

STATE OF CALIFORNIA  
STATE LANDS COMMISSION

THE WESTIN LOS ANGELES AIRPORT  
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MONDAY, NOVEMBER 27, 2000  
3:00 P.M.

ORIGINAL

JAMES F. PETERS, CSR, RPR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 10063

## APPEARANCES

### COMMISSIONERS

Kathleen Connell, Chairperson

Cruz M. Bustamante, Member, also represented by Lorena Gonzalez

B. Timothy Gage, Member, represented by Annette Porini,

### STAFF

Paul Thayer, Executive Director

Jack Rump, Chief Counsel

Kim Korhonen, Executive Secretary

### ALSO PRESENT

Matt Rodriquez representing the Attorney General

## INDEX

	<u>PAGE</u>
Call to Order	1
Roll Call	1
Opening remarks by Chairperson Connell	1
Confirmation of Minutes for the Meeting of September 19, 2000	1
Executive Officer's Report	1
Consent Calendar	8
Item 7	13
Item 35	13
Regional Manager Scott	13
Mr. Marco Gonzalez	16
Item 37	21
Staff Counsel Fossum	21
Ms. Tamara Smith	24
Mr. Jeff Yazel	24
Item 49	35
Mr. Larry Calemene	37
Mr. Andrew Mardesich	39
Item 56	42
Item 59	43
Regional Manager Scott	43
Mr. Dan Gorfain	48
Engineering Branch Supervisor Eskijian	61
Mr. Robert Sydnor	69
Ms. Marian Harvey	81
Mr. Alan Allred	85
Ms. Lata Mathrani	87
Discussion/Questions and Answers	93

INDEX CONTINUED

	<u>PAGE</u>
Public Comment	133
Ms. Lisa DiMaggio	133
Adjournment	139
Reporter's Certificate	140

PROCEEDINGS

CHAIRPERSON CONNELL: Call the meeting to order.  
May I ask the clerk to take the roll, please.

SECRETARY KORHONEN: Presently, we have Chair  
Kathleen Connell and we have Director of Finance Annette  
Porini and we have Member Alternate Lieutenant Governor  
Lorena Gonzalez.

CHAIRPERSON CONNELL: Thank you. For the benefit  
of those in the audience, the State Lands Commission  
administers real property owned by the State and its  
interests. And today we're going to hear proposals that  
relate to the leasing and management of our public  
properties. And the first item of business will be the  
adoption of the minutes from the Commission's last  
meeting. May I have a motion?

ACTING COMMISSIONER PORINI: Move approval.

ACTING COMMISSIONER GONZALEZ: Second.

CHAIRPERSON CONNELL: It's been moved and  
seconded. The minutes are unanimously approved.

The next order of business, Mr. Thayer is the  
Executive Officer's Report. May we have your report.

EXECUTIVE OFFICER THAYER: Yes. Thank you, Madam  
Chair. I wanted to report on just a few items. You'll  
recall that earlier this year, some citizens at Queensway  
at Long Beach were concerned about the Queensway Bay

1 Project, which is a multiple-use project on State  
2 tidelands which have been deeded to the City of Long  
3 Beach.

4 I just wanted to report on the progress of  
5 reviewing that issue. Earlier this year at your request  
6 in July the Commission staff held a workshop to give an  
7 opportunity to everyone who wanted to be heard on the  
8 subject to be heard and provide evidence to the staff.  
9 The Commission was responding to a request as to whether  
10 or not it should hold a hearing on this general topic.  
11 And we were gathering evidence to make a recommendation to  
12 you.

13 We've completed our first couple drafts of the  
14 report. However, we would still like to submit that  
15 report to the review of the Attorney General's office to  
16 make sure that we're on solid legal ground in our  
17 response. And I wanted to let you know that that work is  
18 still in progress and that we hope to have it out sometime  
19 next month.

20 The second item --

21 CHAIRPERSON CONNELL: Are there any questions by  
22 my fellow Commissioners on that matter?

23 Would you please keep us informed about that?  
24 I'm particularly concerned.

25 EXECUTIVE OFFICER THAYER: Absolutely. Speaking

1 of the Attorney General's office, I wanted to take note of  
2 the fact that the long-time representative to the State  
3 Lands Commission from the Attorney General's office,  
4 Dennis Eagan has been reassigned. He will be in charge of  
5 the Charitable Trusts Division. And Matt Rodriquez, who  
6 is in Charge of the Land Use Section from which Dennis had  
7 come is here today, but we're working with Matt to --

8 CHAIRPERSON CONNELL: Dennis, did we exhaust you  
9 in our negotiation process?

10 (Laughter.)

11 ASSISTANT ATTORNEY GENERAL EAGAN: I'm limp.

12 (Laughter.)

13 CHAIRPERSON CONNELL: Dennis and I did yeoman  
14 service together, would you not say, Dennis, in trying to  
15 defend the State's interests with the LA Port on the City  
16 of Long Beach -- city of Los Angeles extended discussion.  
17 I wanted to just give a personal round of applause to  
18 Dennis Eagan. He has been terrific, in my, almost, six  
19 years of service on this board.

20 You have been amazing. You have defended us  
21 against some outrageous theft by those who would seek to  
22 dilute the State's interests. So I want to thank you.  
23 And maybe we can ask the public to show that respect as  
24 well.

25 (Applause.)

1 CHAIRPERSON CONNELL: Do you have anything you  
2 would like to suggest as final words of caution.

3 (Laughter.)

4 ASSISTANT ATTORNEY GENERAL EAGAN: I try to be a  
5 man of few words. No. No.

6 Thank you very much.

7 CHAIRPERSON CONNELL: Thank you. I appreciate  
8 your personal commitments. It's been great. And welcome,  
9 as well, to your replacement to our board. We'll try to  
10 keep you actively stimulated.

11 Now, the next order of business will be the --  
12 Mr. Thayer, did you have anything else?

13 EXECUTIVE OFFICER THAYER: Just one or two other  
14 items. With respect to the Brother Jonathon shipwreck up  
15 in northern California, as you'll recall we've taken  
16 advantage of that shipwreck and the recovery of the  
17 artifacts there to do a number of things of educational  
18 value for the State. We've had an exhibit in the rotunda  
19 of the Capitol. We've extensively put information on our  
20 web site for use by citizens and by school children.

21 The latest saga on that is a little bit of a  
22 potential at the moment. It's not firmly resolved, but at  
23 the last recovery operation, back in September, not that  
24 many gold coins were found.

25 However, some additional artifacts were found.



1 And one of them was a complete tool chest from that area.  
2 We understand there are preliminary plans to have that  
3 recovered and restored at the University of Texas. Part  
4 of that process, they're looking to show pictures of that  
5 in process over the Internet. And if that happens of  
6 course --

7 CHAIRPERSON CONNELL: That's terrific.

8 EXECUTIVE OFFICER THAYER: -- it means the whole,  
9 not only the tools themselves, but the process of  
10 restoring them will be available to everybody if this all  
11 turns out. Of course, if that happens we'll make sure  
12 there's a link on our site so that people will be able to  
13 get that information. So it's interesting that a year --  
14 in the beginning this was a treasure hunt involving gold  
15 coins, of which, of course the State benefited as well,  
16 but, I think, the historical aspect of it --

17 CHAIRPERSON CONNELL: I think it is the  
18 historical aspect, and the fact that we've been able to  
19 create a museum of artifacts for the children of  
20 California that is particularly significant.

21 Are we having a lot of people visit our exhibit?

22 EXECUTIVE OFFICER THAYER: Many of those items  
23 are still being restored up in Humboldt County. And so  
24 it's a long process. It costs a fair amount of money to  
25 do. They've requested supplemental appropriations in the

1 Legislature to give them the additional funds they'll  
2 need. And I think there's some work for us, in that  
3 regard, in terms of espousing that cause.

4 CHAIRPERSON CONNELL: Well, we should talk about  
5 that when we get to the additional items. I'm sure that  
6 all of us would like to be passionate about your effort.  
7 I realize Finance may have some statutory restrictions in  
8 arguing for the supplement of money to any particular  
9 fund. But I certainly will carry that charge forward.  
10 I'm sure I will be joined by the Lieutenant Governor.  
11 This is important to make sure we complete our work on  
12 Brother Jonathon.

13 Do you want to describe for those members of the  
14 audience who are here today who may not know the treasure  
15 that Brother Jonathon represents. This is not some  
16 cartoon that we're talking about here.

17 Paul.

18 EXECUTIVE OFFICER THAYER: The facts, as I  
19 remember them, and we may have staff here who can correct  
20 me in terms of the inaccuracies. But the Brother Jonathon  
21 was a steamship that had been involved in trade, first  
22 between the east coast and the west coast and then  
23 eventually west coast only trade.

24 It departed from San Francisco probably  
25 enormously overburdened with cargo and passengers to the

1 point that they couldn't even leave at their scheduled  
2 departure time, because they were stuck fast in the mud.  
3 They waited for the tides to lift them up. The Captain  
4 said, you know, I don't want to go. The owner said  
5 it's you go or it's your job and he went. And shortly  
6 thereafter off of Crescent City the ship struck a rock.  
7 It sank. Over 200 people were lost. It's the largest  
8 loss of life in any west coast shipping accident.

9           And it went down with a number of gold coins.  
10 There was bullion there that was to be payment to some of  
11 the native American groups up in Washington. There was a  
12 payroll for the Army staff up in the State of Washington,  
13 as well as really a time capsule of the different  
14 implements, clothing, tools, everything that you'd use in  
15 everyday life that was either shipped as cargo or on board  
16 as personal affects of the passengers.

17           That went down. Nobody could find it for years.  
18 Eventually a private salver found that, probably around  
19 ten years ago. There was some litigation as to whether  
20 the State Lands Commission, representing the State, had  
21 ownership of everything there. And eventually through  
22 some court action and some settlement negotiations, the  
23 salver was able to retain many of the gold coins. The  
24 State received a million dollars worth of gold coins.  
25 You'll recall the press conference we held in Sacramento,

1 and these were displayed --

2 CHAIRPERSON CONNELL: And a number of very  
3 valuable artifacts, as well, porcelain and silver.

4 EXECUTIVE OFFICER THAYER: A wine flask that was  
5 unopened, things of great importance from a historical  
6 perspective. And I think it was our view and I think the  
7 Commission's view that although gold had some value, the  
8 historical artifacts were the most important part of that  
9 in terms of history of the State.

10 And the State retained ownership of all of those,  
11 so it was a very important thing for the Commission.

12 The only other item I have on the Executive  
13 Officer's report is to point out that as per our custom,  
14 our next commission meeting is likely to be in about two  
15 months. And so we're looking to schedule that through  
16 your offices, some time late January or early February.

17 CHAIRPERSON CONNELL: Thank you.

18 EXECUTIVE OFFICER THAYER: And that concludes the  
19 Executive Officer's report.

20 CHAIRPERSON CONNELL: The next order of business  
21 then will be the adoption of the consent calendar. Mr.  
22 Thayer, may I call on you, again, to indicate which items  
23 have been removed from the consent calendar.

24 EXECUTIVE OFFICER THAYER: We've taken Item 7 off  
25 the consent calendar. In addition, there may be people in

1 the audience who would like to speak on some of the other  
2 items.

3 CHAIRPERSON CONNELL: All right. I do have some  
4 speakers here who have indicated an interest in speaking.  
5 I have individuals who want the speak on Items 19, 21, 35,  
6 37, 49, 56, 59, and then during the public comment period.

7 EXECUTIVE OFFICER THAYER: I think that some --

8 CHAIRPERSON CONNELL: Are any of those items --

9 EXECUTIVE OFFICER THAYER: With your permission,  
10 I think that, for example, I'm looking at 21, and I  
11 believe that Mr. McCabe is here only if that should come  
12 off consent. I don't think he is asking --

13 CHAIRPERSON CONNELL: Mr. McCabe, do you need to  
14 speak on this item?

15 MR. McCABE: Not if it's otherwise taken off.  
16 Thank you.

17 CHAIRPERSON CONNELL: Okay. Then let's go to  
18 item number 19, Mayor Shoup.

19 EXECUTIVE OFFICER THAYER: I believe this is the  
20 Mayor of Apple Valley who wanted to address --

21 MR. SHOUP: We have no comment. Thank you, Madam  
22 Chair.

23 CHAIRPERSON CONNELL: You have no comment.  
24 Nineteen is taken care of. I want to make sure all people  
25 who are registered to speak are given an opportunity.

1 Twenty-one is taken care of. I believe I have another  
2 individual for 21. I have Marc DeFrenza.

3 MR. DeFRENZA: No issue, Madam Chair.

4 CHAIRPERSON CONNELL: All right, fine. And what  
5 about Vince Abe?

6 MR. ABE: The same.

7 CHAIRPERSON CONNELL: All right. So you will --  
8 let's see, how about item C35.

9 EXECUTIVE OFFICER THAYER: This item, I believe,  
10 the gentleman would like to take this --

11 CHAIRPERSON CONNELL: Marco Gonzalez.

12 MR. GONZALEZ: Yes, I'd like to speak.

13 CHAIRPERSON CONNELL: All right.

14 EXECUTIVE OFFICER THAYER: So we should take that  
15 off.

16 CHAIRPERSON CONNELL: Yes, let's take that off,  
17 if we may.

18 And item C37, that would be Linda Niles.

19 MS. NILES: Only if it's taken off consent.

20 CHAIRPERSON CONNELL: Only if it's taken off  
21 consent.

22 What about --

23 MR. GONZALEZ: I'd like the speak as well on 37.

24 CHAIRPERSON CONNELL: You wanted to speak as well  
25 on what?

1 MR. GONZALEZ: On number 37.

2 CHAIRPERSON CONNELL: Well, just a moment. I'm  
3 calling them in order. If your name is here, then your  
4 name will be called. If not, you'll have to fill out a  
5 form. So Linda Niles only if it comes off consent.

6 Okay, Tamara Smith, please?

7 The same.

8 CHAIRPERSON CONNELL: Only if it comes off.

9 Jeff Yazel?

10 MR. YAZEL: Yes.

11 CHAIRPERSON CONNELL: You want to speak whether  
12 it comes off?

13 MR. YAZEL: Yes, whether or not.

14 CHAIRPERSON CONNELL: Whether or not.

15 And Marco?

16 MR. GONZALEZ: Only if it comes off consent.

17 CHAIRPERSON CONNELL: Only if it comes off. It  
18 appears that 37 will be coming off.

19 EXECUTIVE OFFICER THAYER: Then finally, I have  
20 two items on 49, Andrew Mardesich.

21 CHAIRPERSON CONNELL: We have a new one as well,  
22 Larry Calemene; is that correct?

23 Hi, Larry.

24 Do you wish to speak, Larry?

25 MR. CALEMINE: I have a question for

1 clarification.

2 CHAIRPERSON CONNELL: Okay, Andrew, did you wish  
3 to speak?

4 MR. MADESICH: After Larry's clarification.

5 CHAIRPERSON CONNELL: Okay. Then we have to take  
6 49 and put that on the discussion calendar.

7 CHAIRPERSON CONNELL: We are now on 56.

8 Curt Noland?

9 MR. NOLAND: I don't need to speak.

10 CHAIRPERSON CONNELL: Okay. Then we will keep  
11 that on consent calendar.

12 Number 59, Alan Allred.

13 EXECUTIVE OFFICER THAYER: Madam chair, that's  
14 the item which is on regular items to speak.

15 CHAIRPERSON CONNELL: That was going to be on  
16 anyway and then that's it. So let us read which items are  
17 now off of the consent calendar, Mr. Thayer.

18 EXECUTIVE OFFICER THAYER: I believe there are  
19 items 7, 35, and 37 and 49.

20 CHAIRPERSON CONNELL: Okay. May I have a motion  
21 for the consent calendar?

22 ACTING COMMISSIONER GONZALEZ: So moved.

23 ACTING COMMISSIONER PORINI: Second.

24 CHAIRPERSON CONNELL: Okay. It's a unanimous  
25 vote.



1           Let us then begin with item 7, shall we.

2           EXECUTIVE OFFICER THAYER: Item 7 is the one that  
3 we'll hear at a future date, so we won't have to hear that  
4 today. The staff has taken that off the calendar.

5           CHAIRPERSON CONNELL: Okay. We are then on 35 is  
6 that correct, Paul?

7           EXECUTIVE OFFICER THAYER: Yes. Item 35 has to  
8 do with the fill of two seacaves in the Solana Beach area.  
9 And I believe Alan Scott from our staff can make a  
10 presentation to give the background on that.

11          CHAIRPERSON CONNELL: Then we will call upon our  
12 speakers who have identified that they wish to speak on  
13 this item.

14          Go ahead, please.

15          REGIONAL MANAGER SCOTT: Good afternoon, Madam  
16 Chair and members of the commission. My name is Alan  
17 Scott. I'm a regional manager with your Land Management  
18 Division. I'm here to present information on this item.

19          The project involves the filling of two seacaves  
20 in bluffs along the south coast in the City of Solana  
21 Beach. These caves were undermining the applicant's  
22 residence, and the applicant Ronald Lucker, secured an  
23 emergency permit from the Coastal Commission in December  
24 of 1997 and filled the caves early in 1998. The Coastal  
25 Commission required that the applicant process a formal

1 coastal permit covering the emergency work and that permit  
2 was heard by the Commission in June of 1999.

3 Several conditions were attached to the Coastal  
4 Commission's action including a requirement that the  
5 applicant secure a lease from this commission, that the  
6 cave fills be monitored annually to assure that the fill  
7 eroded at the same rate as the bluff face, and that the  
8 fill be modified to match the coloration of the existing  
9 bluff face.

10 Portions of the original material used to fill  
11 the caves have been removed and replaced under one of  
12 those conditions, and the material colored to match the  
13 bluff. And the material used to colorate the cave fills  
14 are designed to erode at the same rate as the bluff.

15 Staff has reviewed the first annual report which  
16 was required of this applicant to show that these cave  
17 fills did, in fact, erode at the same rate as the bluff  
18 face, and believes that the current appearance and fill  
19 material does, in fact, match the natural bluff.

20 Therefore, staff is recommending approval of this  
21 item. If you have any further questions concerning this,  
22 I'd be happy to answer them.

23 CHAIRPERSON CONNELL: Members of the Commission,  
24 do you have any questions?

25 ACTING COMMISSIONER GONZALEZ: I do have one

1 question. My understanding is that these leases, we don't  
2 charge for these leases?

3 REGIONAL MANAGER SCOTT: That's correct.

4 ACTING COMMISSIONER GONZALEZ: And what other  
5 circumstances do we not charge for them?

6 REGIONAL MANAGER SCOTT: Normally, it's for some  
7 sort of public benefit. We believe that there is a  
8 benefit to the public to reinforce some of the facings of  
9 these bluffs to preclude them from collapsing on beach  
10 users and so forth. So we believe there is a public  
11 benefit. It's a safety issue.

12 ACTING COMMISSIONER GONZALEZ: Also, I know the  
13 Lieutenant Governor was concerned. In the Coastal  
14 Commission process, is there a requirement that the houses  
15 that these are provided for are in tact in the same manner  
16 in which the people bought them, it's not houses where  
17 they're building on rooms or maybe causing more weight  
18 onto the cliff?

19 REGIONAL MANAGER SCOTT: I'm not sure that I know  
20 the answer to that question.

21 EXECUTIVE OFFICER THAYER: I think my  
22 understanding is in this particular project, there's no  
23 expansion of the houses as part of the project. It was  
24 just filling up the caves. And, in fact, that  
25 application, the emergency application was made in

1 December when some of the erosion was occurring.

2 REGIONAL MANAGER SCOTT: There's been no  
3 modification that we know of to the existing residence on  
4 the bluff.

5 CHAIRPERSON CONNELL: Annette, did you have a  
6 comment?

7 ACTING COMMISSIONER PORINI: Yes. I just thought  
8 maybe staff can come back to us at a future point in time.  
9 I don't have the specific concern about this item, but I  
10 am concerned that we don't charge any fee under the  
11 circumstance. And perhaps you could come back to us with  
12 a report on whether or not we should continue with that  
13 policy, what its implications are, that sort of thing.

14 EXECUTIVE OFFICER THAYER: Certainly. Staff will  
15 prepare a report and bring back discussion of that issue.

16 ACTING COMMISSIONER PORINI: Thank you.

17 CHAIRPERSON CONNELL: All right. I believe then  
18 it's time for public comments. Marco, please, Gonzalez.  
19 If you'd like to come forward, identify yourself for the  
20 record, and please try to stay within the three-minute  
21 time limit of the Commission.

22 MR. GONZALEZ: Thank you, Madam Chairman. My  
23 name is Marco Gonzalez. I am the Chairman of the San  
24 Diego County Chapter of the Surf Rider Foundation, and  
25 legal counsel to the National Surf Rider organization.

