commission adopted and
9 that we have before us?
10 MR. SECUNDY: If you mean the date of January
11 1st, 1996, there is no physical obstacle that I'm aware
12 of that would prevent us from reversing the pipeline
13 and adding additional pumping capacity to have either
14 a throughput of a hundred thousand barrels a day or 70,000
15 barrels a day to Los Angeles.
16 CHAIRMAN MC CARTHY: All right. Don't answer
17 this now, because we're going to go through the rest of
18 the witnesses, then I'd like you to give a considered
19 response. Are there any other reasons, problems of
20 permits you have to obtain from different governmental
21 agencies, any other reason you could reasonably anticipate
22 that would block you from being able to pump oil through
23 your line at a hundred thousand barrels daily capacity
24 by the January 1st, '96 date?
25 MR. SECUNDY: Not that I'm aware of.

1 CHAIRMAN MC CARTHY: Thank you.

2 Mr. Moynagh.

3 MR. MOYNAGH: Good afternoon, Mr. Mc Carthy,

4 Mr. Davis, Ms. Burton, staff members. I am Andrew Moynagh,

5 Executive Secretary of the Santa Barbara Building

6 Trades Council, Vice Chair of the Coalition of Labor,

7 Agriculture, and Business for Santa Barbara County, and

8 Vice Chair of the Tri-County Central Labor Council.

9 The Building Trades Council is comprised of 36

10 affiliates, 6,000 per capita paying members. The

11 Coalition has in excess of 1,000 business, organizational,

12 and individual members.

13 The Tri-County Central Labor Council represents

14 about 30,000 individuals in the three counties --

15 Ventura, Santa Barbara, San Luis Obispo. I'm here today

16 on their behalf. We have for years now watched the

17 Gaviota Marine Terminal and other projects, such as

18 the Hyatt and some other larger scale projects within the

19 community. They have perhaps become somewhat of a

20 symbol of our concern, that despite meeting the most

21 rigorous and stringent of conditions that agencies can

22 require, these projects are either denied, delayed, or

23 are not able to operate to profitability.

24 The Gaviota Marine Terminal has had to -- pardon

25 me -- has had to submit to years of additional permitting

1 demands. And despite having been deemed to have
2 mitigated to the maximum extent possible back in 1987,
3 we are at it again.
4 These are the types of activities that have
5 created our rather user unfriendly persona, this same
6 persona that now impedes economic recovery, not only in
7 Santa Barbara but throughout the State of California.
8 A $60 million investment deserves every opportunity
9 to return to its investors a reasonable profit. Concerns
10 for capital investment should relate only to
11 performance. And we want to express our confidence in
12 the performance of the terminal at this time.
13 Community success has become our common
14 denominator, and we would hope that you would join us
15 in our success efforts by granting to the applicant the
16 requested lease.
17 Thank you for your time.
18 CHAIRMAN MC CARTHY: Thank you. Any questions?
19 Thank you very much.
20 Mr. Richard Kasa, representing the California
21 Energy Service & Supply Association. Mr. Kasa, welcome.
22 MR. KASA: My name is Richard Kasa, and I'm
23 President and owner of Essence Engineering and, as was
24 mentioned, I'm representing California Energy Service &
25 Supply Association.

1 This is an amalgamation of a number of companies
2 that provide services and supplies to the oil and gas
3 production business.
4 I'm a State Licensed Professional Engineer
5 and have offices and employees in both Ventura and
6 Santa Barbara Counties. I firmly believe that the
7 majority of people in our area do not oppose this project.
8 We are both for jobs and the environment. It's my
9 professional opinion that the GTC project is the most
10 highly conditioned project of its type in the United
11 States and most likely the world.
12 This terminal is state of the art in every
13 category, whether it be operational safety, emergency
14 preparedness, or environmental mitigation. It's not
15 inconsequential to note that there has been no spill of
16 product at the Gaviota Marine Terminal throughout its
17 entire history. I'm simply asking the Commission to grant
18 the lease consistent with the permits already granted
19 by the Coastal Commission.
20 I further ask that the Commission resist attempts
21 to add additional and unreasonable conditions on this
22 lease based on tactics and emotional appeals that have
23 little basis in fact.
24 Specifically, adding any additional, or
25 unnecessary, or unworkable conditions will likely

1 jeopardize the compromise so painstakingly worked out
2 among the producers and the various agencies.
3 I would not like to see this Commission supersede
4 or usurp the authority of the County of Santa Barbara or
5 the Coastal Commission in their work on future permit
6 actions. As I'm sure you know, this permit has had
7 permits -- this project has had permits since 1987, but
8 has never transferred a drop of oil to a tanker.
9 Opponents have taken every opportunity in the
10 intervening years of delay to throw up additional
11 roadblocks for this project. Please don't be misled
12 by carelessly used and poorly understood information
13 being presented by project opponents. This is a sound
14 project, mitigated to the maximum extent, feasible, and
15 should be approved to proceed without further delay.
16 Thank you.
17 CHAIRMAN MC CARTHY: Thank you, Mr. Kasa. Any
18 questions of Mr. Kasa?
19 COMMISSIONER DAVIS: Yeah, I have a question.
20 I was struck by your line about, "Please don't usurp the
21 authority of the County of Santa Barbara." I'd be
22 delighted to support the conditions that the County of
23 Santa Barbara wanted, but those were usurped by the
24 Coastal Commission, which you're trying to usurp through
25 a lawsuit now. So, I find it kind of ironic you come to us

