1 Our Board also identified a number of
2 clarifications to the staff report. There's five of
3 them. I won't go through those. They are in the letter.
4 And also, I want to point out one thing that's
5 not in our Board's letter that I've noticed today in
6 reviewing the staff report. And that pertains to
7 Condition 6I on page 23 of the staff report.
8 That condition identifies that, if for any
9 permit issued by the Coastal Commission or the State
10 Lands Commission, a permittee, a shipper, is notified
11 that they have not met the conditions of compliance,
12 that G -- that the lessee, GTC, shall be notified of the
13 State Lands Commission (sic) of that violation.
14 Because it's theoretically possible for the
15 County to issue a permit that, if not appealed or if
16 appealed is not accepted by the Coastal Commission,
17 there would be a County permit that would also be a
18 viable permit. We believe that 6I should also include
19 an acknowledgment that a County-issued permit as well as
20 a Coastal Commission-issued permit should carry the same
21 weight. And any notification of a lessee -- of a
22 shipper not in compliance should be one that could be a
23 notification by the County to your staff.
24 I talked about it with your staff. They
25 understand and agree that that, I believe, is an

1 acceptable amendment to that condition.

2 That concludes the comments from our Board of

3 Supervisors. I can answer any questions.

4 CHAIRMAN MC CARTHY: Let's return to the issue

5 of 50,000 versus 100,000 barrels per day. Was that an

6 argument that the County presented to the California

7 Coastal Commission?

8 MR. DOUROS: Mr. Chairman, that's an argument

9 we did not need to make because their recommendation

10 and their action was only for 50,000 barrels a day.

11 And our Board concurred with that as part of their

12 action.

13 So, I don't believe we've specifically made any

14 comments because we didn't need to.

15 CHAIRMAN MC CARTHY: Mr. Shamas?

16 MR. SHAMAS: (From the audience) I'd like to

17 have Mr. Milhalik address that.

18 Just as a lead-in, we've decided that terminal

19 for 150,000 barrels a day. We did an SEIR for 125.

20 The County has continued to just change and drop things.

21 It's the same thing that they've done all the time.

22 CHAIRMAN MC CARTHY: You did an environmental

23 impact report for 125?

24 MR. SHAMAS: That's what we submitted. And when

25 we came down to whether or not we could start the

terminal up, which was April of '92, the County said we

1 had to -- how'd they phrase it, Dan? We had to withdraw
2 it, we had to change it.
3 MR. MIHALIK: We withdrew our permanent terminal
4 application. I think the point that needs to be
5 clarified here is that -- I think it's important
6 throughout this whole process to keep the owners of oil,
7 the shippers and their permits separate from the Gaviota
8 Terminal Company. I mean, they are one of our
9 customers.
10 And it's true that one of our customers, the
11 Point Arguello Producers, has a limit in its permit
12 conditions of 50,000 barrels a day. But if you go back
13 to kind of the main framework here of conditions for
14 Gaviota Terminal Company -- and that is the County's
15 final development plan -- we have a permit from the County
16 right now that's good for 100,000 barrels a day. That's
17 the Gaviota Terminal. And we have always expected -- and
18 I think the State Lands Commission has always kind of
19 undertaken the approach that they use that final
20 development plan from the County as sort a framework in
21 developing conditions.
22 So, our expectation would be, we would receive
23 a permit for 100,000 barrels a day. We're mitigated for
24 that. We're designed for that. And we're an open,
25 consolidated facility, open to everyone. Again, you have

1 a provision in your proposed lease that would cause us
2 to come in and ask for a permit modification later if
3 there are other shippers, you know, you'll be looking
4 at mitigation measures and that whole area.
5 CHAIRMAN MC CARTHY: So, the 50,000 barrels
6 per day condition in the California Coastal Commission
7 permit refers to Point Arguello Producers only.
8 MR. MIHALIK: Well, the Point Arguello Producers
9 have a condition; but to be accurate, the Gaviota
10 Terminal Company right now has a Coastal Commission
11 permit which really reflects our ability to run Point
12 Arguello crude oil only. There is a recognition by
13 the Coastal Commission -- so implied in that, it's
14 50,000 barrels a day if we could only run Point
15 Arguello crude oil --
16 CHAIRMAN MC CARTHY: Back it goes to the
17 Commission, when the San Ynez people want to start shipping,
18 and get another Coastal Commission permit to increase that
19 50,000?
20 MR. MIHALIK: Mr. Chairman, that's correct. We
21 would have to go back to the Coastal Commission; we would
22 have to come back to the State Lands Commission to modify
23 our coastal development permit and lease to be
24 consistent with what another shipper like Exxon may
25 propose.

1 CHAIRMAN MC CARTHY: Have any reason to believe
2 that you would not be granted that permit by the
3 California Coastal Commission? Is there any discussion in
4 the public record that the Coastal Commission might want
5 to limit you in some way that could be shipped daily?
6 MR. MIHALIK: The Coastal Commission, I think,
7 made it very clear -- I can't speak for them, but I
8 thought they made it very clear the facility is designed
9 for 100,000 barrels a day. It has the capacity for
10 for 100,000 barrels a day. I don't think that's an issue
11 with anyone. But we can't predict what will happen with,
12 you know, some future shipper, like Exxon. Don't know.
13 CHAIRMAN MC CARTHY: Thank you. Mr. Douros,
14 could you give the Commission the reasoning of the
15 County in suggesting that there be a limit to 50,000
16 barrels a day?
17 MR. DOUROS: Yes, I can, Mr. Chairman. It's
18 important to keep in mind that there are two permits
19 that we are speaking of. There is a permit that has been
20 issued to the Gaviota Terminal Company to construct and
21 operate the marine terminal. That's the final
22 development plan, but the specific name is not important.
23 It's a permit to GTC.
24 There's a second permit that allows the use under
25 our LCP that when a shipper wants to ship by tanker,

1 they need to come and get a separate approval by the
2 County Board of Supervisors.
3 The original permit that the County granted in
4 1985 to GTC to construct and operate the terminal
5 has a throughput limitation -- a maximum limitation
6 of 100,000 barrels a day. And that is because that
7 marine terminal was designed and built to accommodate the
8 transportation needs of the Point Arguello Producers,
9 whose peak production at the Chevron facility -- literally
10 across the street -- was 100,000 barrels per day.
11 So, that is a correct statement Mr. Mihalik made
12 regarding the maximum capacity from a County permit.
13 However, because shippers need to get additional permits
14 to use the terminal to tanker -- and Chevron, as the
15 original intended user of that, has received a permit,
16 but only for 50,000 barrels a day. Anyone using the
17 terminal between 50 and 100,000 barrels a day -- in this
18 case, in practical reality, that's Exxon -- would be
19 introducing a shipper that wasn't originally considered in
20 the permit that the County granted that gave them
21 100,000 barrels a day throughput.
22 So, it's because the shipper's permit is limited
23 to 50,000 barrels a day, and the Coastal Commission has
24 acknowledged that and provided an additional permit lease
25 to 50,000 barrels a day, then our view is that you

1 shouldn't offer them a lease that, in effect, extends the
2 potential users to incorporate Exxon. That's a separate
3 discretionary action that will come before the County
4 later this year and before the Coastal Commission on
5 appeal, and on a permit modification. And we don't think
6 it's appropriate for you to extend this lease to
7 accommodate a shipper not originally intended.
8 CHAIRMAN MC CARTHY: Let me ask you a question.
9 Are there any reasons why you anticipate that Exxon will be
10 requesting that they be allowed to ship another 50,000
11 barrels a day through the pipeline might be rejected?
12 MR. DOUROS: Mr. Chairman, I will decline to
13 answer that, in that we have only just received their
14 application, and we've begun what is an extensive
15 environmental review and public hearing process. And I
16 think in all fairness to Exxon, as well as our Board,
17 it's just inappropriate for me to give some sort of
18 speculative response.
19 CHAIRMAN MC CARTHY: I'm troubled, because there's
20 sort of an inherent contradiction here in what we're
21 trying to do to glue all of this together. We're trying to
22 stop oil tankering. And the only way we stop oil
23 tankering is put -- ship all this oil through the
24 pipeline. And we have to ship the maximum amount of oil
25 through the pipeline to make it as economical as possible

1 to make this a worthwhile undertaking.

2 So, to the degree we make it sound like we're

3 taking actions that are going to limit them -- I mean,

4 there's a lot of argument that there's unused capacity.

5 Commissioner Davis was asking some questions on that,

6 because friends that we share are suggesting that there's

7 unused capacity in the existing pipelines, and that the

8 oil companies haven't been operating in good faith; that

9 they wanted to continue oil tankering and didn't use

10 the existing capacity.

11 Now, either we're going to encourage the

12 construction or expansion of pipelines so that they can

13 ship the maximum amount daily or we aren't. And I'm a

14 little bit confused in this process.

15 Now, what compelling reason is there for us to

16 amend this from 100 to 50?

17 EXECUTIVE OFFICER WARREN: You mean reduce it

18 from 100 to 50?

19 CHAIRMAN MC CARTHY: Right.

20 EXECUTIVE OFFICER WARREN: Two things, but

21 neither of which may be compelling, however.

22 First off --

23 UNIDENTIFIED SPEAKER IN AUDIENCE: We can't hear.

24 EXECUTIVE OFFICER WARREN: Oh. Two reasons I

25 would offer in reply to your question, but none of them

1 may be compelling necessarily.

2 First off, as I understood Mr. Douros' remarks --
3 and I may have misunderstood -- it's my understanding
4 that the EIR was certified by the County only to the
5 extent of necessary to accommodate the Chevron permit
6 or 50,000 barrels per day. That raises the question in --
7 a legal question in my mind whether or not we can go
8 beyond the EIR -- certified EIR, which was limited to
9 50,000.

10 I have put that question to Mr. Hight, who seems
11 to indicate -- well, what do you indicate? Then I'll
12 have another reason I'll offer.

13 (Laughter.)

14 MR. HIGHT: The environmental impact report
15 prepared for the project looked at a capacity of -- of
16 a throughput of 125,000 barrels a day, even though the
17 County only analyzed or only certified it for 50,000.
18 It is our position that the entire EIR of 125 is valid.

19 The application before the Commission today is
20 for 100,000.

21 CHAIRMAN MC CARTHY: Therefore, there's no reason
22 to amend it down to 50.

23 EXECUTIVE OFFICER WARREN: There's no legal
24 reason.

25 MR. HIGHT: Yeah. There's no legal reason. On

1 a policy issue, the issue is that Exxon will have to come
2 back to this Commission anyway. This would be another
3 signal if it was reduced.
4 COMMISSIONER DAVIS: What would the signal be?
5 (Laughter.)
6 MR. HIGHT: That they need to come back to the
7 Commission and they need to worry --
8 EXECUTIVE OFFICER WARREN: There will be a
9 difference. I'm sorry.
10 COMMISSIONER DAVIS: If -- this is what concerns
11 me a little bit. If we reduce it -- if we don't reduce
12 it to 50,000, is there any way Exxon can get in this
13 process without coming back to us?
14 MR. HIGHT: No.
15 UNIDENTIFIED SPEAKER: Yes.
16 COMMISSIONER DAVIS: Well, some people suggest
17 there is.
18 MR. HIGHT: At the moment, they do not have the
19 ability to use Chevron tankers. If they can arrange --
20 make an arrangement with Chevron to use their tankers,
21 then they can tanker up to 100,000 without coming back to
22 us. But they would have to go back to the Coastal
23 Commission.
24 EXECUTIVE OFFICER WARREN: The Coastal -- the
25 shipping permit to Chevron requires Chevron -- the

1 producers to ship by Chevron Oregon Class tankers, which
2 are double-hulled. There are only four such tankers in
3 the world, and I understand that three of them will be
4 dedicated to transporting Point Arguello production.
5 There are no such tankers available to Exxon.
6 So, Exxon in its application to the County for a
7 shipper's permit, has requested to be -- I don't know if
8 they've made a request -- but the implication is that
9 that requirement would not apply to Exxon; that they would
10 be allowed to ship in tankers other than the Chevron Oregon
11 double-hulled class of tankers.
12 Now, that is a question which I think is a
13 significant one, and one which I think we might want to
14 take into consideration in the future.
15 If we could be assured -- and I'm embarrassed
16 to say I cannot give you assurance -- that we would
17 still -- that this Commission would still be in a position
18 to review whatever shipping permit might be given Exxon
19 in the future, then I would withdraw my suggestion of
20 modifying the 100,000. But I'm not quite -- I would like
21 to have that assurance first, because that is an issue
22 that I think we might want to consider.
23 MR. DOUROS: Mr. Chairman, if I might take one
24 more stab at summarizing the County's position. Our
25 Board has continually, both to the Coastal Commission on

1 several matters related to this project and in this
2 letter to you, taken the position that whatever permits
3 or leases are issued should be consistent with those of
4 other agencies and with the County.
5 And our consistency concern with regard to the
6 lease before you is that, in all practical effects, by
7 granting it for 100,000 barrels a day, you are extending
8 the lease to be more than just a marine terminal for the
9 Point Arguello Producers; it's one for Exxon as well.
10 Because, at present, the Point Arguello Producers are
11 capped at 50,000 barrels a day.
12 And so, if you want to issue a lease that meets
13 the request of our Board -- and that is, issue a lease
14 consistent with previous County actions -- don't extend
15 the lease to other shippers; keep it narrowly focused
16 on those who originally have and currently have permits
17 for that lease.
18 Does that help?
19 CHAIRMAN MC CARTHY: I understand what you said.
20 I don't know if it helps. If the point is to end up with
21 no oil tankering within the time frame we're talking
22 about here, while the makeup of this Commission is as it
23 is -- and you never know whether the makeup of this
24 Commission will change after the November, '94 elections.
25 I'm not running for Controller and I'm not running for

1 Lieutenant Governor --

2 COMMISSIONER BURTON: I'm not running for

3 anything.

4 (Laughter.)