1 I would like to make a couple of comments to the  
2 Commission, because I feel like we're in a situation where  
3 the public has been somewhat robbed of their outlet.  
4 Under the Coastal Commission's mandate on the Coastal Act,  
5 they have to balance the interests of private property  
6 owners against the interests of the public's right to  
7 access.

8 And, unfortunately, the way that the Coastal Act  
9 is drafted, there is a lot of leeway for geotechnical  
10 experts to come in and massage their data to support the  
11 building of the seawalls. The State Lands Commission, on  
12 the other hand, has a very definite and unquestionable  
13 mandate to protect the public trust and the public's  
14 interest to access and to the recreational opportunities  
15 of the beach, and therefore, we, the public, are looking  
16 to call upon you to take a more proactive role on behalf  
17 of the citizenry.

18 I don't have to remind you of the importance of  
19 our beaches both to our state of being, in terms of our  
20 quality of life, but also to our State's economy. More  
21 than \$30 billion are contributed to our State's economy  
22 from coastal tourism, more than a billion dollars in State  
23 tax revenue.

24 Erosion occurs on more than 85 percent of our  
25 coastline and erosion is natural. I can think of no other

1 situation whereby the public's right to a State resource  
2 is compromised solely for the purpose of private property  
3 owners.

4 Now, the statement was just made by your staff  
5 that this is a public benefit, the safety concerns. But  
6 going to the beach and taking yourself into a natural  
7 environment, there is some level of assumed risk. And if  
8 you look at historically the amount of safety implications  
9 that have arisen, because of bluff failures, it's  
10 relatively small.

11 In fact, what is happening is when you build  
12 these sea walls, because they aren't just cave plugs and  
13 notch fills, they are sea walls, you get a scouring of the  
14 beach in front of them, you get downdrift from the sea  
15 walls, you get significant impacts to the bluff. And, in  
16 fact, a large portion of these sea bluff collapses occur  
17 in the upper bluff, not in the lower bluff, which are  
18 being sought to be protected.

19 I'm not going to ask that you oppose this  
20 particular lease, but I would ask that, as you seem to  
21 have already done, direct your staff to go back and look  
22 into some critical issues. In particular, as Ms. Gonzalez  
23 pointed out, there are situations, especially in Solana  
24 Beach, where these same property owners are coming back to  
25 you and asking for sea walls. Whereas, in the past, in

1 the past ten to 15 years, they've had specific deed  
2 restrictions placed on them by the Coastal Commission,  
3 which said that they would not ever come forward for  
4 coastal shoreline armory in exchange for the right to  
5 increase their -- or infringe upon their setback.

6 The Coastal Commission, unfortunately, has  
7 decided that these deed restrictions are not enforceable,  
8 and therefore, we, the public, are going to lose our beach  
9 so that bluff top property owners can protect their  
10 houses. I think that with impending sea level rise, with  
11 the increased focus on our coastal tourism as a necessity  
12 here in California, we can't ignore the need of the  
13 public's access to these beach areas.

14 I'd ask that you direct staff to coordinate with  
15 the Coastal Commission to look at some of the specifics of  
16 these emergency permits. In particular, here in Solana  
17 Beach, the City has recognized that they have run rough  
18 shod over the mandates of CEQA, and they are, in fact,  
19 going to prepare a Cumulative Impacts Analysis and a full  
20 EIR to deal with the impacts from their sea wall  
21 ordinance, which, to date, has never really undergone full  
22 CEQA scrutiny. Thank you for your time.

23 CHAIRPERSON CONNELL: Thank you. And I  
24 appreciate your -- did you have a question?

25 ACTING COMMISSIONER GONZALEZ: I do. I have one

1 question, I don't think you clarified. And you said this  
2 one you're not objecting to, but what is the effect on  
3 sand on the beaches, and I know this is what the  
4 Lieutenant Governor is most concerned with, by allowing  
5 more and more of these sea plugs to go forward?

6 MR. GONZALEZ: Well, the first thing that must be  
7 realized, is obviously we have a dramatic shift in the  
8 last 50 years of how sand actually reaches our beaches.  
9 Because we have built dams and we have done other things  
10 to take sand out of the natural flow, we don't have the  
11 amount of sand on the beaches that we once had.

12 In addition, as we shore up the back ends of our  
13 beaches, we effectively preclude any sand from eroding  
14 from the bluff down onto the beach, which in the past, has  
15 been a significant source of sand.

16 The other thing that people don't like to admit  
17 is if you go to places where you don't have the sea walls  
18 and you allow erosion to happen naturally, you get pocket  
19 beaches. And in areas like La Jolla, Santa Cruz, Point  
20 Loma, Laguna Beach, you have significant pocket beach  
21 resources that we've come to recreate in and we rely on as  
22 a resource of the people. So I think that the sea walls,  
23 they increase the scour in front of them and therefore  
24 cause the sand to go offshore and we effectively lose our  
25 beach.



1 CHAIRPERSON CONNELL: Okay. I'm ready to take a  
2 motion on that. May I have a motion by a member of the  
3 Board?

4 ACTING COMMISSIONER PORINI: Move approval.

5 ACTING COMMISSIONER GONZALEZ: Second.

6 CHAIRPERSON CONNELL: It has been moved and  
7 seconded.

8 ACTING COMMISSIONER GONZALEZ: Can we make sure  
9 though, that that report then from staff includes some of  
10 the other issues that were brought up?

11 CHAIRPERSON CONNELL: I think they understood  
12 that.

13 EXECUTIVE OFFICER THAYER: Absolutely.

14 CHAIRPERSON CONNELL: We are now on Item 37.  
15 Item 37, Paul do you want to present it?

16 EXECUTIVE OFFICER THAYER: Yes. Thank you. This  
17 item will be -- has to do with an emergency situation  
18 which existed in Del Mar earlier this year, wherein a  
19 lagoon had been cut off from the ocean for about 18 months  
20 and created some health hazards as well as environmental  
21 impacts. However, Curtis Fossum will give the  
22 presentation for the staff.

23 STAFF COUNSEL FOSSUM: Good afternoon, Madam  
24 Chair and Commissioners. My name is Curtis Fossum, staff  
25 counsel with the Commission.

1           This item has been before you when the State  
2   Lands Commission was a defendant in a lawsuit that was  
3   brought in September, earlier this year. At that time the  
4   Commission did not have the opportunity to act. The  
5   public notice period had already been noticed for our last  
6   commission meeting, so our Executive Officer, under the  
7   existing exigencies that were taking place at the time,  
8   issued a letter of permission to the City of Del Mar to do  
9   an emergency excavation to relieve the stress that was  
10   existing on the habitat values, the fish in particular of  
11   San Dieguito Lagoon.

12           The emergency permits were issued by the Coastal  
13   Commission, permits were issued by the Corps and the  
14   approvals from all agencies necessary were made at that  
15   time.

16           The litigation went to a judge for a temporary  
17   restraining order. The judge issued a preliminary  
18   restraining order or injunction that lasted for  
19   approximately a week until such time as further briefing  
20   could be made to the judge.

21           At the hearing on the 21st, the judge found that  
22   the issues raised by the plaintiffs in the action against  
23   the State were not sufficient to justify the restraining  
24   order to be continued and so the excavation took place as  
25   scheduled and the lagoon was open.

1           The reports we've had from all the agencies who  
2 observed the excavation that took place is that everything  
3 went very successful. The beach was closed for a period  
4 of seven days, about 200 feet up coast and down coast from  
5 the excavation. And the reports from Fish and Game were  
6 that the lagoon was almost immediately being cleansed and  
7 that within two days people were actually going into the  
8 lagoon itself, that the fish almost immediately began to  
9 go into the lagoon from the ocean and that the alcove mat  
10 that was choking off the life in the lagoon was dissipated  
11 within a seven-day period. So it was a success on all  
12 accounts.

13           And what we're asking you today here to do is to  
14 ratify the Executive Officer's action and to issue a  
15 12-months permit to the City of Del Mar to keep open the  
16 lagoon so that this doesn't occur again.

17           It should be noted that several exemptions are  
18 listed in the calendar item, CEQA exemptions, and that the  
19 Court took those under consideration and found that they  
20 were exempt from CEQA, the actions taken by the City.  
21 There has been an amended complaint in this case dealing  
22 with a larger project that's proposed for the lagoon, a  
23 major restoration project that is not before the  
24 Commission at this time. It will be brought to the  
25 Commission at a later date. And I think that the

1 Commission will have ample opportunity at that time to  
2 determine whether or not the future project is an  
3 appropriate one or not.

4 CHAIRPERSON CONNELL: Thank you. Let's call on  
5 those who wish to speak. Linda Niles, I believe you're  
6 first.

7 MS. NILES: No thanks, I don't wish to speak.

8 CHAIRPERSON CONNELL: Tamara Smith. And after  
9 Tamara we will have Jeff Yazel.

10 MS. SMITH: Tamara Smith, City Attorney for the  
11 City of Del Mar. The only thing I would add of factual  
12 distinction is that the amended complaint for the lawsuit  
13 continues to attack the work that was already done in  
14 terms of damages and CEQA compliance, that sort of thing.  
15 Otherwise, the City believes that the opening was a  
16 success and that the impact on the lagoon was beneficial.  
17 The impact on the ocean was minimal and necessary for the  
18 health of the lagoon.

19 Thank you.

20 CHAIRPERSON CONNELL: Thank you.

21 Jeff. And after Jeff will be Marco Gonzalez.

22 MR. YAZEL: I'm Jeff Yazel. I'm with the  
23 Zumbrunn Law Firm. We represent the Citizens to Save The  
24 Beach. And I'd like to start off by incorporating all of  
25 our pleadings and the like that we filed in this case.

1           First of all, I'd like to object to the lack of  
2 public -- or lack of notice to our firm and to the  
3 plaintiffs for this meeting. We stumbled upon notice of  
4 this meeting on the Internet. We were not mailed any sort  
5 of agenda for the meeting. And I never saw an agenda for  
6 it until just a few hours ago.

7           The time and the place for holding such a hearing  
8 is quite confusing. It's well known that the Sunday and  
9 Monday following the Thanksgiving holiday is one of the  
10 busiest travel days of the year. And I found it  
11 impossible to get a flight into LAX this morning. I had  
12 to fly into another airport and drive. And it somewhat  
13 precludes the public from giving a public comment in this  
14 regard.

15           You'll notice only a couple of attorneys are  
16 here. There were some individuals that would like to have  
17 spoken on behalf of the Citizens To Save The Beach, but  
18 weren't able to attend because of the travel restrictions  
19 on the State, that LAX is a very busy place this time  
20 of year.

21           On a substantive matter here, the City of Del Mar  
22 is the wrong applicant for this application for a lease.  
23 It really should be the Joint Powers Authority who is the  
24 applicant for this project. It's difficult to understand  
25 how the City of Del Mar can argue with a straight face

1 that the lagoon opening was not a precursor to the larger  
2 wetlands creation project that is proposed.

3 You're unable to piecemeal a project of that  
4 significance without going through the CEQA process and  
5 doing an EIR. What they attempted to do here and what  
6 they, so far, have been successful in doing is enabling a  
7 massive dredging project to occur without doing an EIR.

8 Now, I notice in the staff report it's mentioned  
9 as a minor excavation, but throughout the documents  
10 including the August, I believe it's August, 16th staff  
11 report from the City of Del Mar, they call it a massive  
12 dredging effort.

13 So there's some semantics that are going on in an  
14 attempt to pull the wool over the eyes of the Commission.  
15 One of those, the most significant, is that we continue to  
16 call this project an emergency project even to this day.  
17 Although, the judge ruled in denying the preliminary  
18 injunction, he did rule that that, this was not an  
19 emergency. It was clear in the law that an emergency has  
20 to be a sudden, unexpected occurrence and the lagoon  
21 closure for 18 months is not an unexpected occurrence, and  
22 therefore was not an emergency.

23 And thus all of the agencies who subsequently  
24 issued emergency permits were duped. They did it on the  
25 basis that this was an emergency. The judge ruled it was

1 not an emergency.

2 None of the applications, none of the preliminary  
3 documents applying for this dredge project ever mention  
4 the word emergency. It wasn't until the staff of Del Mar  
5 wanted to get emergency funding that they started calling  
6 it an emergency, and then it seemed that that was the only  
7 way they could get the dredging project done, they  
8 suddenly called it an emergency.

9 They still continue to call it an emergency. It  
10 clearly was not an emergency. The judge ruled it was not,  
11 and it's time to get on with that topic.

12 Because, it was not emergency, the staff here had  
13 no authority to issue the permit that they did and to  
14 certify it now would be wrong. They acted without the  
15 Board and they were not allowed to do that without an  
16 emergency occurrence.

17 In addition to that, there was no coastal --  
18 sorry, no Corps of Engineers' permit. They say they had a  
19 Corps of Engineers' permit. That is not the case. It  
20 expired in 1993 and even if it did exist, it was limited  
21 to the excavation of 5,000 cubic yards of sand. The  
22 project here was close to 15,000 cubic yards of sand  
23 nearly three times what the permit called for that was  
24 issued in '93, which had also expired.

25 The public trust is one of the most important

1 functions that the Commission has. And when we say at the  
2 end of our staff report about the balance of hardships,  
3 this is minor compared to what the benefits are and that  
4 we have a successful project completed now, perhaps we  
5 haven't looked at the situation there in the recent past.

6 Today, there was a 6.2 level of tide, which has,  
7 if you go down to the beach at Del Mar, you'll see that  
8 the lagoon has completely eroded away the north side of  
9 the lagoon all the way to the sea wall of Mr. Frank  
10 Warren's home. And he's fighting to keep his sea wall at  
11 this point. It's gone well beyond the 15,000 excavated  
12 cubic yards, and the river itself is excavating sand as we  
13 speak, and there's been erosion of the beach completely  
14 for some residents there. None of that is in the staff  
15 report. And certainly an environmental impact like that  
16 would require an EIR.

17 The pollution control measures were not  
18 discussed. This was called a cesspool by many of our  
19 representatives including Pam Slater. She called it a  
20 cesspool. Yet, at the same time, while this emergency  
21 project was being planned, none of this was included in  
22 the Environmental Impact Report.

23 There's reports of hundreds of dead fish.  
24 There's reports of algae masses, all kinds of pollutant  
25 problems in the lagoon. Yet all of it was ignored in the



1 proposed Environmental Impact Report for the overall  
2 project.

3 CHAIRPERSON CONNELL: Jeff, I'm going to ask you  
4 to wrap up. I've been very generous with your time, but  
5 we need to get staff response here.

6 MR. YAZEL: Okay. One more final comment then.  
7 This is an attempt to pull the wool over your eyes, this  
8 business of the emergency. They're continuing to do it,  
9 saying it's an emergency. It's been ruled by the judge  
10 that it was not, and thus the action taken by the  
11 Executive Director was illegal and he should not go  
12 forward with the lease as applied for.

13 CHAIRPERSON CONNELL: Jeff, why don't you stay  
14 right there. Let's see if we can get some interaction and  
15 dialogue with our staff. Jack, do you want to respond or  
16 does -- who would you like to have respond to this issue?

17 EXECUTIVE OFFICER THAYER: On a couple of the  
18 points that I recall were particularly raised, with  
19 respect to the notice. We wanted to make sure that Mr.  
20 Zumbrunn's law firm was contacted about this and Jack Rump  
21 or Chief Counsel specifically checked to make sure that  
22 they were on the list of the people getting the mail out  
23 of the agenda. So we believe that they were noticed. And  
24 out of concern for this possibility, we double checked on  
25 that.

1           In terms of the emergency, Curtis can confirm one  
2 way or the other on this. But my understanding is that  
3 the judge ruled more on the nature of the emergency with  
4 respect to the CEQA exemption than the other types of  
5 emergencies which were declared by different agencies.  
6 Different agencies have different criteria as to what  
7 constitutes an emergency. I think the representative here  
8 is correct. The Judge did find it was not an emergency  
9 with respect to CEQA, but did not overturn the Coastal  
10 Commission's permit, which was issued as an emergency  
11 permit by Peter Douglas.

12           Curtis neglected to mention that we had a letter  
13 from -- or other communication from the County Health  
14 Department out of concern for the health impacts here,  
15 because of the mosquito breeding and the fact that, I  
16 believe in the last 20 years or so, the last major  
17 outbreak of malaria was in this area.

18           So there were a variety of reasons that there  
19 were concerns. The judge may have ruled on one particular  
20 aspect of the law that there wasn't an emergency, but  
21 different agencies with different definitions of emergency  
22 still continued with their permitting and the judge did  
23 not order the project stopped because of any concern that  
24 those things were done improperly.

25           Curtis, were there others?

1 STAFF COUNSEL FOSSUM: No, I think both those --

2 MR. YAZEL: May I respond to that?

3 STAFF COUNSEL FOSSUM: Both those issues were  
4 raised. As to notice, notice was given out more than ten  
5 days in advance. I personally made sure that Mr. Zumbrunn  
6 was on the mailing list, so he received a notice of the  
7 Commission meeting. We also, on the issue of the  
8 emergency, the judge did not rule that it was not an  
9 emergency, only that it was not an emergency for that  
10 particular CEQA exemption, and that the other exemptions  
11 did apply, and therefore there was no problem.

12 The issues about State Lands Commission action  
13 and the Corps action were raised before the Court, and the  
14 Court chose not to rule on those issues at that time.

15 So I think it's important to note that the  
16 opponents of this project are focusing primarily on this  
17 project that doesn't even exist at this point in time,  
18 this future project. The excavation of the lagoon. In  
19 1983 the Coastal Commission issued a permit to the City of  
20 Del Mar, the Coastal Conservancy and the Department of  
21 Fish and Game to excavate 500,000 cubic yards from the  
22 lagoon and the lagoon's mouth.

23 A condition of that permit was that the City of  
24 Del Mar was to excavate it every year. And this is the  
25 first time that they had problems in keeping the lagoon

1 mouth open. And so the City, because it was not opened  
2 under the conditions that it normally was opened, it did  
3 become an emergency. Fish were dying. There was a threat  
4 of encephalitis. We spoke to all the different health  
5 agencies in San Diego, and they were all encouraging us to  
6 act as soon as possible on this item.

7 I'll answer any other questions you have.

8 CHAIRPERSON CONNELL: I think, Jeff, you may have  
9 a brief response period.

10 MR. YAZEL: Okay, as far as the '83 permit goes,  
11 it does require that the lagoon be opened every year. In  
12 April of '99 they knew the lagoon was not open. They went  
13 through the entire winter of '99 and did not open the  
14 lagoon as required by the permit that they discussed here.

15 The City of Del Mar cannot create their own  
16 emergency by neglecting to open the lagoon in '99 as they  
17 were required to do. Thus, they caused this massive  
18 buildup, caused this so-called emergency condition. And  
19 an emergency is not a thing that is a semantic thing, that  
20 one agency says another thing, another agency says another  
21 thing. This is CEQA we're talking about. An emergency is  
22 plain. It's clear. It's got to be an unknown. It has to  
23 be something that's like an earthquake. It happens  
24 suddenly.

25 This thing happened over a period of 18 months.

1 The judge did not buy the fact that this was an emergency  
2 for one minute. To keep going on that this was an  
3 emergency is ridiculous.

4 CHAIRPERSON CONNELL: All right.

5 MR. YAZEL: As far as notice goes, I'd like to  
6 see a cover letter or something that shows that you sent  
7 us notice.

8 CHAIRPERSON CONNELL: Jack, can you provide that?

9 CHIEF COUNSEL RUMP: We can do that.

10 CHAIRPERSON CONNELL: Thank you. Do I have a  
11 motion by a member of the Board?

12 ACTING COMMISSIONER PORINI: Move approval.

13 ACTING COMMISSIONER GONZALEZ: Second.

14 CHAIRPERSON CONNELL: It's been moved and  
15 seconded. That's a unanimous vote on item --

16 CHAIRPERSON CONNELL: I'm sorry, Marco.

17 I'm so sorry. Come forward Marco.

18 ACTING COMMISSIONER GONZALEZ: You're not going  
19 to oppose it, are you?

20 MR. GONZALEZ: My name is Marco Gonzalez, once  
21 again, San Diego County Chapter of Surf Rider Foundation.  
22 I want to offer just a little personal perspective. Our  
23 offices and my residents are within two blocks of this  
24 beach. I've surfed this beach for approximately 15 years.  
25 I'm very intimately engaged with the movement of sand, the

1 health of the lagoon and the state of the water and the  
2 public trust lands there at this beach.

3           The lagoon was the unfortunate recipient of an  
4 unlikely combination of nutrient loading and numerous  
5 extremely warm days, which resulted in an algae bloom  
6 which choked off the oxygen in the lagoon and caused this  
7 massive fish kill. It did create, from the public's  
8 perspective, somewhat of an emergency situation.