1 and say, "Please don't usurp the conditions of the
2 County of Santa Barbara."
3 MR. KASA: To clarify, what I was talking about
4 is the future permit actions on other shippers.
5 COMMISSIONER DAVIS: Are you talking about H(1)
6 and H(2)?
7 MR. KASA: Correct. Other shippers' permits
8 could be conditioned differently than your Commission
9 has proposed. And maybe "usurp" is a strong word, but
10 I would hesitate to -- I would like to see, as the Gaviota
11 Terminal people would, I would like to see the process
12 worked through by all other applicants to create the
13 level playing field that we, I think, all desire.
14 Thank you.
15 COMMISSIONER DAVIS: Thank you.
16 CHAIRMAN MC CARTHY: Thank you, Mr. Kasa.
17 Mr. Castagnoli. Castagnola, pardon me. San Franciscans
18 should not pronounce that name.
19 MR. CASTAGNOLA: Mr. Chairman, Commissioners,
20 my name is Angelo Castagnola. My family has been in the
21 fishing business and operating workboats in California
22 for 80 years. Like most fishermen, I use radar. In fog
23 or at night, it is an essential aid to navigational
24 safety.
25 I want to talk about the radar system that GTC

1 will install as part of this project and how it will
2 have a positive effect on my industry.
3 Let me quote from a letter written by the
4 Southern California Trawlers Association to Santa Barbara
5 County regarding GTC's permit for a conditional use
6 permit to install the radar system at Gaviota. I quote:
7 "It is SCTA's position that
8 construction of a radar facility at
9 the Gaviota Marine Terminal will not harm
10 fishermen, but will assist navigational
11 safety for all mariners in the area.
12 "Radars aren't new to the fishing
13 industry. They've been around for 50
14 years and nearly every vessel has one. In
15 addition, high-powered radar systems, like
16 in San Francisco Bay, Los Angeles Harbor,
17 and Long Beach Harbor, are used to guide
18 oil tankers and commercial carriers safely
19 in and out of port. A radar system on
20 Platform Harvest off Point Arguello also
21 helps large vessels avoid potential danger.
22 Fishermen have never complained of any of
23 these facilities and, to SCTA's knowledge,
24 nobody has ever been injured by them."
25 End quote.

1 I am in complete agreement with the letter and
2 believe it accurately reflects the view of the vast
3 majority of fishermen and mariners. After years of
4 study and mitigation, the Gaviota Interim Marine
5 Terminal must be considered the most heavily conditioned
6 project of its kind ever. Well over 300 environmental
7 conditions have already been placed on the project, yet
8 opponents argue that mitigation is required and urge you
9 to delay permitting the project yer again.
10 I believe it is time to go forward and stop
11 standing in place. This is a state-of-the-art marine
12 terminal using the best vessels available.
13 I urge you to grant the lease for this project
14 consistent with the Coastal Commission permit. Thank you.
15 CHAIRMAN MC CARTHY: Thank you, Mr. Castagnola.
16 Thank you very much.
17 Mr. Cliff Moryama, representing the California
18 Chamber of Commerce.
19 (Thereupon, a woman came to the podium.)
20 CHAIRMAN MC CARTHY: Hi, . . .Cliff.
21 (Laughter.)
22 MS. NERA: Mr. Chairman, Commission members,
23 my name is Valerie Nera, and I'm standing in for Cliff
24 Moryama. I'm also a policy director for the California
25 Chamber of Commerce.

1 I'm here today to show our support for the
2 approval of the Gaviota Terminal project. Many businesses
3 inside and outside of California view this project as an
4 example of how government agencies discourage
5 businesses in California. Having been permitted
6 originally in 1987, the marine terminal's still fighting
7 to begin operations in 1993. In the meantime, no oil has
8 been moved by tanker, production from the Point Arguello
9 field has been artificially limited, and millions of
10 dollars have been wasted in the regulatory bureaucracy.
11 Now, is it any wonder that many businesses have
12 the impression that California is hostile to the
13 business community? This project seeks to move oil by
14 maine tankers while, at the same time, protecting the
15 environment to the maximum extent feasible. The Chamber
16 believes that the State needs to send a positive signal
17 to California businesses, one that promotes a healthy
18 business climate by allowing businesses to operate
19 in California in an environmentally sound manner without
20 being placed in an unreasonable competitive disadvantage.
21 Failure to approve this lease will send the wrong
22 signal to the businesses at a time when California
23 should be concentrating on improving the State's
24 regulatory and business climate.
25 The Chamber urges you to approve the Gaviota

1 Terminal lease.

2 Thank you.

3 CHAIRMAN MC CARTHY: Thank you. Would you give

4 the spelling of your last name to our recorder, please?

5 MS. NERA: It's N, like Nancy, e-r-a.

6 CHAIRMAN MC CARTHY: Thank you very much.

7 We have three speakers left -- Mr. Daniel Kramer,

8 Mr. Frank Morin, Mr. Robert Foote -- among the

9 proponents. We invite them to come up and give their

10 testimony. Why don't all three of them please come up

11 to the microphone.

