

MEETING
STATE OF CALIFORNIA
LANDS COMMISSION

RADISSON HOTEL AT LOS ANGELES AIRPORT
BALLROOM E&F, 2ND FLOOR
6225 WEST CENTURY BOULEVARD
LOS ANGELES, CALIFORNIA

TUESDAY, APRIL 9, 2002
9:30 A.M.

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

COPY

APPEARANCES

COMMISSIONERS

Kathleen Connell, Chairperson

Cruz Bustamante, Lieutenant Governor

B. Timothy Gage, Director of Finance, represented by
Annette Porini

STAFF

Paul Thayer, Executive Officer

Jack Rump, Chief Counsel

Alan Scott

Greg Scott

ALSO PRESENT

Alan Hager, Deputy Attorney General

INDEX

	<u>PAGE</u>
Call to Order	1
Approval of minutes	2
Executive Officer's Report	3
Consent Calendar C1-46, C48-55, C57-62	17
Regular Calendar	
Item 63	17
Item 64	25
Craig Moyer	43
Item C56	48
Item 65	52
Janice Hahn	73
Andrew Mardesich	77
Larry Calemine	89
David Mathewson	98
R.D. Kleist	103
Janet Gunter	106
Timothy Parker	111
Dennis Dyer	112
Jo Ann Wysocki	116
Nicholas Tonsich	119
Michael Podue	124
Dennis Hagner	126
Frank Fasullo	127
Molly Squire	130
Dan Miller	135
Frederick Markin	138
Xavier Hermosilo	140
Public Comment	157
Adjournment	162
Reporter's Certificate	163

1 interests there get out -- which is get out of oil that
2 loves to come visit with us in Santa Barbara. We have
3 another group that's very engaged with us in northern
4 California, then we try to accommodate those interests.
5 And that's why I scheduled this meeting here today,
6 because of the nature of the matter on the agenda today.

7 If you wish to address the Board -- and we
8 encourage you to do so -- it's necessary for you to fill
9 out a speaker form. And those speakers' forms are
10 available for you at the back of the room. And just
11 indicate your name, your entity if you are representing an
12 organization or yourself, and the matter in which you wish
13 to speak.

14 Let me now move to the agenda, if I can. And the
15 first matter before us today is the adoption of the
16 minutes from the Commission's last meeting.

17 May I have a motion to approve the minutes?

18 COMMISSIONER BUSTAMANTE: Move.

19 ACTING COMMISSIONER PORINI: Second.

20 CHAIRPERSON CONNELL: The matter's been
21 unanimously adopted.

22 The next order of business I believe is the
23 Executive Officer's report.

24 And, Mr. Thayer, may we have that report.

25 EXECUTIVE OFFICER THAYER: Good morning, Madam

1 Chair, Members of the Commission. I just have three items
2 to discuss this morning.

3 First, the Commission last year approved
4 expenditure of funds by the Port of San Diego to acquire a
5 parking lot, which the primary purpose was to serve the
6 convention center in San Diego; and use was for the new
7 Padres baseball stadium. The Commission in making its
8 approval imposed a number of conditions that it felt were
9 necessary to be met before its approval to be finalized,
10 and required your staff to ensure that those conditions
11 were met and by letter notify the port when they had been
12 met, and finally to notify you, the Commission, at its
13 next meeting when those conditions have been met. And I'd
14 like to make that announcement today.

15 Staff has worked extensively with the Port of San
16 Diego to ensure that the Commission adopting those
17 conditions were carried out.

18 Generally, those conditions ensure that the
19 parking lot is used primarily for the convention center
20 and not for the Padres Stadium and that the price of the
21 property was appropriate in light of the appraisals that
22 the staff had done. They included things like there being
23 no deed restriction to limit the value of the property, no
24 restriction of the parking by convention goers in favor of
25 Padres fans, and the port was to receive appropriate

1 parking revenues.

2 I can tell you that they've met all those
3 conditions and are sent a letter. And that draws to a
4 conclusion this matter with respect to the Commission.

5 CHAIRPERSON CONNELL: So all of the individuals
6 who expressed concern at our last meeting, have their
7 concerns been addressed, you feel, fairly?

8 EXECUTIVE OFFICER THAYER: I believe that the
9 issues have been met, but it would be wrong to say that
10 they're all satisfied. There are one or two individuals
11 who still do not think the parking lot should have been
12 acquired. But I think in terms of the public policy
13 issues, which were extensively vetted by the Commission
14 before it made its approval, in particular making sure
15 that the property was priced at the market rate and that
16 the port was not paying more money than it should to the
17 city, as well as ensuring that the port's representation
18 that the primary purpose of this parking lot was for the
19 convention center was going to be carried out. And those
20 public policy goals we believe have been met.

21 CHAIRPERSON CONNELL: Thank you.

22 Are there any questions by the Members of the
23 Commission?

24 ACTING COMMISSIONER PORINI: No.

25 CHAIRPERSON CONNELL: Fine. Then the next order

1 of business I believe -- did you have something else?

2 EXECUTIVE OFFICER THAYER: Two more items, if I
3 may.

4 The next item: Several years ago in 1999 the
5 Commission approved decommissioning at Belmont Island, and
6 there was some controversy over that. But I'm here to
7 report that project has now been successfully completed.
8 Belmont Island was an off-shore oil production facility
9 located on a caisson in shallow water. Abandonment
10 required removal of the caisson and all the ruffraff that
11 had been placed around it. That's all been completed. It
12 took about 25 months. There were no injuries or
13 environmental damage that occurred during that. And the
14 work was completed in January of this year.

15 I bring this to the attention of the Commission,
16 because sometimes we'll take action on some project, then
17 you never hear how it turns out. And this one is very
18 important, especially given the fact that we'll be dealing
19 with other abandonments and are right now with the shell
20 mounds issue in Santa Barbara. So I wanted to let you
21 know that that's been completed and that the site has been
22 restored to a natural condition.