9           Now, notwithstanding, I think the Commission's  
10 obligation here is to look at what are the true impacts to  
11 the public trust here. And I can tell you on behalf of  
12 the public who recreates most often at this beach, we are  
13 more than willing to accept seven days of closed beaches  
14 to get, at least, a step in the right direction towards  
15 restoring the health of this particular lagoon.

16           Our coastal lagoons in southern California have  
17 been inundated with sand at their mouths for far too long  
18 and it's resulted in a total lack of fish spawning  
19 habitat. It's precluded the sand from within those  
20 lagoons from reaching our beaches. And, unfortunately, in  
21 this situation we have what amounts to NIMBYistic property  
22 owners totally unable to rally support from the  
23 environmental community, coming forward under the auspices  
24 of environmental protection.

25           When, in fact, what we're doing should have been

1 done a long time ago. So I urge you to disregard the  
2 comments to whatever extent you can and move forward with  
3 approval of this project.

4 CHAIRPERSON CONNELL: We were about ready to do  
5 that Marco, not disregarding the comments, but that we  
6 were going to take action. We have a motion on the  
7 floor. It's been moved and seconded and that will be a  
8 unanimous vote.

9 We are now on item 49. We have some additional  
10 speakers, but we'll first have the staff report on 49.

11 EXECUTIVE OFFICER THAYER: Yes, Madam Chair.  
12 Item 49 has to do with the application of the Harbor Study  
13 Foundation to form a new city in the Los Angeles harbor  
14 area. Generally, they've circulated a petition and  
15 secured sufficient signatures to bring this item to LAFCO,  
16 the Local Agency Formation Commission, for study.

17 Prior to LAFCO commencing its study, it needs to  
18 know where the boundaries of the City would be. And as a  
19 primary custodian for the area, the tide and submerged  
20 lands, a section of the Government Code requires that the  
21 Lands Commission make two decisions whenever a new  
22 incorporation is proposed.

23 First, are the boundaries logical, do they  
24 encompass the tide and submerged lands directly in front  
25 of the proposed city, are they at right angles rather than

1 at some obscure angle? That's what's before the  
2 Commission today.

3 The second requirement of this section is that  
4 the Commission actually approve the incorporation of the  
5 new City to include these lands, not just where the  
6 boundaries are but the actual inclusion. The Commission  
7 has occasionally made both decisions at the same time.  
8 But because there's some very complex issues involving the  
9 Port of Los Angeles here, it's the staff's recommendation  
10 that it only approve the boundaries for the study of LAFCO  
11 and defer the ultimate decision about whether or not  
12 incorporation of this area, which is actually granted by  
13 the Legislature to the City of Los Angeles, whether that  
14 area should be incorporated within the City.

15 We think that the LAFCO study will look at a lot  
16 of the information, develop a lot of the information that  
17 the Commission needs to know before it makes that ultimate  
18 decision, things like who will obtain the taxes, who will  
19 be -- which city will be providing municipal services, a  
20 lot of the same issues that we --

21 CHAIRPERSON CONNELL: I think we've got them  
22 memorized, Mr. Eagan and I, in relationship to the 207  
23 lawsuit.

24 EXECUTIVE OFFICER THAYER: So we're proposing to  
25 bifurcate this process. We've done it both ways in the



1 past, both together or separate, but it certainly seems  
2 like the facts justify that we do it in a two-step set  
3 process.

4 So for your consideration today is approval of  
5 the boundaries as proposed. I might also add the law  
6 provides that if the Commission does not act within 45  
7 days of the submission of those boundaries, they're deemed  
8 approved anyway. So that's the background on that.

9 CHAIRPERSON CONNELL: All right. Now, we do have  
10 a speaker. Larry, do you want to come forward. And  
11 identify yourself for the record, please.

12 MR. CALEMINE: Good afternoon, Madam Chair and  
13 Members of the Commission. My name is Larry Calamine.  
14 I'm the Executive Officer of the Local Agency Formation  
15 Commission. I think my question was just answered, but I  
16 just want to make sure I have the proper read on this.

17 If I read the staff report correctly, all the  
18 lands within the boundary of the legal description on the  
19 map would be included in your approval except those lands  
20 currently held in lease by the City of Los Angeles from  
21 this Lands Commission. That would be subject --

22 CHAIRPERSON CONNELL: Are you saying that we just  
23 want to look forward and then we will look at their study  
24 and then determine, is that what you just said?

25 EXECUTIVE OFFICER THAYER: Exactly. We'd be

1 technically approving where the boundaries lie, but not  
2 approving the actual incorporation of those lands, so that  
3 the intent here would be to provide the information to  
4 LAFCO, the exact boundaries of the proposed new city.  
5 LAFCO could conduct the studies. And I think Curtis has  
6 been in contact with you about this and he'll be sending  
7 you a letter about the information we needed.

8 And then once the LAFCO studies would be done,  
9 then we would be approving as much as LAFCO would approve  
10 the final incorporation, we'd approve the final  
11 incorporation of these tide and submerged lands.

12 So the action before the Commission today does  
13 not differentiate between granted lands to the City of Los  
14 Angeles or nongranted lands, it just has to do with the  
15 boundaries of the proposed new city.

16 MR. CALEMINE: So you're approving the boundaries  
17 in toto, but deferring to a future date the incorporation  
18 of State lands within those boundaries?

19 EXECUTIVE OFFICER THAYER: Exactly.

20 MR. CALEMINE: Thank you.

21 CHAIRPERSON CONNELL: Is everyone clear about  
22 what we're doing here?

23 May I have a motion, please.

24 EXECUTIVE OFFICER THAYER: One other speaker, I  
25 think.

1 CHAIRPERSON CONNELL: There was another speaker.

2 EXECUTIVE OFFICER THAYER: Andrew Mardesich.

3 CHAIRPERSON CONNELL: I don't have him listed in  
4 mine.

5 Is there anyone else who would like to speak?

6 MR. MARDESICH: I was listed. I even asked to  
7 speak after Larry.

8 CHAIRPERSON CONNELL: All right. Please go  
9 ahead.

10 MR. MARDESICH: Andrew Mardesich, Harbor Study  
11 Foundation. Before I make my statement, I'd like to  
12 present a video tape entitled "Lessons Learned in Los  
13 Angeles". It's a production that was made by the Galvison  
14 Preservation and Conservation Society. And it truly  
15 depicts the state of the Los Angeles harbor in graphic  
16 detail, especially in the area of Wilmington. And  
17 considering the problems that other areas have, like Del  
18 Mar, the only wish -- we only wish we could have half  
19 their problems. And I'd like to enter this into the  
20 staff.

21 EXECUTIVE OFFICER THAYER: Thank you.

22 MR. MARDESICH: Further to Larry's question, it's  
23 not clear to me when this second step of your approval  
24 process would be, because this issue has to have clarity  
25 when it goes to the ballot. And we're in support of,

1 obviously, the first part. And we would like to ask that  
2 this commission authorize the Attorney General to turn  
3 over data and facts of discovery in the case of this  
4 commission and the City of Los Angeles for fact finding  
5 data in our study, because one thing that needs to be  
6 clarified is that as the applicant we have the  
7 responsibility to put the proposal together, not LAFCO,  
8 and we are in need of that information to do our study.

9 Secondly, we would ask that those records not be  
10 sealed in the event there is a settlement shortly, which I  
11 understand there's ongoing negotiations, in that the trial  
12 to date is off calendar.

13 We'd also ask that the State Lands Commission  
14 create an open dialogue with our foundation to establish a  
15 criteria that they have delineated in their recommendation  
16 of what services are to be provided by the new community,  
17 how they're to be provided and to what cost, because we  
18 are the ones that will be submitting that proposal. We  
19 will be the ones that will be structuring that government,  
20 and so we need to know how high to jump.

21 CHAIRPERSON CONNELL: Let me respond. We are  
22 outside the agenda item that we have before us today. The  
23 only agenda item that we have before us today is whether  
24 or not we're going forward with the definition of  
25 boundaries. We cannot move the items 2 and 3, which are

1 not on the agenda items today or we would not have had  
2 proper public hearing notice for those items.

3 We only have on public hearing notice today  
4 definition of boundaries. We have before us a staff  
5 report on how they wish this board to segregate that  
6 action, which is in step 1 and step 2. That is the only  
7 matter we have before us.

8 MR. MARDESICH: Understood. I didn't expect for  
9 you to respond to those requests. I just wanted to make  
10 it apparent, it's not every opportunity we have a chance  
11 to address the Commission in Los Angeles. And for us to  
12 go to Sacramento, we're a grass roots organization. We  
13 have an established minority -- poverty level of 16  
14 percent through the harbor area. And if we were to  
15 exclude Wilmington, we have a 30 percent poverty level.  
16 So we're not high rollers, and this is our opportunity to  
17 make a statement on behalf of the citizenry.

18 Thank you.

19 CHAIRPERSON CONNELL: I appreciate that. Now, do  
20 we have any further comments on this item. We have a  
21 motion before the Board by staff -- or we have a staff  
22 recommendation. We need a motion on staff's  
23 recommendation on item 49, which is to bifurcate this  
24 motion. Does anyone want to carry that motion from the  
25 Board?

1           ACTING COMMISSIONER PORINI: I'll move approval  
2 of staff's recommendation.

3           ACTING COMMISSIONER GONZALEZ: Second.

4           CHAIRPERSON CONNELL: It's been moved and  
5 seconded. The staff recommendation is unanimous.

6           We are going to take item number 56 now and then  
7 we will move to a break, before we take item 59, because  
8 we have a great deal of interest on Item 59, and I want us  
9 to make sure that we give everyone a chance on Item 59 to  
10 be heard.

11           We are now on item 56, Mr. Thayer.

12           Did we call this item special?

13           EXECUTIVE OFFICER THAYER: If we could check with  
14 the speaker -- with the person who proposes to speak on  
15 this, I think this is the proponent of the project.

16           CHAIRPERSON CONNELL: Curt Noland?

17           STAFF COUNSEL NOBLES: Yes. My name is Richard  
18 Nobles. I'm a staff counsel with the Commission. Curt  
19 Noland was here to speak on this matter as a project  
20 proponent. It was his interpretation from the events that  
21 this passed on the consent calendar.

22           CHAIRPERSON CONNELL: Then we are -- the only  
23 item that we have remaining before this board is Item 59.  
24 And we, as I say, have a great deal of the public who  
25 wishes to speak to this item, so we will take a ten minute

1 break and then we will reconvene on Item 59, which is the  
2 only item left in open session.

3 (Thereupon a brief recess was taken.)

4 CHAIRPERSON CONNELL: Call the meeting back to  
5 order. If someone could find the missing Annette, we can  
6 move on. If somebody might seek her out. We are on Item  
7 59, which is the only item left. May I ask for a staff  
8 report on Item 59.

9 EXECUTIVE OFFICER THAYER: Madam Chair, Item 59  
10 is the Questar Conversion Project, which will convert a  
11 pipeline formerly used for crude oil transportation to  
12 gas. Our staff will present this presentation in two  
13 parts. Alan Scott will present the leasing side of it and  
14 we also have a presentation from Dan Gorfain on the  
15 environmental issues.

16 REGIONAL MANAGER SCOTT: Good afternoon, Madam  
17 Chair and commissioners. My name again is Alan Scott.  
18 I'm a Regional Manager with the Land Management Division,  
19 and I'll be presenting some background information on this  
20 item that's before you today.

21 As you may recall, this matter was before you at  
22 your meeting in September. At that time, you raised  
23 concerns regarding the safety of the project and the  
24 status of the lease negotiations with the applicant. You  
25 asked staff to investigate your concerns and bring the

1 matter back to you at a future meeting.

2 Some of the information that I will be presenting  
3 today is repetitive of the information that was presented  
4 in September, but is made for the benefit of those in the  
5 audience not present during that meeting.

6 This project involves an existing 16-inch steel  
7 pipeline that was used to transport crude oil between Long  
8 Beach and northwestern New Mexico beginning in the  
9 mid-1950s. Because it is no longer being used to  
10 transport crude oil, the pipeline line has been purged,  
11 cleaned and filled with an inert gas to protect it from  
12 corrosion.

13 In 1957, the previous commission approved the  
14 issuance of seven right-of-way leases covering the  
15 pipeline to Four Corners Pipeline Line Company who  
16 subsequently changed its name to ARCO.

17 The existing 16-inch steel pipeline begins at the  
18 ARCO West Hines Facility in Long Beach and crosses  
19 portions of Los Angeles, Orange, Riverside and San  
20 Bernardino counties.

21 The pipeline continues across northern Arizona,  
22 where a short leg of the pipeline extends into Utah, and  
23 then continues on to terminate in New Mexico.

24 Approximately 250 miles of this 675-mile pipeline  
25 is located in California. Of those 250 miles located in



1 California, five and a half miles of the pipeline are  
2 located on lands under this Commission's jurisdiction.  
3 The leases previously issued by the Commission for the  
4 pipeline involved one parcel of sovereign land at a  
5 crossing at the Colorado River near the City of Needles in  
6 San Bernardino county and six parcels of state school land  
7 also located in San Bernardino County.

8 In addition to the pipeline, two existing  
9 cathodic protection systems are located on school lands  
10 within the pipeline right of way.

11 On April the 13th 1999, the Commission approved  
12 the assignment of ARCO's interest in the seven leases to  
13 Questar Southern Trails Pipeline Company. The project  
14 that is before the Commission today involves the proposed  
15 conversion of the existing pipeline and associated  
16 facilities previously used for the delivery of crude oil  
17 to natural gas service.

18 The project applicant is Questar Southern Trails  
19 Pipeline Company, which is a wholly owned subsidiary of  
20 Questar Pipeline. In order to complete the conversion  
21 project, the applicant must construct pipeline extensions  
22 to interconnect with the natural gas supply sources, other  
23 interstate natural gas pipelines and in-use customers.

24 Additionally, short sections of the existing  
25 pipeline must be replaced, realigned and/or rerouted to

1 meet federal safety standards for natural gas pipelines.  
2 The construction activities that will take place on lands  
3 under the Commission's jurisdiction include the following,  
4 a replacement of short sections, approximately four to six  
5 feet of buried pipeline.

6 Because these leases were originally issued for  
7 the transportation of crude oil and will expire in 2006  
8 and do not contain terms and conditions specifically  
9 related to the transportation of natural gas, staff is  
10 recommending that the seven leases originally issued for  
11 the pipeline be terminated, and that the Commission  
12 consider issuing to Southern Trails Pipeline Company, two  
13 new right-of-way leases, one covering the Colorado River  
14 crossing and one for the six parcels of State school land.

15 These two new leases would provide for the  
16 existing pipelines use, operation, repair and maintenance  
17 as a natural gas transmission pipeline and bring the  
18 leases into conformance with the Commission's current  
19 leasing standards.

20 Since the Commission's September meeting, we have  
21 been working with the representatives of the applicant to  
22 resolve issues concerning the terms and conditions of  
23 these leases. We and the applicant are now in agreement  
24 on an acceptable lease form. We have also been working  
25 with them to resolve safety and environmental concerns,

1 and these will be addressed later in the staff  
2 presentation.

3 When the pipeline is converted, the pipeline will  
4 be capable of transporting approximately 120 million cubic  
5 feet per day of natural gas to customers in southern  
6 California and 90 million cubic feet of natural gas to  
7 customers east of California.

8 Staff is also recommending that the Commission  
9 certify the Environmental Impact Report, which has been  
10 prepared as part of a Joint EIS/EIR covering the proposed  
11 conversion project.

12 I would like to introduce Dan Gorfain with the  
13 Planning Division, who will provide information relative  
14 to the Environmental Impact Report, which was prepared for  
15 this conversion project. Dan will also provide  
16 information concerning issues raised at the Commission's  
17 meeting in September regarding seismic safety and  
18 environmental issues.

19 Thank you.

20 CHAIRPERSON CONNELL: Excellent. Now, did the  
21 engineer who wrote the first letter that raised our  
22 concerns in November, Mr., is it, Sydnor?

23 REGIONAL MANAGER SCOTT: Sydnor.

24 CHAIRPERSON CONNELL: Is he here?

25 MR. SYDNOR: Yes, a geologist.

1           CHAIRPERSON CONNELL: Good, excellent. We will  
2 call upon you next, after we hear from the staff, because  
3 we have two letters that are conflicting from you and  
4 maybe you can help us resolve your approach to both of  
5 them.

6           Fine, why don't we call on our staff on the EIR  
7 and I'd like to welcome the Lieutenant Governor to our  
8 meeting. Welcome. Let the record show the Lieutenant  
9 Governor is now in attendance. Please recognize yourself  
10 for the record, please.

11           MR. GORFAIN: Thank you, Madam Chairman and  
12 members of the Commission. My name is Dan Gorfain. I'm  
13 with the staff of the Commission and would like to briefly  
14 summarize for you the environmental preview process for  
15 this project, key developments since the Commission's  
16 September meeting and the issue of pipeline safety and  
17 what staff has done to address it.

18           The project was the subject of a joint EIS/EIR  
19 prepared by the Federal Energy Regulatory Commission,  
20 FERC, and the CSLC as the NEPA and CEQA lead agencies  
21 respectively.

22           The Notice Of Intent and preparation for this  
23 document was sent to over 2,000 interested parties. Five  
24 scoping meetings for the document were held in California.  
25 The draft EIS/EIR was circulated for 45 days during which

1 time we held three public hearings in California.

2 The final environmental document was issued on  
3 July 21st, 2000 and FERC approved the project on July 28th  
4 of this year.

5 Since your last meeting, staff has responded in  
6 detail to a September letter from John Shordike, excuse  
7 me, attorney representing the Morongo Band of Mission  
8 Indians. Also, the US Fish and Wildlife Service issued  
9 its biological opinion or BO for this project on September  
10 22nd, 2000.

11 In issuing its opinion, the Service concluded  
12 that the project is not likely to jeopardize the continued  
13 existence of species could be affected by it. In  
14 preparing the opinion, the Service worked cooperatively  
15 with the California Department of Fish and Game to ensure  
16 that California's threatened and endangered species and  
17 species of special concern were addressed.

18 The Department has reviewed the BO and has  
19 determined that it will be able to rely on the Final EIR  
20 in combination with the biological opinion to consider  
21 Questar's application for a State endangered species  
22 permit should the Commission approve this project and, of  
23 course, in the process certify the EIR.

24 Mitigation measures were submitted in the BO and  
25 included in the mitigation monitoring program contained in

1 exhibit A of today's calendar item.

2 With regard to pipeline safety, Questar conducted  
3 an internal inspection of the pipeline to determine its  
4 condition in identifying necessary repairs. It has  
5 cleaned the pipeline and has maintained it's full of  
6 nitrogen, which is an inert gas.

7 As a result of the internal inspection, Questar  
8 identified 152 so-called potholes or short segments with  
9 small pipeline anomalies. These sections will be replaced  
10 as part of this project. It also identified other  
11 segments that needed to be realigned as well as one  
12 reroute in order to meet the Federal Department of  
13 Transportation or DOT standards.

14 Questar has also maintained that cathodic  
15 protection, as Alan has said, system on the pipeline to  
16 protect it from external corrosion. As required by DOT  
17 regulations, Questar will hydro test the pipeline at up to  
18 one and a half times operating pressure prior to operation  
19 to ensure that it has no leaks. Staff will witness this  
20 process and will review the results prior to the pipeline  
21 going into service.

22 Last, but not least, Questar will be required to  
23 comply with any new legislation and ensuing pipeline  
24 regulations, such as those which may emanate from this  
25 past summer's El Paso pipeline accident near Carlsbad, New

1 Mexico.

2 Questar's seismic hazardous evaluation and  
3 mitigation plan was submitted and reviewed by the  
4 Commission's engineering staff, who are here today, as  
5 well as the Staff of ENSR, the consultant who prepared the  
6 environmental document and the California Department of  
7 Conservation's Division of Mining and Geology, and Mr.  
8 Sydnor is, of course, here.

9 As a result, pipeline modifications include,  
10 first, nine seismically qualified automatic shutdown  
11 valves strategically located with respect to seismically  
12 active fault zones in populated areas to enable quicker  
13 isolation of pipeline segments susceptible to failure as a  
14 consequence of a seismic event.

15 These pressure-sensitive valves will be designed  
16 to activate and shut within 30 seconds. Blowdown times or  
17 the amount of time it would take the gas to escape and  
18 dissipate to where it no longer constitutes a public  
19 hazard, would range from two minutes at the  
20 Newport-Inglewood fault, which is also the crossing of the  
21 LA River, to ten minutes in the Chino fault zones.