12 UNIDENTIFIED SPEAKER IN AUDIENCE: Harmonize?

13 CHAIRMAN MC CARTHY: Yes, if you could, as much

14 as possible, and in order. Mr. Kramer first, and then

15 Mr. Morin, and then Mr. Foote.

16 Representing the California Independent

17 Petroleum Association.

18 MR. KRAMER: I'll be as quick as I can. I'm

19 here before the State Lands Commission to urge your

20 support for the renewal of Gaviota Terminal Company's

21 lease to operate the Gaviota Interim Marine Terminal.

22 My testimony is on behalf of the California

23 Independent Petroleum Association. We're a trade

24 association representing the interests of approximately

25 550 independent oil and natural gas producers, service, and

1 supply companies throughout California.

2 We have two points to make before you today. The

3 first is to remind you that the term "interim marine

4 terminal" means exactly that. Once new pipeline

5 capacity is available for Point Arguello Producers,

6 hopefully through the new Pacific Pipeline system, or

7 perhaps through the new Cajon pipeline system, or the

8 reverse Four Corners line, they have pledged to cease

9 all tankering from Gaviota.

10 The second point is near and dear to the hearts

11 of those whom I represent. Because if the terminal lease

12 is not renewed, and if tankering from Port Arguello is

13 not allowed during the three years that is required to

14 permit and build new capacity to transport OCS crude

15 from Santa Barbara County to Los Angeles, the producers

16 will have no alternative but to pump more crude through

17 existing pipelines into the San Joaquin Valley.

18 That will mean economic hardship, if not

19 disaster, for the independent producers. Why? Because

20 of the already limited, already prorated capacity in

21 existing pipelines will get tighter still, and our

22 production will be left out in the cold, if not in the

23 ground.

24 It also means that the already scarce diluent,

25 or light oil, used to dilute Point Arguello crude to allow

it to flow from the existing lines will be even in scarcer supply, which means its cost will go up, further exacerbating the situation for small producers.

In sum, if you're supportive of a long-term reduction in the amount of tankering off the California coastline and if you're supportive of the creation of additional pipeline capacity to transport OCS crude from Santa Barbara to Los Angeles, and if you do not want to damage the livelihood of small producers in the San Joaquin Valley, please, I urge you, renew the lease of the Gaviota Interim Marine Terminal. Thank you.

CHAIRMAN MC CARTHY: Thank you, Mr. Kramer. Any questions? All right. Thank you very much.

Mr. Morin, representing the Coalition of Labor, Agriculture, and Business of Ventura County.

MR. MORIN: Correct. My name Frank Morin. Can you all hear me in the back, outside? Okay.

Some people are weary of talking about jobs, and I submit to you that only those people who have jobs are tired of the topic. The folks who aren't working are intensely interested in it. Some will tell you there are only 11 jobs at stake at the terminal -- approval, 11 more folks are working; disapproval, 11 aren't going to have jobs. Patently untrue. That is a manipulation of the facts of the positions open for a particular task

1 to be performed there. Hundreds of contractors will
2 pass through that gate in a year in addition to the
3 Texaco personnel who will be working if that terminal
4 is reactivated.
5 I work in the marine industries or the
6 marine services industry, and I can recite thenames of
7 12, at least a dozen, California companies providing
8 services and products to that terminal and others like
9 it, and I can rattle them off the top of my head. So,
10 that means there's a lot more of them out there.
11 They won't close their doors, in all likelihood,
12 if this terminal isn't reactivated, but there will be
13 jobs that are going to go. And when the jobs are cut
14 there, you could walk back in the town and cut a
15 librarian, or cut a policeman, or cut a mechanic, or cut
16 a drycleaners. That's the ripple effect you all know
17 about better than I do. And those are the facts.
18 This is a job issue. Please send a message
19 today that California wants and will fight for good jobs.
20 Thank you very much.
21 CHAIRMAN MC CARTHY: Thank you, Mr. Morin.
22 Mr. Foote, representing H & H Oil Tool Company, Inc.
23 MR. FOOTE: Good day, ladies and gentlemen. My
24 name is Robert K. Foote. I've been employed by H & H Oil
25 Tool Company out of Santa Paula for the past 13-plus years.

1 H & H is one of the rapidly shrinking number of
2 oil service companies that is entirely dependent upon
3 oil field activity, on and offshore, generated by the
4 oil companies, such as Texaco.
5 In 1982, H & H employed 235 people, most of them
6 with families. Since that time, we have joined forces,
7 consolidating with two other related oil service
8 companies of approximately our same size.
9 Today, all three companies combined employ
10 only 155 employees. Last year, H & H had a reduction
11 of workforce and pay affecting 20 percent of the
12 employees.
13 A year ago, last May, I personally had to lay
14 off two of my coworkers with families. I'd worked with
15 these people for over ten years. One of them just
16 recently found a job, a much lower paying job. The other
17 is still searching for work.
18 During testimony today, as Frank just noted,
19 you -- there will be conflicting numbers of jobs stated
20 related to this particular project. I submit to you that
21 the actual number of jobs is a relatively insignificant
22 factor compared with a much larger issue. Intended or
23 not, the decision that you make today will send a
24 message to the hundreds of thousands of companies that
25 remain in California -- those same companies, which are