5 CHAIRMAN MC CARTHY: If there's a change --

6 COMMISSIONER BURTON: Sorry, Mr. Chairman.

7 CHAIRMAN MC CARTHY: No, not at all. I like it.

8 You'd be too tough.

9 If there's a change in the governorship, I may

10 request to be Director of Finance, so I can sit on this

11 Commission.

12 (Laughter.)

13 CHAIRMAN MC CARTHY: Because I enjoy it so much.

14 But I think my interest is in figuring out how we create

15 these are important words that we used: a good faith

16 chemistry that helps us move forward on whoever shares

17 this common ground of stopping oil tankering and starting

18 to use that pipeline.

19 And I appreciate what the County has to do. You

20 have your statutory obligations that you have to fulfill.

21 I'm just not sure that I yet see the policy reason for

22 this Commission. Mr. Warren, you said you had one other

23 potential policy.

24 EXECUTIVE OFFICER WARREN: Well, that was the

25 double-hulled vessel question. I'm satisfied that the

1 lease we propose will have a special condition in it
2 requiring double-hulled tankers to use that -- before
3 that terminal can be used.
4 Accordingly, I will withdraw my suggestion that
5 the 100,000 be amended to 50,000. We will have an
6 opportunity to review the lease on that issue. Thank
7 you.
8 COMMISSIONER DAVIS: Let me just make a point
9 here. Mr. Chairman, I don't understand where you're going.
10 If the point is to facilitate pipeline production,
11 why are we trying to expand tanker activity? I don't
12 understand that.
13 CHAIRMAN MC CARTHY: I don't want to expand --
14 COMMISSIONER DAVIS: I don't see any point in
15 emphasizing --
16 CHAIRMAN MC CARTHY: I don't want to expand
17 tanker opportunity.
18 COMMISSIONER DAVIS: Well, that's what we're
19 doing by not reducing the 100,000 to 50,000.
20 CHAIRMAN MC CARTHY: There is no tanker shipping
21 after the date that we're talking about in here. So, what
22 are we talking about? A very limited number of -- a
23 very limited period here.
24 EXECUTIVE OFFICER WARREN: The concern is that
25 there will be tankering in excess of 50,000 between now

1 and January 1 of '96.

2 You're right on that point. So, we're only

3 talking about that two-and-a-half-year period.

4 CHAIRMAN MC CARTHY: Now, the other side of it --

5 the other side of it is that they are trying to figure out

6 how to put this together with the pipeline companies and

7 all of the parties involved in that. And what I'm trying

8 to search here is how do we increase the certainty that

9 we're going to end up with pipeline shipment?

10 And so, any changes that are proposed here,

11 I'm trying to figure out how they affect that basic

12 purpose.

13 Mr. Shamas, you want to add to this?

14 MR. SHAMAS: Well, two things. One, Exxon is

15 a part owner of Gaviota Terminal. They understand that

16 everything is going to cease a date certain.

17 Two, they're going to come on the end of '93

18 with 12 to 15,000 barrels a day. And then, during '94,

19 they're going to come on with between -- using the staff's

20 report -- probably 60 to 80,000 barrels a day.

21 There's not going to be pipeline capacity by

22 that time. Line 63 will be chockerblock full even if

23 Gerry has some magic solutions. But everything's going to

24 be full until such time as we can get these expanded

25 facilities on. And Exxon is going to have to come before

1 you, and the County, and the Coastal Commission and say,
2 "Can we tanker a while while -- up until the drop-dead
3 date until these new pipelines are built?"
4 That's the real thing. And so, I think to
5 unnecessarily limit this to 50 a day when we all know
6 that Exxon's coming right down the road pretty soon to
7 see if they can tanker on an interim basis. That's why
8 we differ. We built this terminal for 150. It's already
9 been downrated to 100. We've paid for the last three
10 years over 180,000 a year for a hundred thousand barrel
11 a day terminal we haven't been allowed to use. Now the
12 rent's been jacked up to 230, and you're going to down-
13 grade the capacity. We just don't think that's playing
14 fair.
15 UNIDENTIFIED SPEAKER IN AUDIENCE: That's right.
16 CHAIRMAN MC CARTHY: Any other Commissioner
17 questions of Mr. Douros on his testimony for the County?
18 COMMISSIONER BURTON: I just wanted to know
19 whether anyone has received a copy of the letter that you
20 were reading to us, so that we might have that for our
21 records.
22 MR. DOUROS: I would assume that you have a copy.
23 COMMISSIONER BURTON: Is it in here?
24 EXECUTIVE OFFICER WARREN: Yes.
25 COMMISSIONER BURTON: Thank you.

1 MR. DOUROS: And I have extra copies also.
2 COMMISSIONER BURTON: Okay.
3 CHAIRMAN MC CARTHY: Thank you. Is that it?
4 Thank you, Mr. Douros.
5 Now, the patient group that's been waiting that
6 have some serious questions about this. And we're going
7 to start with Linda Krop, who represents the Environmental
8 Defense Center, Sierra Club, Get Oil Out, CPA, League of
9 Women Voters, Santa Barbara; SF, HRA. You don't sleep.
10 MS. KROP: Thank you. Good afternoon. My name
11 is Linda Krop. I'm an attorney with the Environmental
12 Defense Center in Santa Barbara, and I'm here today
13 representing the Environmental Coalition of Santa Barbara.
14 As the Chair mentioned, I represent EDC,
15 Get Oil Out, the Sierra Club, the League of Women
16 Voters of Santa Barbara, Citizens Planning Association,
17 the Surfrider Foundation, Hollister Ranch Owners'
18 Association, and local commercial fishermen.
19 Our comments will address the staff report
20 we received on Friday, since we haven't had an opportunity
21 to review the CEQA findings and the other attachments
22 that were made available today.
23 Before I begin my prepared comments, I'd like to
24 note that we've heard many references to the Coastal
25 Commission actions and reliance on those actions. And I'd

1 like to point out that both the Point Arguello
2 Producers and GTC have sued the Coastal Commission twice
3 over the issuance of the Point Arguello tanker permit,
4 and now over the issuance of a permit for the Gaviota
5 Marine Terminal. The last lawsuit was just filed on
6 April 19th.
7 The producers and GTC have also both opposed
8 a bill proposed by Assemblyman Terry Friedman, AB 591,
9 which would codify the January, '96 tanker cessation
10 date. And I question, if we're looking at good faith
11 here, whether we have that on the part of the producers
12 and GTC if they're opposing those very Coastal
13 Commission actions.
14 I'd also like to point out that all five GTC
15 partners are producers who intend to use the Gaviota
16 Marine Terminal -- Chevron, Texaco, Phillips, and Oryx
17 are Point Arguello Producers, and the fifth partner is
18 Exxon, which has now filed its own application to tanker
19 from the Gaviota Marine Terminal.
20 So, although -- you know, as far as corporate
21 status, we're talking about independent entities, we're
22 actually talking about the same players. And I think
23 we need to look at the commitments of the producers when
24 we look at the commitment of GTC.
25 First, I would like to put this issue into proper

1 context. The Gaviota Marine Terminal was approved by
2 the County Coastal Commission and State Lands Commission
3 in 1987 as an interim facility to be used only until a
4 permanent terminal was built at Las Flores or until
5 pipelines were available to transport Santa Barbara OCS
6 crude to Los Angeles and Texas.
7 The agencies anticipated at that time that the
8 terminal would operate only until 1990, or until 1991
9 at the latest.
10 At that time, the County determined that
11 Las Flores was the environmentally preferred location
12 for a consolidated marine terminal on our South Coast.
13 In addition, whether the terminal was located at
14 Las Flores or Gaviota, the preferred location and
15 design was for a single-point mooring system 10 to 14,000
16 feet offshore.
17 This design and location would significantly
18 reduce impacts to air quality, esthetics, kelp beds,
19 and other marine resources, commercial and recreational
20 fishing resources, not to mention significantly reducing
21 the risks and effects of oil spills.
22 Contrary to what the applicants may tell you,
23 then, neither the County nor the State agencies guaranteed
24 GTC the right to operate the marine terminal after 1991.
25 In fact, the original lease granted by this Commission

1 specifically limited any potential holdover to one year,
2 or to 1992.
3 That maximum holdover has ended. The applicant
4 has no right to continue operations of the current
5 interim terminal. If GTC wants to continue operations
6 at Gaviota, it should apply for a lease for a permanent
7 terminal.
8 Now that Exxon has withdrawn its plans to
9 develop the permanent terminal at Las Flores, has
10 quitclaimed its lease to the State Lands Commission, and
11 has applied for its own tanker permit from Gaviota, it
12 certain appears that the producers intend to use the
13 Gaviota facility as the permanent marine terminal
14 facility.
15 Rather than apply for permanent status, GTC
16 seeks to incrementally extend the life of the marine
17 terminal and avoid its responsibilities to reduce the
18 environmental impacts of the facility by locating a
19 single-point mooring system further offshore.
20 We urge the Commission to deny the application
21 for a new lease on the following grounds -- and I had
22 prepared some overheads for you and, unfortunately, we
23 didn't have room to put the projector up, so I made a
24 packet for you. And the first item in the packet lists
25 the proposed grounds for denial.

1 First, there is no need for a marine terminal.
2 There is available pipeline capacity to transport oil
3 from Santa Barbara County to various refining destinations.
4 Environmental review is incomplete. Marine tankering
5 would violate the Public Trust Doctrine by interfering
6 with established fishing, recreational, and environmental
7 uses in the area. Tankering would violate the Coastal
8 Act and LCP preferences for pipeline transportation.
9 The Gaviota Marine Terminal is inconsistent
10 with the Coastal Act preference for single-point mooring
11 systems. The project would result in unmitigated Class 1
12 impacts, and there are no significant benefits of this
13 proposal which can outweigh those unmitigated impacts.
14 And, finally, feasible mitigation measures and
15 alternatives have not been incorporated into the proposed
16 project.
17 The second item in your packet is a chart which
18 indicates the amount of Point Arguello crude which has been
19 transported through the All American and Four Corners
20 Pipeline system to various refining centers in Martinez,
21 in Los Angeles, and to Texas in tankage, as well as
22 through the Sisquoc Line to Santa Maria.
23 This chart indicates that the Point Arguello
24 Producers have been able to transport up to 69,500 barrels
25 of neat Point Arguello crude. That was transported in

1 March of '93. At peak production, the Point Arguello
2 Producers expect to produce 85,000 barrels per day.
3 That was listed in their tanker application.
4 As this chart shows, they currently produce and
5 ship approximately 70,000 barrels a day. And if you'll
6 note on the chart, that was transported without even
7 using the usual 20,000 barrel per day capacity in the
8 Sisquoc Line to Santa Maria. The reason for that was that
9 the Unocal refinery in Santa Maria was temporarily
10 shut down for maintenance.
11 So, actually, in March, the available capacity
12 in pipelines from Point Arguello's production was 90,000
13 more than their expected peak production.
14 The second grounds for denial is that the
15 environmental review is incomplete.
16 And the third item in your packet gives you an
17 outline of the CEQA requirements which relate to this
18 application.
19 Under CEQA, it's important that environmental
20 review occur early in the process and that it look at the
21 full potential uses of the project -- of the facility,
22 any potential phases, any potential future use that's
23 reasonably foreseeable.
24 Environmental review must also address the
25 potentially long-term use of projects, even if they are

1 termed temporary or interim.

2 In this case, both the County and the Coastal
3 Commission have already determined that the current
4 environmental review documents do not address the full
5 potential use of the terminal by both Chevron and
6 Exxon. The staff report mistakinqly assumes that the
7 EIR certified by the County last August is adequate to
8 address GTC's application for a new lease. This is simply
9 not true as Mr. Douros explained.

10 Last August, when the County certified the
11 EIR, they made it abundantly clear that the EIR was to be
12 used only for Chevron's tanker permit for 50,000 barrels
13 per day, and that any actions relating to the marine
14 terminal permit or lease would require further
15 environmental review.

16 As stated by the County, the current proposed
17 use of the terminal is beyond the scope of the EIR
18 certified by the County last August. The County is now
19 preparing a subsequent EIR (sic) to address Exxon's
20 application to tanker from the Gaviota Marine Terminal.

21 This EIR, which was scoped a couple weeks ago
22 and is under preparation, will encompass all potential
23 uses of the marine terminal and will analyze the
24 cumulative impacts of tankering by both Exxon and Chevron
25 as well as the potential long-term use of the facility.

1 This EIR must be completed before the State
2 Lands Commission can take action on the lease application.
3 Staff has presented the proposition that the
4 Commission is somehow exempt from full environmental
5 review because the Commission is a responsible as opposed
6 to a lead agency in this matter.
7 We disagree with this analysis. In any event,
8 the Commission cannot hide behind labels to avoid its
9 legal duties under CEQA. The fact of the matter is,
10 the EIR which staff seeks to rely upon, is incomplete
11 for the project proposed by GTC. And I think that's been
12 confirmed in the dialogue today.
13 Therefore, the Commission must complete
14 environmental review before taking action on this lease.
15 Yet another reason to require further environmental
16 review is some alarming news, which we just received
17 earlier this week, that five of the six tankers which
18 will be using the Gaviota Marina Terminal as part of this
19 lease do have accident histories. And I have a few
20 copies of a news report, which details those accident
21 histories. And this was not part of the EIR. We have
22 requested that the County look at this information in the
23 subsequent EIR that they're now preparing, and we think the
24 State Lands Commission should look at this information
25 as well.