22 This compares with 30 to 45 minutes, considered  
23 acceptable by Southern California Gas Company.

24 Second, increased pipeline wall thickness along  
25 new sections of the Delano extension, the Orangevale-Olive

1 reroute and the Cabazon relocation or bypass to increase  
2 their structural strength and ability to withstand stress  
3 caused by ground shaking, earth movement and liquefaction.

4 And the third modification of the process is an  
5 internal smart peak inspection of the pipeline in the  
6 populated portions of southern California from 29 Palm  
7 Station, which is Mile Post 141 in the east part of  
8 California to the Watson Refinery in Long Beach by the end  
9 of the third year of operation.

10 On the basis of these modifications and their  
11 review, I might add that the Division of Mines and  
12 Geology, in its second letter you referred to Madam Chair,  
13 has concluded that Questar's revised project adequately  
14 addresses their concern, their geologic concerns, raised  
15 earlier. And this concludes my presentation.

16 CHAIRPERSON CONNELL: I want to call on the  
17 geologist. But before you leave, I have a question.  
18 These valves that you are talking about being at intervals  
19 to close down the pipeline if there is an earthquake and  
20 allows escape of the gases, I guess, for the two-minute to  
21 ten minute period that you're referring to, that assumes  
22 what kind of earthquake, what level of earthquake is  
23 impacted by that?

24 MR. GORFAIN: I can't answer that question, but  
25 what I can tell you is that that is for what I believe to



1 be a complete breakdown of the pipeline for whatever level  
2 of earthquake would cause that failure of the pipeline.  
3 So I'm not sure that that's associated to a particular  
4 magnitude of earthquake, but it's associated with what  
5 happens to the pipeline. And if the pipeline breaks  
6 completely open, that's how much time it would take for  
7 the gas that was in the pipeline, plus the gas that  
8 entered the pipeline while the valve was shutting down to  
9 escape and dissipate.

10 CHAIRPERSON CONNELL: Let me approach this a  
11 different way then. This thickening of the pipes that you  
12 refer to as the second modification, I believe that is  
13 occurring, the pipes have been thickened to withstand what  
14 level of earthquake?

15 MR. GORFAIN: I can't answer that question. Is  
16 there anyone here who might? Greg, would you like to take  
17 a crack at that.

18 CHAIRPERSON CONNELL: I mean, we've obviously  
19 tested these modifications for withstanding some level of  
20 earthquake. I'm just curious what is that level of  
21 earthquake.

22 EXECUTIVE OFFICER THAYER: While he's coming  
23 forward, with respect to the valves, I think the idea was  
24 if the pipeline broke for any reason, whether it was a  
25 small earthquake or a big one, then the loss of pressure

1 triggers these valves to shut, so --

2 CHAIRPERSON CONNELL: Well, this is exactly my  
3 point, Paul. I do not want us to be protecting ourselves  
4 only against the ultimate earthquake here. I'm very  
5 concerned that we are protecting ourselves against the  
6 more common level of earthquake that might shake the  
7 southland here. And I'm curious as to whether or not we  
8 have satisfactorily met that safety precaution.

9 Greg, maybe you can respond and can you identify  
10 yourself for the record please.

11 REGIONAL MANAGER SCOTT: Yes, my name is Greg  
12 Scott. I'm an engineering manager with the State Lands in  
13 the mineral resources group.

14 To your question on the wall thickness of the  
15 pipeline, as far as what level seismic event that could  
16 withstand, pipelines are not designed to withstand a  
17 certain seismic event. They are designed to withstand  
18 certain pressures and to withstand certain axial stresses.  
19 If there were a seismic event that could cause a fault to  
20 occur, that would cause a pipeline to actually be  
21 displaced in a shearing direction. I don't know what  
22 level of seismic event it would take to shear that  
23 pipeline, but certainly it would -- I can't give you a  
24 number.

25 CHAIRPERSON CONNELL: So what you're saying to

1 this board is that any shearing of the pipeline, any  
2 breaking of the wall of the pipe would result in this  
3 closure of the pipeline through these valve systems that  
4 you've set up; is that correct?

5 REGIONAL MANAGER SCOTT: That's correct. We had  
6 made the assumption that if there were a seismic event  
7 that were to cause a catastrophic failure of the pipeline,  
8 the valves would automatically close and the gas that was  
9 escaping would be limited to that length of line between  
10 the two shutoff valves and that limited amount of gas  
11 would escape.

12 CHAIRPERSON CONNELL: Why is there such a  
13 significant difference between the two-minute interval and  
14 the ten-minute interval? Why would we be able to close  
15 down the gas line so effectively in parts of this pipeline  
16 and get control within a two-minute period while in others  
17 we're exposing the environment to a ten-minute leakage.

18 REGIONAL MANAGER SCOTT: The interval is a  
19 function of the distance between the valves. We had  
20 designed the placement of the automatic shutoff valves to  
21 be much closer together in the highly populated areas of  
22 the pipeline. In those areas where we have identified  
23 seismic activity but the population is less dense, we  
24 have, you might say, broadened the distance between the  
25 automatic shutoff valves, but still staying within the

1 requirements of the Department of Transportation that  
2 requires a certain valve spacing.

3           The automatic shutoff valves, I should add, are  
4 above and beyond what the DOT requires. This came about  
5 because the State staff, engineering staff, was asked to  
6 suggest any enhancements that it could think of to improve  
7 the public safety in the event there were any type of  
8 catastrophic event. We had discussed with Questar that  
9 certain valves should be replaced without automatic  
10 shutoff valves. They have agreed to do that. And, in  
11 fact, they have decided to add a substantially greater  
12 number of valves than we had originally requested.

13           However, when the seismic hazard study was  
14 brought forward, we had identified a number of other  
15 locations that we felt it would be prudent to place these  
16 automatic valves. These are placed in a much more  
17 frequent spacing than is required by DOT.

18           CHAIRPERSON CONNELL: Perhaps it shows my lack of  
19 understanding, what occurs -- if we had this breakdown of  
20 the pipeline because of one of these seismic events or  
21 some other shifting as you would call it in the plane  
22 land, and we have an escape of these gases for a period of  
23 two minutes, how do we resolve that problem? What kind of  
24 damage do we expect to have in the environment and to  
25 people who are in the immediate vicinity?

1 REGIONAL MANAGER SCOTT: Well, that was the point  
2 of trying to minimize the release of gas in the highly  
3 populated areas. If there were to be a failure, an actual  
4 pipeline rupture, we wanted to be sure that the spacing of  
5 the valves was minimized, to the extent that we could  
6 practically install these in the pipeline, to cause that  
7 release to be as small as possible.

8 Now, a two-minute release, you know, the gas in  
9 the pipeline is lighter than air once it is released. If  
10 it is not ignited, it will dissipate into the atmosphere.  
11 If it is ignited, it will burn. Worst case would be that  
12 there could be an explosion if the conditions were right.

13 But once you have a pipeline rupture, 80 percent  
14 of the gas is released within the first 20 percent of the  
15 total release time. So most of the gas that escapes goes  
16 to the upper atmosphere and some of the other gas that  
17 escapes over the remaining period of time could be subject  
18 to ignition. And the consequence, of course, would be if  
19 there were some, you know, public, if there were people in  
20 the area or if there were facilities or any public  
21 dwellings, then certainly they would be in that area that  
22 could be impacted by an explosion or fire.

23 EXECUTIVE OFFICER THAYER: If I might, for the  
24 Commission's benefit, Mr. Gorfain investigated what the  
25 common practice was for other pipelines that existed in

1 the area, so that there would be some context.  
2 Personally, I didn't know whether two-minute blowdown time  
3 was good or bad. If it would be helpful to the  
4 Commission, I think he has some information about what  
5 other --

6 CHAIRPERSON CONNELL: Well, yes, I think it would  
7 be helpful for the Commission to hear Mr. Sydnor's, who is  
8 the one who opined on this originally and now has created  
9 a second opinion also to come forward.

10 Go ahead.

11 EXECUTIVE OFFICER THAYER: Dan, if you could  
12 briefly --

13 MR. GORFAIN: As I mentioned in my opening  
14 remarks, for what I noticed Class 3 areas, which are  
15 populated areas, the Southern California Gas Company  
16 considers 30 to 45 minutes as an acceptable blowdown time.  
17 I also talked to PG&E. Its a little bit of a different  
18 example, but there is a pair of automatic shutoff valves  
19 around the San Andreas Fault, one of the crossings of the  
20 San Andreas fault going to Half Moon Bay. And I was told  
21 that the blowdown time would be somewhere between ten and  
22 30 minutes, ten minutes in case of the complete breakdown  
23 of the pipeline and 30 minutes if it were a slower leak of  
24 some kind.

25 COMMISSIONER BUSTAMANTE: Densely populated area?

1 MR. GORFAIN: I'm not sure whether that is a  
2 populated area. The specific crossing is a populated  
3 area. I don't know.

4 EXECUTIVE OFFICER THAYER: But the SoCal Gas was  
5 in a populated area.

6 MR. GORFAIN: In a populated area, yes.

7 EXECUTIVE OFFICER THAYER: And furthermore the  
8 valves that would allow for a 35-minute blowdown, were  
9 those automatic or manual valves?

10 MR. GORFAIN: That is just the acceptable  
11 blowdown time, so they work their valves to whether they  
12 are automatic, manual or exactly where they're placed with  
13 that kind of guidance in mind.

14 COMMISSIONER BUSTAMANTE: So those are on State  
15 lands?

16 MR. GORFAIN: No.

17 COMMISSIONER BUSTAMANTE: So we have no  
18 jurisdiction over it?

19 EXECUTIVE OFFICER THAYER: No, we do not.

20 CHAIRPERSON CONNELL: Mr. Sydnor, thank you  
21 for -- please go ahead.

22 COMMISSIONER BUSTAMANTE: Before you start, sir.  
23 These valves, are these like in places where the pipe  
24 breaks or are these -- I mean, if you're going to -- if  
25 it's going to break someplace, are they planned to break

1 in certain areas or is this just any place that might  
2 break?

3 MR. GORFAIN: We specifically positioned them --  
4 asked Questar to position them with respect to the more  
5 serious fault zones.

6 COMMISSIONER BUSTAMANTE: So there is some form  
7 of attempting to obviously mitigate where the breaks might  
8 occur, so do you plan these so that they break and have  
9 the shortest amount of time?

10 MR. GORFAIN: Yes.

11 COMMISSIONER BUSTAMANTE: And in a populated  
12 area, a ten-minute, what did you call it a blowout?

13 MR. GORFAIN: Blowdown time.

14 COMMISSIONER BUSTAMANTE: Blowdown, okay. In ten  
15 minutes, how much gas is that and how would it affect a  
16 populated area where there's likely to be all kinds of  
17 activity taking place, everything from gas lit heaters and  
18 stoves and cars and all kinds of things taking place, if  
19 not open fires? I mean, how much of an area does that  
20 encompass before there becomes a danger or what is the  
21 danger zone?

22 MR. GORFAIN: The hazard footprint, if you will,  
23 that's a term of art. I'm going to ask one of our  
24 engineers from the New Facilities Division to do some  
25 calculations. I can tell what they are, but they might be



1 in a better position, if they would like to tell you what  
2 they've calculated for that. To answer your question, I  
3 think that might be better.

4 COMMISSIONER BUSTAMANTE: Yes.

5 CHAIRPERSON CONNELL: Please come forward.

6 MR. GORFAIN: Martin Eskijian of Marine  
7 Facilities.

8 CHAIRPERSON CONNELL: And again identify yourself  
9 for the record.

10 ENGINEERING BRANCH SUPERVISOR ESKIJIAN: Madam  
11 Chairman and Commissioners, my name is Martin Eskijian,  
12 I'm the Supervisor of the Engineering Branch of the Marine  
13 Facilities Division of State Lands Commission. We did the  
14 calculation, one of my engineers, a registered mechanical  
15 engineer, did a calculation for one of these blowdown  
16 times, I believe it was six minutes with the pressure that  
17 the pipeline was operating at. And we came to a number  
18 approximately a hundred meters in diameter, so you can  
19 think of it as a football field as a sphere with the  
20 football field diameter, that size would be the natural  
21 gas that would be released during that short blowdown  
22 time.

23 COMMISSIONER BUSTAMANTE: So outside of that we  
24 wouldn't fear ignition?

25 ENGINEERING BRANCH SUPERVISOR ESKIJIAN: It

1 depends on which way the wind is blowing and what's  
2 upstream as it goes up. So it's very hard to say  
3 ignition.

4 COMMISSIONER BUSTAMANTE: Given your best case  
5 scenario, I'm assuming that's what that is.

6 ENGINEERING BRANCH SUPERVISOR ESKIJIAN: That's  
7 the amount of gas that is released.

8 COMMISSIONER BUSTAMANTE: Or is that a worst case  
9 scenario?

10 ENGINEERING BRANCH SUPERVISOR ESKIJIAN: That is  
11 the amount of gas released, not whether or not there would  
12 be ignition. So within a football field, the chance of  
13 ignition --

14 COMMISSIONER BUSTAMANTE: Within that, what's the  
15 possibility of ignition?

16 ENGINEERING BRANCH SUPERVISOR ESKIJIAN: In a  
17 populated zone, I would say it's probably pretty fair,  
18 because --

19 COMMISSIONER BUSTAMANTE: Within what space of  
20 that break?

21 ENGINEERING BRANCH SUPERVISOR ESKIJIAN: Within  
22 that hundred meters.

23 COMMISSIONER BUSTAMANTE: Within that hundred  
24 meters, it's possible to have ignition.

25 ENGINEERING BRANCH SUPERVISOR ESKIJIAN: Yes.

1           COMMISSIONER BUSTAMANTE: How many areas of  
2 population are subject to that kind of -- I mean, we're  
3 not looking at a break someplace where we're not expecting  
4 one. Let's put that off to the side for a moment.

5           Let's look at those areas where we are expecting  
6 the potential of a break to occur, things that we've  
7 planned for, right?

8           ENGINEERING BRANCH SUPERVISOR ESKIJIAN: Right.

9           COMMISSIONER BUSTAMANTE: So taking those areas  
10 that we've planned for where we're trying to beef up those  
11 areas, a six minute blowdown encompassing an area that  
12 size of a sphere of a football field, how many population  
13 areas are subject to that potential risk?

14          ENGINEERING BRANCH SUPERVISOR ESKIJIAN: Well, I  
15 don't have that memorized, but if you look at the spec  
16 services report, there are a number of, what's called,  
17 Class 3 areas.

18          COMMISSIONER BUSTAMANTE: Do they go through any  
19 towns?

20          ENGINEERING BRANCH SUPERVISOR ESKIJIAN: Yes,  
21 it's in populated areas. Yes, it is.

22          COMMISSIONER BUSTAMANTE: Do they go by schools?

23          ENGINEERING BRANCH SUPERVISOR ESKIJIAN: I  
24 don't --

25          MR. GORFAIN: Yes.

1           ENGINEERING BRANCH SUPERVISOR ESKIJIAN: It's  
2 close to those areas, but this is not uncommon. I would  
3 refer you to the Northridge earthquake where there were  
4 breaks under the street, where there was no quote, "fault  
5 causing the failure," but you did have a failure and it  
6 did have a gas explosion in the gas fire in the middle of  
7 a populated street. It happened in Northridge.

8           COMMISSIONER BUSTAMANTE: In that particular  
9 situation, you bring it up, I'm assuming you're bringing  
10 it up because there's a parallel?

11          ENGINEERING BRANCH SUPERVISOR ESKIJIAN: Yeah,  
12 there's a parallel that it didn't cause --

13          COMMISSIONER BUSTAMANTE: Is there a difference  
14 in having that accumulate out in the open air or is there  
15 a difference in terms of it accumulating under the street  
16 somehow?

17          ENGINEERING BRANCH SUPERVISOR ESKIJIAN: They're  
18 both buried pipelines. It's analogous.

19          COMMISSIONER BUSTAMANTE: They're both buried  
20 pipelines and so coming up in both those situations?

21          ENGINEERING BRANCH SUPERVISOR ESKIJIAN: Yeah.

22          COMMISSIONER BUSTAMANTE: In that case were there  
23 any ignitions of any kind taking place?

24          ENGINEERING BRANCH SUPERVISOR ESKIJIAN: Yeah,  
25 there was. There was a fire in Northridge. And I don't

1 remember -- it wasn't catastrophic. It didn't burn down  
2 the city. I would also mention I was in Kobi a week after  
3 the earthquake and saw what happened there. And in that  
4 case there was no way to get fire vehicles in. There was  
5 no fire water. There was no way to shut off the source  
6 and so you did have a different situation.

7 COMMISSIONER BUSTAMANTE: In Northridge?

8 ENGINEERING BRANCH SUPERVISOR ESKIJIAN: In Kobi.

9 CHAIRPERSON CONNELL: In Northridge did they have  
10 shutoff valves?

11 ENGINEERING BRANCH SUPERVISOR ESKIJIAN:  
12 Northridge, I don't know whether they had shutoff valves,  
13 but they got the fires under control quickly.

14 COMMISSIONER BUSTAMANTE: Now, is it possible  
15 that a valve could be blown out and then ignite yet  
16 another section?

17 ENGINEERING BRANCH SUPERVISOR ESKIJIAN: I think  
18 that's unlikely and I think we need to be clear that these  
19 valves are seismically qualified and we've said that the  
20 valve will work in an earthquake and that's important.

21 COMMISSIONER BUSTAMANTE: Right. But what I'm  
22 suggesting is that there's a break.

23 ENGINEERING BRANCH SUPERVISOR ESKIJIAN: The  
24 valves are away from the break.

25 COMMISSIONER BUSTAMANTE: The ignition occurs, it

1 has sufficient force to blow out yet another valve. Does  
2 it have that ability?

3 ENGINEERING BRANCH SUPERVISOR ESKIJIAN: I don't  
4 think that's a scenario --

5 COMMISSIONER BUSTAMANTE: I'm just wondering if  
6 there's some possibility of some chain reaction of valves  
7 blowing out and there being a huge area that continues to  
8 just proliferate in terms of its blowdowns.

9 ENGINEERING BRANCH SUPERVISOR ESKIJIAN: Maybe  
10 Questar can answer that. That's one scenario beyond what  
11 is commonly addressed.

12 COMMISSIONER BUSTAMANTE: So that's an extreme?

13 ENGINEERING BRANCH SUPERVISOR ESKIJIAN: That  
14 would be an extreme case.

15 COMMISSIONER BUSTAMANTE: I mean, it's something  
16 we shouldn't even contemplate?

17 ENGINEERING BRANCH SUPERVISOR ESKIJIAN: I would  
18 think that's right.

19 COMMISSIONER BUSTAMANTE: In terms of  
20 engineering, there is -- I mean that shouldn't even be on  
21 the table.

22 ENGINEERING BRANCH SUPERVISOR ESKIJIAN: It  
23 shouldn't be on the table.

24 COMMISSIONER BUSTAMANTE: All right.

25 ENGINEERING BRANCH SUPERVISOR ESKIJIAN: A

1 seismically qualified valve is on the table and that is  
2 important and they are going that far.

3 COMMISSIONER BUSTAMANTE: All right.

4 ENGINEERING BRANCH SUPERVISOR ESKIJIAN: I may  
5 mention one other thing about the earthquake and the  
6 pipelines is that the problem with the pipeline is that  
7 when you have this very large displacement, no pipeline  
8 can withstand the ten or 20 foot separation in an  
9 earthquake fault. And so what they're saying here is the  
10 pipeline will fail, that's what's going to happen. You  
11 have nothing besides that.

12 But where you don't have that, you don't have the  
13 entire fault rupture occurring. If it's one strand of the  
14 fault, the pipeline may remain intact. And that's what  
15 they try to do to the best of their designability in the  
16 performance standards for the pipeline.

17 COMMISSIONER BUSTAMANTE: Were you involved with  
18 the EIR?

19 ENGINEERING BRANCH SUPERVISOR ESKIJIAN: No, I  
20 was not.

21 COMMISSIONER BUSTAMANTE: Who is the person with  
22 the EIR. Just one question for you.

23 Thank you, sir.

24 The rock quarry, there has been brought to my  
25 attention that there is an issue involving the pipeline

1 going over a rock quarry, that apparently had been  
2 mislocated originally.

3 MR. GORFAIN: I don't know about mislocation and  
4 perhaps Questar can answer that question later on. But  
5 there is a rock quarry at Mile Post 31 and the pipeline  
6 has existed in that location for a long time. There was  
7 an agreement between ARCO and the quarry regarding  
8 operations of the quarry. And my understanding is that  
9 Questar has been in negotiations with the quarry owners  
10 and that there's no problem, there's no conflict or no  
11 particular problem in terms of expecting that that  
12 agreement will be reworked between Questar and the quarry  
13 operator.

14 COMMISSIONER BUSTAMANTE: I still understood what  
15 you said, but I don't think you answered my question.  
16 Maybe you did, and I don't understand.