1 actively and aggressively being pursued by other states
2 and countries.
3 If two companies with the human and financial
4 resources of a Texaco and a Chevron cannot satisfy the
5 regulatory agencies' demands of this State, who then
6 could?
7 Jobs is an important issue. But much more
8 important, in my opinion at this time, is the perceived
9 business attitude of this State. You have an opportunity
10 to send a positive message. I urge you to approve the
11 Texaco lease consistent with the Commission permit -- the
12 Coastal Commission permit. Texaco rightfully deserves
13 your approval, and the entire business community of
14 California desperately needs the message.
15 CHAIRMAN MC CARTHY: Thank you, Mr. Foote.
16 Mr. Secundy, would you mind leaving your card
17 with our recorder so she has the correct spelling of
18 your name and your position with Four Corners.
19 MR. SECUNDY: All right.
20 CHAIRMAN MC CARTHY: Thank you. That finishes
21 the witnesses for the proponents. Mr. Shamas, may I ask
22 you a couple of questions, please, regarding the pipelines?
23 MR. SHAMAS: Yes, sir.
24 CHAIRMAN MC CARTHY: Would you mind coming back
25 to the microphone? Mr. Shamas, you heard Mr. Secundy

1 who is an officer with Four Corners -- as I understand
2 it, there are two primary pipelines competing for this,
3 although there are three possibilities. And I'm not going
4 to ask you any questions which would reveal how you and
5 those in your group want to go about negotiating to get
6 the best deal from these companies.
7 But what I am interested in ascertaining right
8 now is what you think the maximum capacity necessary is
9 in the pipeline, and tell me what sources of oil would
10 be included in what you anticipate would be the maximum
11 capacity necessary. And then I'm going to relate that
12 to what Mr. Secundy just told me about what his company
13 could do, which was 100,000 barrels a day.
14 MR. SHAMAS: Well, I don't know if I -- as
15 managing partner of the terminal operation -- should feel
16 that I can speak for those two groups, but I can give you
17 my opinion, because my feeling is that a minimum of
18 50 to 60,000 barrels a day -- well, let's say 40 to 60,000
19 barrels a day of the PAPCO group crude would need to move
20 to Los Angeles. And then, if you look at the Santa Ynez
21 Exxon unit that's slated to come on late 1993, early --
22 actually it's between six and twelve months before they
23 get up to full capacity. If you took the total output
24 of those two projects, you're looking at between 170 and
25 180,000 barrels per day.

1 CHAIRMAN MC CARTHY: All right. So, you said
2 40 to 60 for PAPCO.
3 MR. SHAMAS: For the PAPCO group. Exxon has a
4 similar -- and, again, I can't speak for Exxon. But
5 Exxon has indicated they have a similar expected market
6 in the L.A. Basin for their type of crude in that same
7 range.
8 So, if you want to add the maximums, it's 120.
9 I could be off some, because I really can't predict what
10 the refiners are going to select. If you look at our
11 very own refinery in the L.A. Basin, we select crudes
12 from all over the world. And so, I really can't, you
13 know, tell you. But my guess is it's going to be
14 between 100 to 150,000 barrels a day.
15 CHAIRMAN MC CARTHY: All right. When you set out
16 to negotiate with the two or three pipeline companies
17 that you will be talking to, it's an understanding
18 accepted by every producer that will use the pipeline
19 selected, that there will be no oil tankering and that
20 the pipeline selected will be the source of shipping
21 to Los Angeles?
22 MR. SHAMAS: The pipeline selected will be the
23 source.
24 CHAIRMAN MC CARTHY: Right. But there won't --
25 the point is, there won't be a question of a lack of

capacity and, therefore, we have to revert to oil tankering?

MR. SHAMAS: Well, it depends upon which project is constructed or which phase.

CHAIRMAN MC CARTHY: That's why I'm asking these questions.

MR. SHAMAS: The original scoping -- and again, this is a pipeline issue. But the original scoping is not a terminal issue. I'm answering this in a nonterminal way.

The original scoping of the pipeline down the railroad tracks looked at three different cases -- the 16-inch, an 18-inch, and 20-inch. Every one of those would have been capable of moving what was expected to be the maximum L.A. demand. And the reason that the 20-inch line was chosen was because you can put a number of pump stations on. But that was the most efficient sizing for the line that Pacific Pipeline thought was needed to go to the L.A. Basin.

So, there's a line that we have no question that, if it is 150, the industry thinks that line will be fine.

CHAIRMAN MC CARTHY: All right. So, everyone shares the same understanding that whatever oil is going to be shipped is going to be shipped through the pipeline

1 selected and not tankered.

2 MR. SHAMAS: We all have the very same under-
3 standing because of the conditions that the producers will
4 have agreed to at the Coastal Commission; that they will
5 move by pipeline or they won't move.

6 And I don't want to give the impression that
7 I don't think the Cajon pipeline project is not a good
8 project, nor do I want Gerry Secundy's pipeline to think
9 that I'm against the Four Corners -- All American Four
10 Corners reversal. Each of them has a different benefit
11 to it.

12 The Four Corners line, you know -- Gerry says
13 it's 100,000. And they have indicated to industry they
14 have some options between 70 and 100,000 barrels a day,
15 and I would not differ with that.

16 CHAIRMAN MC CARTHY: I don't think we're asking
17 you to negotiate that out here now. I understand there
18 are differences within the producers in your group as
19 to which of the pipelines should be used. So, that's
20 a matter you can work out as long as everybody understands
21 that whatever oil is shipped is going to go through
22 pipelines and not tankers.