1 Third, approval of the lease will violate the
2 Public Trust Doctrine. As we have stated in our letters,
3 tankering from the Gaviota Marine Terminal would interfere
4 with established public trust uses in the affected area;
5 namely, fishing, recreation, and environmental
6 preservation.
7 As a State agency, the Commission has a duty
8 to protect the public trust uses in this area. Steve
9 Dunn, a representative of the local commercial fishing
10 industry will tell you about the impacts to local fishing
11 operations.
12 Tankering will also disrupt recreational
13 activities at the Gaviota State Park and surrounding
14 beaches.
15 Finally, operations at the terminal will put
16 pristine ecological communities of the entire Gaviota
17 to L.A. Coast at risk.
18 Fourth, tankering from the Gaviota Marine
19 Terminal would be inconsistent with the Coastal Act and
20 the County's LCP.
21 And the next, the fourth item in your packet,
22 lists the Coastal Act provisions that this application is
23 inconsistent with -- primarily the preference for
24 pipeline transportation and for single-point mooring
25 systems. And, as the Coastal Commission determined in

1 February, there are several sections of the Coastal Act
2 which this application would be inconsistent with.
3 The application is also inconsistent with our
4 County's oil transportation policies, which are set forth
5 in the local coastal plan and coastal zoning ordinance,
6 primarily a series of findings that have to be made before
7 tankering can occur. The findings are that pipelines to
8 the refining destination of choice have inadequate
9 capacity; that a pipeline commitment has been
10 demonstrated before tankering occurs, and that environmental
11 impacts of tankering have been mitigated to the
12 maximum extent feasible.
13 And as our comments demonstrate, none of those
14 findings can be made; therefore, tankering would violate
15 the County's LCP.
16 A fifth reason to deny the lease is because the
17 project will result in many unmitigated impacts.
18 According to the County's EIR, tankering from the
19 Gaviota Marine Terminal would result in Class 1 impacts
20 to fisheries, recreation, biological, and marine
21 resources.
22 In addition, tankering will use up valuable
23 air quality offsets. Therefore, under CEQA, the
24 Commission can only approve this project if the benefits
25 outweigh the Class 1 impacts.

1 The magnitude of the risks and impacts of
2 tankering are so great that there can be no credible
3 argument that they are outweighed by any alleged benefits.
4 The risks are too obvious. Tankers lead to oil spills,
5 leaks, and accidents. Prevention is impossible,
6 cleanup is incomplete.
7 One needs only to remember the major oil spills
8 that have occurred within the last six months in Spain,
9 Scotland, Finland, and Indonesia to realize that oil
10 spills are inevitable. It doesn't matter whether the
11 tankers are single-hulled or double-hulled. They
12 explode. They go off course. They crash.
13 Incidentally, these are not small tankers we're
14 dealing with. Each tanker will hold 250,000 barrels
15 a day, which is the volume of oil which was spilled by
16 the Exxon Valdez. That's not a small amount. And we
17 don't want to be exposed to that risk.
18 There are no real public benefits of this
19 project. Revenue stream will be unaffected because, as
20 I mentioned earlier, production levels are increasing on
21 a regular basis and existing pipelines are capable
22 of carrying the oil companies' peak production.
23 Taxes will also be unaffected as confirmed by our
24 County's Tax Assessor last August.
25 Neither will the project have a benefit on jobs.

1 According to our County, operations at the Gaviota
2 Marine Terminal will result in only 11 new jobs. On the
3 other hand, construction of a new pipeline will create
4 literally hundreds of jobs. For example, according to the
5 EIRs for the pipeline projects, construction of the
6 Pacific Pipeline will result in a peak 605 jobs;
7 construction of the Cajon Pipeline will generate 211
8 jobs; and reversal of Line 90 will require approximately
9 135 jobs.
10 And although these jobs are temporary, as
11 supposedly tanker jobs would be, the long-term operation
12 of the pipelines will generate more jobs than tankering
13 as well ranging anywhere from 20 to 30 jobs per project.
14 These jobs will not result from tankering. They
15 only result if pipelines are required to be developed.
16 Finally, 11 jobs simply isn't enough when one
17 considers the number of other jobs which would be
18 jeopardized in the fishing, tourism, and recreation
19 industries if tankering is allowed.
20 Finally, the proposed lease does not include
21 mitigation measures and alternatives which could reduce
22 project-related impacts as required by CEQA.
23 Several mitigation measures and alternatives have
24 already been identified which could reduce tanker impacts.
25 The most obvious is moving the facility 10 to 14,000 feet

1 offshore and requiring a single-point mooring system.
2 Reducing throughput is another obvious means
3 to reduce impacts. Because of the existing pipeline
4 network, throughput at the terminal could be reduced
5 without any prejudice to the producers.
6 Other mitigation measures are available to
7 reduce impacts to fishing resources and commercial
8 fishing activities, and these will be discussed by
9 Steve Dunn.
10 Those are the grounds on which we hope that you
11 deny this application for a lease. If you do decide to
12 issue a new lease, then we would like to direct you
13 to some proposed conditions which we would like
14 incorporated into the lease, which is the final item in
15 your packet.
16 Your authority to condition the lease is based
17 upon Public Resources Code Section 6873, which deals with
18 leases, the Coastal Act, and the County's local coastal
19 plan, as well as the Public Trust Doctrine.
20 The first condition we propose is to clarify
21 that any operation of the marine terminal is consistent
22 with valid tankering permits as issued by the County or
23 the Coastal Commission, and consistent with our
24 County's LCP oil transportation policies.
25 The second condition relates to pipeline use and

1 is based upon staff's proposal to maximize the
2 existing capacity of pipelines.
3 We've added a couple suggestions to clarify
4 the scope of emergencies and exceptions to that
5 certification process.
6 The third condition deals with the pipeline
7 commitment issue and mirrors the County's permit
8 condition, which requires execution of a throughput and
9 deficiency agreement with the pipeline developer before
10 tankering commences.
11 And finally, given the capacity of Line 63 and
12 Sisquoc, the throughput volumes that we suggest would
13 be to allow 20,000 barrels per day on a monthly average
14 since we're dealing with supposedly just the Point
15 Arguello production.
16 I'd like to stress the importance of this
17 pipeline commitment condition. Although Chevron made
18 a commitment to use pipelines to L.A. in 1983 and
19 Exxon made a similar commitment to use pipelines to
20 Texas in 1985, neither company has lived up to its
21 commitment.
22 Ten years have passed since Chevron promised
23 to develop a new pipeline to L.A. Once the producers
24 are in tankers, it will be virtually impossible to get
25 them out. We have seen how ineffective deadlines and

1 terminations have been in the past.

2 More recently, the producers objected to a

3 proposal which -- by the County which would have required

4 them to put their money where their mouth is by signing

5 a throughput and deficiency agreement with a pipeline

6 developer before commencing marine tankering.

7 In addition, Chevron and the other Point

8 Arguello Producers have sued the minor partners over

9 their efforts to construct the Mariposa Pipeline.

10 This pipeline, which would provide a direct link from the

11 Gaviota processing facility to the All American Pipeline

12 network, would reduce pipeline costs by about a dollar

13 a barrel. And one would think that if the producers

14 truly wanted to pipeline, they would support a project

15 which would reduce pipeline costs.

16 Chevron and GTC have also sued the Coastal

17 Commission over its issuance of a tanker permit for the

18 Point Arguello Producers and over the issuance of the

19 marine terminal permit as well.

20 Finally, Chevron and GTC have both opposed

21 AB 591, a bill which would codify the tanker cessation

22 date set forth in the Coastal Commission's Point Arguello

23 tanker permit and the Gaviota Marine Terminal permit.

24 At every step of the way, the producers continue

25 to resist their obligation and their commitment to use

1 pipelines. To compound this resistance, no new pipeline
2 will be built without an upfront commitment in the form
3 of a T & D agreement by the producers.
4 And the reason is simple. In 1985, Exxon said
5 it would use pipelines to transport its oil to Texas.
6 Based on that promise, All American spent $885 million
7 to build a pipeline to Texas. Now it's sitting virtually
8 empty. Based on this experience, no pipeline developer
9 now will construct a pipeline, will start the shovels
10 until they have a T & D agreement. That T & D agreement
11 guarantees the development of a pipeline, guarantees the
12 jobs that we were talking about, guarantees the
13 cessation of tankering. That's the only thing that
14 guarantees a cessation of tankering. Dates don't mean
15 anything. Pipelines do.
16 The other importance of the commitment is that
17 it's tied to the capacity of existing pipelines that
18 we've been talking about. We can try to increase the
19 use of existing pipelines by Point Arguello, but when
20 Exxon comes on line later this year, they're going to
21 back out half of that Point Arguello oil. And there's
22 going to be more tankering. So, the only way to ensure
23 that enough oil is going in the pipelines is to require
24 the throughput and deficiency agreement. That's the only
25 way we're going to deal with both Chevron and Exxon.

1 In conclusion, we hope you'll give this issue
2 your serious consideration and, by the dialogue that's
3 gone on today, I can see that there's tremendous interest
4 and serious consideration of this issue. And we appreciate
5 that.
6 We urge you not to take action under the
7 threat of litigation. Succumbing to litigation threats
8 is not good planning policy, because it sends a message
9 to other applicants that they can pressure your agency
10 into taking action for their benefit regardless of the
11 laws and policies which may be undermined in the process.
12 In addition, no matter what you do, no matter
13 what negotiations you make, no matter what deals you cut,
14 you still might get sued. That's what happened to the
15 Coastal Commission. They've been sued twice on this issue
16 this year already.
17 Furthermore, we urge you not to let the producers'
18 threat of tankering for Martinez influence your decision.
19 They've been sending some oil through pipelines up to
20 Northern California, loading it onto tankers. I noticed
21 in the staff report that they were threatening to
22 resume that tankering if they don't get the lease they
23 want. And I just want to let you know that that tankering
24 has been sporadic. It's been minimal. It's been
25 expensive. It only occurs everytime there seems to be a

1 big public hearing coming up. And more importantly,
2 it's in violation of the OCS approved plan and is subject
3 to Federal enforcement.
4 Instead of making a decision based upon the
5 applicant's threats, base your decision upon the
6 applicable laws and policies adopted by the this State
7 and by the County of Santa Barbara.
8 Encourage the development of a new pipeline.
9 Remember that the only true incentive to building a
10 pipeline is to prohibit tankering. Please deny the
11 lease application, direct the applicant to complete
12 environmental review. Any resulting delay is no one's
13 fault but their own.
14 The GTC partners are the very producers who
15 intend to tanker from the marine terminal. They
16 promised to build a pipeline ten years ago. Had they done
17 so, the pipeline would have been built by now for a lot
18 less money and operational to their refining destinations
19 of choice.
20 Thank you.
21 CHAIRMAN MC CARTHY: Thank you. Are there any
22 questions?
23 COMMISSIONER DAVIS: I have a number of questions.
24 First of all, in fairness to the producers, there's been
25 a lot of opposition to the construction of pipelines. I

1 remember at one point, Mayor Bradley came out against
2 the proposed pipeline in Los Angeles. So, I don't
3 think -- believe me, I'm not their champion, but I don't
4 think it's fair to say that they have not made an effort
5 to build a pipeline from roughly the Santa Barbara area
6 down to Los Angeles.
7 MS. KROP: I do have a comment on that. The
8 SCOP's pipeline project was abandoned in 1986, and it
9 wasn't until the County forced them to pursue another
10 pipeline project in 1990, that the Pacific Pipeline
11 became a new proposal.
12 So, I agree that there have been some permitting
13 problems, but there also has not been a consistent effort
14 on the part of the producers to encourage the
15 development of a new pipeline.
16 COMMISSIONER DAVIS: Let me ask you a couple of
17 other questions. You say there's no need for a marine
18 terminal, and that is based on your perception that
19 there's unused pipeline capacity?
20 MS. KROP: That's correct.
21 COMMISSIONER DAVIS: And also based on the
22 perception that only Chevron's contribution to or PAPCO's
23 contribution to -- let me see if I'm getting this
24 confused here. What assumption are you using as to the
25 total amount of oil that's now moving through the pipelines?

1 MS. KROP: The assumption is that there's been
2 demonstrated adequate capacity to transport all of Point
3 Arguello's peak production, which then leaves us with
4 Exxon, which committed to send its full production to
5 Texas.
6 Now, that they want to change destinations,
7 they can't tanker yet until the County's environmental
8 review and permitting process is complete, which won't
9 be until the end of the year. At that point, we'll
10 probably be up there objecting to that application for
11 various reasons. But one of them would be that a pipeline
12 hopefully will be under construction by then, and
13 Exxon could be held to its earlier commitment to
14 transport to Texas until that new pipeline capacity to
15 L.A. is available.
16 In the alternative, they should at least have
17 to show a financial commitment or T & D commitment to
18 the pipeline to L.A. before they can tanker.
19 So, it's -- they're not going to be ready to
20 tanker yet for quite some time.
21 COMMISSIONER DAVIS: So, you're assuming Exxon
22 is not going to come on line. When you say there's no
23 need for a marine terminal, that's based on that assumption.
24 MS. KROP: There's no need for a marine terminal
25 now. We do see Exxon in the picture, because they filed

1 their application, and we think that's part of the big
2 picture that has to be looked at.
3 And that's why development of the additional
4 pipeline capacity is so critical.
5 COMMISSIONER DAVIS: Okay. I think we all agree
6 on that. I think that's -- I'd like to put the cart
7 before the horse, too.
8 What about Mr. Shamas' response to my question
9 about a throughput agreement. He's basically saying
10 there's no point in signing one until you get the
11 pipeline permitted.
12 MS. KROP: We --
13 COMMISSIONER DAVIS: Because you say that we
14 should insist.
15 MS. KROP: Yeah. The County's permit, which we
16 supported, required execution of a throughput and
17 deficiency agreement with a pipeline project that has its
18 discretionary permits. Otherwise, we agree, it does have
19 no meaning.
20 The only way the pipeline developer will obtain
21 the construction financing is if it's an unconditional
22 throughput and deficiency agreement and if the permits
23 have been obtained.
24 COMMISSIONER DAVIS: Okay. But then you say
25 that -- I thought you recommended that we condition any

1 lease by the signing of a throughput agreement,
2 throughput and development agreement.
3 MS. KROP: I do. The County's condition, which
4 is the same condition we would like you to impose,
5 conditions the commencement of tankering upon evidence
6 of an unconditional throughput and deficiency agreement,
7 which is executed with a pipeline developer that has
8 all discretionary permits. It's our --
9 COMMISSIONER DAVIS: And none exists, right?
10 MS. KROP: None exists at this time, but it's
11 our understanding that the Cajon Pipeline expects to
12 have permits in May and that Line 90 expects to have
13 permits in September.
14 And perhaps the pipeline companies can
15 confirm that. But that's the information that we've
16 been given in staff reports and EIRs.
17 Again, there's no prejudice in that six month
18 or whatever delay, because Point Arguello, which is the
19 producer that now is ready to tanker, is sending
20 70-plus thousand barrels a day in existing pipelines,
21 and can send their full peak production. So, again,
22 if it takes until the fall to have a pipeline project
23 that's ready to execute T & Ds, that's no prejudice to
24 Point Arguello, and it's no prejudice to Exxon, because
25 Exxon can't tanker till the end of this year, beginning of

1 next year anyway.