23 CHAIRPERSON CONNELL: Now, did we have any
24 surprises in doing that? You know, this is kind of a
25 virgin experience for us, as I recall, and it therefore

1 becomes a paradigm for how we might approach this in other
2 coastal areas of California. And as you indicate, Paul,
3 we have other areas right before this Board now where this
4 is going to be a current issue. What did we learn that
5 was of surprise or what can we tell us in greater detail
6 on this? Because this was a whole new journey for us as a
7 Commission.

8 EXECUTIVE OFFICER THAYER: That's right. And
9 there are members of our Mineral Resources Management
10 Division here who can provide more detail if necessary.

11 But I can say that the overall project took
12 longer than we expected, because, in fact, as the
13 individual wells were removed and cutoff, it was sometimes
14 found that additional work needed to be done. I think
15 it's like any other project where the initial construction
16 occurred years ago that sometimes you don't know what
17 you're going to find when you start to open it up that
18 there were -- that there was additional work and
19 additional safety precautions that had to be taken.

20 I think the primary thing that we learned is
21 probably similar to what we're learning with shell mounds
22 in that things aren't always what you expected them to be.
23 We did not think the shell mounds for example, would hang
24 up the fishing nets when they were trawled after the
25 platforms were removed.

1 The expectation was that these fishing nets were
2 going to be able to pass over the shell mounds. And it's
3 because they couldn't that the Commission is still faced
4 with issues to resolve there. At Belmont there were
5 issues like this, but none of them have as much
6 consequence as the shell mounds. We didn't have to come
7 back to the Commission for approvals.

8 CHAIRPERSON CONNELL: Are there any questions of
9 -- any questions, Mr. Bustamante?

10 COMMISSIONER BUSTAMANTE: Were there any other
11 kinds of toxins that were found, any drilled muds that had
12 any kind of toxins of any kind that were found there that
13 we had to take special effort to clean?

14 EXECUTIVE OFFICER THAYER: I'm not sure, and I'd
15 want to get a complete answer. So Greg Scott might want
16 to respond to that.

17 CHAIRPERSON CONNELL: Yes, if you could identify
18 yourself for the public.

19 MR. SCOTT: Yes, I'm Greg Scott with the State
20 Lands staff.

21 Paul did characterize the activity of the Belmont
22 Island removal quite clearly. One thing we did learn,
23 just to add to what Paul said, what else did we learn, we
24 learned that we didn't know as much about Belmont Island
25 as we thought we did and that it was built a lot stronger

1 back in the fifties more than it probably would have been
2 built today.

3 It took approximately 24 months to remove the
4 island. Exxon --

5 CHAIRPERSON CONNELL: How did they build the
6 island? How deep down was it? What did we find out? I
7 remember we had -- we had respective -- obviously, it
8 wasn't correct. It was obviously tougher to remove than
9 we thought it was going to be.

10 MR. SCOTT: The island was built with tons and
11 tons of concrete. It was a situation on a large bed of
12 gravel surrounded by a metal caisson. But at the pond end
13 they built huge pillars that were capped with large blocks
14 of concrete, and on the concrete were situated the -- all
15 of the operational and drill facilities. But as far as
16 the removal activity, Exxon had to implement a
17 considerable amount of ingenuity and basically create a
18 removal program for this island, which there was no other
19 activity like this anywhere else, as far as we know, in
20 the world,

21 But they -- and the State staff also participated
22 in providing some of the input as far as how some of this
23 should be done. But it was a very interesting project.
24 We all had a chance to put in our two cents worth to see
25 how we should be able to do things quickly and safely.

1 I will say that there were no safety incidents
2 reported during the entire two-year project; there were no
3 pollution incidents also during this time. I feel we
4 should commend Exxon on the excellent work they've done in
5 actually removing the island.

6 To address Commissioner Bustamante's question
7 regarding toxins that may have been found: There were
8 actually none. We had anticipated in the gravel bed below
9 the concrete surface of the structure that there may have
10 been some residual oil that could have leaked through some
11 of the older drilling operations, any contamination from
12 drilling mud. We did not see any of that. All of the
13 bedding and earth that was removed from the interior of
14 the caisson was cleaned before it was removed to a
15 disposal site. But there were no toxins of any
16 significant degree at all.

17 COMMISSIONER BUSTAMANTE: I'd like to also ask
18 staff to set up a time so that I can go and see the area
19 which was removed as well as to show the one that is
20 currently in existence, so I can see the difference
21 between the two.

22 EXECUTIVE OFFICER THAYER: Certainly.

23 CHAIRPERSON CONNELL: Well, don't we have one in
24 existence in Ventura County, Santa Barbara county?

25 EXECUTIVE OFFICER THAYER: Rincon is -- actually

1 this particular facility at Belmont is sort of a cross
2 between an island and a platform. And one time I think it
3 existed as a platform and then it was destroyed and became
4 a --

5 MR. SCOTT: Right. Belmont was -- exactly. It
6 was a combination of an island with a concrete platform
7 built on top of it. Rincon Island is strictly an island
8 built from rock from a sea floor up to the surface. So
9 there's no actual structural-member-type of infrastructure
10 on that island at all. It's strictly a rock with an
11 asphalt surface to it, and that would have to come out
12 piece by piece.

13 EXECUTIVE OFFICER THAYER: So there's not really
14 anything like Belmont right now that's left in --

15 MR. SCOTT: No, Belmont was really a unique
16 structure on its own in the State of California certainly.
17 And we have -- like I say, we have not seen anything like
18 that anywhere else in the world. So it was a very unique
19 project.

20 CHAIRPERSON CONNELL: I would like you to
21 consider putting this on our web site. You know, I have
22 been a big advocate over the years of using our web site
23 as a way of educating our children. You know, it is a
24 requirement in 6th grade in California schools to study
25 marine science. And seeing as how we have less and less

1 dollars to offer our schools as the state comes into
2 economic -- under economic pressure, it would be great if
3 we could augment the classroom resources, since I have a
4 son in 6th grade and I'm particularly sensitive to this.
5 And they do draw down, Paul, on our web site. And all 6th
6 graders in California make an attempt in southern
7 California to go to Camp Simi, you know, which is in
8 Catalina, and they use the materials from the Lands
9 Commission web site at Camp Simi to augment their
10 classroom experience. It would be great if you could do a
11 visual presentation directed at that age level, middle
12 school, because that's when they study marine science.
13 That would explain how Belmont Island was initially
14 created and how we were able to deconstruct it. As some
15 of the issues we have just discussed now, I think you know
16 teachers would find it as an interesting opportunity for
17 students to explore.