23 And you've said yes to that.

24 MR. SHAMAS: I've said yes to that, but, again,
25 let me emphasize I'm not here speaking for those ten
producers. I'm here speaking for the Gaviota Terminal.

1 We understand that our terminal will shut down.
2 If they want to ship it in helicopters, or trains, or
3 trucks, or something else, but our feeling is that the
4 terminal has a date certain at which it's going to close.
5 And the only thing that'll be used there anymore will be
6 tanks, so they can tender to a pipeline.
7 CHAIRMAN MC CARTHY: I've had the distinct
8 impression that the producers were a part of this
9 dialogue, together with you, and you're not speaking or
10 operating independently, and that they understand they're
11 going to be part of the negotiation process with competing
12 pipelines, to the end that there will be no more oil
13 tankering after the specified date, and that everybody
14 will be shipping through the pipelines.
15 Now, if there's any dissent from that, we need to
16 know that right now.
17 MR. SHAMAS: The Coastal Commission conditions
18 will force the producers to select a pipeline option.
19 Lou Blackwell is here from Chevron. Lou? I'm
20 sorry if I've given anything that indicates that I
21 represent the producers, because I don't.
22 CHAIRMAN MC CARTHY: You want to identify
23 yourself for the record?
24 MR. BLACKWELL: Yes, sir. My name is Lou
25 Blackwell, and I'm General Manager of the Western Supply

1 Region for Chevron, but I'm also chairman of the
2 Point Arguello Producers Management Committee, and I'm
3 here in that capacity. Maybe I can follow up. You've
4 done a great job for an attorney, Jim.
5 (Laughter.)
6 MR. SHAMAS: I'm an engineer.
7 MR. BLACKWELL: Let me just answer your last
8 question. The Point Arguello Producers understand and
9 accept that, if we get to the position that we can accept
10 the Coastal Commission permit, that all oil that will
11 move out of the processing plant after the 1996 drop-
12 dead date will move by pipeline. It's unequivocal.
13 Now, what we can't guarantee, as Jim has
14 referred to, is that a new pipeline or new capacity
15 will be built or made available.
16 Those negotiations are going on currently. But
17 what we do accept -- again, without reservation, if
18 we accept permit, that once the date is triggered --
19 I think it's January 1st, '96. I could be a little bit
20 off. After that date, no other Point Arguello crude will
21 move to any destination by marine tanker.
22 CHAIRMAN MC CARTHY: Now, I appreciate that
23 there are negotiatons that have to go on regarding the
24 tariff that will be paid to whatever pipeline company
25 is ultimately selected, and that a T & D agreement would

1 have to be signed before bank loans would be given. But
2 what I'm trying to get a sense of here is that there's a
3 clear understanding on everybody's part that there will
4 be no oil tankering after the date certain, as far as
5 one member of this Commission is concerned, and that that,
6 in part -- there are other considerations, your
7 negotiations with the pipeline companies, what you
8 consider a fair price from them, whatever permit
9 processes go through. Obviously, there could be someone
10 in California that says there should be no more oil
11 tankering, we should only use pipelines, and then it
12 could go into court and try to stop the permit process
13 from going forward that would allow the very pipelines.
14 We understand that.
15 And we'll be able to look at all those facts
16 and make that judgment as to whether there are any
17 positions like that taken, which really serve to undercut
18 what the good-faith agreement may turn out to be here.
19 But what I'm trying to get from the producers
20 is that you understand -- I don't know where these two
21 Commissioners are, but I'm speaking for myself now --
22 that I take very, very seriously this date that says
23 there'll be no more oil tankering after this date.
24 MR. BLACKWELL: I can tell you unequivocally on
25 behalf of the Point Arguello Producers that, if we work

1 through all of this and we accept the Coastal Commission
2 permit, we will live up to all the conditions in that
3 permit, one of which is that after a date certain,
4 irrespective of whether pipelines are constructed,
5 built, reversed, or whatever, there will be no more
6 marine movements of Point Arguello crude after that date
7 certain. And every producer in our partnership under-
8 stands and accepts that.
9 I can't say it any clearer than that.
10 COMMISSIONER DAVIS: Can I ask a question of
11 Mr. Shamas?
12 As the State's -- one of the State's chief
13 fiscal officers, I'm somewhat struck by the difficulty
14 of your position; you have spent a lot of money.
15 My question is, how can you recoup that
16 investment between now and January 1, 1996? Let's
17 assume the pipelines are available; how can you recoup
18 all the investment that you've made in this terminal?
19 MR. SHAMAS: We -- the answer to your question
20 is, we will not. We -- and it's interesting. Lou and I
21 have been working on this. We made the decision back in
22 1985, when we had two competing terminal projects --
23 Gaviota and Las Flores. And Chevron was really backing
24 the other terminal. We made a decision and a pledge to
25 the county we would operate whichever terminal we

1 constructed for four years, and then we would shut it
2 down.
3 That has now been compressed to 2.8, two years
4 and eight months. That was through the negotiations,
5 which I differed with, but that's what happened when
6 they got together for four months. And Lou was one
7 of the lead negotiators between the State's representatives
8 and the producers.
9 We will get revenue from the tanks, but we can't
10 get a payout in 2.8 years on about $40 million of our
11 investment that went to go out 3500 feet into the sea
12 and build the tanker loading.
13 COMMISSIONER DAVIS: Did I hear you suggest
14 that you will get -- you'll be compensated from the
15 pipeline revenues once it's switched to pipeline?
16 MR. SHAMAS: No. The tanks that are there, which
17 were mandated by the County of Santa Barbara, will be
18 used then to deliver into All American Pipeline, or
19 Pacific Pipeline, whichever line turns out to be the
20 one that ends up being the option to go to L.A.
21 There will still be a tankage fee, but it will
22 be much reduced compared to what it costs to load a
23 tanker. And we'll do the tankage on about a 15-year
24 payout
25 COMMISSIONER DAVIS: But when you crank all that