2 COMMISSIONER DAVIS: Can I ask Mr. Secundy

3 a question, Mr. Chairman? Just while she's there?

4 CHAIRMAN MC CARTHY: Yes.

5 COMMISSIONER DAVIS: You may just answer from

6 there.

7 MR. SECUNDY: Okay.

8 CHAIRMAN MC CARTHY: Would you stay up there,

9 please (speaking to Ms. Krop).

10 Excuse me. Would you come up, Mr. Secundy?

11 Use the microphone. Thank you.

12 COMMISSIONER DAVIS: Would you agree that there

13 is capacity to handle the production from Point Arguello

14 Producers between now and the end of the year through

15 your pipeline?

16 MR. SECUNDY: Through just my pipeline?

17 COMMISSIONER DAVIS: Or existing pipeline

18 capabilities between here and Los Angeles.

19 MR. SECUNDY: It depends upon the destination

20 of choice of the producers and the people that are

21 buying their production.

22 In terms of Line 63, it would be my best guess,

23 we probably have between 40 and 50,000 barrels a day

24 of capacity that we could move to Los Angeles. There's an

25 additional 20,000 barrels a day that can go to the

1 Santa Maria's refinery, Unocal's refinery. It's about
2 5,000 barrels a day that can go to Bakersfield. There
3 some that can go east; there's some that can go north.
4 It depends on who wants to purchase it.
5 COMMISSIONER DAVIS: I guess, at least
6 conceivably, the capacity exists, but people would have
7 to route the oil in different directions.
8 MR. SECUNDY: Well, again, yes. What you're
9 saying is correct. But it does depend upon the refinery
10 of choice by the producers, who wishes to purchase the
11 oil.
12 If everyone in Los Angeles wishes to purchase
13 all of the PAPCO production, there is not enough
14 capacity to go just to Los Angeles. The only way that
15 you could accommodate all of the current production of
16 PAPCO producers is to have some go to the Unocal
17 refinery, which it's currently doing; some going to
18 Bakersfield, and some going to other destinations.
19 Our pipeline also, Line 63, for a fairly nominal
20 amount, can be expanded by about 10,000 barrels a
21 day. So, we can put on some additional capacity on an
22 interim basis. But we've received no indication that
23 anyone's interested in that at this point in time.
24 CHAIRMAN MC CARTHY: Yes, Mr. Shamas?
25 MR. SHAMAS: We need to straighten out some

1 misconceptions. The total production could go by
2 pipeline if you wanted to send it to Texas at a loss of
3 two to three dollars a barrel. But nobody wants to.
4 In April and part of March, Gerry's pipelines were
5 prorated, because they were full. So, when you stand up
6 and say that all of it can go out now, yes, we can take
7 20 a day to Martinez and tanker down the shore to L.A.,
8 and that went out by pipeline. You can't move all this
9 crude right now by pipelines. That's not a true
10 statement.
11 Gerry said the right thing. You try to give
12 all that crude to him, he's going to back out all the
13 San Joaquin Valley crude and all the independent
14 producers' testimony you heard, where they had crude to
15 go to L.A.? That all gets backed out.
16 So, it's not true that you can ship everything
17 today. We've been throttling back production there
18 because there isn't room inall the pipelines to go to the
19 markets where that crude makes the most sense.
20 CHAIRMAN MC CARTHY: Okay? Thank you,
21 Mr. Secundy. Other questions of Linda Krop?
22 COMMISSIONER DAVIS: Thank you. Let's see.
23 That's all I have.
24 CHAIRMAN MC CARTHY: Any questions? Thank you
25 very much.

1 MS. KROP: Thank you very much.

2 CHAIRMAN MC CARTHY: Next we hear from

3 Jana Zimmer, American Oceans Campaign, special

4 counsel. Welcome.

5 MS. ZIMMER: Thank you, Mr. Chairman, and

6 Commissioners, and good afternoon.

7 My name is Jana Zimmer, and I represent

8 American Oceans Campaign, which is a national ocean

9 protection advocacy organization with offices in

10 Washington, D.C., Seattle, and Santa Monica.

11 I want to stress the connection to the

12 Los Angeles area, because the consistuencies in

13 Los Angeles were not included in the facilitation

14 process that was organized by the Resources Agency,

15 neither the environmental groups from Los Angeles

16 nor the local governments in the Los Angeles area.

17 Our position in this has been consistent

18 throughout, and that is that the only way that we could

19 accept interim tankering would be if we were assured that

20 we were not, in effect, on the slippery slope to

21 permanent tankering from the Gaviota Marine Terminal.

22 And, unfortunately, everytime we try to

23 dot the "i's" and cross the "T's," we hear equivocation

24 and resistance from the producers.

25 One of the first things I want to clarify today

1 is the record, as I understand it, as to the history
2 of the parties legitimate expectations in this regard.
3 The staff report reports at page 18 that
4 Texaco has claimed that they relied, when they invested
5 their millions of dollars in the interim terminal,
6 on an expectation of an ability to continue to use that
7 terminal on a long-term basis.
8 And that simply does not square with the facts.
9 It does not square with the lease that was issued by
10 this Commission in 1987. That lease, at page 2, the
11 term provision acknowledges that GTC may wish permanent
12 tankering, but clearly indicates that additional
13 environmental analysis may be required, and I quote
14 here: "The Commission in any decision to convert the
15 marine terminal to permanent use may deny such
16 conversion."
17 That lease, I'm sure, is already in your
18 record. So, the concern here is that GTC did apply
19 for a permanent terminal. It was only after we and
20 other groups raised objections to the adequacy of the
21 environmental document for that terminal that that
22 application was withdrawn and they reapplied or
23 resubmitted for an additional interim term.
24 Our concern, of course, is that, given the
25 economics of the situation, they will continue to

1 attempt to gain permanent use of that terminal at that
2 site.
3 So, there's no basis in the permits that
4 were in the lease that was given by this Commission for
5 GTC to assert any sort of legal right or vested right
6 to continue use of that permit -- of that terminal.
7 In addition, the Coastal Commission permit that
8 was issued in 1987, specifically states that -- I'm just
9 going to read this little sentence -- "Circumstances
10 may develop such that GTC may desire to continue
11 marine terminal operations beyond the interim period,
12 but GTC acknowledges that the Commission has made no
13 commitment to the approval of a new permit. GTC further
14 acknowledges that the expenditures it will undertake in
15 connection with the knowledge that the terminal has been
16 permitted for an interim period only, and that the
17 Commission may, but shall not be required to consider
18 these expenditures in evaluation of compliance with the
19 Coastal Act on any subsequent proposal for continued
20 operation."
21 So, from the permits that were accepted by
22 GTC, it's clear that the investment that they made was
23 made with the knowledge that that was an interim use and
24 that they could not claim those expenditures to assert a
25 right to a continued use.

1 Now, the economics of the situation have not
2 turned out to be what the producers and GTC had
3 expected originally. And we can all sympathize with
4 that. But the question here is not whether we sympathize
5 with their economic situation, but whether this
6 Commission has to bail them of that sorry economic
7 circumstance. And the fact is that the problem here
8 has much more to do with the fact that oil is selling
9 for about $20 a barrel, rather than the $40 that they
10 expected it to be selling for, than it does any other
11 factor or issue.
12 The second area that I'd like to cover --
13 Ms. Krop has already told you why the environmental
14 document that you're using is inadequate under CEQA.
15 And we believe that there's a problem with the lease
16 approval today because that would violate additional
17 specific provisions under the Public Resources Code
18 that are directly applicable to your leasing
19 activities.
20 And those provisions include Section 6873,
21 6873.2, and 6873.5. The two latter provisions -- and I
22 have copies to distribute here -- involve a requirement
23 of holding a hearing on at least 30 days' written notice
24 on the environmental document that supports your permit
25 release action.

1 Although the Environmental Coalition requested
2 a hearing in Santa Barbara -- and that statute does
3 require that the hearing occur in the area, the
4 geographic area where the leasing is to occur -- that
5 has not happened.
6 In addition, under 6873.5, consultation is
7 required, specifically with the Department of Fish &
8 Game, the National Marine Fisheries, and representatives
9 of local fishermen who fish in the area.
10 Mr. Dunn will be testifying after me. He's
11 the representative of the local crab and lobster
12 fishermen, and he will tell you that no such consultation
13 has occurred.
14 Finally, under 6873.5(b)(3), in considering the
15 lease, the Commission needs to consider the cooperative
16 efforts that have been made to mitigate the effects of
17 the operation of the marine terminal on fishing
18 activities. And to our knowledge, that has not been
19 done. There's no reference to it in the staff report.
20 These failures to comply with these provisions,
21 we think, are especially prejudicial to this process,
22 because staff has recommended and GTC has insisted that
23 they're entitled to 100,000 barrels a day capacity for
24 that marine terminal. None of the hearings before the
25 County, none of the hearings before the Coastal

1 Commission contemplated that this -- that the capacity
2 of the terminal would be 50,000 barrels a day. In both
3 cases, the public was repeatedly reassured that the
4 use of the terminal by Exxon was a separate issue and
5 involved additional considerations which would be
6 given serious consideration.
7 So, we believe there's some serious procedural
8 problems with proceeding with an approval today on that
9 basis.
10 The third area that I would like to stress --
11 and this has to do with commitment and making sure that
12 we dot the "i's" and cross the "T's" on the producers'
13 commitment and GTC's commitment to absolutely stop
14 tankering on January 1, '96.
15 Ms. Krop mentioned AB 591, which was co-authored
16 by Terry Friedman and our Assemblyman in Santa Barbara,
17 Jack O'Connell. All that statute would do is put into
18 the Coastal Act the final cessation date for tankering.
19 At the March 29th hearing before the Assembly
20 Natural Resources Committee, industry representatives,
21 including Mr. Mihalik for GTC, the Western States
22 Petroleum Association, and also Mr. Van Buskirk for the
23 producers, vigorously opposed this provision in the
24 Coastal Act.
25 Now, I might agree that, in general, it's not a

1 great idea to codify permit conditions through
2 legislation. But given the history of this project
3 and the ten years of failed commitments, we thought
4 and Assemblymen Friedman and O'Connell also thought that
5 it was appropriate to provide that additional quarantee
6 that under no circumstances would tankering continue
7 beyond that date.
8 Mr. Van Buskirk testified on behalf of the
9 producers that if this bill became law, that that, by
10 itself, would force the producers to go back to court
11 and to reject the permit.
12 And we've discussed -- you've discussed good
13 faith several times in this hearing. And we cannot
14 imagine why a bill that would merely codify their
15 promise would lead them to reject the permits that have
16 been offered to them.
17 This concern relates additionally to a condition
18 that we have proposed and, if you do issue a lease,
19 that under no circumstances can there be any holdover.
20 Your standard lease forms have a holdover provision.
21 And the lease that was issued to GTC in 1987 was in
22 holdover status for almost two years. And we think, given
23 the policy concerns and this Commission's concerns about
24 not extending tankering under any circumstances, that if
25 you do issue a lease, you should direct that it be

1 explicit that there can be no administrative holdover
2 under any circumstances.
3 I just want to summarize and attempt to
4 respond to some of the comments that were made with
5 regard to the fairness of this process.
6 In addition to the claim that they have a
7 vested right to continue using this interim terminal,
8 the producers have asserted in testimony to the
9 Assembly Natural Resouraces Committee and also here
10 today that this process represents an example of the
11 unfair way in which businesses are being treated in
12 California and, in some great measure, have contributed
13 to the lack of economic recovery in this State.
14 Their assertion is that the rules have been
15 changed on them in the course of the process, and that's
16 simply not correct. The County's coastal policies have
17 been the same since 1984. The permits that I'll be
18 putting into your record have been in existence, the
19 conditions haven't changed. The only thing that has
20 changed here is the economics of the project. The
21 project was an expensive project to begin with, the
22 rate of return -- even in 1990, when the County did
23 a crude oil transportation analysis -- was a minimal
24 positive rate of return.
25 So, whether they received tankering -- a permit

1 for tankering or not, this project has not been what
2 it was intended to be economically.
3 So, the problem is not regulation, overregulation,
4 or changing conditions. The problem is that the worldwide --
5 worldwide price of oil is not what the producers had
6 anticipated.
7 So, in answer to the speaker earlier who asked
8 what the message is to the business community if this
9 Commission adheres strictly to the resource protection
10 policies of the Coastal Act and under the Public
11 Resources Code generally? The message is that businesses
12 who comply with the rules and who adhere to their
13 commitments will be well treated. But, as in this case, if
14 you have a ten-year history of failed commitments,
15 then there are going to be problems.
16 And we don't believe that the coastline should
17 be put at risk in order to solve those problems. Thank
18 you. Do you have any questions?
19 CHAIRMAN MC CARTHY: Thank you very much. Any
20 questions of Ms. Zimmer?
21 Thank you very much.
22 MS. ZIMMER: Okay. I'd like to put these exhibits
23 that I've referred to in the record.
24 CHAIRMAN MC CARTHY: Commissioner Davis.
25 COMMISSIONER DAVIS: Yeah, I thought your point