18 MR. SCOTT: We can certainly do that. We have
19 thousands upon thousands of photographs, videotapes, a
20 variety of old drawings that were constructed for Belmont
21 Island. I think we could put something together that
22 would be very educational and interesting to look at and
23 informative for a variety of ages.

24 COMMISSIONER BUSTAMANTE: Something that shows
25 the ocean floor.

1 MR. SCOTT: The only thing we have showing the
2 ocean floor that I have seen is the final survey that was
3 done showing that all of the sea floor debris was removed
4 and that is not in photographic form. That is in a, you
5 might say, a sonar-type form; a little bit difficult to
6 understand, but I think we can put together something that
7 would show what the sea floor does look like now that most
8 people would be able to recognize.

9 COMMISSIONER BUSTAMANTE: Okay. I'd like to see
10 that.

11 CHAIRPERSON CONNELL: Do you have any other
12 comments?

13 COMMISSIONER BUSTAMANTE: No.

14 CHAIRPERSON CONNELL: Annette?

15 EXECUTIVE OFFICER THAYER: The final item I
16 wanted to bring you --

17 CHAIRPERSON CONNELL: Thank you.

18 EXECUTIVE OFFICER THAYER: -- bring to the
19 Commission's attention is, in fact, associated with our
20 web site, that we're proud to announce that for the first
21 time at this meeting our agenda has hyperlinks to every
22 staff report that's been prepared for this agenda. So
23 even on consent calendar items, if you go on to our web
24 site, there's that blue color that if you click on that,
25 you'll go to the staff reports that are contained within

1 the binders that the Commissioners have. And so this is
2 the first time that we've been able to make that
3 information available widely now to the public in
4 electronic form. And I think although there are several
5 other agencies that have done the same thing, I think the
6 State Water Resources Control Board has that.

7 When I reviewed web sites for different resources
8 agencies and departments, I think we're among the first to
9 do that. So staff spent quite some time since the
10 Commission asked that we look into doing that, and there
11 still are some glitches associated with it. I'm sure
12 there will be times it won't come up quite the way it
13 should, but we're very proud of that.

14 CHAIRPERSON CONNELL: Well, I want to thank you.
15 I know Annette wants to comment on this as well, having
16 the experience of sitting on 57 boards. And Annette and I
17 share membership on many of these boards. I think this is
18 the only board that I sit on -- in fact, I know it's the
19 only board, because we're struggling to do this on the
20 retirement boards now. And, of course, we have a more
21 complex and, you know, lengthy calendar on the retirement
22 boards. They go for three and four days on the tax boards
23 a week.

24 But we are trying to model ourselves after what
25 the Lands Commission has done. So I wanted to

1 congratulate you for doing that. And I would also like
2 you to put on that web site, having recently visited it,
3 an interactive component. I would like you to ask people
4 who visit the web site what we can do to further assist
5 them and what other information linkages would be helpful
6 to them. I think this would be particularly helpful for
7 members of the public who have an interest in pursuing a
8 matter as it extends -- you know, some of our matters
9 extend into the future, as you know, and set a policy that
10 impacts other coastal areas of California.

11 I think this would be helpful as well for some of
12 our educational relationships in the state. They can give
13 you some feedback as to how they're using the site.

14 EXECUTIVE OFFICER THAYER: Good point. We'll
15 make that happen.

16 ACTING COMMISSIONER PORINI: That was kind of the
17 direction I was going in. I wanted to see if we have an
18 ability to track the number of hits we have on our web
19 site. If it's not extensively used, see what we can do to
20 make folks aware of the fact that we have that resource
21 available to them.

22 EXECUTIVE OFFICER THAYER: Certainly.

23 CHAIRPERSON CONNELL: Can you track the number of
24 hits? You should be able to do that. We can do that on
25 the Controller's web sites.

1 EXECUTIVE OFFICER THAYER: I think so, yes.

2 CHAIRPERSON CONNELL: It should be an automatic
3 hit. I mean you should be able to actually at the end of
4 the day not only whether the person has used your web, but
5 which features on the web site they've used, how long
6 they've stayed on your web page and, importantly, whether
7 they came to your web site page directly from the outside
8 or whether they visited it through a cross reference, a
9 linkage from another state web site. All of that
10 information should be immediately available to you.

11 EXECUTIVE OFFICER THAYER: I agree. I've seen
12 that technology, of course, on the other sites. And we'll
13 look into getting that.

14 CHAIRPERSON CONNELL: If it doesn't, call my I.T.
15 officer because we have that kind of report system.

16 EXECUTIVE OFFICER THAYER: Certainly.

17 CHAIRPERSON CONNELL: All right. Mr. Thayer, I
18 would now like move to the discussion of the consent
19 calendar. For members of the public, we divide our
20 discussion into a consent calendar, which hopefully will
21 include most major items before us today; and then those
22 items which individual members wish to call separately.

23 Mr. Thayer.

24 EXECUTIVE OFFICER THAYER: There are two items
25 that should probably be removed from the consent calendar.

1 Item 47 is not yet ready for Commission decision, and
2 we'll bring it back in a subsequent meeting.

3 CHAIRPERSON CONNELL: Could you tell the public
4 what that number is -- I mean what this matter is?

5 EXECUTIVE OFFICER THAYER: That matter has to do
6 with up here at Tahoe. And the name of it is the Lake
7 House Mall property.

8 And then the second item for removal was one that
9 I believe that the Controller was interested in, C56, and
10 that this was the one that authorized the staff to start
11 the EIR process for expanded production from Rincon
12 Island.