17 In the original EIR, the rock quarry was located  
18 in a certain place and the pipe on the EIR on the map was  
19 located in a certain place. The rock quarry was not put  
20 in the place where it should have been, are you familiar  
21 with that?

22 MR. GORFAIN: I can't relate to this off the top  
23 of my head. I'm going to try and get the answer for you  
24 before the afternoon is over.

25 COMMISSIONER BUSTAMANTE: It is my understand



1 that that's an issue that is being raised. And is the --  
2 are the tribal folks here? Is that one of your issues.

3 If it is, come down and speak to it to the  
4 microphone.

5 CHAIRPERSON CONNELL: Well, we have a whole list  
6 of people who are signed up to speak. So what I would  
7 like to do is hold the public speaking until we get the  
8 staff report and the geologist report. It wouldn't be  
9 fair to call anyone up at this point.

10 So what we need to do is get -- I'm very  
11 concerned about getting the geologist's report before this  
12 board, since we seem to have two different geologist  
13 reports here, and I'm sure all the commissioners share my  
14 concerns about why we have such different reports here.

15 So if you could identify yourself for the record,  
16 please.

17 MR. SYDNOR: Hello, my name the Robert Sydnor,  
18 spelled S-y-d-n-o-r. And I'm a Senior Engineering  
19 Geologist with the California Department of Conservation,  
20 Division of Mines and Geology.

21 The State Lands Commission and the Division of  
22 Mines and Geology are all under the Resources Agency, so  
23 we're a sister agency.

24 Last spring we received through the State  
25 clearinghouse a normal copy of the Draft EIR for this

1 project. We were very dismayed to see on the map atlas  
2 that there was this zero geology of any kind on the map  
3 bands. That is there is no indication of active faulting.  
4 There was no indication of liquefaction, no indication of  
5 landslides or any notation about ground motion that might  
6 be expected.

7 We, the California Department of Conservation,  
8 turned in an official response to that through the State  
9 clearinghouse that was published and that was our comment  
10 on the Draft EIR. And we suggested that proper geologic  
11 information that was pertinent to the safety and stability  
12 of the pipeline be included in the map atlas and discussed  
13 in the text of the Environmental Impact Report.

14 During the months of May and June we sent a  
15 number of materials to the consultant that was preparing  
16 the Environmental Impact Report, that is ENSR of Fort  
17 Collins, Colorado. And they used about half of our  
18 materials. It is not our job to do all of their work.  
19 Certainly, we're not consultants, but we're the State's  
20 geological survey.

21 They used some of the material and it plotted  
22 some of the faults on some of the pages and indicated  
23 liquefaction zones for the first time. I want to say in  
24 Orange County, the State's geological survey has legally  
25 zoned both areas of active landslides that are seismically

1 induced landslides and areas that we have a potential for  
2 seismically induced liquefaction.

3 As early as 1973 we have zoned the  
4 Newport/Inglewood fault, the Whittier/Elsinore fault, San  
5 Ysidro, of course, San Andreas and the Pinto Mountain  
6 faults have all been well known. We did get some 14 fault  
7 crossings that were finally identified in the August --  
8 actually, it's dated July issue of the Final EIR.

9 We made no comment at that time, but we were  
10 concerned that not all the faults were plotted very well.  
11 We thought well, it's the best we can do -- we normally  
12 don't comment on the Final EIRs.

13 Later on in the autumn there were still questions  
14 about the adequacy of the report. And in the phone call  
15 that was a group phone call that we had in early November,  
16 it became clear that the pipeline managers and the  
17 administrators in Salt Lake City hadn't received all of  
18 our materials, neither had FERC officials, apparently,  
19 although I wasn't sure about that, and we felt it was a  
20 good time for all the materials that we had informally  
21 sent to ENSR, Fort Collins, to fully go on the record of  
22 what did the State's geological survey possess in the way  
23 of fault maps, in the way of comprehensive geology  
24 bibliography, in the way of our maps, in the way of the  
25 ground motion that we had calculated in many places along

1 the pipeline.

2 I am the former Orange County geologist. I'm a  
3 native-born southern Californian, so I certainly know the  
4 pipeline route very well. I did my thesis right in San  
5 Gorgonio pass on Mount San Jacinto. So when I was a  
6 graduate student at the University of California Riverside  
7 I certainly knew much of the 250 miles this pipeline  
8 traverses in California.

9 I think there was some supposition we might  
10 distance bureaucrats in Sacramento and that was not so.  
11 We certainly know this site very, very well. Pipeline  
12 after pipeline mile are personally known to me.

13 I have further, as a peripheral note, I've  
14 certainly worked on the Alaskan Chill gas pipeline that  
15 comes nearly 800 miles out of the Arctic. It's never yet  
16 been built, but that's a four foot diameter large gas  
17 pipeline that's -- and I'm familiar with all of the work  
18 that is needed on gas pipelines. I worked on that for  
19 four years in the Arctic while I was a consultant to the  
20 Fleur Corporation in Irvine. This is before I entered  
21 State service in 1982, so I am familiar with chill gas  
22 pipelines.

23 We wrote on November 9th just a brief letter that  
24 indicated our concerns. We wanted to show that landslides  
25 had not been evaluated at all. And we wanted to show that

1 our published geologic maps had not been utilized, and so  
2 particularly like the Green River landslide. We wanted to  
3 show landslide after landslide throughout the Peralto,  
4 also known as the Anaheim Hills. We wanted the get these  
5 on the record, so that all the pipeline managers and  
6 government administrators would be precluded from  
7 remonstrating that they had never seen this material  
8 before. These are official, legal maps that we have  
9 zoned. I brought a complete set of those today.

10 So my report of November 9th simply is a collage  
11 of all the information that we had informally sent  
12 forward, only half of which was being used. We also had a  
13 very useful meeting. Based on those concerns, the Questar  
14 Pipeline Company have hired a very excellent firm called  
15 Earth Consultants International. Two very good geologists  
16 that are familiar with pipelines, landslides active faults  
17 and liquefaction, Eldon Gathe and Tony Gonzalez, both  
18 California Certified Engineering Geologists, as am I,  
19 worked on this project very intensively and they presented  
20 a very fine report.

21 Their earlier one had no landslide material which  
22 they pointed out that they had -- that they were aware of  
23 but didn't plot all that. We reviewed carefully the  
24 November 17th report, which has a lot of new information  
25 on it in landslides. And we also had a very useful

1 meeting on November 21st in the offices of the State Lands  
2 Commission in Sacramento.

3 And, at that time, I got a very useful map that  
4 shows the -- of the Newport/Inglewood fault crossing, an  
5 area which I think I focused on very heavily, which showed  
6 the Los Angeles River. It showed the Union Pacific  
7 Railroad, it showed the 710 freeway, and it showed the  
8 Metro Rail Blue Line and it showed the railroad trestle.  
9 It also shows nearby housing, which are mostly a trailer  
10 park and two schools, one public school and one private  
11 school.

12 There's nothing like a more detailed map to help  
13 everyone reach a better conclusion. This map is called an  
14 orthophotoBASE because you actually see what's the correct  
15 culture that's there today. And the scale is one inch  
16 equals 200 feet approximately. And we can see that  
17 there's about 400 lateral feet between the bank of the LA  
18 River and where the metro rail and the freeway are  
19 located, where the pipeline would actually cross there.

20 I'm not a specialist and I'll defer to my  
21 pipeline engineering colleagues within the State Lands  
22 Commission on the diameter of a blowdown area of how big a  
23 fire ball would be. But we can begin to see now some  
24 reasonable distance it would be from where the railroad  
25 trestle would cross.

1           We also on November 21st learned something very  
2 important from Questar officials that there will be a  
3 brand new railroad trestle built there. And this is a  
4 wonderful opportunity because I'm sure the trestle will be  
5 much stronger than the present one. All of this area is  
6 zoned for seismically induced liquefaction, which is over  
7 half of Orange County.

8           However, this is a problem area where we think  
9 there would be lateral spreading because of the free face  
10 of the Los Angeles River channel. And that was a  
11 particular concern to us that you would have surface  
12 faulting. Amplified ground shaking and lateral spreading  
13 of the ground would actually crush the railroad trestle at  
14 the very time that the pipeline is being carried under it.

15           And we felt that because this was close to a  
16 large population center, that this would be of concern  
17 because of people on the freeway, Metro Rail. I think my  
18 letter was pretty clear about that.

19           We now see they are more spaced apart. And  
20 certainly there is two things that we learned November  
21 21st from Questar that there is -- they've got seismically  
22 qualified block valves that would be close to this. Now a  
23 new one was added. And we have a brand new railroad  
24 trestle. They're not the owner/builder of that trestle,  
25 but they'll work, they and their geologists will work

1 closely on the design of that.

2 I think the rest of my report of November 22nd is  
3 brief and clear to the point. We feel all the geology  
4 information contained in the earth consultant's report  
5 dated November 17th is finally getting all the cards on  
6 the table. And we think the geology information contained  
7 in it is new, relevant and suitable.

8 We find it adequate, that it answers questions  
9 that we had as late as last spring, where there was no  
10 geology whatsoever on the Draft Environmental Impact  
11 Report atlas maps. No geology, as if the pipeline was  
12 hung up in the air. And we were very concerned about  
13 that.

14 So I hope my letter of November 22nd is clear.  
15 We now know the places where the pipeline will cross  
16 active faults, and I think all the geologic hazards, and  
17 the four of them are surface faulting, ground motion,  
18 seismically induced landslides and seismically induced  
19 liquefaction. All four of those geologic hazards are  
20 carefully identified in the new consultants's report,  
21 which dramatically changes the July Environmental Impact  
22 Report that was called FEIR, the Final EIR.

23 CHAIRPERSON CONNELL: Thank you. I really  
24 appreciate your detailed review, because there was some  
25 concern. The reason I asked you to be with us today, and



1 again I thank you for coming down from Sacramento, is that  
2 clearly we're reviewing a project that has serious  
3 potential for impact on public safety and we want your  
4 expertise as we dialogue here today.

5 I have a couple areas of concern I'd like to have  
6 you review for us. Your first letter suggested rerouting  
7 the pipeline. And you made your rerouting  
8 recommendations, I believe, for the Del Amo Crossing of  
9 the LA River, the Green River landslide and the Pinto  
10 Mountain fault zone.

11 Now, I understand from your comments here today  
12 as I understand your letter, that the mitigation you  
13 believe is now incorporated in the project and therefore  
14 you don't recommend any longer any rerouting; is that  
15 correct? Do you feel that your previous recommendations  
16 regarding the rerouting are no longer needed?

17 MR. SYDNOR: Yes, substantially that's it. There  
18 was more information and I believe Questar management is  
19 here and can describe that in detail, of why there would  
20 be exposure to more people and more obstacles if they went  
21 in a different route. This wasn't that clear. I'm  
22 speaking here of the Del Amo Crossing, crossing the Los  
23 Angeles River in some manner. And I think my original  
24 report showed we were like why not consider other routes?  
25 We didn't feel they had enough full consideration of that.

1           In the two meetings we had with Questar  
2 officials, I think they fully answered those questions and  
3 I believe Dan Gorfain can answer them also. I'm not a  
4 specialist in opening up streets and that sort of thing,  
5 but my approach simply as a State government geologist was  
6 to try to cross a hazard one at a time and not try to  
7 cross five things in one place. That would be an  
8 unsuitable and an unacceptable hazard to too many people.

9           This orthophoto map certainly helped persuade me  
10 about some distances and some vacant -- there is some  
11 vacant landlocked areas of this commercial storage and lay  
12 down here where no one is going to live, but that's  
13 certainly -- we were glad to see that.

14           CHAIRPERSON CONNELL: Are we assured that that's  
15 going to stay the same as we move forward? What is that  
16 land zoned for?

17           MR. SYDNOR: Well, others can answer it better,  
18 but we noticed that it's a landlocked area and has no good  
19 access, so it will just be an occasional storage area,  
20 because there's no way to -- you have to come in straight  
21 off the 710 freeway. And I think the Highway Patrol would  
22 limit that substantially. I think there's just a gate  
23 with a dirt road. I'll let others explain that.

24           I did not take a position on some of the other  
25 possible reroutes, say the Green River landslide. They've

1 showed how this is now a State Wilderness Park and they  
2 are unable -- they're going to have to stay within their  
3 present right-of-way. We feel now that the presence of a  
4 large landslide is now fully up on the table and Questar  
5 officials have added another blocked valve for that area  
6 and have shown it's not as close to the freeway as was  
7 previously supposed.

8           There was no other easy way to reroute that. But  
9 if that landside moves, it would probably be during a  
10 large earthquake on the Whittier/Elsinore fault system.  
11 It's not like this is a huge, thick, deep landslide. It's  
12 not -- say a winter erosion is not the issue there of  
13 gullying or something like that, but it's a big landslide.  
14 It would move like all or nothing for a long time. Most  
15 geologists would agree to that.

16           Now, Questar's consulting engineering geologist  
17 is here and Tonya Gonzalez can answer detailed questions  
18 on her analysis along the pipeline route.

19           CHAIRPERSON CONNELL: Thank you. I have one  
20 further question before you leave, though, if I may  
21 Robert. Your first letter reserved your most severe  
22 criticism, as I read it, on the Del Amo Crossing. And on  
23 page two of your letter you stated, "I have 27 years of  
24 experience in geological hazards. I cannot recall any  
25 project that has this many public safety issues in one

1 single location." I believe that was your quote.

2 What has caused you now to be satisfied that  
3 these public safety issues have been addressed?

4 MR. SYDNOR: Well, the pipeline certainly could  
5 still fail at this location. I believe the State Lands  
6 Commission pipeline engineers and I are in agreement of  
7 that. We're simply now realizing they're more spread out  
8 laterally, they're some 400 feet apart, and I didn't have  
9 a very good map. We're just looking at the Thomas  
10 Brothers guide or the USGS quadrangle map, which is -- we  
11 looked at a map that was more than ten times more detailed  
12 and we see they're simply spread out a little further.

13 The hazard is still there, but they're spread out  
14 one after another a little better. I also felt the  
15 brand -- I'm optimistic about a brand new railroad trestle  
16 that would be especially designed to carry the gas  
17 pipeline on its undercarriage and be able to withstand  
18 strong shaking and perhaps some axial compression due to  
19 liquefaction. I don't know that it would -- certainly  
20 this is -- no one has purported that this pipeline is free  
21 of all geologic hazards. We can't do that.

22 We necessarily have to cross several dozen places  
23 that are adverse. And I think we're doing them serially  
24 now. And a lot of my concerns have been allayed that  
25 we're not doing five or six or ten things. Adverse items

1 do not occur in one location. They're a little more  
2 spread out than I realized.

3 CHAIRPERSON CONNELL: Well, thank you. I really  
4 appreciate that. That's very helpful to put your first  
5 letter in context. We have, as I said earlier, a number  
6 of people who have signed up to speak. If there's anyone  
7 who is not signed up to speak, could you bring your  
8 request to speak down to the platform here and I will  
9 certainly offer you the opportunity as well.

10 I'm going to just take these in the order in  
11 which they were received. Alan Allred is the first one to  
12 speak. And then there seem to be a number of people here  
13 from Questar. Are you coming together or are you all  
14 speaking individually, what is occurring here?

15 There's Alan and then there's Tad Taylor, Marian  
16 Harvey.

17 MS. HARVEY: Madam Chair, if I may clarify,  
18 Marian Harvey, Latham and Watkins on behalf of Questar  
19 Southern Trails.

20 CHAIRPERSON CONNELL: So you're going to handle  
21 all these Questar speaking engagements here --

22 (Laughter.)

23 MS. HARVEY: That's right.

24 CHAIRPERSON CONNELL: -- of which, am I  
25 incorrect, there's one, two, three, four, all four of you

1 are going to be encompassed in your comments; is that  
2 correct?

3 MS. HARVEY: Actually, Madam Chair, what we would  
4 suggest is that I have just a couple of brief comments to  
5 make and then I was going to introduce Alan Allred, the  
6 Vice President for Questar Southern Trails. And a number  
7 of other Questar members of the Questar team are here  
8 primarily to answer questions, give more detail, if that's  
9 helpful, but we really just have the two speakers.

10 CHAIRPERSON CONNELL: Well, what I would like to  
11 do is call upon you, if I may, and then Alan.

12 MS. HARVEY: Alan Allred.

13 CHAIRPERSON CONNELL: And then I'm going to ask  
14 the representatives of the tribe to make their comments,  
15 so that we can engage in a dialogue here, as I understand  
16 that you may have some concerns. So we will ask you to  
17 speak and then we will go back to all the other speakers  
18 who evidently wish to speak as well. So we will exchange  
19 views, hopefully in a positive manner.

20 Please begin. And, again, recognize yourself for  
21 the record.

22 MS. HARVEY: Thank you Madam Chair, and  
23 Commissioners. I And Marian Harvey from Latham and  
24 Watkins, representing Questar Southern Trails on this  
25 interstate pipeline.

1           We are here today to request that the Commission  
2 act to certify the EIR. The FERC has already approved the  
3 final EIS on behalf of the federal government. We're here  
4 today to request your certification of the EIR and to  
5 request your approval consistent with the staff  
6 recommendations of the leases over the State lands.

7           I do have three items I just wanted to submit for  
8 the record, which may or may not already be in staff's  
9 possession, but I wanted to submit them today with your  
10 indulgence.

11           The first is the FERC order from October 1999,  
12 which was their preliminary determination on all  
13 nonenvironmental matters from October 1999.

14           CHAIRPERSON CONNELL: Do we have that, staff?

15           EXECUTIVE OFFICER THAYER: It's in the file.

16           MS. HARVEY: The second one is the July 28th year  
17 2000 FERC order issuing the certificate of public  
18 necessity and convenience and approving the final EIS. So  
19 in case we don't have those copies, I will now submit  
20 those for the record.

21           I also have a brief safety overview here of the  
22 Southern Trails Pipeline Safety Overview, which is a  
23 background summary of the safety features that have been  
24 included in this project, along the length of the project,  
25 keeping in mind that this addresses the whole length of

1 the pipeline.

2 This serves as a helpful background summary, we  
3 think. In addition, there's a great deal of information  
4 in the Final EIS/EIR that is before you. And additionally  
5 in the emergency response plan, which has been prepared in  
6 draft form, which is a requirement of the US Department of  
7 Transportation, and the Seismic Hazard Evaluation and  
8 Mitigation Plan, which has been prepared and submitted  
9 previously, consistent with the mitigation measures in the  
10 Final EIS/EIR.

11 I would like to introduce Alan Allred, who is the  
12 Vice President for Questar Southern Trails. And as you  
13 mentioned already, we have identified a number of the  
14 other members of the Questar team who are here to answer  
15 your questions and provide you more detailed information,  
16 particularly on our efforts to impose additional safety  
17 features on this project above and beyond the requirements  
18 of the federal government, and respond to the concerns  
19 that we've begun to hear about today, the concerns of  
20 staff here at the State Lands Commission, concerns  
21 submitted during the environmental review process by the  
22 Morongo Band as well as the State Division of Mines and  
23 Geology.

24 I think a number of people here can provide a  
25 great deal of information how those issues have been



1 addressed and responded to and I appreciate your time  
2 today.

3 CHAIRPERSON CONNELL: Thank you very much.

4 Alan, please identify yourself for the record.

5 MR. ALLRED: I'm Alan Allred. I am Vice  
6 President of Questar Southern Trails. I'm glad to be here  
7 today to have this opportunity to address the California  
8 State Lands Commission.

9 What I wanted to do is three quick things. One,  
10 just give you a little bit of overview of who Questar  
11 Corporation is, tell you about our interest in this  
12 project and what we're trying to accomplish, and then  
13 finally to urge your adoption of the staff recommendation  
14 relative to certifying the EIR and also approving the  
15 State Lands leases.

16 Questar Corporation is headquartered in Salt Lake  
17 City, Utah. We're an integrated energy company involved  
18 in oil and gas exploration and production, interstate  
19 pipelines and a local distribution company that serves  
20 most of the state of Utah.

21 In terms of pipeline operations, our Questar  
22 pipeline has provided reliable and safe natural gas  
23 transportation to areas in Colorado, Utah, Wyoming for the  
24 last 70 years. In addition, we are involved in a  
25 trans-Colorado pipeline project that transverses the

1 western side of Colorado, bringing Rocky Mountain gas down  
2 to the El Paso gas system, that eventually could come to  
3 California. And we are also a partner in an over-thrust  
4 pipeline that moves gas from the Rockies east towards  
5 Chicago.