1 on administrative holdovers was a good one. Do we
2 have the authority, Bob, to write that into a lease, to
3 say that, basically -- because this particular
4 lease was kaput and it's still going on. How can we
5 legally do that?
6 MR. HIGHT: You can put it in the lease, but
7 a subsequent Commission could change it. So, you can
8 put it in and it gives -- it creates a condition today,
9 but that condition can be changed later.
10 COMMISSIONER DAVIS: Well, how can -- then any
11 subsequent Commission could change the term -- all the
12 terms of the lease.
13 MR. HIGHT: Correct.
14 COMMISSIONER DAVIS: But not without consent
15 of the other party.
16 MR. HIGHT: Correct.
17 CHAIRMAN MC CARTHY: Thank you very much.
18 MS. ZIMMER: Thank you.
19 CHAIRMAN MC CARTHY: Steve Dunn, Santa Barbara
20 Trap Fishermen. Mr. Dunn, welcome. Thanks for your
21 patience.
22 MR. DUNN: Thank you very much, members of the
23 Commission. My name is Steve Dunn. I'm a local
24 commercial fisherman from Santa Barbara. I was born and
25 raised there. I've been fishing crab, lobster, and/or

1 fishnets for the last 17 years. I fish in the area of
2 the Gaviota Marine Terminal as well as other areas in
3 our channel.
4 Today, to my knowledge, I'm the only permitted
5 commercial fishermen coming before you here today. I'm
6 also here in representation of the Trap Fishermen of the
7 Joint Oil/Fisheries Committee. I'm also here in
8 presentation of eight of approximately 12 gill net
9 fishermen who fish in the Gaviota area, as well
10 representation of members of the Central Coast Hook & Line
11 Commercial Fishing Association.
12 As the permit exists today, or the idea of the
13 permit to tanker oil out of Gaviota, our group is opposed
14 to that permit on the grounds that the conditions that
15 have been specified, if they still stand, are inadequate
16 to address our issues.
17 In August of 1992, the Santa Barbara County
18 designated the impacts to commercial fishing in the area
19 in relation to tankering as Class 1 impacts. This is
20 based primarily on the fact that the voluntary vessel
21 traffic corridot program in relation to us is a failure.
22 The Joint Oil/Fisheries Committee originated some ten
23 years ago as a result of devastating losses of said
24 fishing gear by commercial fishermen at the hands of
25 the seismic exploration industry as well as other oil

1 service vessels. The trap fishermen were at major loss
2 of all the fisheries here. And finally, after many
3 years -- or several years of trying to reach some sort
4 of an agreement, some sort of method of coexistence
5 in the channel, we sought legal remedy. The permits
6 for seismic testing were issued using a negative
7 declaration. We sought legal means to have those permits
8 withhheld, and they were, pending further economic
9 review -- excuse me -- environmental review.
10 At this time, we face much the same situation
11 with the vessel traffic corridor program. Since it
12 doesn't work, we're asking for relief. We've been
13 asking for relief from the County, we've been asking for
14 relief from the Coastal Commission, and we're following
15 up today asking for relief from you.
16 We have in the last several months sent copies
17 of letters to your staff and to the Commissioners, letters
18 that were originally addressed to the California Coastal
19 Commission. These letters -- I have copies today that
20 I'd like to submit for the record if they're not in your
21 possession today. I'd like to digress a little bit --
22 being a little unprepared here -- the small boat trap
23 fishing industry in Santa Barbara generally considers the
24 full range of their operations to be in the Gaviota area.
25 The representation here today is for all of those

1 fishermen who fish traps and gill nets inside 3 miles,
2 which will be terminated at the end of this year; as
3 well as outside of 3 miles, which will continue.
4 The jobs involved probably on the magnification
5 of 10 to 1 after the fish hits the dock, we've just
6 been subjected to the full beginning of another El Nino
7 situation similar to the 1982-1983 storms. We have a
8 large body of warm water moving into our area. A lot of
9 species of fish are harder to catch right now than they
10 normally are.
11 We've gone through about 12 weeks of some
12 severe weather conditions, where fishermen have a hard
13 time getting out of port to get to their fish.
14 I've come up here today -- I'm not paid to come here.
15 I'm representing those of us who are at a loss here and
16 feel that tankering will create more of a loss and more of
17 a hardship for us. We don't come here today to suggest
18 that there are jobs waiting for us from tankering. We're
19 here to tell you that we have jobs now. We don't want to
20 lose them.
21 The economic loss is certainly something that,
22 in our community, we really can't afford to have. An d
23 we're quite frustrated, in that the conditions that we've
24 proposed following this permit process have not been
25 addressed. The County, as I say, defines our impacts as

1 Class 1. I'd like to know from the Commission -- actually
2 from the Director (sic) perhaps -- in relation to
3 establishing a mandatory traffic corridor program, can
4 the Commission enact civil penalties for noncompliance?
5 EXECUTIVE OFFICER WARREN: Well, let me answer.
6 We have explored that opportunity available to the
7 agency, and we could through the means of liquidated
8 damage provisions in our leases and contracts. But
9 beyond that type of approach, I'm not at all sure we're
10 in a position to impose penalties. I'm willing to be
11 corrected if legal staff can suggest another answer.
12 CHAIRMAN MC CARTHY: That's the answer.
13 MR. DUNN: Correct. I would like to continue
14 to -- actually, I have another question. The State
15 Constitution in 1925 defined fishermen as having a right
16 to fish in State waters from State waters in State waters
17 from State lands (sic). And that right, to our knowledge,
18 has never been usurped or withheld. Currently, we have
19 fishermen -- I'm among them -- who have had direct
20 conflict with either debris from oil exploration,
21 conflict with site specific fishing and oil company
22 operations. And I'd like to know, since the State Lands
23 Commission leases the sea floor to the oil companies, how
24 does that relate to our right to fish?
25 CHAIRMAN MC CARTHY: The Public Trust Doctrine,

1 which the State Lands Commission has the obligation
2 to uphold, includes the people's interest in the
3 commercial fishing and recreational values of the waters
4 within our jurisdiction.
5 From time to time, we have to reconcile
6 conflicts -- and you've just pointed out one -- that arise
7 in pursuing these interests. We have imposed during the
8 years I've been on this State Lands Commission
9 innumerable restrictions on the pursuit of oil so that it
10 did not unfairly interfere with the commercial and
11 recreational fishing industry.
12 It is not possible to have a perfect world, given
13 the statutory and constitutional mandate that we have,
14 as I've just described within the Public Trust Doctrine.
15 But we do the best we can in trying to protect your
16 interests. And we, on many occasions, have attached
17 conditions to leases, exploration, drilling leases to
18 try to protect commercial fishermen.
19 MR. DUNN: Thank you, Commissioner. I'm aware of
20 some of the efforts we've all made in those regards.
21 I would like to ask here today that, in relation to
22 the local contingency fund in the Santa Barbara Channel
23 area -- actually, it's in the Tri-County area, I believe --
24 which are funds that are set aside from oil revenues to
25 be directed to mitigating gear loss of set fishing gear,

1 I would ask that rather than those funds being directed
2 to the areas where the fishing and -- excuse me --
3 rather than being directed to the areas where the oil
4 companies have already set equipment -- that is, drill
5 rigs, sea floor completion units, pipelines, so on, and
6 so forth -- I would like to ask, in relation to this
7 tankering permit, if it is issued, if the Gaviota Terminal
8 lease is issued, that the local contingency fund be
9 extended to cover gear loss as well as production loss
10 by a set formula in those areas which are generally
11 considere to be oil company areas.
12 I'm maybe not expressing myself fully. In the
13 Gaviota area, we rely on the traffic corridor area as
14 fishing grounds for all the fishermen who I've just
15 described. Since we're talking about reauthorizing an
16 existing lease, it's important to note that there's been
17 little or no activity relative to what we're talking about
18 coming over the horizon in this area.
19 And so, fishermen who have gear that gets hung up
20 on a pipeline or gear hung up on the remains of an oil
21 rig that perhaps wasn't removed, any debris, I would like
22 to ask that the contingency fund be extended to cover
23 those circumstances. Right now, there is a claim by one
24 of our hook and line fishermen for gear loss on a piece of
25 oil equipment that is charted and, therefore, it is not

1 covered.

2 CHAIRMAN MC CARTHY: Let me get an answer.

3 EXECUTIVE OFFICER WARREN: That contingency fund

4 is a County-administered fund. We have no jurisdiction

5 over its creation or its use.

6 CHAIRMAN MC CARTHY: You've got another target,

7 Mr. Dunn.

8 MR. DUNN: I understand, and I started with

9 that.

10 CHAIRMAN MC CARTHY: We'll be happy to support

11 your reasonable request.

12 MR. DUNN: Thank you. Thank you. I understand,

13 and I need to make note that we did start with those

14 previous targets some months and some years ago.

15 And we need very much to have State Lands consider these

16 issues. I would like to submit the two letters that went

17 to the Coastal Commission that have already been received

18 by State Lands and the conditions that we've asked for

19 be considered if the permit will be extended.

20 CHAIRMAN MC CARTHY: Thank you very much.

21 MR. DUNN: Thank you.

22 CHAIRMAN MC CARTHY: Any questions? Thank you.

23 MR. DUNN: Are there questions?

24 CHAIRMAN MC CARTHY: No, thanks. Mr. Robert

25 Klausner? And after this, Joy Piazza. Would you both

1 please come up? Mr. Klausner representing himself, and
2 Ms. Piazza representing the Greater Santa Barbara Lodging
3 Association.
4 Yes, sir.
5 MR. KLAUSNER: Commissioners, it is refreshing
6 to have a staff present the options, which didn't happen
7 at the Coastal Commission. And I want to compliment your
8 staff for at least giving you your four options.
9 Now, it appears that industry's only interested
10 in one of those options and has told you the other three
11 will not survive or fly. So be it.
12 I appreciated your comment, and I think you made
13 the key question today, which said, "What can we do to
14 make it happen, to get pipelines," which is essentially
15 State policy and it's County policy.
16 And that's what we've been wrestling this for a
17 long time. And the reason we're here is because the
18 assumptions we made back when -- and we go back a long
19 time -- were that it would be in the economic interest of
20 industry, because there was enough volume to get pipelines,
21 certainly to L.A. when Arco was going to be producing
22 and when Chevron was going to be producing, and there
23 would be pipelines to Texas.
24 Well, it didn't work out that way. And the net
25 result is, there's a lesson to be learned. And the
lesson to be learned is that you cannot regulate that

1 decision. That decision is an economic decision.
2 So, the key question then is what can you do
3 in the equation to make it happen? I don't think there's
4 anybody here, including industry, that knows whether
5 it's in their economic interest at this stage of the
6 game to increase capacity to Los Angeles so that they can
7 produce the field as fast as they want to produce the
8 field. It may not be worthwhile increasing capacity and
9 may be more economical to phase the field and use what
10 capacity there exists.
11 We won't know that, and we certainly won't
12 know that if we allow them at this stage of the game,
13 for the next three years, to ship by tanker. Because the
14 volume, the key volume, the biggest volume is at the
15 front end. It's not at the back end. And when Lou tells
16 you that within three years, they can guarantee they won't
17 tanker, they can guarantee that, because by that time,
18 they will have passed their peak and they'll be down in
19 figures that they'd have a tough time arguing there weren't
20 pipelines to go to L.A. to carry.
21 And we certainly can't accomplish what we're
22 trying to do by not maximizing the use of the pipelines
23 that already exist, because that would be counterproductive.
24 So, the number three option that industry wants you to
25 accept and pursue doesn't even take advantage, truly, of the

1 pipeline capacity that has been demonstrated here -- is
2 here over and above what the Coastal Commission required
3 them to put into the line.
4 So that doesn't really make sense to me either.
5 If, on the other hand, there is no pipeline, then we
6 really are going to test whether or not there is enough
7 capacity between what Chevron has with Point Arguello and
8 Exxon has coming down to justify a pipeline that both
9 of them want to be in. Because what I can foresee is that
10 there's a fight for turf here. There's only so much
11 capacity down there for refining. And these guys are
12 after getting as much as they can and getting as large a
13 share of the pie as they can, and there's no love lost
14 between Exxon and Chevron or anybody else.
15 That's just plain business. And I accept that.
16 Figure this one. Southern Pacific comes in, permitted,
17 and Chevron lives up to their agreement. They offer them
18 an unconditional T & D to ship their full production or
19 whatever it will be through Southern Pacific. And Exxon
20 says, gee, why are we facilitating a pipeline for Chevron.
21 We'll go the other way, because we want to go to Texas,
22 and we want to go to L.A., and it's more to our interest
23 to go by Four Corners. And we can't get the volumes
24 together. Are you going to hold Chevron responsible
25 for the whole industry lining up to go one place?

1 You can't hold them accountable for something
2 they can't produce. So, what we've got here is a
3 situation where you think you're doing something through
4 a regulatory process to produce a result. And I guarantee
5 you it won't produce the result, unless it's in their
6 interest economically. And we don't know that.
7 So, I think that what's happening here is your
8 best shot, truly, at finding out whether it's economically
9 in everybody's interest to increase the capacity to go
10 down there, is to deny the permit without prejudice. And
11 I think you have a very legitimate reason for denying
12 that permit without prejudice. And this gets down to
13 process.
14 If you had somebody walk in here with a hundred
15 acres -- one-acre zoning -- and tried to develop that on
16 the basis of going for a lot split, three one-acre
17 parcels and 97 is left over, and then come back a while
18 later, we've got 97 acres, we want to lot split, and
19 try to get through the process of a subdivision by lot
20 splits, you wouldn't allow that.
21 Now, we agreed back when, and we went through
22 this -- and I may not like all the policies, but by golly,
23 we worked those policies out and we accept those policies --
24 that industry had a right to interim tankering while they
25 took time to build that pipeline both to Texas and to L.A.