13 CHAIRPERSON CONNELL: Yes. I would like to move
14 that to the discussion calendar, Mr Thayer.

15 EXECUTIVE OFFICER THAYER: Certainly. And it's
16 my understanding --

17 CHAIRPERSON CONNELL: Item C56.

18 EXECUTIVE OFFICER THAYER: -- you'd like to
19 discuss that --

20 CHAIRPERSON CONNELL: -- discuss that before we
21 take action on some of the concerns that I had on that
22 matter.

23 EXECUTIVE OFFICER THAYER: And we could fold into
24 that discussion with Item 64, which was a staff
25 presentation --

1 CHAIRPERSON CONNELL: Right, just link those two
2 together.

3 EXECUTIVE OFFICER THAYER: And those are the only
4 items to be removed that I know.

5 CHAIRPERSON CONNELL: All right. Well then --

6 ACTING COMMISSIONER PORINI: I move the consent
7 calendar, noting that items 47 and 56 are have been
8 removed.

9 CHAIRPERSON CONNELL: Thank you.

10 COMMISSIONER BUSTAMANTE: Second.

11 CHAIRPERSON CONNELL: It's been moved and
12 seconded.

13 Is there anyone in the audience today that wishes
14 to speak on a matter on the consent calendar before I call
15 for a vote on that consent calendar?

16 All right. Not hearing anyone who wishes to
17 speak on the consent calendar, that will be unanimously
18 approved.

19 We are now going to move then to the regular
20 calendar, and I believe -- Mr. Thayer, did you want to
21 move to Item 63 first?

22 EXECUTIVE OFFICER THAYER: Certainly. Madam
23 Chair, Members of the Commission, Item 63 has to do with
24 the adoption of the Environmental Justice Policy by the
25 Commission. At the last meeting the Commission requested

1 staff to prepare an Environmental Justice Policy for the
2 State Lands Commission to use in its decision making. As
3 you are aware, the legislature has enacted specific
4 provisions on environmental justice that call for the fair
5 treatment of people of all races, cultures, and incomes
6 with respect to the development, adoption, implementation,
7 and enforcement of environmental laws, regulations, and
8 policies. That's the quote from the definition of
9 environmental justice that's in the statute.

10 The Office of Planning & Research is the
11 coordinating agency for the State for environmental
12 justice programs and is currently working with help
13 agencies to develop these policies. While the State Lands
14 Commission is not legislatively mandated to develop such a
15 policy, the clear trends among state agencies is to
16 establish a policy that can develop and mature with
17 experience.

18 Our goal has been to develop an Environmental
19 Justice Policy that is fully integrated into the full
20 range of Commission activities from day-to-day small
21 decisions and interactions with the public to major
22 decisions affecting the lives of the entire communities.
23 Such a policy must recognize the cultural diversity of
24 California's growing and changing population.

25 As we investigated what other agencies were

1 doing, it became clear that while there are some aspects
2 of the Environmental Justice Policy we could implement
3 now, a more comprehensive policy must reflect public
4 participation and collaboration. Posing a policy now
5 without public input from varied groups for environmental
6 justice that's going to be served would be fundamentally
7 unfair.

8 Therefore, we're submitting a two-pronged
9 proposal for your consideration. First, we have developed
10 a brief policy statement for you today containing many of
11 the core principles of an Environmental Justice Policy and
12 is similar to some of the ones that the Office of Planning
13 & Research have been working on. This can serve as an
14 interim policy until a more comprehensive policy is
15 developed.

16 And, therefore, secondly, we propose to develop a
17 specific plan for public participation, collaboration in
18 the context of a more comprehensive Environmental Justice
19 Policy. We would bring that policy back to you in about
20 six months. Implementing this kind of policy is going to
21 be time consuming and challenging, and force us to think
22 about difficult issues which there are no ready answers.
23 It would, however, ensure that the policy ultimately
24 developed would be far better than anything we could
25 create from within. We need to go outside staff to craft

1 the best policy.

2 More importantly, a comprehensive Environmental
3 Justice Policy would help the Commission make better, more
4 informed decisions than they have an impact on the
5 environment we have now.

6 So, in short, we have an interim policy for your
7 consideration today which we think reflects the laws that
8 exist today, requires us to do a better job of going out
9 and involving communities that may have traditionally been
10 foreclosed from the public process. And then six months
11 or so down the road, we intend to bring back a more
12 comprehensive one that will reflect other things we can
13 do.

14 CHAIRPERSON CONNELL: Well, I would like to deal
15 with when we are going to bring that back. I would like a
16 time certain, with Paul having worked with us. And so I
17 would like to have more than six months or so. I'd like
18 to have a definite date.

19 Could we have that policy before this Commission
20 in November, do you think?

21 EXECUTIVE OFFICER THAYER: Certainly.

22 CHAIRPERSON CONNELL: I think it would be
23 helpful.

24 EXECUTIVE OFFICER THAYER: Just because we're not
25 sure when these dates -- would it be okay to say by the

1 end of the year?

2 CHAIRPERSON CONNELL: Yes, certainly.

3 Now, I'd like to just advise the members of the
4 public who don't have the advantage perhaps of having seen
5 what is included in our Environmental Justice Policy, we
6 are looking at four categories which I think are very
7 important, and I think the Commission, as a group,
8 believed are intrinsic to any effort as we move forward.

9 The first is to identify population groups that
10 otherwise would not be immediately defined as having been
11 impacted by environmental issues. It's always easy as we
12 do discussions before this Board to identify the
13 environmental groups. They come forward. The Sierra Club
14 comes forward. Various other groups come forward.
15 Sometimes it's hard for us to know or to actively identify
16 those other groups.

17 They may be individuals. They may be residents.
18 They may be small businesses in an area. They may be
19 fisheries in an area. They may be offshore individuals.
20 They may be foreign interests that have an impact as the
21 result of an action by the Board. So we're going to reach
22 out to new groups that might be impacted by our policy,
23 which I think is very, very important.

24 A second concern dealt with, of course, the whole
25 issue of public information, how we distribute our public

1 information. We're now doing that in multiple languages,
2 which I think is very important given the California
3 population and it's demographic.

4 The third is really trying to encourage that
5 people come forward to these boards and these commissions.
6 And we're doing that obviously by having meetings
7 throughout the state, which is an effort to reach out to
8 various community groups and ensure that all of you will
9 have a chance for public involvement and comment in our
10 meetings.