1 in, does the investment ultimately pay for itself, or
2 is it not going to pay for itself?
3 MR. SHAMAS: It has between a two -- well,
4 between a two and three percent return. It's not the kind
5 of thing we'd go into business, you know, to end up with.
6 COMMISSIONER DAVIS: So, at a two to three
7 percent return, it takes a long time to get the
8 investment back.
9 MR. SHAMAS: A long time to pay it out. Close
10 to 20 years. So, it doesn't have good economics. But,
11 as I stated in the introduction, we set out to spend
12 $15 million. Everytime we met an APCD condition or the
13 firemen made us add something, we ended up over $60
14 million. So, it just grew.
15 CHAIRMAN MC CARTHY: Questions? Mr. Warren.
16 EXECUTIVE OFFICER WARREN: Mr. Chairman, with
17 the presence of Mr. Blackwell at the lectern, I wonder
18 if he would advise the Commission on the record of the
19 status of the determination by the producers on resolving
20 the question of whether or not they'll pick up the
21 permit?
22 As you recall, I indicated that was a
23 subsidiary question in my opening remarks. And it's
24 still not clear to me exactly what the intentions are of
25 the producers with respect to the Coastal permit itself.

1 CHAIRMAN MC CARTHY: Mr. Blackwell?

2 MR. BLACKWELL: Yes. Mr. Warren, when we
3 started this process in the State facilitation effort
4 last summer, at that time, we were anticipating a
5 fourth-quarter '93 startup, and the permit had a
6 certain cost/benefit ratio associated with it. Because,
7 as you know, we've agreed to some very substantial
8 concessions in this permit.

9 As this thing has stretched on and we still have
10 not been able to reach full production, because we're
11 still in this process of seeing if we can get the
12 permits -- the value, i.e. the benefit, has continued to
13 erode while the costs have continued to mount. So, we
14 are a partnership of ten companies that in normal --
15 in our normal business we compete with one another. We
16 are here together in this partnership for this
17 particular project. So, I have to be candid. There are
18 individual partners who are now questioning whether this
19 permit has any value to them.

20 I am hopeful -- I know from Chevron's standpoint,
21 we continue to believe that this is a fair solution to a
22 very complex problem that the State's been wrestling with
23 for a number of years. And from our standpoint, we would
24 like to proceed. But I have to admit that the longer
25 this drags on -- and I think this was the point of

1 Mr. Shamas' comment on having another agency review a
2 T & D another 20 days, another request for another
3 hearing, as this drags on, the benefit of this permit
4 continues to erode. And it's a very -- it's in the
5 balance now. And if we can get this thing wrapped
6 up and get going, I'm hopeful that we're going to be able
7 to get everybody on board. I can't guarantee it.
8 CHAIRMAN MC CARTHY: Incidentally, perhaps you
9 didn't understand the back and forth on the 20 days
10 before. There need not be an additional 20 days. The
11 20 days will run from the time the T & D agreement is
12 received, and that's to be --
13 MR. BLACKWELL: Well, I think that -- because
14 this is the February date that we have to hit. And if
15 this thing progresses in the timing that we were on,
16 which has been disruptive a little bit here -- but the
17 timing we were on was going to lead us to where we would
18 have had a T & D by the fourth quarter, in which case
19 we would have had plenty of time. We'd have done it before
20 then.
21 But with the uncertainty -- in fact, we're
22 going tomorrow to a meeting of the producers in Phoenix.
23 I'm hopeful that I'll be able to carry with them the
24 news that we've gotten a relatively clean lease.
25 But a lot of this depends -- they're holding back

1 their decisions based on what they think the ultimate
2 regulatory cost of this project's going to be.
3 CHAIRMAN MC CARTHY: Thank you very much. How
4 about a two-minute recess? Stand and stretch. A short
5 seventh-inning stretch.
6 (Thereupon, a brief recess was taken.)
7 CHAIRMAN MC CARTHY: I thank the rest of the
8 witnesses for their patience. I think the proponents
9 took about 35 minutes to testify, and we took about an
10 hour to ask them questions. So, you still have your
11 45, and we'll have questions of you as well.
12 Let's start with Mr. Bill Douros, the Deputy
13 Director of the Resource Management Department of
14 Santa Barbara County.
15 COMMISSIONER DAVIS: Mr. Chairman, I have a
16 question that I intended to put to Mr. Secundy. Is he
17 still here?
18 CHAIRMAN MC CARTHY: Mr. Secundy, could you step
19 up? Would you mind just a moment, Mr. Douros?
20 Mr. Secundy, would you mind taking the microphone
21 for a minute? Commissioner Davis would like to ask you
22 a question.
23 MR. SECUNDY: Certainly.
24 COMMISSIONER DAVIS: First of all, do you
25 operate Line 63?