1 And this has been going on long enough to get a pipeline.
2 And the reason we did that was we didn't want to hold
3 them ransom to the pipeline not being able to be built
4 in a timely fashion and hold up their production.
5 But this interim is not interim anymore. This
6 interim is essentially a permanent tankering. And if it
7 is a permanent tankering, then they should come in and
8 apply for a permanent tankering. When you said no oil
9 tankering after '96, that's contrary to our policies.
10 Our policy says that there shall be a permanent tankering
11 facility, which means that there can be tankering under
12 certain conditions. And I expect that we should live up
13 to those policies. And they'd have every right after '96
14 to have a terminal there that could handle oil under
15 certain circumstances.
16 Now, I appreciate staff trying to lay out a
17 protocol, which essentially they did for a permanent
18 tankering facility. Yet they're coming in and asking
19 for an interim and only doing what an interim tankering
20 facility and terms and conditions -- for all the talk of
21 the number of conditions requires (sic). And we're
22 saying, "You're entitled to a permanent tankering
23 facility. Go for it."
24 Do it right, and under what terms and
25 conditions we will then determine how you can have a

1 final permanent tankering facility in Santa Barbara.
2 Not "There will be no tankering after '96." That's
3 making policy through a condition. That's not the way we
4 do it, nor would we want to do it, because it violates
5 the integrity of the process. Once you've got those
6 policies, that's what should be controlling everything.
7 And what they're trying to do is they're trying,
8 through the guise of interim, in effect, they are going
9 for a permanent tankering facility.
10 And that's why you start to get -- you say,
11 "No, Lou. It's not the way to do it. I disagree with
12 you."
13 So, I've covered the point about maximizing
14 the pipeline use that's there already. The timeliness
15 of those time frames, I don't honestly believe that you
16 can hold these people responsible for something they
17 can't control. You have no guarantee you're going to get
18 everybody together to go on the same pipeline. And,
19 therefore, you have no guarantee that the volumes will be
20 large enough for them to accept the tariffs. The net result
21 is, you'll get nothing.
22 Thank you.
23 CHAIRMAN MC CARTHY: Thank you very much for your
24 testimony.
25 COMMISSIONER DAVIS: Mr. Klausner?
CHAIRMAN MC CARTHY: I'm sorry. Commissioner Davis.

1 COMMISSIONER DAVIS: Sorry that my falling
2 blood sugar forced me to leave for a short time. I missed
3 part of your beginning of your testimony; so, I apologize
4 if I'm asking you to repeat yourself.
5 But I think all of us here want a result that
6 you mentioned in the part of the testimony I heard, which
7 is -- which may be contrary to Santa Barbara's policies,
8 but which are that all the oil humanly possible be shipped
9 to Los Angeles by pipeline.
10 MR. KLAUSNER: That's certainly consistent with
11 our policy.
12 COMMISSIONER DAVIS: I understood you to say
13 that Santa Barbara has basically established a policy
14 that would allow Gaviota Terminal to operate as a
15 tankering facility, you know, in perpetuity.
16 MR. KLAUSNER: No, I said this. Way back when,
17 and we had to deal with it in the early eighties -- and
18 you folks were involved then also -- we had to set in
19 policies about transportation. And one of the policies
20 that the transportation element said -- there were a couple
21 of things. First of all, aside from the consolidations
22 in the transportation, we said we would allow an interim
23 facility to bridge the gap against the time in case they
24 couldn't get that pipeline onstream as fast as their
25 production was coming up. That interim terminal was

1 supposed to be for a certain length of time. You've
2 already heard testimony about that.
3 I mean, now they're asking for an interim
4 terminal that, in reality, almost becomes ten years
5 by the time you get through with what Exxon's asking
6 for. That's not interim. You could have had a pipeline
7 before this.
8 The second thing that we had in the
9 transportation policies was that we would allow
10 and permit, which we did, a permanent terminal. And
11 Gaviota and Exxon fought for who was going to get it
12 and decided that the Las Flores was a better, more
13 environmentally practical site, and Las Flores got the
14 blue ribbon or whatever it was.
15 Subsequently, Las Flores has turned it down (sic)
16 and said -- they quitclaimed it. They don't want to
17 bother doing it.
18 So, now what you really have is a tanker
19 facility there where there's a lot of money been spent
20 already. So, the odds are, and they already came in
21 here a while back and ultimately withdrew because of some
22 logistics and trying to get through the hoops as fast
23 as possible, which hasn't worked out -- it appears that
24 Gaviota will be the terminal -- the permanent terminal.
25 And it's consistent with our policies. We have to allow

1 a permament terminal. And there are conditions under
2 which that would operate.
3 One, in case of emergency, a breakdown. You
4 wanted to ship something to a place that had no pipeline.
5 And they talked at that time -- I remember the
6 testimony. We might want to take a shipment up to
7 Washington. Okay. Fine. Pipeline.
8 If there was no pipeline to destination of
9 choice; at that time, we had no pipelines, or at the
10 time that was going through we had no pipeline to Texas,
11 nor did we have what we hought was a reasonable pipeline
12 going to L.A.
13 Well, so, all I'm saying is that you can put
14 these time frames in and say, "We're going to stop
15 comes the year 1996." Yes, you're going to stop the
16 interim tankering. Is anyone here under the impression
17 that there will be no tanker facility there? I can't
18 conceive of that, at least not the way they made the
19 case back then that they had to have a backup system
20 in case, and those were the conditions under which we
21 set the policies.
22 And we're not about to -- I don't think we're
23 about to change those policies.
24 So, it may sound a little crazy. I mean, I'm not
25 happy about it, but it's a policy.

1 COMMISSIONER DAVIS: If we were to take your
2 advice and deny the lease, how would that facilitate
3 at least the State Lands Commission's objective, which is
4 to get a, you know, greater pipeline capacity?
5 MR. KLAUSNER: I'll tell you how I see it.
6 If you deny the lease at this time, then there
7 is no interim tankering. So now, they're faced with some
8 permits coming through by Cajon, Four Corners, Southern
9 Pacific. That'll all be known within the next six months.
10 Certainly, at that time, if it's in their economic interest,
11 they will give T & D's jointly, or however, to get a
12 pipeline to relieve the compression that you've created
13 by having no tankering and their having an ability to
14 produce more than they can ship out with the lines that
15 exist right now.
16 And you will be able to test the economics of
17 the deal within the next six months to see whether it's
18 practical. If it is practical and they go ahead with
19 it, well, what the hell. Let 'em interim tankering
20 during the construction period, which is what the County
21 called for anyway.
22 But if you allow tankering for the next three
23 years -- and what's going to happen Chevron comes in here
24 in January, we gave a T & D to Southern Pacific, but,
25 you know, the volume wasn't large enough to get it at a

1 price that, you know, that we could afford, and they're
2 not going ahead with it.
3 You're going to say to them, "Well, gee, you
4 haven't lived up to your bargain." They've lived up to
5 their bargain, but that hasn't produced the economic
6 result we're looking for. The best way to produce that
7 result is to test it by changing that equation as to
8 what their options are.
9 Now, if after that, it doesn't pay to build that
10 pipeline and they can produce more, what will happen
11 under your policies, you will no doubt end up with a
12 tankering facility, and you'll have to decide at that
13 time under what conditions you'll allow tampering and
14 how much more -- whether you want to accommodate for
15 the next couple of years their phasing in at maximum
16 rates, or whether you want to phase them so that they
17 don't have the need to go above and beyond.
18 And I'll tell you something. I can't for the
19 life of me figure out how you're going to handle the
20 Exxon deal.
21 Exxon predicated -- I mean, those guys back there
22 predicated over $800 million of investment on the fact
23 that Exxon's destination of choice was Texas. You say now
24 it's not Texas? What happens next Tuesday?
25 If you get a pipeline to L.A., they'll say, "Well,

1 we want to go to San Francisco"?

2 I mean, you can't allow that. I mean, that

3 wasn't what the policy was meant to do. The policy was

4 meant to establish where they wanted to go and then get

5 pipelines built there. And since they're not building

6 it themselves, this is the problem we have -- we didn't

7 know that then. We should have tied the whole thing

8 together and said, no. "Unless you build the pipelines

9 yourself, it's no deal."

10 But we didn't do that. So, we have to live

11 with it the way it is.

12 CHAIRMAN MC CARTHY: Thank you. Ms. Piazza?

13 No?

14 MS. KROP: Now I'm Joy Piazza.

15 Joy asked me to read this letter

16 into the record.

17 (Thereupon, the reporter requested the

18 speaker to identify herself.)

19 MS. KROP: I'm Joy Piazza.

20 (Thereupon, the reporter replied she

21 was not.)

22 MS. KROP: Okay. I'm Linda Krop, K-r-o-p,

23 presenting this letter on behalf of --

24 CHAIRMAN MC CARTHY: She looks like Linda Krop.

25 (Laughter.)

1 MS. KROP: Same outfit, too.

2 Joy Piazza's the President of the Greater

3 Santa Barbara Lodging Association and was unable to make

4 this hearing, and asked me to read this letter.

5 "Dear State Lands Commission:

6 "I regret that I or a Board member

7 of the Greater Santa Barbara Lodging

8 Association are unable to attend the

9 scheduled hearing concerning the issue

10 of oil tankering in the Santa Barbara

11 Channel by Chevron Oil Company. The

12 Greater Santa Barbara Lodging Association

13 represents the local hospitality industry --

14 the hotels, motels, inns, and tourist-

15 related businesses. Our purpose is to

16 create and maintain tourism in Santa

17 Barbara County. We monitor issues pertaining

18 to the hospitality industry, tourism, and

19 our environment. Our association supports

20 the ruling which states that Chevron Oil

21 may tanker up to 17 months with the signing

22 of a contract to build a pipeline. I

23 recall the last local oil spill in 1967. . ."

24 I think that was 1969, editorial comment.

25 ". . .It was devastating to our community

1 and our economy. Travelers still recall
2 the ugly black goo on the beaches, the
3 suffering wildlife. It takes many years
4 for those mental images to fade, let alone
5 the devastation to the environment to
6 disappear and at what loss? The tourism
7 industry cannot afford to run even the
8 slightest risk of a diaster like Valdez
9 or the one suffered by the Shetland Islands.
10 Santa Barbara County has been plagued with
11 a major fire, a major drought, a toxic water
12 spill via Southern Pacific Railroad, and
13 the Los Angeles riots, which affected our
14 economy due to our close proximity to
15 Los Angeles.
16 "Tourism is the number one industry
17 in our area. We are one of the major
18 employers in Santa Barbara County. The
19 City and County depend on our TOT taxes
20 to provide the many services our community
21 enjoys. We cannot take a chance that an
22 accident would happen. By being dependent
23 on the tourism market, the jobs lost,
24 the loss in revenue to the City would be
25 devastating. Building a pipeline would

1 provide more local jobs. Using tankers,
2 the jobs are limited and there's no need
3 for labor to reside in the County where
4 the production is located. With tankers,
5 we gamble with the chance of disaster.
6 Chevron Oil cannot guarantee that there
7 will be an accident in the channel. And
8 if there is one, the clean-up time is
9 greater than one on land.
10 "The Greater Santa Barbara Lodging
11 Association urges the State Lands
12 Commission to uphold the decision to
13 stipulate that Chevron sign a contract
14 to build a pipeline within a designated
15 date before tankering is allowed to
16 commence.
17 "Cordially, Joy Piazza, President,
18 Greater Santa Barbara Lodging Association."
19 Thank you.
20 CHAIRMAN MC CARTHY: Thank you. That completes
21 the list of witnesses. I think we've had a fairly
22 flexible give and take, back and forth. Is there anyone
23 on either side that feels there has been some
24 outrageous misconstruction of the truth that they must
25 rescue us? Or have we had a chance to air this out?

1 All right. Step forward, sir. You want to
2 hang on for just a second, Mr. Mihalik, and I'll give
3 you a shot.
4 Are you together? You want to come up?
5 Anybody that hasn't testified yet is what I was looking
6 for here.
7 You want to give your name and identify
8 yourself? With the mike, please.
9 MR. MOORE: My name is Tom Moore. I'm with the
10 Chevron Corporation. I'm the Vice President of
11 Chevron Shipping Company.
12 And there's been a lot of talk about terminals,
13 permits, pipelines, tanks. But an issue was raised
14 regarding taker safety by Linda Krop, and I just felt
15 that I'd like to add some clarity to --
16 UNIDENTIFIED SPEAKER IN AUDIENCE: Can't hear
17 you.
18 MR. MOORE: I'd like to add some clarity to the
19 document that was submitted.
20 CHAIRMAN MC CARTHY: Use the mike. Just aim
21 right at it, please.
22 MR. MOORE: I'll lean forward. I have
23 responsibility for our worldwide tanker operations at
24 Chevron, some 40 ships that we own and operate and an
25 average of 40 others that we operate in worldwide trade.