6 I'd just like to say that as a pipeline operator,  
7 certainly safety and many of the concerns you've expressed  
8 here today are important to us also. We pride ourselves  
9 in a long record of safe operation. I think the  
10 discussion today is also good in that we all need to  
11 recognize that moving natural gas through a pipeline  
12 system does have some inherent dangers, but the history of  
13 the industry has been remarkable in terms of the few  
14 number of accidents that occur.

15 But I share your concern that when they do occur,  
16 there is potential for damage. And I think those concerns  
17 are recognized by your staff and we appreciate the chance  
18 to work with them to make this pipeline as safe as we  
19 possibly can. And we feel like that the changes that have  
20 been made and told about have helped to do that.

21 In terms of our interest in this project, we  
22 recognized several years ago that there was a need for  
23 additional pipeline capacity to bring natural gas to the  
24 southern California market. The existence of this oil  
25 line, which was no longer in service, was an ideal

1 opportunity to accomplish that in a way that's  
2 environmentally sound and that you don't have to put new  
3 pipe into the ground, and also economic, because it could  
4 be put into service, we hoped, in a rapid manner.

5 As we've been involved in that process, over the  
6 last couple of years the need for additional natural gas  
7 in the southern California market has become even more  
8 apparent. The need for gas to generate electricity and  
9 the need for more energy in this market are clear and well  
10 documented. And we believe that this project will help  
11 accomplish that in bringing additional gas supplies into  
12 this market.

13 We are thankful for the opportunity we've had to  
14 work with your staff. We think it's been a good  
15 relationship. We think the project is a sound project.  
16 It has been improved through this process. And, as I  
17 said, we urge your adoption of the recommendations.

18 Thank you.

19 CHAIRPERSON CONNELL: Thank you. Now, let's see,  
20 do I have your names in here? I hope I do somewhere here.  
21 Just a second. Come forward while I try the find your  
22 names here.

23 Are you Lata?

24 MS. MATHRANI: I'm Lata Mathrani.

25 CHAIRPERSON CONNELL: Thank you for coming.

1 MS. MATHRANI: Madam Chair and Commissioners  
2 thank you for having us here today. My name is Lata  
3 Mathrani, and I'm from Morongo Band of Mission Indians.  
4 I'm accompanied by Dr. Pantel, who is our Environmental  
5 Director and I hope you allow me to defer to her when  
6 questions are beyond my ability.

7 The Morongo Band of Mission Indians is a  
8 federally recognized indian tribe. The proposed pipeline  
9 crosses the Morongo tribal lands. We've reviewed the  
10 Southern Trails Pipeline Project Final Environmental  
11 Impact Statement, Environmental Impact Report and the  
12 Commission's November 21st, 2000 responses to the tribe's  
13 September 1st comments.

14 The Morongo tribe has two primary interests here  
15 today, a long cultural tradition of protecting and  
16 honoring the animals and plants on our lands, especially  
17 those who have already been designated endangered, and  
18 public safety in and around the reservation community.

19 The tribe appreciates the work of the Commission  
20 to strengthen the endangered species and public safety  
21 analyses in the EIR. However, we ask that the Commission  
22 postpone approval of the EIR until further analysis is  
23 completed. A number of areas remain where the EIR fails  
24 to meet CEQA requirements. The documents should be  
25 revised and recirculated accordingly.

1           The tribe remains concerned primarily about the  
2 following matters, in appropriate deferring of endangered  
3 species analysis. As we noted in our comments on the  
4 draft EIR, a Project level EIR should contain adequate  
5 analysis to allow the public and decision makers to make  
6 an informed evaluation of the project's environmental  
7 effects. The practice of deferring studies necessary to  
8 such an informed evaluation have been uniformly rejected  
9 by California courts.

10           Deferral is only permitted if the information is  
11 not necessary to determine project impacts. Even assuming  
12 all these issues will eventually be worked out in the  
13 permitting process with each responsible agency, that does  
14 not satisfy the CEQA analysis and the disclosure  
15 requirement now.

16           The final EIR defers a number of studies  
17 essential to identifying project impacts, particularly  
18 endangered species impacts to the post-construction  
19 period. It assures readers that Questar will not be  
20 allowed to move ahead with the project until these studies  
21 have been conducted. However, such an approach deprives  
22 the public of information and input on the studies through  
23 the CEQA process.

24           Instead, it relegates the analyses and the review  
25 to a nonpublic process involving only the approving

1 agencies and the Applicant. This is a plain violation of  
2 CEQA. Impacts on endangered species should be analyzed,  
3 disclosed and mitigated now in public as CEQA requires,  
4 not later in private.

5 In addition to the deferred studies, the EIR also  
6 identifies numerous future plans, agreements and reports  
7 as mitigation, and assumes that preparation of those  
8 documents will mitigate project impacts.

9 However, absent the plans and agreements, there  
10 is no evidence that such mitigation will actually occur.  
11 CEQA is not satisfied by behind-the-scenes agreements  
12 between applicants and agencies. It is not a trust-us  
13 statute, but rather a show-us statute. Absent these  
14 studies and plans, the Final EIR repeated assertions of  
15 effective mitigation of the relevant impacts are  
16 unsupported and the impacts remain potentially  
17 significant.

18 Our second point of concern is incomplete public  
19 safety analysis. The EIR still does not adequately  
20 address certain potentially significant issues. These  
21 include pipeline hazards. A similar pipeline near  
22 Carlsbad, New Mexico recently suffered a major explosion.  
23 The Questar pipeline goes right through critical  
24 infrastructure and economic development areas of the  
25 Morongo reservation, which is a fancy way to characterize

1 what we fondly refer to as Section 8.

2 Section 8 is the small section of tribal lands  
3 where we have now concentrated some of our businesses.  
4 Section 8 is, to us personally, the little piece of land  
5 which has enabled the tribe to pull itself out of a  
6 hundred years of poverty and complete disenfranchisement.  
7 The November 21st response to our comments suggests that  
8 the Commission staff has not yet completed its review of  
9 these issues. It should do so before the Commission  
10 approves this EIR.

11 And then to directly address the Lieutenant  
12 Governor's questions with regards to mine hazards. We  
13 refer to this as the sand and gravel pit. In addition,  
14 Commission staff has apparently had discussions with the  
15 operator of the sand and gravel mine operations in  
16 Cabazon.

17 However, this operator has plans for significant  
18 expansion, which are presently pending in front of the  
19 Riverside County Development Commission. The new  
20 parameters of this mine operation apparently have not been  
21 addressed by the Commission. The tribe's own hydrogeology  
22 consultants are very concerned that the new operation will  
23 threaten erosion and slope instability or even failure of  
24 the embankment that will contain the Questar pipeline.  
25 And I respectfully remind the Commission that the San

1 Andreas fault does go right through the Morongo  
2 reservation.

3           There must be complete analysis of these factors  
4 based upon the actual expansion plans to be proved by the  
5 county. Although substantial new information has been  
6 added to the EIR, it still has deficiencies with respect  
7 to full disclosure and full CEQA compliance. These gaps  
8 should be filled.

9           Also, the EIR appears to include significant  
10 unmitigable impacts not identified in the Draft EIR. Such  
11 impacts require recirculation of the document. The tribe  
12 would appreciate the opportunity to work with the  
13 Commission staff to assure that these matters are fully  
14 addressed.

15           And I would also just like to thank the  
16 Commission for inviting us here today and asking us for  
17 our comments. It was not too long ago that tribes were  
18 not invited and not asked to speak on these matters.

19           CHAIRPERSON CONNELL: You are always invited and  
20 always will be. I hope that you will speak. Let's take  
21 your three concerns. I hope I wrote them down correctly,  
22 help me if I am wrong. And who from our staff or from our  
23 consultant group needs to respond to those concerns on the  
24 EIR.

25           EXECUTIVE OFFICER THAYER: Dwight Sanders, who



1 heads up our environmental analysis unit, I think will  
2 respond to most of these.

3 CHAIRPERSON CONNELL: The first issue was that of  
4 endangered species, I believe, help me if I get this  
5 wrong, endangered species. The second was the incomplete  
6 public safety hazards, which deals with the mine  
7 operations and Section 8. And then the third is the  
8 recent action by Riverside County.

9 Is that correct.

10 MS. MATHRANI: I believe so.

11 ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: Those  
12 are the same I have, Madam Chair.

13 CHAIRPERSON CONNELL: Okay, fine. If you could  
14 respond.

15 ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: My name  
16 is Dwight Sanders. I'm Chief of the Division of  
17 Environmental Management with the Commission.

18 Let me address the points, if you will, in  
19 reverse order perhaps. As to the sand and gravel mining  
20 operation, we are aware that the operator has a request  
21 pending before the County. We are informed, however, that  
22 the request does not affect the area of this sand and  
23 gravel mining operation that would be involved in closest  
24 to the pipeline.

25 According to our information, the existing county

1 permit allows or stipulates that the maximum extent at the  
2 top of the fully expanded pit can be no greater than 89  
3 feet from the railroad right of way. That, coupled with  
4 the distance the pipeline is set within the right of way,  
5 results in distance of approximately 150 feet from the  
6 pipeline to the top extension of the pit.

7 The slope is mandated from the top extension of  
8 the pit to the bottom, is mandated to be on a 2-to-1 ratio  
9 from that lip. So the lip of the expanded mine should be  
10 no closer than 150 feet from the proposed pipeline right  
11 of way.

12 EXECUTIVE OFFICER THAYER: And, Dwight, how far  
13 from the railroad itself would it be?

14 ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: Well --

15 EXECUTIVE OFFICER THAYER: One hundred and  
16 eight-nine feet, because the railroad is right in the  
17 middle of the 200-foot right of way?

18 ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: Two  
19 hundred, two hundred and fifty foot right of way, the  
20 railroad is approximately in the center of that.

21 EXECUTIVE OFFICER THAYER: So even if this  
22 pipeline were not put in place, the county planning people  
23 need to ensure that the expanded portion, even if there  
24 were expansion here of the sand and gravel operations, it  
25 wouldn't expand so greatly as to threaten the railroad,

1 which is existing. So this pipeline is going in the same  
2 area, so it's just another feature that will be protected.

3 ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: The  
4 pipeline is proposed to be located between the railroad  
5 and the furthest extent of the mining operation.

6 COMMISSIONER BUSTAMANTE: Does that resolve the  
7 issue with you and your environmental person?

8 I'm assuming your environmental person is  
9 listening and --

10 Does that resolve the issue ma'am?

11 CHAIRPERSON CONNELL: You need to come forward.  
12 Out reporter cannot hear you.

13 Can you identify yourself for the record please.

14 DR. PANTEL: My name is Susan Pantel,  
15 environmental manager for the Morongo Band of Mission  
16 Indians. We don't have all the details of their pending  
17 application with the County. We were just told that the  
18 application could impact the extent of their operation  
19 which should be evaluated in the Final EIR.

20 COMMISSIONER BUSTAMANTE: Does it make sense that  
21 they're going to protect the road or that they're going to  
22 protect the pipeline area and that would resolve the issue  
23 or not?

24 The pipeline is between the railroad -- the  
25 pipeline would be between the railroad and the sand and

1 gravel pit. I also have no -- I'm not an expert at all in  
2 protecting railroads versus protecting pipelines, but it  
3 seems to me a pipeline could fracture more easily than a  
4 railroad could break, but again that's not my area.

5 CHAIRPERSON CONNELL: Yes.

6 ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: Madam  
7 Chair, I'd like to just add also, that there are evidently  
8 other existing pipelines between the proposed pipeline  
9 right of way and the full legalized extent of the mining  
10 operation, which is, at least for this proposed project,  
11 approximately 150 feet away.

12 CHAIRPERSON CONNELL: Well, who has the other  
13 pipelines?

14 ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: I don't  
15 have that information at hand.

16 CHAIRPERSON CONNELL: They're already on Indian  
17 land?

18 ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: No.  
19 These lines are not on the Indian land. These are within  
20 the railroad right of way at Cabazon.

21 EXECUTIVE OFFICER THAYER: Which is offsite, the  
22 land owned by the Morongos, is my understanding.

23 ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: Excuse  
24 me, Paul?

25 EXECUTIVE OFFICER THAYER: And this whole area is

1 not contained within the land?

2 ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: That's  
3 correct. The Cabazon area is not within the Indian land  
4 in question.

5 CHAIRPERSON CONNELL: All right.

6 ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: Questar  
7 does have the information as to the other pipelines, if  
8 you so desire that.

9 CHAIRPERSON CONNELL: Is there an interest on the  
10 Members of the Board having that information submitted for  
11 discussion?

12 If not, we'll move on to the second item, which  
13 was the incomplete public safety hazards.

14 ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: As I  
15 understand it, the existing pipeline does pass through the  
16 Morongo lands. I also believe that there has been a  
17 reroute proposed by the applicant that would go around the  
18 Morongo lands; and is that not correct?

19 MS. HARVEY: That's correct.

20 ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: I  
21 believe the proposal that is being advanced, at this time,  
22 is the reroute around the Morongo lands.

23 CHAIRPERSON CONNELL: So the Indian reservation  
24 would not be impacted at all.

25 COMMISSIONER BUSTAMANTE: Around the Morongos.

1 ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: That's  
2 correct.

3 COMMISSIONER BUSTAMANTE: If it was rerouted  
4 around the Morongo, would that resolve the issue or is it  
5 still so close that it still could have an effect?

6 MS. MATHRANI: Commissioner, I have neither the  
7 authority nor the background information to answer that.  
8 We will say as of 9:00, 10:00 o'clock this morning we had  
9 no knowledge of this rerouting.

10 CHAIRPERSON CONNELL: Maybe we can call upon  
11 Latham and Watkins.

12 MS. HARVEY: May I respond to that? Thank you.

13 COMMISSIONER BUSTAMANTE: Were the attorneys  
14 given the information, do you know?

15 MS. MATHRANI: I spoke to the tribe's attorney at  
16 approximately 9:00 or 10:00 o'clock this morning and he  
17 didn't advise me of any notion of rerouting.

18 COMMISSIONER BUSTAMANTE: Okay.

19 MS. HARVEY: Perhaps I can clarify. Marian  
20 Harvey, Latham and Watkins.

21 The EIS addresses the alternative route. The  
22 pipeline -- it's correct to say the pipeline today, the  
23 ARCO pipeline, is on the Morongo property. The EIS  
24 addresses a route which would avoid that area and puts the  
25 new pipeline in a new area off of the Indian land, off the

1 Morongo's land. So that's the proposed alternative  
2 that's -- the preferred alternative that's in the EIS and  
3 is addressed in the environmental review.

4 COMMISSIONER BUSTAMANTE: Well, is it within a  
5 hundred meters?

6 MS. HARVEY: I'm sorry. I don't -- I'll have to  
7 get the dimensions from Questar. I don't know the  
8 distance from the boundaries of the property.

9 CHAIRPERSON CONNELL: Do you want to comment,  
10 sir, on this matter?

11 MR. GREENWOOD: Yes. Thank you. My name is Ned  
12 Greenwood. I'm project coordinator for Questar Southern  
13 Trails pipeline. And I have been dealing with the Morongo  
14 Tribe for almost two years now, and specifically with John  
15 Shordike. And in my opinion, he is very well aware of us  
16 doing a reroute around the pipeline, because he has told  
17 us before he doesn't think that we can legally do that.  
18 And I have spoken to him as late as last month and we  
19 discussed it again about the reroute. He's well aware of  
20 that we're using the railroad right of way. He's known  
21 that for at least a year.

22 CHAIRPERSON CONNELL: So that he knows that this  
23 option exists, the EIS reroute.

24 MR. GREENWOOD: That has been public information  
25 for almost two years, that the reroute is on the railroad

1 right of way. So I --

2 COMMISSIONER BUSTAMANTE: It goes around the  
3 Morongo.

4 MR. GREENWOOD: Around the Morongo reservation.  
5 While the existing line is there, that line is not going  
6 to be used as part of this project. We are going to be  
7 using the railroad right of way and a new pipeline that we  
8 will be putting on the railroad right of way.

9 CHAIRPERSON CONNELL: Well, that kind of  
10 eliminates the first concern about endangered species,  
11 because if you're not on the land, the endangered species  
12 problem is vacated.

13 COMMISSIONER BUSTAMANTE: Well, I think the  
14 concern is that -- although that is a concern, the bigger  
15 concern is how close it is to their economic development  
16 area, which is basically their businesses, and whether or  
17 not that is -- is that what I heard, that there was a  
18 concern with respect to the population and the businesses  
19 being affected by some kind of a break. How far away from  
20 their reservation, how far away from their land is this  
21 pipeline?

22 MR. GREENWOOD: I would say it's at least 60 feet  
23 away from their property line.

24 COMMISSIONER BUSTAMANTE: So 60 feet away from  
25 the property line is within the 100 meters that are being



1 discussed by the -- what did he call that, the --

2 MS. HARVEY: Do you mind if I ask a question.

3 COMMISSIONER BUSTAMANTE: -- the explosion zone,  
4 the hazard footprint, right.

5 CHAIRPERSON CONNELL: It would have been nice to  
6 have a little overhead map for the Commission to look at  
7 this. Paul, may I remind you in the future, it would be  
8 helpful to have an overhead map at all times.

9 MS. HARVEY: We're going to take just a second to  
10 look at the map and try to clarify the answer to your  
11 question.

12 CHAIRPERSON CONNELL: Well, where is the Section  
13 8 land, is it in the middle of the reservation?

14 MS. MATHRANI: It borders Interstate 10.

15 CHAIRPERSON CONNELL: Well, is that on the edge  
16 of your reservation?

17 MS. MATHRANI: Well, no, we have land on both the  
18 north and the south side. We have a large contiguous  
19 piece of reservation and then we're checker boarded  
20 throughout. So even if there is a railroad right of way,  
21 it's still Indian land.

22 COMMISSIONER BUSTAMANTE: But your business area,  
23 I'm trying to estimate how close the population centers  
24 are to the pipeline.

25 MS. MATHRANI: Our business area, what we call

1 Section 8, is surrounded by -- surrounds the railroad, is  
2 that right, Susan?

3 DR. PANTEL: The railroad right of way passes  
4 through the reservation, which is checker boarded, so on  
5 the north and the south there is reservation land.

6 COMMISSIONER BUSTAMANTE: I know, your businesses  
7 aren't on every single piece of land. Where are your  
8 businesses?

9 DR. PANTEL: Section 8. I don't know the exact  
10 distance between that and the railroad right of way. He  
11 says 60 feet, I don't know.

12 COMMISSIONER BUSTAMANTE: I think the point here  
13 is that just because -- let's not make it a small point,  
14 that just because the route is rerouted off of Morongo  
15 land, doesn't necessarily mean the affected areas could,  
16 in effect, land on the Morongos. It's not a small point  
17 here and we shouldn't trivialize the fact that or say that  
18 somebody knew already. It still could mean that knowing  
19 it a year ago raises the issue, which has not yet been  
20 addressed here, I don't know.

21 MS. HARVEY: May I?

22 COMMISSIONER BUSTAMANTE: Please.

23 MS. HARVEY: Thank you. Certainly, on our  
24 behalf, we had no intent to trivialize that issue, and  
25 clearly that's the point of the environmental review

1 process that's been engaged upon in the last year or so by  
2 both FERC and the State Lands Commission is to address  
3 just those very safety and biological issues and other  
4 environmental issues associated with this project.

5 My point was to clarify that the route that's in  
6 the EIS is the one that's being proposed and has been  
7 cleared by environmental. There's no surprise associated  
8 with that route which has been approved by FERC and  
9 addressed in the environmental reports.

10 I was wondering if I might address a couple of  
11 the other points that were raised in this discussion when  
12 you're ready?

13 CHAIRPERSON CONNELL: Yes, go ahead.

14 MS. HARVEY: Two of the other points that were  
15 raised were a concern about deferring the studies. And I  
16 just wanted to clarify that the EIS/EIR, as any document  
17 of that type, will have a number of mitigation measures in  
18 the document. And we've already seen the benefits of the  
19 completion of some of those mitigation measures and the  
20 further steps that are always required through the  
21 regulatory process, including the biological opinion which  
22 has been submitted and has determined that there's -- has  
23 determined a non-jeopardy conclusion on behalf of the Fish  
24 and Wildlife Service.

25 The other studies I actually had to clarify

1 myself, because a question was raised here about whether  
2 those studies were being deferred to post-construction,  
3 which didn't make any sense to me. And so I've clarified  
4 that, in fact, the studies will be done before the  
5 pipeline is turned on, whatever the proper --

6 MR. ALLRED: In service.

7 MS. HARVEY: In service. There are follow-up  
8 studies, of course, being done consistent with the federal  
9 regulations and the mitigation measures and the EIR/EIS  
10 that is further information that will be submitted after  
11 the service has begun and as follow-up to those studies.

12 Secondly, I wanted to point out that these  
13 mitigation measures will be implemented through the  
14 mitigation monitoring program that was adopted -- that is  
15 described in the EIR/EIS document and has been modified  
16 with the final recommendations of staff and is in your  
17 package today.