1 MR. SECUNDY: Yes, I do.

2 COMMISSIONER DAVIS: How much additional capacity
3 does Line 63 have now that is going unutilized?

4 MR. SECUNDY: As of today, it has zero
5 additional capacity. What I think you have to do is
6 look at the volumes that we've moved over the last year.
7 Just to go back a few months, in the month of March --
8 in terms of the PAPCO crude, which we blend with a
9 diluent of about 10 to 12 percent, so we call it
10 high viscosity/high sulfur crude, HVHS crude -- in the
11 month of March, I believe we moved approximately
12 52,000 barrels a day of that. Excuse me. 56,000
13 barrels a day of that.

14 In the month of April, we'll move about 52,000
15 barrels a day. In the month of May, we've been
16 nominated (sic) about 41,000 barrels a day. With those
17 capacities, and with the light crude oil that we move,
18 we are full. But if you go back over the last year or
19 so, we have had additional capacity that's ranged between
20 10, 20, 30, 40,000 barrels a day.

21 It depends on which month that you pick. It's
22 not an easy question to answer, because it depends on how
23 much of the light crude you're moving at the same time.
24 We are certainly very comfortable with the amount that
25 we're moving right now.

1 COMMISSIONER DAVIS: If this Commission were to
2 condition a lease on the premise that pipeline capacity
3 was fully utilized, would you be in a position to advise
4 our staff and obviously the producers as to when you had
5 additional capacity?
6 MR. SECUNDY: Yes. Actually, Mr. Warren asked
7 us for a specific proposal as to how this could be done.
8 We propose something that was done on a quarterly basis
9 as opposed to a monthly basis. I think it's feasible.
10 We are not advocating that system, but it is certainly
11 a feasible system, and it would give everyone enough
12 opportunity and time in order to be able to nominate.
13 The pipeline capacity is going to vary month
14 by month. But certainly, there's a very substantial
15 minimum capacity that exceeds 25,000 barrels a day.
16 COMMISSIONER DAVIS: When you say minimum
17 capacity, you mean that --
18 MR. SECUNDY: That's for the heavy sulfur.
19 COMMISSIONER DAVIS: Pardon me?
20 MR. SECUNDY: For the heavy crude. For the PAPCO
21 crude. Did I make myself clear?
22 COMMISSIONER DAVIS: No. But it's not your fault.
23 (Laughter.)
24 MR. SECUNDY: Let me go back, because, again,
25 it is not an easy subject to understand.

1 COMMISSIONER DAVIS: My question is just, you
2 know, I just want to utilize all the efficiencies we
3 can. And if there is unused capacity, can we -- if the
4 Commission were to require the producers to first utilize
5 the capacity before exercising any option to tanker,
6 could you develop a plan -- and you suggested it would
7 be something you could do on a quarterly basis. And then
8 my next question was, can you identify -- I think you
9 gave me a figure of about 25 minimum. And I don't know if
10 that was the unused capacity or that was the demand
11 that goes through the pipeline all the time.
12 MR. SECUNDY: First of all, in terms of a plan,
13 a plan has already been submitted. Mr. Warren has a
14 copy of that plan. I believe it's in the documents
15 that you currently have. So, there is a plan and it is
16 a feasible plan, and it's a workable plan.
17 In terms of how much capacity that plan would
18 enable you to move, what I'm convinced of is that it
19 would enable you to move substantially more than the
20 25,000 barrels a day that the Coastal Commission is
21 putting in as a requirement for their permit. That was
22 the reference to the 25,000 barrels a day. But I can't
23 tell you a specific month.
24 COMMISSIONER DAVIS: Thank you.
25 CHAIRMAN MC CARTHY: Thank you. Mr. Douros.

1 MR. DOUROS: Thank you, Mr. Chairman and members
2 of the Commission.
3 For the record, my name is Bill Douros. I manage
4 the County's Energy Division. I'm here to present a
5 letter that our Board of Supervisors approved unanimously
6 last night.
7 I also want to say that I appreciate being
8 sandwiched between the proponents and opponents, because
9 I think it accurately reflects our Board's position.
10 (Laughter.)
11 MR. DOUROS: Our Board offers these comments to
12 clarify the scope of the County's permit for the Gaviota
13 Interim Marine Terminal and the SEIR prepared for
14 Chevron's proposed tankering for that facility, as well
15 as the relationship of these matters to Exxon's tankering
16 application.
17 Our suggestions are intended to ensure that
18 any lease the State Land Commission issues is based on
19 accurate facts and is consistent with the County's
20 local coastal plan and the final development plan issued
21 to the Gaviota Interim Marine Terminal.
22 The County's LCP allows for only one consolidated
23 marine terminal on the South Coast of Santa Barbara
24 County. In 1987, the County approved Exxon's Las Flores
25 Canyon Marine Terminal as the permanent consolidated marine