1 The GT vessels as we call them -- you call them
2 the Oregon Class vessels. A point of information, there
3 are five of this class, not four. Three of them have been
4 named as those which were intending to be permitted for
5 Gaviota Marine Terminal operations.
6 These were built beginning in the mid-seventies
7 through the late seventies as a modernization project.
8 They were state of the art, very modern tankers, and
9 actually continue to be so today with the facilities
10 and the details and equipment that was put on them.
11 At that point in time, they were built as
12 double-hulled tankers, not required by law. In fact, they
13 have been the model of the current law that is
14 requiring the double-hulled tanker construction today.
15 Our Oregon Class tankers are, in fact, one of the models
16 behind that law and were sought after by the Federal
17 commission that did the research.
18 The issue raised by Linda Krop -- and I believe
19 it was submitted in your packet -- was a newspaper
20 article of last Sunday in the San Fernando Valley
21 Daily News. And the inference was that these tankers
22 are -- our Oregon Class tankers are unusually accident
23 prone or perhaps unsafe for the service that we're
24 intending to put them in.
25 I'd just like to cite the four accidents

1 that have been mentioned in this article, and comment
2 a little bit for those of you that were reading this,
3 perhaps after the fact.
4 One incident was cited by the vessel that
5 lost steering while on trial run in 1975 in the
6 Willamette River, and impacted a bridge, having a
7 collision of sorts.
8 This accident occurred -- and it did occur,
9 but it was actually before the vessel was commissioned.
10 It was out on what we call the builder's trials. The
11 vessel was not complete, but the builder was taking the
12 shakedown run, and it was under the operation of the
13 shipyard and the technicians of the equipment they had
14 installed. And, yes, there was a control failure, and
15 there was a slight impact brushing with absolutely no
16 damage, and had no impact in the sense of consequential
17 damage.
18 I assure you that the conditions that caused
19 that control failure have been corrected. But the point
20 is, it was taken out of context that this is a failure
21 that exists today. It was actually corrected well
22 before the delivery. And it was the purpose of the
23 shakedown cruise to find these kinds of problems under
24 a controlled environment at a very, very controlled speed.
25 The second item was -- that was noted was an

1 accident that occurred in 1989, by, again, another of the
2 Oregon Class tankers.
3 This accident did occur and it was very, very
4 serious. We were headed upbound with a full cargo
5 of oil. And southbound, another ship ran into us.
6 We were hit. This happens. It happens in the open
7 oceans, and it happened in the Columbia River, which
8 is a particularly confined waterway. But it happened
9 with both vessels under the con of a pilot, a mandatory
10 State pilot in this case. The point I want to make
11 about this is that the Coast Guard investigation found no
12 fault of the ship or of the personnel handling our ship
13 in their findings. In fact, through subsequent recovery,
14 we were found exonerated and we were fully recovered
15 for the damage to our vessel.
16 The point, though, is that this was a double-
17 hulled vessel. Lhe outer hull was not creased -- I'm sorry.
18 It was no punctured or ruptured. It was a dent. But
19 it leads to show that it could have been a rupture. And,
20 in fact, had it been, it would have been protected by
21 the inner hull. It was a clear case of a case where
22 double-hulled tankers were a benefit and would have
23 provided and did provide that extra ounce of protection.
24 The third reference was an accident that
25 occurred in 1983. This was not an accident. The

1 reference was that we had a vessel that lost steerage
2 in Los Angeles and had to be towed to San Diego for
3 repairs.
4 We have a very, very disciplined approach
5 with regard to steering. Steering and propulsion are the
6 two primary conditions of tankering. And before any
7 vessel departs any safe mooring or berth, we go through
8 a very, very rigorous checklist, much like a flight
9 control list, of testing all of the steering gear. And,
10 in fact, it was during one of those tests that we found
11 a rudderstock movement that was more than usual on the --
12 inside the bearing in the engine room. And it was
13 reported, and it was -- the decision was made by our
14 office that we would not proceed as planned, but we would
15 go directly to the shipyard and make the repairs.
16 We were not towed. The ship went under its
17 own power, under its own steerage with a tug escort
18 as an extra precaution of safety. This was no accident.
19 This was accident prevention.
20 The last item that was referenced in this
21 article was the oil spill in 1977. An Oregon Class
22 vessel spilled over the side a hundred barrels of fuel
23 oil while loading. It was operator mishap. There's no
24 excuse for it. We were embarrassed, and it was -- it
25 happened. That's all I can say. But I can also follow

1 through to say that it had insignificant short-term
2 impact -- no long-term impact. The oil was cleaned up
3 responsibily, quickly, and the conditions that led to
4 that oil spill, operator error, have been relieved.
5 And, in fact, there has been further mitigations and
6 defenses against this similar happening (sic).
7 I'd like to point out, that happened 15
8 years ago, 16 years ago. I would like to reference th
9 performance of these ships.
10 The suggestion is that these are perhaps unsafe
11 ships. I would like to maintain that these are, in fact,
12 very, very safe ships; in fact, about the best that you
13 could ever expect, if you're concerned about tanker
14 safety, to be calling at a port in California. That was
15 the basis on which these ships were designed, double-
16 hulled tankers.
17 The three ships in question -- the Chevron
18 Oregon, the Chevron Washington, and the Chevron Louisiana --
19 that we're considering for the utilization at the Gaviota
20 Marine Terminal have for the last four years combined,
21 these three ships have caused one gallon overboard the
22 side average per year. That's a three-ship combination.
23 I'm a small boater, and I'm looking at these
24 boats out here. I would maintain that the average boat
25 here is responsible for more than one gallon overboard.

1 But we do have a zero spill policy, and we enforce it
2 rigorously.
3 I can go back many other years. If we go back
4 the fourth year, we had a one-barrel spill, so that
5 raises the average up to 10 gallons for these three
6 ships.
7 I consider that an impeccable record. But
8 those one gallons, by the way, weren't spills or mishaps.
9 Much of that was reported operational spills as a result of
10 minor hydraulic leak or a minor whatever. But one gallon
11 per year for those three ships, I would ask any tanker
12 operator to try and match that.
13 And that's not luck. We operate 41 ships --
14 40 ships today -- we just sold one -- worldwide. I'm
15 going to switch now from gallons -- let me reference
16 another point. Those three ships -- that one gallon
17 overboard? We carried more than a billion -- the math
18 gets too high -- more than a billion gallons in the
19 course of one year. So, that's one out of a billion.
20 And I think the number's many, many billions.
21 But the number that does stick in my mind, because we
22 use barrels, is that our worldwide feet carried 600
23 million barrels last year. And we caused three and a half
24 barrels to go over the side in a number of very small,
25 minor incidents. And, again, that's not luck. If I look

1 back, our ten-year average history, the averages are
2 in the under five barrel per year spill.
3 This is a discipline of our company, and it's
4 a mandate of all those people that serve on our ships.
5 It's a culture, it's a commitment, but it's also
6 economic reality. We cannot afford -- we cannot afford
7 what Exxon could. Yet we are forced to operate on the
8 West Coast -- the most rigorously regulated arena,
9 as we're seeing here, and I tell you, gentlemen, my
10 company's job -- my company's on the line. We risk
11 this with unlimited liabilities, and I risk personal,
12 criminal liability, my career, my family's welfare. This
13 is all on the line. We have a priority for absolutely
14 safe tankering.
15 Just to close out. This article also refers
16 to a rating system of tankers. It suggests that one of
17 these Oregon Class tankers is not very highly rated.
18 The Marine Tanker Advisory Center has this system whereby
19 they use published reports. We don't give this
20 credence, not many people in our industry do, but
21 Mr. McKenzie does find himself in the news a lot,
22 because when people want to get a rating of the tanker,
23 he's willing to give one.
24 I think I've perhaps categorized some of these
25 situations that were publicized in the press. I would

1 invite you to consider referring to your State Lands
2 Commission inspectors who, under statutory authority,
3 frequently -- every port call -- board our ships. And
4 save for a few administrative interface problems in the
5 startup of this statutory inspection, find that our
6 ships are, in fact, at the top of the list with regard
7 to compliance and with regard to performance. And I
8 would also invite you to look at the Coast Guard
9 records.
10 We -- the question of risk management is
11 a very real issue. And it's what -- it's what really
12 controls us. And, as I mentioned, the exposure that we
13 have, and we're not going to manage that exposure without
14 full consciousness of the risks, and the risks are
15 extreme.
16 The evironmental risk, the public concern are
17 indelible in our minds, but we're looking at the financial
18 risks, and we can't afford to do anything but the
19 absolute, most prudent, proper, fault-free, spill-free
20 operation.
21 But there are risks. And we can't guarantee
22 no spills. But what I can guarantee and what we stand by
23 is the excellent performance that these ships have had
24 through the years and, furthermore, we'll stand by our
25 commitment to maintain and improve that performance and

1 our commitment to providing the operation here that
2 satisfies the expectations of zero spills.
3 But, again, we can't guarantee a risk free
4 operation, but we can guarantee the maximum commitment
5 to make that performance work to everybody's
6 expectations. Any questions?
7 CHAIRMAN MC CARTHY: Any questions? Thank you
8 very much. Mr. Mihalik?
9 MR. MIHALIK: I'll be very brief, Mr. Chairman.
10 My name is Dan Mihalik, representating the Gaviota
11 Terminal Company. And I would just like to briefly
12 respond to several of the speakers. The County brought
13 up a new condition. We believe the condition's
14 redundant. It's already carried in the County and Coastal
15 Commission permits.
16 As far as the Daily News that Ms. Krop mentioned,
17 I just want to make it clear that this was an area that
18 was thoroughly studied in this recent EIR -- types of
19 spills from moorings, especially spills that could occur
20 at a mooring like Gaviota, was extensively studied.
21 Another topic brought up by Ms. Krop was taxes
22 and the tax assessor. And I think the facts are that
23 $1.5 million per year are being lost to Santa Barbara
24 County due to the fact that these facilities are not
25 running at capacity.

1 Jobs was another topic brought up. And I think
2 it was a sad level of insensitivity to our employees and
3 to our contractors in this area. We've had facilities
4 here since the late 1800s. We've had three, four
5 generations of families as employees and as contractors,
6 and there literally are over a hundred jobs involved
7 with contractors in this facility all the time.
8 Size of tankers, this tanker's one-tenth of
9 that, or approximately, I guess, of the Valdez. The
10 proposed conditions by the -- brought up by Ms. Krop
11 I think are extreme and unreasonable. She also
12 mentioned the Mariposa project. And I think it should be
13 clear or made clear that the County and Coastal
14 Commission recognize that the Point Arguello project
15 cannot operate without the storage at the Gaviota
16 Terminal. You can't operate the project with simply one
17 tank being installed at Mariposa. No one has ever
18 made the conclusion in any of these hearings -- none of the
19 agencies have -- that this results in a dollar-per-
20 barrel savings in pipelining. That's simply untrue.
21 And it's totally unrealistic.
22 I think it continues to be important for your
23 Commission to, you know, make a clarification between
24 the producers and the Gaviota Terminal Company. We are
25 not privy to a lot of the work that's going on with

1 pipelines and producers and that sort of thing.

2 We're in the business of operating the terminal.

3 Just quickly, Jana Zimmer made a comment on the

4 permanent terminal application. It was withdrawn because

5 of some environmental opposition. It was withdrawn

6 because Santa Barbara County asked us to withdraw it.

7 And this was part of the process. They didn't want

8 two terminals there, an interim terminal and a

9 permanent terminal, and all of that sort of permitting

10 going on as the producers were trying to get through their

11 permit.

12 And it's been made clear, and the State Lands

13 Commission staff made clear to us, call it what you will --

14 permanent, interim -- it's always going to have conditions

15 that really make this an interim terminal. That's

16 always been the understanding. The permanent terminal

17 concept was something we went forward with at one time

18 to attempt to increase the capacity of this facility from

19 100 to 125; that doesn't seem necessary under the

20 circumstances, so we withdrew the application.

21 Jumping then to the next speaker, Steve Dunn on

22 fisheries. I think it's important to note that -- I

23 think it's this year or next year, we're contributing

24 roughly $200,000 a year to a coastal resources enhancement

25 fund. We contribute to a fisheries contingency fund, and

1 a fisheries enhancement fund, and the EIR again thoroughly
2 studied this area. And the conclusion was that the
3 impacts on fishermen are much less than the payments
4 we're making to these various funds.
5 And the topic of vessel lanes and mandatory
6 lanes is very, very stringently been controlled by the
7 Coastal Commission.
8 Those are all the comments I have. Thank you.
9 CHAIRMAN MC CARTHY: Thank you very much.
10 Now, is there anybody remaining in this
11 audience -- it's been a long hearing. Is there anybody
12 remaining that thinks that an outrage has been committed
13 that they have to redress? If there isn't, does the
14 staff have any summing up that it wants to do before the
15 Commission takes the matter?
16 EXECUTIVE OFFICER WARREN: Just a brief few
17 comments on process. There were some references to
18 staff's compliance with the Environmental Quality Act
19 and with a number of cited statutes. And insofar as the
20 leases are concerned, we've been aware of those
21 contentions. Staff has carefully reviewed them and is
22 content that the issue is properly before you and in
23 compliance with CEQA and all statutory sections relating
24 to -- or at least provisions. We are prepared to go
25 into them, if you wish, but I did want to assure you that

1 we feel that the issue is procedurally and
2 appropriately before you.
3 Insofar as the terminal is interim or permanent,
4 it seems to me that the key question here is that the
5 witnesses seem to be putting particular stress on the
6 timing of a throughput and deficiency agreement. Many
7 say that that agreement should be signed now before
8 tankering can commence. The Coastal Commission has
9 said, "Well, you can commence tankering, but you have to
10 have a throughput and deficiency agreement signed by
11 February 1, 1994, and if you don't by that time, then
12 you stop tankering."
13 The question, I suppose, goes to the good
14 faith of the parties. I can understand why some of those
15 who've been dealing with this issue for as long as it
16 has lasted and have met disappointments are not comfortable
17 by waiting a period of 10 months in order to see to it
18 that that way point can be established.
19 I do not find that unreasonable. And with the
20 provision that it is clear and explicit that, if no
21 throughput and deficiency agreement is signed by February
22 1, then tankering will stop and the further use of that
23 terminal will be discontinued.
24 We will now within the tenure of this particular
25 Commission whether or not there will be a throughput and

1 deficiency agreement, and whether or not tankering on
2 an interim basis -- that is, until January 1, 1996 --
3 will be contemplated.
4 Insofar as the difference between the full
5 pipeline -- so-called full pipeline option is
6 concerned and the Coastal Commission's condition that
7 designate 25,000 barrels per day through Pipeline 63
8 to Los Angeles, it occurs to me, in listening to the
9 testimony, that the Coastal Commission's actions were
10 a part of a process between it, the industry, and the
11 adminitration, and could well have been the result of
12 some compromise developed in the course of that process.
13 And one can only speculate what consideration -- what
14 benefit the Coastal Commission obtained by the
15 designation of that 25,000 barrels per day minimum.
16 I would like to say, unfortunately, neither the
17 existing pipelines nor this agency were participants
18 in that facilitation process. I think because of that
19 it was flawed, but we can only speculate whether or
20 not the agreements reached as a result of that process
21 would have been otherwise.
22 It should also be pointed out that, whereas,
23 the environmental community and the County of Santa
24 Barbara were part of that facilitation process, they did
25 not agree to the results of that process. So, it was not