18 And pursuant to the requirements of CEQA that is  
19 an enforceable mitigation plan and those mitigation  
20 measures can be monitored according to the requirements of  
21 CEQA, and that is the assurance that they will be  
22 implemented consistent with the documents that are before  
23 you today.

24 And finally, I wanted to just address the point,  
25 of course, everyone is concerned about the tragedy that

1 occurred in New Mexico, but I hate to see this pipeline  
2 described as being similar to that situation.

3 That pipeline had not been inspected. This  
4 pipeline has been thoroughly inspected before it's even  
5 come to you. The length of the entire pipeline has been  
6 inspected. Your staff has been reviewing that data, and  
7 it was an older line not inspected, not subject to the  
8 safety requirements of the new in-service line that is  
9 before you today. So I hate to see it compared to a  
10 pipeline of much older vintage and not subject to the same  
11 safety requirements that are being imposed on this  
12 project.

13 CHAIRPERSON CONNELL: I assume that pipeline did  
14 not have these valves that had been discussed here, these  
15 safety valves?

16 MS. HARVEY: From what I've seen, even in the  
17 press, that's absolutely true, the automatic safety valves  
18 were not in place and are not required by any regulations  
19 of the federal government today, and are being imposed,  
20 you know, at staff's request, in order to respond to the  
21 comments and the concerns about this project.

22 CHAIRPERSON CONNELL: Well, have we been able to  
23 get some sense to the Lieutenant Governor's question on  
24 distance? I think there was an issue of distance here. I  
25 still am confused. I understand the checker board nature

1 of the reservation layout. I just don't know where this  
2 Section 8 land, which of the parcels is this land on?

3 MR. MOUSER: Yes, Madam Chair, Members, Jerry  
4 Mouser, engineer, project coordinator for Questar. I'm a  
5 registered engineer in the States of Utah and Colorado. I  
6 am not a registered engineer in California, but I am  
7 registered in the other states. We have engineers doing  
8 our business that are registered.

9 But to answer the question, the pipeline as it  
10 exists, passes through Section 8, and that is the Section  
11 that goes just north of the casino area, which is north of  
12 Interstate 10. The proposed reroute that Questar has  
13 planned and has obtained consent, at least a pipeline  
14 license agreement from the UP Railroad, the reroute that  
15 has been studied by the EIS/EIR is within the railroad  
16 corridor south of Interstate 10 and away from the current  
17 development area. And we're aware of the development  
18 area, it's sizable out there.

19 I would guess that as that pipeline runs through  
20 Cabazon and it runs south of the railroad corridor, it  
21 runs south of a lot of the streets in Cabazon, it is  
22 probably, I'll say, 500 to 1,000 feet, closer to 1,000  
23 feet, south of the casino area there. So we are rerouting  
24 it from that area to get it off the land from the Morongo  
25 Band.

1 I wish I had an overhead of this. This just  
2 happens to be the seismic study.

3 EXECUTIVE OFFICER THAYER: If you're working from  
4 this map, I think we can put it on.

5 CHAIRPERSON CONNELL: I think we're able to track  
6 that 500 to 1,000 -- did you say 500 to 1,000 feet?

7 MR. MOUSER: Yes, ma'am, 500 to 1,000 feet or  
8 more south of the casino development.

9 CHAIRPERSON CONNELL: Well, that's certainly  
10 outside the 50 yard or the 50 -- the hundred meter -- the  
11 football field diameter that we're supposed to be mentally  
12 choreographing here against this leakage field; is that  
13 correct?

14 I mean, are we talking a 50-yard radius here for  
15 leakage, if one of these pipelines breaks?

16 MR. MOUSER: That is a number that the Lands  
17 Commission --

18 CHAIRPERSON CONNELL: A 50-yard radius is here  
19 and we're talking 1,000 feet, which is three hundred and  
20 some yards. Are we three hundred and some yards away from  
21 where we need to be?

22 MR. MOUSER: Yes, ma'am, we are.

23 COMMISSIONER BUSTAMANTE: I'm speaking to the  
24 tribe, is that outside your economic expansion areas?

25 MS. MATHRANI: No, Commissioner. I'd like an

1 opportunity to review this more carefully. Section 8 is  
2 what we talked primarily about, because that's what's  
3 keeping -- those are the businesses in operation now. But  
4 our plans for expansion, our master plan, go beyond  
5 Section 8. And so I don't know how this rerouting would  
6 affect those other -- that expansion --

7 MR. MOUSER: And, again, for the --

8 MS. MATHRANI: -- which is still Indian land,  
9 excuse me, I'm sorry.

10 MR. MOUSER: I'm sorry. Again, for the pipeline  
11 it would run through the eight-mile alternate sections of  
12 Morongo land, the pipeline would be in the railroad  
13 corridor. Also, this area would be new pipe. This area  
14 was also studied by our seismic reports and we have taken  
15 some additional pipe precautions in the area.

16 EXECUTIVE OFFICER THAYER: You could put that map  
17 up there and project it if you'd like.

18 MR. MOUSER: Because the San Andreas Fault does  
19 exist in the area just north of the casino area and not  
20 along the pipeline.

21 CHAIRPERSON CONNELL: So we are, in other words,  
22 and let me see if I can try to summarize what I'm hearing  
23 as someone who does not have the map, but is  
24 geographically able to visualize this. Are you saying  
25 that Section 8 is north of the highway, the casino is



1 north of the highway and the San Andreas Fault is north of  
2 the highway? Your proposed alternative route is south of  
3 the highway and about 300 and some yards away from the  
4 Section 8, the casino and the San Andreas Fault; is that  
5 correct?

6 MR. MOUSER: Yes. And this map -- this wonderful  
7 technology, we should use it more.

8 MS. HARVEY: Jerry, would you identify the map  
9 for us. I just want to point out there's a map with the  
10 alignment, it won't show up as well on the projector, but  
11 there's a map with this proposed alignment in the EIS.

12 MR. MOUSER: Yes. This information was all  
13 included in the Draft and Final EIS/EIR.

14 The Section 8 is basically this section. The  
15 existing pipeline runs across the section, and I'm having  
16 a hard time tracing it.

17 CHAIRPERSON CONNELL: Can you show us where the  
18 freeway is?

19 MR. MOUSER: Yes. The freeway is this corridor.  
20 There is the interchange. I believe that's either Fields  
21 Road or Apache off of Interstate 10. The existing casino  
22 sits about that vicinity. The freeway continues, of  
23 course, eastward on Interstate 10.

24 The railroad corridor is south of the freeways  
25 skirting the freeway and then becomes about 750 or 1,000

1 feet away from the freeway as it goes through the  
2 community of Cabazon. This right of way is up to 250 feet  
3 wide, this railroad right of way, previous Southern  
4 Pacific and now Union Pacific. There are a number of  
5 utilities, pipelines, fiber optic lines, gas lines in that  
6 railroad corridor already. Questar has as a license  
7 agreement from the UP to place its new 16-inch pipeline in  
8 that railroad corridor.

9 And as you can see, the scale is such that we are  
10 on the other side of the Interstate, on the other side of  
11 the railroad crossing and to a certain extent on the side  
12 of the City of Cabazon from the development area that's  
13 being discussed.

14 COMMISSIONER BUSTAMANTE: So is the pipeline  
15 north or south of that red -- southern most red line?

16 MR. MOUSER: The pipeline is basically intended  
17 to be the red line that is -- it's hard to look -- it's  
18 the red line in the railroad corridor, yes, sir.

19 EXECUTIVE OFFICER THAYER: Where is Interstate 5  
20 the, I'm sorry. I thought that was --

21 MR. MOUSER: This is Interstate 10. And this  
22 distance from here to here is a mile, so this distance  
23 from there to there is about 1,000 feet. Also of  
24 interest, this is the work that was done in our seismic  
25 evaluation. You see our earth consultant has plotted the

1 San Gorgonio segment of the San Andreas fault where it  
2 affects the pipeline. This particular fault does not  
3 cross the pipeline, but we have included design mitigation  
4 measures through this area also.

5 COMMISSIONER BUSTAMANTE: So you're not sure if  
6 it affects you, because you don't -- I mean, your folks  
7 know where the route is, right, your attorney knows where  
8 the alternative route is?

9 MS. MATHRANI: I'm sorry, Commissioner, I cannot  
10 confirm or -- I can't comment on that.

11 COMMISSIONER BUSTAMANTE: I guess I'm trying to  
12 find out is your attorney saying that the proposed  
13 expansion that you're looking to do is going to put you in  
14 the middle of that area or not?

15 MS. MATHRANI: Yes. Our master plan extends  
16 north, south, east and west. And as a checker boarded  
17 reservation, we have land in all four directions from  
18 that.

19 COMMISSIONER BUSTAMANTE: Because it is that  
20 checker board?

21 MS. MATHRANI: That's exactly what we are.

22 COMMISSIONER BUSTAMANTE: That's why it expands  
23 in that kind of odd --

24 MS. MATHRANI: Right.

25 CHAIRPERSON CONNELL: Annette, did you want to

1 ask something?

2 ACTING COMMISSIONER PORINI: Well, I wanted to  
3 get staff's comment on that, because I know that you have  
4 been in touch with the attorney with regard to the  
5 original letter. Did we get any indication with regard to  
6 this expansion of the master plan or the alternate site?

7 EXECUTIVE OFFICER THAYER: Dwight, you can  
8 conform this, but I don't believe there was any discussion  
9 about impacts to the development within the reservation.

10 ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: No, sir.

11 EXECUTIVE OFFICER THAYER: It was much more  
12 focused on the very issues that the representatives spoke  
13 of initially, seismic impacts and biological impacts would  
14 be the primary ones.

15 COMMISSIONER BUSTAMANTE: Now, those talk about  
16 the affect on their -- they said today --

17 EXECUTIVE OFFICER THAYER: Today, you're right  
18 today. They did, but I don't recall that being in the  
19 letter unless I missed something.

20 ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: No, it  
21 was not.

22 CHAIRPERSON CONNELL: Well, having had some  
23 exposure to the EIR process as well when I was in the  
24 private sector, it is really very hard for the EIR to  
25 address prospective activity if it is not noted at the

1 time the EIR is going through the process.

2 So I certainly respect the concerns about  
3 endanger species. I am very concerned about that. I am  
4 very concerned about public safety issues, which is what  
5 caused me to have our speaker from Sacramento to be with  
6 us today to try to explain the difference in his original  
7 letter and his second letter, which is why you might  
8 recall we delayed this for the period of time and also to  
9 get any additional feedback from the Morongo tribe. But  
10 it's very hard for us to address issues if we don't know  
11 where prospective development is going to be.

12 We should certainly respect the other issues of  
13 endangered species and public safety hazards. And I think  
14 what we've attempted to do in discussing this today is to  
15 determine whether you have sited this alternative pipeline  
16 in such a way to address those issues. It appears from  
17 what I'm hearing that you have.

18 Now, whether it is impacting some future  
19 potential business development is something that we cannot  
20 possibly define today nor can the tribe. So I don't know  
21 how we can continue to discuss that point because it is  
22 not yet clear where that's going to be or what kind of  
23 development that would be or what kind of population would  
24 be brought to that area. So I would like to try --

25 COMMISSIONER BUSTAMANTE: Unless there's

1 something already in some plan that's already been  
2 submitted to the Board of Supervisors or that's already  
3 been approved.

4 CHAIRPERSON CONNELL: Would that have not been  
5 detailed? Aren't all public documents accessed in an  
6 EIR/EIS, that's at least my understanding?

7 COMMISSIONER BUSTAMANTE: So your review would  
8 have checked to see if there is any other planned  
9 development that would have been approved and that would  
10 have been taken into account?

11 ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: Yes,  
12 sir.

13 EXECUTIVE OFFICER THAYER: And to some extent, we  
14 rely on circulating the EIR, which describes where the  
15 project is going to go to groups, such as the Morongo Band  
16 to obtain their comments to see if there is going to be  
17 that kind of conflict. The counties, for example, receive  
18 the copies, so that they could review it in terms of their  
19 own general plans, that kind of thing. You know, these  
20 are the entities that know best whether there are future  
21 plans and that was the reason for broad circulation.

22 COMMISSIONER BUSTAMANTE: If I could just ask the  
23 representatives, is there any, currently, any approved  
24 development that would conflict with the current routing,  
25 any approved --

1 MS. MATHRANI: Approved by our governing body, I  
2 believe so.

3 COMMISSIONER BUSTAMANTE: Would that have been  
4 reviewed in your documents? Was it recently or was it  
5 during the time? Was it just --

6 MS. MATHRANI: I believe it's been within the  
7 terms of this most recent tribal council.

8 COMMISSIONER BUSTAMANTE: So you mean like last  
9 month or something or last week?

10 MS. MATHRANI: Since June, I believe,

11 EXECUTIVE OFFICER THAYER: I don't think we're --

12 ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: The  
13 document was finalized in July. That information was not  
14 available to those who prepared the document.

15 COMMISSIONER BUSTAMANTE: In researching for the  
16 EIS and EIR, is it normal to check with tribal governments  
17 as well as county and city governments.

18 MR. GORFAIN: May I respond? The answer is yes  
19 and we did. And unfortunately the Morongos did not appear  
20 at any of the scoping meetings. The first time that they  
21 actively became apart of the process was in commenting on  
22 the Draft EIS/EIR. And during their initial letter on the  
23 Draft EIS/EIR and on the final, they did not bring up this  
24 point. And I'll plead ignorance, I have never heard of  
25 this until today.

1           CHAIRPERSON CONNELL: I, again, go back to my  
2 comment, we have initially two concerns that were raised,  
3 which was the endangered species and the incomplete public  
4 safety hazards as it related to both the mine operation  
5 and the existing Section 8 project.

6           Now, it appears that we have met concerns on all  
7 of those. No one here at this meeting seems to know where  
8 the future Section 8 is going to go or what it will  
9 encompass nor has that been communicated to anyone in this  
10 room.

11           COMMISSIONER BUSTAMANTE: Except that it was  
12 stated that, in fact, that has occurred. It occurred  
13 within the parameters of the EIS or the EIR and that the  
14 information -- well, you know, maybe there should be an  
15 attorney somewhere fired or maybe a staff person  
16 terminated for negligence or something, but if, in fact,  
17 actions were taken within the parameters and that  
18 information had not been taken into place, seems to me  
19 that that should now be taken into consideration.

20           CHAIRPERSON CONNELL: Well, let me ask as a  
21 question of the many lawyers who are in the room, it  
22 sounds like a Florida recount here.

23           (Laughter.)

24           CHAIRPERSON CONNELL: And I would just like to  
25 disclose for the record that neither the Lieutenant



1 Governor or I are attorneys, for which we shall be forever  
2 thankful given curious developments that are occurring  
3 here, not here but as in Florida.

4 At what point do you have to close the books on  
5 additional information coming into an EIR process? In  
6 other words, if action was taken last week, last month, by  
7 the tribe and they had knowledge of the siting of this  
8 alternative pipeline, is it the responsibility of the  
9 tribe then to make sure that they are not putting  
10 themselves in the way of a potential, what they might see,  
11 as a hazardous condition? I mean, we cannot continue to  
12 evolve information. At some point, the information has to  
13 be final, an EIR has to be certified, and it seems to me  
14 we had a final EIR.

15 What I am conflicted with here is why there would  
16 be action taken by a tribal council if there was such  
17 action taken, that would want to endanger the tribe or the  
18 tribal operations following what appeared to be a fairly  
19 clear and complete EIR?

20 MS. MATHRANI: Madam Chair, I don't know that  
21 that would be correct. And I hesitate to speak on behalf  
22 of the tribal council, in fact, I could get in big trouble  
23 for doing that.

24 But I will tell you that there has been an  
25 attempt to create a master plan over the past few years

1 and, you know, there has been some dreams written down on  
2 our part. But I hate to take the Commission's attention  
3 of some of the points that we've discussed today.

4 CHAIRPERSON CONNELL: So you are not able to say  
5 today, definitively, that there is such a thing as a  
6 conflicting potentially approved Section 8 activity near  
7 our alternative pipeline?

8 MS. MATHRANI: Well, I will tell you that within  
9 less than a thousand meters of that bottom section of  
10 Section 8, that bottom left corner of Section 8, is an  
11 existing restaurant. And I don't know how much further we  
12 have to expand from that corner.

13 ACTING COMMISSIONER PORINI: For clarification,  
14 that's the top red line, when you say the existing  
15 pipeline?

16 MS. MATHRANI: It's nearly at the intersection  
17 where the two red lines meet.

18 EXECUTIVE OFFICER THAYER: Because that's right  
19 at the interchange of the freeway?

20 MS. MATHRANI: That's right. And I'm a little  
21 surprised that CalTrans isn't here, because my  
22 environmental director just reminded me that there's a \$33  
23 million interchange project, which is on the record along  
24 that bottom red line, if I'm not mistaken.

25 EXECUTIVE OFFICER THAYER: CalTrans was sent a

1 copy of the EIR/EIS and draft, and I believe their  
2 comments primarily said that they wanted to be consulted  
3 as traffic management plans were developed on a  
4 county-specific basis during the construction periods and  
5 for any other impacts, but had no other comments about  
6 this sort of thing.

7 CHAIRPERSON CONNELL: So they haven't expressed  
8 any concerns?

9 EXECUTIVE OFFICER THAYER: That's right.

10 COMMISSIONER BUSTAMANTE: I believe that was  
11 approved in the July budget.

12 EXECUTIVE OFFICER THAYER: To put in that.

13 COMMISSIONER BUSTAMANTE: Yeah, I believe that  
14 was approved in the July budget.

15 MR. MOUSER: May I make a point, if I can be  
16 heard from this point? Jerry Mouser from Questar.

17 The freeway development, as we understand it, is  
18 north and outside of the rail -- north of the pipeline  
19 railroad corridor right of way and is completely separate  
20 from the new proposed routing of the pipeline. Again, the  
21 pipeline is proposed as inside the railroad corridor.  
22 It's between our existing two-and-a-third railroad spur,  
23 our high-speed railroad track that's being built. It's  
24 nestled in very tightly with other petroleum pipelines, a  
25 30- or 36-inch Southern California Gas natural gas

1 pipeline, fiber optics lines, power lines. This is a  
2 utility corridor within this railroad corridor and it is  
3 within this corridor that the pipe is proposed, outside of  
4 any potential development of land.

5 CHAIRPERSON CONNELL: So what you're saying is  
6 that if there's an exposure here, the exposure is  
7 certainly more than just this potential pipeline?

8 MS. HARVEY: May I? I hate to barge in, but  
9 since you suggested this might be interactive, I think  
10 that it really addressed two points. Number one, there  
11 are existing utilities, the Union Pacific right of way as  
12 well as the freeway in the immediate adjacency.

13 Number two, while the Morongos may indeed have  
14 development plans, of which we're currently unaware, it's  
15 impossible to conceive that those plans will occur within  
16 the UP, the Union Pacific, right of way or within the  
17 CalTrans right of way area.

18 Moreover, I think I hate to lose site of the key  
19 point here, which is that through the CEQA process and  
20 through the NEPA process that this project has already  
21 gone through, consideration of these types of safety  
22 issues has been paramount and is, indeed, the key point of  
23 the FERC regulations and the DOT regulations, so that we  
24 can all be provided natural gas throughout this country in  
25 as safe a manner as possible.

1           It's already been pointed out that the risk  
2 cannot be completely eliminated, that's consistent with  
3 the finding in the final EIR/EIS, which identifies a  
4 potential significant seismic issue impact. We all  
5 recognize that the risk cannot be completely eliminated,  
6 but the point of the FERC regulations, the DOT  
7 regulations, the findings in the Final EIR/EIS, the  
8 conditions imposed on this project by FERC when they  
9 approved the certificate this year, the mitigation  
10 monitoring program, the seismic hazard evaluation  
11 mitigation plan and the emergency response plan, all of  
12 those regulations and conditions go to the issue of making  
13 this pipeline as safe as it can be, and have been  
14 developed in the context of the route that's proposed and  
15 in the context of the populated world in which we live.

16           I don't think that the adjacency of the Morongo's  
17 development area changes that in any way. So while it's  
18 unfortunate that that information has not been presented,  
19 previously, I don't think that it raises any new issues or  
20 identifies any potential risks that are outside of the  
21 realm of the regulations and the conditions that have  
22 already been adopted and proposed for this project.

23           COMMISSIONER BUSTAMANTE: Except that they are  
24 saying that it does.

25           MS. HARVEY: I'm sorry?

1           COMMISSIONER BUSTAMANTE: Except that they seem  
2 to be saying that it does.

3           MS. HARVEY: I recognize the difference of  
4 opinion.

5           CHAIRPERSON CONNELL: Well, we have no evidence  
6 that that indeed is true nor does the tribal  
7 representative want to commit that that is indeed true.  
8 She said she could not speak for the tribe today, but that  
9 was their intent; is that correct?