1 terminal allowed by our LCP, and authorized interim
2 use of the Gaviota Interim Marine Terminal until either
3 Exxon's marine terminal was constructed or until new
4 pipelines to Los Angeles and Texas became operational.
5 The linkage between the interim status of the
6 Gaviota Terminal and the designation of Exxon's marine
7 terminal as the permanent consolidated facility is made
8 explicit in several related conditions imposed in the
9 separate permits issued by the County to the Gaviota
10 Terminal Company and to Exxon.
11 These requirements assure that there will be
12 only one consolidated marine terminal in the County.
13 And also, the reason for this and for allowing
14 that for only an interim period would be to allow
15 Chevron to complete its commitment made to the Coastal
16 Commission in 1983 to, quote, ". . .assume the lead
17 role in arranging for the design, permit, organization,
18 and capitalization of an industry-sponsored pipeline to
19 Los Angeles," end quote, and also to allow Exxon to
20 develop its marine terminal in Las Flores Canyon.
21 In 1988, GTC applied to the County, in coordination
22 with Exxon, for GTC to become the permitted marine
23 terminal while Exxon deferred construction of its Las
24 Flores Canyon Marine Terminal until April of 1994.
25 Indeed, at our request, the Coastal Commission's

1 February, 1993 approval of a new coastal development
2 permit for interim operations of the Gaviota Interim
3 Marine Terminal included a condition that we had asked
4 for -- and that's also included on page 2 in Italics of
5 our letter -- I won't read that, but I believe you have
6 that letter in your record.
7 The second point that the County Board of
8 Supervisors wanted to make is with regard to the volumes
9 of the permit -- the lease before you today. Because
10 Exxon's proposed use of the Gaviota Interim Marine Terminal
11 is beyond the scope of the County and the Coastal
12 Commission permits for use of that facility, as well as
13 it's beyond the final SEIR prepared to review the impacts
14 of Chevron's tankering from the Gaviota Marine Terminal,
15 we also request that any lease authorize a throughput
16 of 50,000 barrels a day rather than 100,000 barrels a day
17 recommended by your staff.
18 And I'll outline the reasons for that. First,
19 use of the GIMT by Exxon is beyond the scope of the final
20 SEIR prepared under the direction of a joint review
21 panel consisting --
22 EXECUTIVE OFFICER WARREN: Mr. Chairman -- pardon
23 me for interrupting, but perhaps in the interest of
24 time, the staff accepts that suggestion on page 394,
25 paragraph 6F. Strike the numerals 100,000 and insert

1 50,000. I think that would be as suggested by the
2 County. And we find that suggestion appropriate and
3 acceptable.
4 MR. SHAMAS: (From the audience) We don't accept
5 that.
6 CHAIRMAN MC CARTHY: Well, we'll return to the
7 point in a minute.
8 Go ahead and finish your comments.
9 MR. DOUROS: Well, perhaps, then, because there
10 is some controversy, I'll continue with reading from our
11 Board's letter.
12 When GTC withdrew its applicaton for the
13 permanent Gaviota Marine Terminal on June 5th, 1992, the
14 partnership confirmed that it would accept an
15 appropriately conditioned lease from the State Lands
16 Commission accommodating Chevron's tankering application;
17 that is, a term of approximately three years allowing the
18 transport of at least 50,000 barrels a day of Point
19 Arguello crude oil to Los Angeles in Chevron Oregon
20 Class tankers.
21 As a consequence of GTC's permanent marine
22 terminal application withdrawal and the desire of GTC
23 and the Point Arquello Producers to have a county
24 decision on Chevron's tankering application by August of
25 1992, the final supplemental environmental impact report

1 was narrowed to serve as the environmental analysis of
2 the Point Arquello Producers' May 22nd application to
3 tanker from the GIMT.
4 Thus, although the draft SEIR for the Gaviota
5 Marine Terminal was originally prepared for a larger
6 project, the County certified the final SEIR, quote,
7 ". . .for action by the County on Chevron's tankering
8 application," unquote.
9 I'll note that that is a quotation from findings
10 adopted by our Board.
11 Neither the County or the Coastal Commission
12 has utilized the final SEIR to approve tankering from
13 the GIMT for Exxon or for volumes greater than 50,000
14 barrels a day.
15 On February 12th of this year, the County
16 deemed Exxon's application to tanker 50,000 barrels a day
17 of its Santa Ynez unit crude oil for five years from the
18 Gaviota Marine Terminal in single-hulled tankers and
19 to construct a feeder line to allow Exxon's oil to get
20 from the Las Flores Canyon to the Gaviota Terminal (sic).
21 Exxon's proposed use of the Gaviota Terminal and
22 the new feeder line are beyond the scope of the activities
23 evaluated for or contemplated by the County's permit for
24 interim use of the Gaviota Terminal. Allowing such use
25 by Exxon will require modification of the County's permit

1 to GTC regardless of the State Lands Commission action
2 on the lease.
3 GTC has notified the County that it intends to
4 submit an application to modify its final development plan
5 by May 17th, 1993. It is also likely that GTC will
6 seek a modification of the Coastal Commission's new
7 permit to increase the 50,000 barrel a day throughput
8 limitation to allow for Exxon's proposed use of the
9 Gaviota Terminal.
10 We believe that approval of a State Lands
11 Commission lease to accommodate Exxon's tankering should
12 await final County and Coastal Commission action.
13 Finally, we commend your staff's efforts to
14 identify lease conditions that can maximize feasible
15 use of existing pipelines. The County's LCP requires
16 that crude oil be transported from the County by pipeline
17 as soon as the shipper's oil refinery center of choice
18 is served by pipeline.
19 Both the County and Coastal Commission have
20 rejected Chevron's claims that the use of Line 63 to
21 Los Angeles is economically infeasible or constrained by
22 an inadequate market for blended crude oil.
23 Tankering may occur only if, among other things,
24 available pipeline capacity to a shipper's destination
25 of choice is first utilized.