11 And then I think the fourth, and probably equally
12 important from the viewpoint of the Commission, is making
13 sure that we look at the way -- long-term impact of our
14 decisions and how it's going to impact the future
15 generations of Californians, because obviously environment
16 is an important legacy in California. It's one of the key
17 components that defines who we are as Californians.

18 And so that's basically the four core elements of
19 the Environmental Justice Policy. And as we begin to put
20 more meat on the bones, we actually have ten environmental
21 statements here before us today. We encourage all of you
22 who have any interest in this matter to go on our web
23 site, communicate with us and help us further enrich what
24 we will have as the Environmental Justice Policy.

25 For those of you who may think this is rhetoric,

1 it is not rhetoric to this Board. We feel very strongly
2 as we get into the issues before this Board that we should
3 be attentive to the needs of the individual communities,
4 and we deal with communities as diverse as oil companies
5 and their boards of directors to individual fishermen who
6 are impacted by decisions of this Commission.

7 So that just kind of rounds out that discussion.

8 Do you have anything to say, anything on that,
9 Annette?

10 ACTING COMMISSIONER PORINI: I do. I appreciate
11 the work that the staff has done. You brought this policy
12 back to us quickly. I do have a request for one amendment
13 to the document --

14 CHAIRPERSON CONNELL: Is Ms. Porini's microphone
15 on? Does it have amplification? I'm afraid we don't have
16 amplification on that mic.

17 Could we check the -- here, why don't you use
18 mine.

19 ACTING COMMISSIONER PORINI: All right, thank
20 you.

21 I just wanted to thank the staff for their quick
22 work and ask for one amendment to the policy that we have
23 before us. And that amendment is on Item 9 where staff
24 talks about providing appropriate training. I think that
25 Members of the Commission should be included in that

1 training. The area of environmental justice is an
2 evolving area. Most state agencies are beginning to get
3 involved with their own policies. And I just think it
4 would be appropriate for staff to provide this same
5 training to us.

6 Thank you.

7 CHAIRPERSON CONNELL: Thank you. We'll note that
8 amendment. Paul, you've received that input?

9 EXECUTIVE OFFICER THAYER: Yes.

10 CHAIRPERSON CONNELL: Mr. Bustamante, did you
11 have anything you wanted to add on this matter?

12 COMMISSIONER BUSTAMANTE: No, I think the whole
13 issue is going to be regarding outreach efforts. And so I
14 think it's a good beginning and we're going to -- I was
15 hoping that we could get something well before the
16 beginning of the year. What's our next meeting scheduled
17 for?

18 EXECUTIVE OFFICER THAYER: We're attempting to
19 set one in June. And we would probably hold one in
20 September after that.

21 COMMISSIONER BUSTAMANTE: I would like to see
22 something in September, frankly. I think that should give
23 us plenty of time, unless you feel that that's not --

24 CHAIRPERSON CONNELL: No, I'm eager to do this,
25 obviously. And the sooner that we're able to do that, I

1 certainly -- unless staff expresses any reason we cannot
2 conclude it by September, I'd be willing to push forward.

3 EXECUTIVE OFFICER THAYER: We'll do our best to
4 comply. And if there's some problem, we'll get back to
5 you.

6 CHAIRPERSON CONNELL: Great.

7 COMMISSIONER BUSTAMANTE: Okay. I there's
8 nothing more, I think I'd like to make the motion to
9 accept the staff recommendations.

10 ACTING COMMISSIONER PORINI: Second.

11 CHAIRPERSON CONNELL: That has been unanimously
12 accepted. Thank you.

13 Now, we're on Item Number 64. Item Number 64 is
14 a review of the operation of Rincon Oil Field, which I
15 asked it to be put off the regular calendar. For members
16 of the audience, you should know that we directed our
17 staff to do further research and report back to us on
18 Rincon Island and some of the environmental concerns that
19 we had in that regard.

20 Mr. Thayer, how do you wish to proceed with this
21 staff presentation?

22 EXECUTIVE OFFICER THAYER: Madam Chair, Greg
23 Scott from the Commission's Mineral Resources Management
24 Division will make the presentation on this item.

25 CHAIRPERSON CONNELL: And I'd like to just point

1 out, we do have a member of the public who wishes to
2 speak. If anyone else wishes to engage the Commission
3 from the public, please sign a speaker form.

4 Mr. Scott.

5 MR. SCOTT: Thank you.

6 Good morning, Madam Chair and Honorable
7 Commissioners. My name is Greg Scott, and I'm the
8 Assistant Division Chief for the State Lands Mineral
9 Resources Management Division in Long Beach.

10 As Paul Thayer had mentioned, at its last meeting
11 the Commission directed staff to present an informational
12 item on the status of Rincon oil leases. And in response
13 to that, I'm making a short, approximately 10-minute,
14 presentation this morning on the Rincon leases, the
15 present management, the involvement of Compass Bank and
16 the bank's progress in securing an oil company to take
17 over the leases.

18 --o0o--

19 This is a location map showing the five offshore
20 Rincon oil leases. They are located in the coastal waters
21 offshore of Ventura County, approximately midway between
22 the city of Ventura and Santa Barbara.

23 The largest lease is PRC 1466, otherwise known as
24 the Rincon Island lease, shown here. And there are only
25 three active producing leases at this time. That's PRC

1 1466, PRC 145 and PRC 410.

2 The wells on the other two leases, PRC 427
3 and 429, have ceased to produce, and they have since been
4 abandoned. And the offshore wooden piers --

5 CHAIRPERSON CONNELL: Can you go through that
6 again? Which ones?

7 MR. SCOTT: Yes. PRC's 1466, 145 and 410 are
8 presently producing.

9 And I can barely -- if you can see those with the
10 pointer, that's the large Rincon Island lease, 1466 and
11 410.

12 The 410 --

13 CHAIRPERSON CONNELL: They are producing?

14 MR. SCOTT: I'm sorry?

15 CHAIRPERSON CONNELL: They're the producing ones?

16 MR. SCOTT: They are producing, yes.

17 And the other two that you can see on the screen
18 and in your copy are 429 and 427, those ceased to produce
19 back in the early 1990s, and the wells have been
20 abandoned.