10          COMMISSIONER BUSTAMANTE: Well, the tribe only  
11 speaks for the tribe. The council --

12          CHAIRPERSON CONNELL: Well, but I mean the tribe  
13 has not taken action. We cannot withhold action based on  
14 some speculation that action might occur at some point by  
15 the tribe.

16          COMMISSIONER BUSTAMANTE: She said that action  
17 was taken in June.

18          CHAIRPERSON CONNELL: Action was taken in June,  
19 that cited specific business developments, that isn't what  
20 I heard her say.

21          MS. MATHRANI: No, I wasn't able to confirm that.  
22 Our tribe operates by tradition and custom, which  
23 disallows me from speaking on behalf of the tribe, except  
24 to read this brief document. I apologize for that.

25          CHAIRPERSON CONNELL: So she has not made that as

1 a clear statement. So we don't really know what action  
2 has been taken.

3 EXECUTIVE OFFICER THAYER: I've tried to, as the  
4 discussion has gone forward, quickly review their  
5 September 1st letter, which is their comment letter on the  
6 final EIR, which raises, you know, some of the same  
7 issues. And I don't see any mention here of there being  
8 conflict with plans for future development. It may exist  
9 but in terms of what we were aware of and our best efforts  
10 as a staff to respond to, you know, a fairly lengthy  
11 letter here, with very comprehensive comments, you know,  
12 we tried to be very thorough in response to that.

13 And this issue wasn't addressed, because it  
14 wasn't raised in that comment letter from the Morongo  
15 Band.

16 COMMISSIONER BUSTAMANTE: What would take place,  
17 Madam Chair or staff, if we were to postpone for one more  
18 meeting in order to be able to get a tribal representative  
19 here who, in fact, could speak on behalf of the council,  
20 who, in fact, could lay out exactly what it is that their  
21 letter is attempting to say? I mean, what adverse impacts  
22 would take place?

23 EXECUTIVE OFFICER THAYER: Well, I think the  
24 primary -- at least as expressed to me by Questar. In  
25 terms of the Lands Commission itself, I don't believe

1 there's any specific adverse impacts. There is a  
2 requirement that we complete our CEQA review by a certain  
3 date, which is -- a joint document, so it doesn't concern,  
4 so there's no particular dead line that we're facing.

5 However, Questar I think probably has a view as  
6 to what sort of financial impact that there is to them and  
7 they might want to respond to that.

8 CHAIRPERSON CONNELL: Annette has a comment as  
9 well.

10 Annette.

11 ACTING COMMISSIONER PORINI: Well, I'd like to  
12 hear the comment from Questar. I was going to thank the  
13 Lieutenant Governor and Controller for raising the safety  
14 issues, because those have been paramount in my review of  
15 the issues. And I'm very concerned about the impact of  
16 the existing pipeline, but I can't come to any conclusions  
17 with regard to the lower reroute of the pipeline relative  
18 to development. So I just wanted to make that clear.

19 COMMISSIONER BUSTAMANTE: That's why I think it  
20 would be important to hear a representative from the  
21 tribe.

22 CHAIRPERSON CONNELL: Why is there not a  
23 representative from the tribe here today? We delayed this  
24 with the request specifically. I made the request on the  
25 record that there be a representative of the tribe here to



1 speak to this issue today. Why has that not been  
2 accomplished?

3 COMMISSIONER BUSTAMANTE: Well, she's the  
4 representative of the tribe, she's just apparently not  
5 able to speak on behalf of the tribe.

6 MS. MATHRANI: Well, I'm representing the tribe,  
7 Madam Chair, but I'm unable to make any binding commitment  
8 or comment on council action that has or has not been  
9 taken since June.

10 CHAIRPERSON CONNELL: Well, again, I get back to  
11 the operative point here, at what point do we finalize  
12 this EIR/EIS? What happens if the tribe meets and takes  
13 action in December after we've delayed if the request of  
14 the Lieutenant Governor is heard and voted on, how do we  
15 not know that there will be action taken that later  
16 creates a conflict with the EIR/EIS? The EIR/EIS  
17 documents were complete as of June.

18 So I'm not interested in what is occurring  
19 between June and December. I'm concerned about what  
20 should have been known in the EIR/EIS prior to June. And  
21 I'm particularly concerned, going back to my original  
22 points, about whether we have been sensitive to the  
23 endangered species potential here and to the incomplete  
24 public safety hazards. And it appears that we have  
25 addressed that by relocating the pipe. Now, at some

1 point, action has to be taken.

2 COMMISSIONER BUSTAMANTE: But the EIR, I believe,  
3 was not complete until July not June.

4 CHAIRPERSON CONNELL: Well, use the July date  
5 then, but the date then is July, it is not October,  
6 November or December.

7 EXECUTIVE OFFICER THAYER: Dwight, when did the  
8 comment period end on the Draft EIR?

9 ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: The  
10 comment period ended, I believe, in October -- no, excuse  
11 me, the draft.

12 COMMISSIONER BUSTAMANTE: The question as to  
13 adverse impact on Questar.

14 MS. HARVEY: I'd like to ask Alan Allred to  
15 respond to your questions on that.

16 MR. ALLRED: From the company's point of view,  
17 we've been through a long, lengthy two-year process of  
18 getting an EIS, an EIR completed. We think we've  
19 addressed the issues.

20 In terms of your specific question about what is  
21 the cost of a delay, we are now at the stage where the  
22 carrying costs of continuing this project are amounting to  
23 about \$500,000 a month. Those costs add to the ultimate  
24 cost of the project. So, I guess, the impacts are two.  
25 One, if we are delayed further at the tune of about

1 \$500,000 a month, those costs will be added to the cost of  
2 the project, ultimately paid by customers who use the  
3 project to bring natural gas into the southern California  
4 market.

5 To us, this is a time when that project is  
6 desperately needed, and additional capacity would help the  
7 southern California energy market.

8 Beyond that, we had hoped to have the project in  
9 service by near this time or by next year. We're  
10 obviously a ways away from that because we haven't even  
11 gotten through the process to get the conversion done.  
12 And the conversion process itself is going to take a  
13 substantial amount of time a year to a year and a half.

14 You know, we are currently evaluating how long  
15 can we stay with this project. I can't tell you that a  
16 delay would precipitate that action, but we are -- the  
17 cost of the project is getting to the point where if we  
18 delay much longer, the economics themselves will dictate  
19 that it's too expensive.

20 CHAIRPERSON CONNELL: I have a question about  
21 notification. Have you made any effort to notify the  
22 attorney and speak to the attorney of the Morongo Tribe?  
23 You were directed to do so, I believe it was the September  
24 meeting we had at the last commission.

25 EXECUTIVE OFFICER THAYER: We attempted to do

1 that without success. And further more, in terms of  
2 process, this letter that arrived on September 1st,  
3 comments on the Final EIR, and although we took it very  
4 seriously and went back and reviewed these issues, and in  
5 some respects thanked the Morongo Band for having, you  
6 know, brought these to our attention, there's no place in  
7 CEQA for this final set of comments.

8 In other words, there's no opportunity, at this  
9 point, for us to make additional changes to the EIR. Now,  
10 on our own, we went on and reviewed all of these issues,  
11 especially with the additional seismic safety review,  
12 improved the safety of the pipeline as a result of that  
13 input.

14 But we've been in contact with Morongos previous  
15 to that, especially because they had written a comment  
16 letter on the Draft EIR. And in that context, we are  
17 required by law to respond to their comments. And, in  
18 fact, the Final EIR point by point, responds to each of  
19 their comments. So both before and after, you know, we've  
20 been in contact with them. They've been interested, as I  
21 say right along, that's why it was a surprise to me to  
22 hear about these conflicting plans.

23 I don't doubt that that's true, but what I'm  
24 trying to say is we've been through this letter in  
25 attempting to respond to all of their issues, and that's

1 why we hadn't responded to the plan issue, it hadn't been  
2 identified.

3 COMMISSIONER BUSTAMANTE: But when you said you  
4 failed, what does that mean, you called them and --

5 EXECUTIVE OFFICER THAYER: That's right, we never  
6 received a response.

7 COMMISSIONER BUSTAMANTE: So you called them --

8 EXECUTIVE OFFICER THAYER: The last time we  
9 successfully --

10 COMMISSIONER BUSTAMANTE: -- once?

11 EXECUTIVE OFFICER THAYER: I don't know exactly  
12 the number, but the last time I know that we successfully  
13 commented or talked with them was the day after the last  
14 commission meeting, when they called up and said what  
15 happened at the Commission meeting. We told them what  
16 happened. We said we'd talk with them and then nothing  
17 else happened, they never got back to us.

18 CHAIRPERSON CONNELL: So you did have a direct  
19 conversation with them at that time?

20 EXECUTIVE OFFICER THAYER: The day after the  
21 Commission meeting.

22 CHAIRPERSON CONNELL: And they knew that it was  
23 scheduled.

24 ACTING COMMISSIONER PORINI: And you sent them a  
25 copy of the letter in response to their letter?

1 EXECUTIVE OFFICER THAYER: That did not go out --

2 ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: It was  
3 hand delivered by us.

4 EXECUTIVE OFFICER THAYER: Hand delivered, but  
5 not until last week because in some respects the final  
6 seismic issue was not resolved until we had our meeting  
7 with Mr. Sydnor from Mining and Geology this last Monday.

8 COMMISSIONER BUSTAMANTE: So this letter could  
9 be, in effect, an appropriate response from a council that  
10 hasn't had a chance to have a full review by their  
11 attorneys of what took place. You said it was hand  
12 delivered last week.

13 CHAIRPERSON CONNELL: No, but that was our letter  
14 to them.

15 EXECUTIVE OFFICER THAYER: That's right. In  
16 other words, the final EIR was already done. We then took  
17 their letter, which was, I guess you would call it, extra  
18 CEQA. There's not really an opportunity to make  
19 additional changes to the EIR once it was finalized. They  
20 sent us an additional letter. We, nonetheless, went back,  
21 in spite of the fact that's outside the CEQA process, we  
22 went back and reviewed all issues they raised, attempted  
23 to deal with them, and sent them a letter back. Not  
24 required by CEQA, but just to say okay here's what we did.  
25 We couldn't complete that letter until we'd taken our

1 final steps on Monday to do the additional mitigation with  
2 additional --

3 COMMISSIONER BUSTAMANTE: Right, so they didn't  
4 receive a response from you to their letter --

5 EXECUTIVE OFFICER THAYER: Until Tuesday.

6 COMMISSIONER BUSTAMANTE: -- until Tuesday.

7 ACTING COMMISSIONER PORINI: And the  
8 representative was nodding her head that the tribal  
9 attorney did, in fact, receive the hand-delivered letter.

10 MS. MATHRANI: I believe it was delivered to our  
11 tribal attorney on Tuesday.

12 EXECUTIVE OFFICER THAYER: Yes. I think we --  
13 yes, on Tuesday, that's right.

14 MS. MATHRANI: Of last week.

15 EXECUTIVE DIRECTOR THAYER: That's right.

16 CHAIRPERSON CONNELL: Well, couldn't he have  
17 responded in writing?

18 MS. MATHRANI: I'm sorry, I don't know.

19 CHAIRPERSON CONNELL: Who is your tribal  
20 attorney?

21 MS. MATHRANI: I think the attorney handling this  
22 matter is John Shordike.

23 EXECUTIVE OFFICER THAYER: That's who signed the  
24 comment letter we got in September.

25 COMMISSIONER BUSTAMANTE: This was the date, this

1 was on Tuesday.

2 EXECUTIVE OFFICER THAYER: Yes.

3 COMMISSIONER BUSTAMANTE: And then so between  
4 Thursday and Friday, when we had Thanksgiving, much like  
5 the Florida recount, and so we had a letter from the tribe  
6 that was confirmed somehow today probably through some  
7 kind of phone action among the tribal members on agreement  
8 of a particular letter that was then read after we  
9 received -- they received some kind of official response  
10 from us on their September letter.

11 EXECUTIVE OFFICER THAYER: That's right. And the  
12 three issues that I heard discussed are the same ones that  
13 the Chair was asking us to respond to. Two of them had  
14 been previously raised in the September 1st letter, the  
15 completeness of -- the deferral of the environmental  
16 sensitive habitat or endangered species questions and the  
17 seismic review.

18 ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: And the  
19 Corps.

20 EXECUTIVE OFFICER THAYER: And the Corps.

21 CHAIRPERSON CONNELL: Annette.

22 ACTING COMMISSIONER PORINI: I think maybe to  
23 help facilitate this, I'm going to make a motion that we  
24 approve staff's recommendation.

25 CHAIRPERSON CONNELL: I will second that.



1 Do you want to vote with the group?

2 COMMISSIONER BUSTAMANTE: (Commissoiner Bustamante  
3 shakes head.)

4 CHAIRPERSON CONNELL: Okay. We have a motion to  
5 approve the staff recommendation. It's been seconded.  
6 That motion passes two -- are you abstaining or voting no?

7 COMMISSIONER BUSTAMANTE: Abstaining.

8 CHAIRPERSON CONNELL: Two, zero.

9 That item has completed. We are now finished  
10 with Item 59. I believe this concludes the regular  
11 calendar. Are there any other speakers who wish to  
12 address this meeting at 6:15 at night before we go to  
13 closed door session.

14 Yes, if you could do so briefly, we'd appreciate  
15 it.

16 MS. DiMAGGIO: I promise not to keep you long.  
17 I'm Lisa DiMaggio. I don't know whether the Commissioners  
18 remember me from a meeting on February 8th, 2000, a very  
19 interesting meeting that was. It's not one I'll soon  
20 forget.

21 The reason I'm here today is to thank you, each  
22 one of you, for the insight that you showed us at that  
23 meeting to recognize the difference between passion and  
24 disparity of facts. I would also like to thank you for  
25 directing your staff to become integrally involved at, I

1 think you used the word higher level or more involved  
2 level.

3 I can tell you that Curt Fossum has had a  
4 workout, Alan Scott maybe even more of one. Because of  
5 their actions and their involvement and your engineers  
6 that came down to meet with us and look into the port  
7 things, this Commission was spared the proverbial bullet.  
8 Tomorrow on the Port District's agenda is going to be the  
9 recommendation of their staff to allow the lease that was  
10 proposed in front of you in February to die of its own  
11 accord and to initiate a new RFP process.

12 I'd like to call that a victory, but I can't. I  
13 am happy to say that the issues and concerns that we  
14 raised were serious enough and taken serious enough by  
15 this commission and by the staff, that I think the Port  
16 District has had to capitulate and concede that some of  
17 these just cannot be effects. You can't unkill a dead  
18 man.

19 With that said, I can't believe I said that on  
20 the record, I would ask that -- I'm sorry to ask for your  
21 help again, but I would ask this one thing. Tomorrow is  
22 going to be a very tense day for me in San Diego. There's  
23 a lot of people swallowing some bitter pills. I'm going  
24 to try to not make it more uncomfortable for them, but I  
25 do want to put on record that I am concerned about

1 retaliation, not for myself, but that because of the  
2 passion involved that the Commissioners and their staff  
3 may not be comfortable really sitting down and negotiating  
4 with us the terms that are favorable for all parties,  
5 that's number one.

6 And number two is, I think it was Ms. Porini who  
7 took a pretty hard stand on public process and wanted to  
8 be sure that we got notice properly and had meetings  
9 properly. That did not happen. From February 8th until  
10 now there has not been a single public meeting.

11 I have had the benefit of being called in by  
12 Dennis Bouey, the Director of the Port. I've met with his  
13 senior counsel, David Chapman. I have met with the risk,  
14 and finance and management. I've met with Maritime  
15 Services, General Services, you name it. But I don't  
16 consider a meeting with Lisa C. DiMaggio to be a public  
17 meeting. And CC Sayer was never invited to one either.

18 So the reason I'm bringing this up is if I could  
19 beg you to please just keep an eye on this as we go  
20 forward.

21 CHAIRPERSON CONNELL: Well, I appreciate this.  
22 We certainly sent a very clear message, I think. And I'm  
23 sure Ms. Porini would be happy to restate her message,  
24 which was one that had the unanimous support, I believe,  
25 of the entire commission. I think we all are dismayed.

1 Speaking for myself, and I'm sure Annette agrees, that our  
2 caution and our encouragement was not followed. I thought  
3 we were rather direct at that meeting.

4 MS. DiMAGGIO: I had a transcript and it didn't  
5 get more direct than that.

6 CHAIRPERSON CONNELL: I don't know, at this  
7 point, what we can do except to urge our staff to, again,  
8 communicate the very sincere concerns that we've stated on  
9 the record before. And if there needs to be a follow-up,  
10 may I suggest you do so with persuasion and continued  
11 support of the Commission to the members in San Diego.

12 EXECUTIVE OFFICER THAYER: I understand. In  
13 fact, what I would like to do is send each of the  
14 commissioners a copy of the letter that Mr. Fossum, Curtis  
15 Fossum, the gentleman that Lisa DiMaggio referenced, was  
16 sent to the port last, what, two weeks ago?

17 MS. DiMAGGIO: Last Wednesday, sir, November  
18 21st. I have a copy with me.

19 EXECUTIVE OFFICER THAYER: Which reiterated the  
20 same concerns that you all have expressed at the previous  
21 meeting on this and ask the port to look at all of these  
22 again, because we didn't --

23 CHAIRPERSON CONNELL: Well, maybe we need to  
24 revisit this issue.

25 EXECUTIVE OFFICER THAYER: Certainly.

1           CHAIRPERSON CONNELL: And perhaps you can speak  
2 to us at some later point about how we might do that,  
3 Paul, because I think the Commission feels that we try to  
4 operate with respect for our local ports and their  
5 independent authority. And yet we also like to believe  
6 that, you know, when a message is sent that the Commission  
7 is respected.

8           EXECUTIVE OFFICER THAYER: I think what --

9           CHAIRPERSON CONNELL: And I think that was a very  
10 strong, unanimous feeling. If I remember, the Lieutenant  
11 Governor spoke on the record as well about the importance  
12 of having an open process. And we'd like to believe that  
13 our words are viewed with at least some interest.

14          EXECUTIVE OFFICER THAYER: And I think, actually,  
15 Ms. DiMaggio's initial point that they're allowing these  
16 to lapse indicates that they're firmly aware of the  
17 Commission's concern, they understand it, unless they  
18 adhered to or addressed all the concerns they had, they  
19 weren't going to successfully bring it back to the  
20 Commission.

21          MS. DiMAGGIO: I might have to beg to differ with  
22 you on that, sir. I think that the reason why the Port  
23 District is pulling away from this now is reluctantly and  
24 bitterly. The phrasing of the letter from Curt Fossum --  
25 I mean SLC attorney to David Chapman, port attorney, was

1 basically here's the laundry list of the issues that were  
2 raised in February. Some of them are unresolvable, but I  
3 don't believe that that letter took a step to say what  
4 isn't resolvable.

5 And more importantly, a letter between one  
6 attorney to another attorney is not a public meeting. And  
7 the public deserves to know what has stopped this process,  
8 where we are and what can we do to fix it. And there are  
9 people in my camp, if you can call it that, that are  
10 absolutely willing and ready to sit down and find  
11 solutions.

12 CHAIRPERSON CONNELL: Well, I appreciate that  
13 now. I think we hear your concerns and we respect them,  
14 in fact, we share them, as you know, having stated them on  
15 the record before.

16 So what we need to do is get advice from our  
17 staff, perhaps, following this meeting as to what we might  
18 do to, again, indicate the Commission's position. We have  
19 already said we will communicate it verbally and in  
20 writing. We have already communicated it in writing, and  
21 we will continue to move the issue forward.

22 I do thank you for sitting through a very, very  
23 long and engaging meeting. We did not mean to delay you  
24 to 6:30 to have a chance to speak. If I had known that  
25 this was your issue, I certainly would have accommodated

1 you earlier. I apologize.

2 Are there any other public speakers who wish to  
3 join the Board, prior to my gaveling us to a close and  
4 asking that we move to closed-door session?

5 No? Then this meeting is adjourned and we will  
6 move to closed-door session.

7 Thank you.

8 (Thereupon the State Lands Commission meeting  
9 was adjourned at 6:30 p.m.)

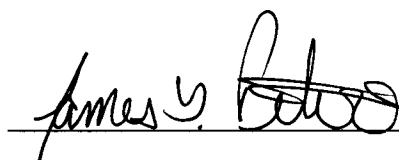
CERTIFICATE OF REPORTER

I, JAMES F. PETERS, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing California State Lands Commission hearing was reported in shorthand by me, James F. Peters, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of December, 2000.



JAMES F. PETERS, CSR, RPR

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