1 a unanimous -- it was not a consentual agreement.
2 The fact that we were not -- that we were
3 either overlooked or prohibited from participating in
4 that facilitation process only encourages me to urge that
5 in the event you go with the Option 3, that you authorize
6 us to put in the Coastal Commission's conditions
7 specifically in the lease.
8 When I was asked earlier, am I confident about
9 the actions of the Coastal Commission -- well, I had the
10 dubious honor of serving on that Commission for four
11 years and, therefore, I paused. I have more confidence --
12 frankly, I have more confidence in this Commission
13 on this issue than I do in the Coastal Commission. Its
14 members change rather quickly, and I think that these
15 matters should all -- should be reviewed if they're to
16 be reviewed again by this particular Commission.
17 That's all I have to say, Mr. Chairman.
18 CHAIRMAN MC CARTHY: The matter's before the
19 Commission.
20 COMMISSIONER DAVIS: I have just a couple
21 observations.
22 CHAIRMAN MC CARTHY: Commissioner Davis.
23 COMMISSIONER DAVIS: First of all, I find this
24 to be one of the more difficult decisions I've had to make
25 in public office. I'm on 62 boards and I make a lot of

1 decisions. I think Bob Klausner may have captured
2 part of my dilemma, because we can't control what other
3 Commissions do.
4 It's very clear to me that the original purpose
5 in allowing this terminal was to -- the original
6 condition was that oil be transported by pipeline. And,
7 yes, we needed tanker facility, but it was really not
8 designed to be used as anything but a backup or in
9 emergency conditions.
10 And I have a little trouble thinking how we're
11 going to get a throughput agreement in January or
12 February when we can't have one yet. I mean, I would like
13 to find a way to vote in favor of this. But I have to --
14 I need another sign of good faith. I need another
15 miracle here. Why can't the proponents support either
16 AB 591 or -- it just seems -- and why do they resist
17 our efforts to codify the Coastal -- I mean to incorporate
18 the Coastal Commission conditions? And I guess I have
19 a little problem believing that come January 1, 1996,
20 that there won't be tankers moving around. I guess I'm
21 looking for a way to vote yes, but I'm not getting much
22 help.
23 CHAIRMAN MC CARTHY: Well, has there been a
24 specific objection to incorporating the Coastal Commission's
25 conditions?

1 COMMISSIONER DAVIS: Yes.

2 CHAIRMAN MC CARTHY: All right. What was that

3 objection?

4 MR. SHAMAS: Not by us.

5 EXECUTIVE OFFICER WARREN: Well, the applicant

6 objected, as I understood their testimony, and I also

7 believe the applicant represented that the producers

8 also objected to our -- to the February 1, 1994 date

9 and the January 1, '96.

10 Except our lease terminates on that date, so

11 there's no big -- you know, there's no need to deal

12 with that way point, but there is the need to deal with

13 that February 1, 1994 way point.

14 And we would -- staff would urge that that be

15 an express condition of the lease.

16 CHAIRMAN MC CARTHY: Do you have a problem with

17 that, Mr. Shamas? Dan?

18 MR. SHAMAS: Now we've got a real attorney.

19 (Laughter.)

20 MR. KIRBY: I'm Steve Kirby, counsel for GTC.

21 There's no objection to the February, '94 date in the

22 lease, nor to the January '96 date in the lease. The

23 objection was to having another level of review on the

24 adequacy of the agreement. That was all.

25 COMMISSIONER BURTON: That's what I heard.

1 EXECUTIVE OFFICER WARREN: Well, that's an
2 incidental responsibility to the date.
3 CHAIRMAN MC CARTHY: We covered that in the
4 discussion, the 20-day limit we would impose --
5 MR. KIRBY: I think you've given a lot of
6 comfort on that score.
7 CHAIRMAN MC CARTHY: All right. All right.
8 Okay?
9 COMMISSIONER DAVIS: Okay.
10 CHAIRMAN MC CARTHY: So, one of the two issues you
11 raised is addressed. Mr. Warren suggests that those
12 dates be specifically included and they will be included
13 without objection by the members of the Commission.
14 COMMISSIONER BURTON: That's fine. I was the
15 one who raised the question about our review, which I
16 still consider to be redundant, our review of the
17 T & D agreements. It seems to me that one State agency
18 reviewing T & D agreements should be sufficient, and
19 having the Coastal Commission staff do that is fine.
20 EXECUTIVE OFFICER WARREN: You would think so if
21 one State agency worked and cooperated or involved another
22 State agency. But as I just pointed out, on this
23 particular issue, we were excluded from any of this
24 participation, from participating in this process. So,
25 our exclusion may continue in the future. That's my fear.

1 COMMISSIONER BURTON: I understand what you're
2 saying, and my point remains. It may be just my point.
3 I have concerns about what I consider to be redundant
4 processes in government, and it seems to me that if the
5 Coastal Commission has imposed on their staff a
6 requirement that they determine that the T & D
7 agreement is adequate and they've defined what adequate
8 is, that they should be able to do that, and not have
9 another State agency do the same thing.
10 Now, if --
11 CHAIRMAN MC CARTHY: Well, we're going to get
12 a staff view on the point, and I think my sentiment on
13 this, if it is material -- materially consistent with our
14 purposes and views in the fulfillment of our
15 responsibilities, that'll be satisfactory.
16 COMMISSIONER BURTON: Right. It seems to me
17 the point of concern, to me, are the dates. And the
18 dates are meaningful only in the fact that they show
19 progress toward the objective of gettiing out of
20 tankering completely.
21 CHAIRMAN MC CARTHY: I quite agree.
22 COMMISSIONER BURTON: And the details
23 associated with how you get through those dates should not
24 be the subject of dissension among the ranks among various
25 staff agencies.
CHAIRMAN MC CARTHY: And I don't think we have to

1 be, Commissioner, if we get a copy of the T & D
2 agreement promptly from the applicant and we get the
3 opportunity to review that T & D and get word back to
4 them as to whether it's our opinion that there is --
5 there are material differences between the intent we're
6 expressing today in taking this action and what's in the
7 T & D agreement.
8 I, at least, have made the argument that we're
9 trying to get past redundancy wherever that's possible
10 to reach the main objective of stopping oil tankering
11 and putting it in the pipeline.
12 So, as one vote out of the three out here,
13 I'm going to try very hard not to do things that get in
14 the way of that objective.
15 On the other hand, we're trying to build good
16 faith here. We've talked about lawsuits and about other
17 things, and I think maybe we call need to take a few
18 steps here that help build that chemistry of good
19 faith.
20 COMMISSIONER DAVIS: Well, Mr. Chairman, what
21 about the lawsuit against the Coastal Commission? Why
22 do you guys need this lawsuit against the Coastal
23 Commission? It's not been satisfactorily explained to
24 me and it casts doubt on this good faith issue.
25 MR. KIRBY: That was filed because the time

1 within which to file the lawsuit was running, and the
2 companies asked for an extension from the Coastal
3 Commission so they wouldn't have to file that lawsuit.
4 We didn't know and don't know just yet what your
5 Commission's going to do. You're the last piece in the
6 puzzle. So, the lawsuit was filed as a protective
7 measure. It has not been filed -- excuse me. It has
8 not been served, and it will be dismissed if this
9 compromise comes together the way everyone hopes it will.
10 CHAIRMAN MC CARTHY: I haven't read the lawsuit.
11 I'm not, at this point, interested in the lawsuit, because
12 I don't want it to affect my judgment on the issue before
13 us.
14 I am driven by the central point of whether
15 we go away from oil tankering to a pipeline, and what we
16 need to do to get there. Now, we have -- we have other
17 bites of the apple here that we can take if this gets
18 ugly in some way. But we don't need to talk like that,
19 because we're trying to build a positive chemistry with
20 good faith. We're trying to forget whoever's to blame
21 or not to blame for the sequence of events over the past
22 decade.
23 We're trying to look where we are today and see
24 how e get in the time frame we've outlined here into
25 pipeline construction or expansion and utilization. That's

1 where we want to be. So, you can make your judgments
2 and understand that, if there are lawsuits and other
3 things, that obviously colors the view of the human beings
4 that are part of the process. So, those are risks that
5 you can accept on your own behalf.
6 Now, to get back to Commissioner Davis' point.
7 I think we've addressed the issue of dates.--
8 EXECUTIVE OFFICER WARREN: Yes.
9 CHAIRMAN MC CARTHY: -- being included.
10 EXECUTIVE OFFICER WARREN: I hope so.
11 CHAIRMAN MC CARTHY: They'll be incorporated.
12 COMMISSIONER DAVIS: What about my other point
13 about AB 591? Why are you opposed to supporting that
14 bill where all it does is codify the Coastal Commission
15 conditions?
16 MR. KIRBY: I can't speak to that subject.
17 MR. MIHALIK: Dan Mihalik again. Much of our
18 objection was on the process. When a statute's enacted,
19 like the Coastal Act, the Coastal Commission is given
20 charge to look at permits like Point Arguello and come up
21 with permit conditions. But I don't think there's ever
22 been a case that anyone ever saw where somehow a permit
23 condition that an agency came up with was -- an attempt
24 was made to codify it. There just doesn't seem to be any
25 need for it.

1 In addition to that, one of the objections
2 that was raised by the Gaviota Terminal Company was
3 that the proponents of that statute said they were
4 trying to codify something the Coastal Commission did,
5 but it was -- the statute clearly goes to shippers other
6 than the Point Arguello Producers. It goes towards, for
7 example, Exxon, who has not gone through the permitting
8 process, in an attempt to codify something for them.
9 So, it was both the process that was going on
10 and the fact it really wasn't codifying what the Coastal
11 Commission did. It was doing more than that.
12 COMMISSIONER DAVIS: I don't understand why it was
13 doing more than what the Coastal Commission did.
14 MR. MIHALIK: Well, for example, Exxon and any
15 other shippers that might be out there, they haven't gone
16 through the Coastal Commission and gotten a shipper's
17 permit. This particular bill attempted to codify dates
18 for future shippers. And there aren't any permit
19 conditions for future shippers yet, at least from the
20 Coastal Commission.
21 COMMISSIONER DAVIS: All right.
22 MR. MIHALIK: Thank you.
23 CHAIRMAN MC CARTHY: The matter's before the
24 Commission. Do I have a motion?
25 COMMISSIONER BURTON: Let me back up first. And

1 after picking on staff, say thank you to them for what I
2 consider to be an extremely well-presented document for us
3 to work our way through, and to all the people who made
4 presentations. I know this is a tough issue to prepare
5 for. Some of us have been more involved than others in
6 these matters, but I appreciate the thoughtful way in which
7 you've approached this matter.
8 And I'd like to put before the Commission for
9 its consideration that we adopt what's been listed
10 as Option 3, with the understanding that all of the
11 comments that we've been made be taken into consideration.
12 And that is that the purpose of imposing the conditions
13 that are also outlined in the pages that follow and
14 the staff's recommended conditions, the purpose of
15 taking this is to continue to show good faith efforts
16 toward progress toward getting us away from tankering.
17 And it is not our intention to make people jump through
18 hoops just for the sake of jumping through hoops; that we
19 will be thoughtful in the way we approach the
20 implementation of these conditions.
21 So, with that, I move that we approve the lease
22 as consistent with Item 3.
23 CHAIRMAN MC CARTHY: Second?
24 COMMISSIONER DAVIS: I'm reluctant to second
25 that. As I said, I would like to find a way to vote yes.

1 I have a feeling my vote is not necessary, but I just
2 feel that there have to be other ways that we can achieve
3 the certainty that a pipeline is going to be built.
4 And I have a little trouble believing that come February,
5 that those throughput agreements will be signed, or come
6 January, 1996, that all tankering will stop. I have a
7 lot of empathy for the companies. I think -- I have no
8 quarrel with Chevron's safety record. I think they do
9 an excellent job. Texaco's a first-rate company. And
10 I wish I could control the whole process, because then
11 I could say, we'll give you the pipeline in February,
12 and you can tanker up to then, and I'd feel confident
13 that there would be no slip between the mouth and the lip.
14 I can't second it.
15 CHAIRMAN MC CARTHY: I will second the motion
16 and speak briefly to it. By my questions, I revealed
17 what my thinking is on this. If we can stop oil
18 tankering off the California Coast, I think we achieve a
19 major environmental goal. There are doubts in many
20 environmentalists' minds based on a ten-year history of
21 whether this is really going to happen or not.
22 In addition, if a pipeline is going to be built,
23 whether it's a significant expansion of Line 90 or if
24 it's a new Pacific Pipeline, a lot of jobs are going to be
25 created in a State which has 1.5 million unemployed
people.

1 It's not very often in my history in California
2 where I think you can achieve a major environmental goal
3 and do a good hit for a lot of working people that are
4 in fairly desperate shape right now.
5 I don't know if this is all going to come together
6 or not. But I think we're moving in the right
7 direction if we act on this motion, and I'm going to
8 support it.
9 You want to abstain?
10 COMMISSIONER DAVIS: No. I'll be recorded as
11 no on that.
12 COMMISSIONER BURTON: Okay.
13 CHAIRMAN MC CARTHY: Two aye votes, one no vote.
14 The matter is concluded. Thank you all very much.
15 (Thereupon, the meeting was adjourned
16 at 4:05 p.m.)
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1 CERTIFICATE OF SHORTHAND REPORTER

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3 I, Nadine J. Parks, a shorthand reporter of the
4 State of California, do hereby certify that I am a
5 disinterested person herein; that the foregoing meeting
6 was reported in shorthand writing by me, and
7 thereafter transcribed into typewriting.
8 I further certify that I am not of counsel or
9 attorney for any of the parties to said meeting, nor am I
10 interested in the outcome of said meeting.
11 IN WITNESS WHEREOF, I have hereunto set my hand
12 this 29th day of May, 1993.
13
14 Nadine J. Parks
15 Nadine J. Parks
Shorthand Reporter
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