21 COMMISSIONER BUSTAMANTE: Do we have quit claims?

22 EXECUTIVE OFFICER THAYER: No, we don't at this
23 point.

24 MR. SCOTT: No, we don't, not at this time.

25 COMMISSIONER BUSTAMANTE: Are we pursuing them?

1 MR. SCOTT: Well, during the removal of the
2 wooden piers that those wells were producing from some of
3 the caisson remnants still remain on the sea floor. And
4 the Department of Fish and Game has been studying that to
5 determine if they should be removed completely, or if
6 there would be no significant affects to leaving them
7 there. Based on their ruling, we will move ahead and
8 discuss with our management whether we should go ahead and
9 pursue quit claim of those two leases.

10 EXECUTIVE OFFICER THAYER: And, again, our
11 general philosophy is that we don't want to quit claim
12 until we finish whatever work needs to be done to clean up
13 on the previous operations.

14 --o0o--

15 MR. SCOTT: This is an aerial photo showing
16 Rincon Island and the causeway that services the island
17 from shore. And you can see in the foreground -- the
18 lighting is not that clear now, but those white
19 interlocking blocks are called tetrapods. And those were
20 placed in front of the island to protect it from any
21 winter storm activity.

22 --o0o--

23 MR. SCOTT: The next slide is a chronology of the
24 offshore lease and history.

25 The first lease was issued in 1929 when oil

1 development was conducted from wooden piers.

2 Leasing continued through 1955 when the last
3 lease -- Rincon Island lease was issued to ARCO. They
4 built the island and continued development of the field.

5 And then from 1981 through 1995 the leases were
6 reassigned a number of times when in 1995 they were
7 assigned to the current lessee, Rincon Island Limited
8 Partnership, where I will refer to them as RILP. And they
9 are the present major lessee for the leases and are the
10 current operator of record.

11 --o0o--

12 MR SCOTT: This slide addresses the
13 Commissioner's questions regarding company ownership.

14 Rincon Island Limited Partnership was formed in
15 1995 with Windsor Energy US as its managing general
16 partner. Compass Bank became the principal predator of
17 both Windsor US and RILP in 1998. Later that year, both
18 companies filed Chapter 11 bankruptcy as a result of
19 declining oil prices and other financial burdens. And
20 then last year, 2001, Compass Bank foreclosed on the stock
21 of both companies, and as a result acquired indirect
22 control of the operation -- of RILP, I should say.

23 --o0o--

24 MR. SCOTT: This slide is to give you a sense of
25 the competency of the staff existing working Rincon Island

1 leases. They have a total of six full-time employees,
2 including technical staff and field staff. They hire
3 consultants and contractors to support their engineering
4 activity as well as any field labor. And in addition,
5 Compass Bank has recently retained the services of
6 Schlumberger.

7 And you may know that Schlumberger is probably
8 the largest international oil servicing firm in the world
9 that conducts well investigations and engineering. They
10 have retained one of their engineers to work in the
11 capacity of operations manager. And Compass Bank itself
12 does have a controlling engineer on staff in Houston.

13 COMMISSIONER BUSTAMANTE: How long has it been in
14 this interim process?

15 MR. SCOTT: I'm sorry, sir?

16 COMMISSIONER BUSTAMANTE: How long has it been in
17 this interim process since the bankruptcy and the bank --

18 MR. SCOTT: The bankruptcy occurred in 1998
19 and --

20 COMMISSIONER BUSTAMANTE: Have we done any
21 performance audits to find out if this operation is going
22 properly?

23 MR. SCOTT: Yes, as far as performance --
24 financial audits or operations?

25 COMMISSIONER BUSTAMANTE: No, the operations.

1 MR. SCOTT: Operation audits. At the last
2 meeting, staff presented to the Commission the operations
3 audit that was performed on Rincon Island.

4 CHAIRPERSON CONNELL: I requested that in 1999, I
5 think, or 2000.

6 MR. SCOTT: In February 2001 we conducted a full
7 facility audit on Rincon Island that was a full
8 comprehensive audit. We looked at the entire island, all
9 of the operational facilities, the function, the design of
10 everything on the island. And I believe -- and perhaps
11 you may not recall, but we had identified over 400
12 deficiencies as a result of the audit. To date, Rincon
13 Island staff has corrected all but 17. And we expect --

14 CHAIRPERSON CONNELL: Actually, you know, it's
15 been very impressive progress. And, you know, I want to
16 have more staff of Rincon Island.

17 By the way, for the public's knowledge -- well,
18 although the bankruptcy occurred almost four years ago
19 now -- or I guess about four years ago -- and I'm sure
20 somebody from the company can alert us to the actual date
21 details. At the time of the bankruptcy, my concern, and I
22 think Annette's concern, both sat on the Board at that
23 time -- was that we were going to have a passage of an oil
24 facility into the hands of the bank. And no offense to
25 Compass Bank, but this is not the natural operator of an

1 active oil field, and so we were very uncomfortable.

2 Having worked as an investment banker, I don't
3 really think financial people are necessarily the best
4 operators of oil facilities. And so we asked, at that
5 point, that we keep on top of it.

6 Our concerns were, I think, escalated over the
7 period of the years that transpired. And then I requested
8 in 2000 an audit of Rincon Island from an operating
9 facility viewpoint. That audit was completed in 2001.
10 And we did find this large number, 400 deficiencies that
11 were really operating at that point -- or existing at that
12 point.

13 And that's a commanding number of problems to
14 have in an oil facility operation. And obviously any one
15 of them could cause a leakage of oil into our ocean and
16 therefore pollute not only the waters off the California
17 coast but obviously the coast line, which is of great
18 concern to us, particularly in an area as sensitive as
19 Ventura County, which has already been scarred by this
20 experience years ago.

21 And so I really want to commend the fact that the
22 audit was so detailed and that we've been so demanding in
23 correcting all but 17. But let's talk about where those
24 17 are. That's why I wanted to call this issue off the
25 consent calendar, because I want to make sure that we do

1 not lose our intense focus.

2 I mean, I really think of ourselves, Mr. Thayer,
3 as a shadow operator here, given the fact that this asset
4 is still in limbo -- using a Catholic analogy here -- and
5 we want to make sure it goes to heaven when it is finally
6 transferred and not in the other direction. And so I
7 really would want to make sure that every one of these
8 deficiencies, which we've now been astute in defining, is
9 resolved. And if it can't be resolved, I want to know why
10 it can't be resolved. I don't want to have any lingering
11 issues out there that could result in an oil leakage in
12 this valuable piece of property.

13 So, Greg, maybe you can tell us why -- I mean
14 it's wonderful that so many have been corrected. What are
15 the 17 that remain? How sensitive are they? What is our
16 plan to try to resolve those? And if we can't, what kind
17 exposure do we carry?

18 MR. SCOTT: I can comment on that. Of the 17
19 that remain to be corrected, only four are in the category
20 of which we have designated as high priority. And the
21 reason we have designated those high priority is because
22 they involve the area of fire safety. Now, I don't want
23 to mislead you that we don't have fire safety on the
24 island. We have hired a consultant during the audit to
25 evaluate the design of the fire safety system on the

1 island. The island was initially designed to code -- to
2 fire code. Those codes have changed over the years. And
3 some of the current code requirements are not being met,
4 you might say, to the letter. And so we have come in and
5 required that they bring everything they have regarding
6 fire safety up to code.

7 And the four items they have left, which have to
8 do with a fairly -- I don't want to say long lead time
9 design, but there is an element of design required for
10 finishing off that part of the audit. But we expect, and
11 we discussed before the meeting here, that we expect those
12 would be easily completed within, I would say, two or
13 three months. I don't feel that's a long period of time
14 because we are operating at a higher state of alert,
15 knowing that we have some outstanding audit deficiencies
16 that need to be corrected.

17 The other remaining items are -- well, I
18 wouldn't want to call them housekeeping, but they are at a
19 lower priority, having to do with pipe markings or some
20 proper vessel identifications and so forth. Those are
21 also being done. But, again, the area that we have our
22 main interest in is in the fire safety, but we feel those
23 will be accomplished in due time.

24 CHAIRPERSON CONNELL: What does due time mean?

25 MR. SCOTT: I would say in two to three months.

1 CHAIRPERSON CONNELL: Okay. Then I definitely
2 want to put this on as an active agenda item at the June
3 meeting. And, again, I'm sure I'm joined by my fellow
4 Commissioners in making certain that we get this moved
5 forward, particularly if it is a fire safety matter.

6 Now, what are the other matters, the other --
7 that's 4 out of the 17. That leaves us with 13?

8 MR. SCOTT: That's 4 out of the 17. That leaves
9 us with 13. Specifically, I would have to ask our audit
10 manager who had conducted the audit to --

11 CHAIRPERSON CONNELL: Is that person here today?

12 MR. SCOTT: He is here today. In fact, he gave
13 the presentation at the last Commission meeting.

14 And, James, if you could --

15 CHAIRPERSON CONNELL: I'm going to recognize
16 Annette Porini.

17 ACTING COMMISSIONER PORINI: I just want to add,
18 I talked to staff before the presentation and they
19 informed me that they actually have someone out on the
20 island once a week doing a follow-up. So I think your
21 comment about being a shadow and following up on all of
22 these items is well taken and the fact that we do have
23 staff there on a weekly basis --

24 MR. SCOTT: That's right. In fact, we have --
25 not only once a week, we have staff on the island five

1 days a week, and they are there. We have one inspector
2 that spends most of his day on Rincon Island each day of
3 the week. And he looks at things that we have identified
4 in the audits as well as many other things that are part
5 of his normal daily routine. And that was one of the
6 slides I was going to show here in the presentation.

7 But specifically to address the remaining 13
8 items, I think James might be able to be more specific as
9 to --

10 CHAIRPERSON CONNELL: Did you want to finish,
11 Greg, your presentation before James comes forward?

12 MR. SCOTT: I'd like to do that if you'd --

13 CHAIRPERSON CONNELL: If we can just ask the
14 patience of the Commission here. And, James, we'll bring
15 you forward after we finish the presentation.

16 Continue, Greg.

17 MR. SCOTT: Thank you.

18 I wanted to make note that the point of this
19 slide was to inform you that there are competent staff
20 working Rincon Island, and they have engaged other
21 professionals to assist them. And most of these personnel
22 are the personnel that have been there for many years.
23 It's not like the bank has come in and brought in any of
24 their people. These are people that have been on site for
25 the last 15 years.

1 MR. SCOTT: This is a slide showing the financial
2 security.

3 CHAIRPERSON CONNELL: This is one that I
4 highlighted for members of the public, as you recall, Mr.
5 Thayer, a few years ago. I was concerned that there'd be
6 adequate collateral to support any damage that was done to
7 the environment, that the State would not be the deep
8 pocket here, that the owners -- the current owners of this
9 facility, which is the partnership now managed by Compass
10 Bank put up some type of performance bond or guarantee.
11 In fact, we have been able to secure that.

12 MR. SCOTT: That's correct. This slide does show
13 that we have sufficient financial security in place. RILP
14 has a current performance bond in the amount of \$5
15 million, which we believe is fully adequate in the event
16 it's needed to cover the well abandonments and causeway
17 removal.

18 There is also a \$10 million insurance certificate
19 that is required by OSPR in the event there's any type of
20 oil spill liability.

21 And finally -- you mentioned deep pockets. Both
22 ARCO and Berry Petroleum, previous lessees, retained
23 liability for any abandonment costs that may be needed in
24 the event the current operators aren't able to fulfill its
25 lease obligations. Now, ARCO, as you know, has been

1 purchased by British Petroleum. So they are significantly
2 the deep pockets.

3 --o0o--

4 MR. SCOTT: The last two slides I have have to do
5 with a development plan that was submitted to the staff
6 recently by RILP. And this plan was proposing -- is
7 proposing to drill up to 36 wells, many of them new wells,
8 over a 5 1/2 year period. And they also propose to expand
9 the existing water flood facilities to enhance the
10 production.

11 CHAIRPERSON CONNELL: We'll be talking about that
12 in a later agenda item, so let's not focus on that today.

13 MR. SCOTT: All right. The reason I bring that
14 up is because, as you had asked in the last meeting
15 regarding Compass's progress in moving forward locating a
16 company -- a financial-worthy company to sell this to,
17 this was a feature they had hoped to attract considerable
18 attention from prospective buyers.

19 And I can briefly tell you on this last slide
20 where we are. We are in the review process actually right
21 now. And as far as bringing it to the Commission for
22 consideration, depending on the level of CEQA, we're
23 looking at it toward the end of this year and perhaps the
24 first part of next year.

25 CHAIRPERSON CONNELL: Great. Thank you.

1 MR. SCOTT: And that's my presentation.

2 CHAIRPERSON CONNELL: We could do a very quick
3 update change by you. Let's be as abbreviated as we can
4 in this, James.

5 Now, I do have two public speakers on this matter
6 that I want to bring forward. So if the public speakers
7 can bring themselves to the front, that would be great.
8 It would be Oscar Pena, General Manager for the Ventura
9 Port District; and I believe the name is Craig Moyer from
10 the Manatt Phelps firm representing Rincon Island Limited
11 Partnership.

12 Yes, James. Can you identify yourself for the
13 record.

14 MR. HEMPHILL: I'm James Hemphill, Engineering
15 Manager for the Mineral Resources Management Division.

16 I'd like to quickly go over the Rincon safety
17 audit. The safety audit, as Greg said, was issued in
18 February of 2001. We identified 473 action items. Rincon
19 has corrected 455 of those action items, and they're still
20 working on 17. There were 48 high priority, 101 moderate
21 priority, and 324 low priority.

22 There actually are remaining seven of the high
23 priority, four moderate, and six of the low priority.

24 The definitions: High priority is something that
25 represents a significant threat to the safety of the

1 environment. And corrective action, we try to get that
2 within 30 days. There are mitigating circumstances which
3 Greg had mentioned, such as engineering analysis,
4 fabrication construction, that will delay it. When that
5 happens, we expect the operator to work at a higher state
6 of readiness until the corrections are made.

7 Moderate represent a threat to the safety of the
8 environment, and the corrective action is expected in 120
9 days. And the mitigation needs are based on
10 significant -- or a specific threat.

11 And then the lower priority are a minimal threat
12 to the safety of the environment. And a lot of those have
13 to do with correcting plans and just having those updated.

14 Rincon has got seven remaining high priority
15 items. They all have to do with either fire or gas
16 detection or fire suppression. They have implemented
17 several fire suppression activities since the audit was
18 completed. That includes placing phone monitors and other
19 items to make the islands more secure. We believe that
20 with those in the state of readiness that they are -- they
21 are in good shape, but they still do not meet code, and
22 that's what we're pushing towards. As Greg mentioned, we
23 expect that within 3 months.

24

25

CHAIRPERSON CONNELL: You're going to have to

1 expect it within 60 days because our next meeting is going
2 to be within that time period. So for the members of
3 Rincon Partnership present here today, which would be the
4 Manatt Phelps people, perhaps you could pass the word back
5 from the Chair of this Commission that I would certainly
6 hope to see faster progress.

7 Since we will be discussing this publicly again
8 in 60 days, and it is my intent to have that meeting in
9 Ventura County, it would behoove you to have this matter
10 resolved so that we don't have an outcry from members of
11 the public, as, you know, how strongly they feel about
12 these matters in Ventura County. So we would like to see
13 all of these high priority matters resolved within that
14 60-day range.

15 MR. HEMPHILL: The four remaining moderate
16 priorities have to do with some procedures and upgrading
17 some equipment. Again, these were long lead time items.

18 And the lower priorities are just updating
19 some technical and engineering drawings. They've updated
20 most of those.

21 And then the final part is the rate at which the
22 items were corrected. As you can see, within 30 days they
23 corrected 24 of the high priority; within 120 days they
24 brought that up to 31; 180 days they have got to 34. They
25 have now completed in the first year, 41, and they have 7

1 7 remaining.

2 That concludes my presentation. Thank you.

3 CHAIRPERSON CONNELL: And I thank both of you.
4 Thank you, Greg, as well. Very encouraging progress.

5 Okay. Oscar, are you here?

6 Oscar is not here. He has left.

7 All right. Good.

8 Craig Moyer.

9 MR. MOYER: Good morning, Madam Chair and Members
10 of the Commission. I'm Craig Moyer from Manatt, Phelps &
11 Phillips. I am counsel for Rincon Island Limited
12 Partnership. And let me begin by saying I will convey to
13 Rincon Island your -- the issues -- there is some
14 equipment that's been designed in order -- that does have
15 a long lead time. But I'm sure that you can divine from
16 the nature of the presentation that substantial progress
17 has been made and a lot money has been spent and a lot of
18 effort has been put into this by both staff and the folks
19 at Rincon Island.

20 So progress is ongoing and will continue, and
21 we'll make every effort to just complete this process and
22 make sure that the operation continues safely.

23 CHAIRPERSON CONNELL: May I ask you a question.
24 It's my understanding the ultimate goal here is, of
25 course, to sell the facility.

1 MR. MOYER: That's mainly what I'm here to talk
2 about, yes, ma'am.

3 CHAIRPERSON CONNELL: Could you direct a
4 discussion to the progress you're making in that regard
5 and any contingency plans that the bank has if it remains
6 unable to find a purchaser for the oil facility?

7 MR. MOYER: The major hurdle to consummating a
8 sale of the property is the issuance of these permits. As
9 you might imagine, the interest level at the current
10 operating condition is not great. And instead what the
11 sizzle in this project is is that increased production
12 that was shown. So everyone who has expressed an interest
13 has made it clear that a prerequisite to closing would be
14 issuance of these permits.

15 CHAIRPERSON CONNELL: You know, in fact, I think
16 we've enhanced the value. Perhaps we should be speaking
17 at some point with Rincon Island Partnership, Paul, about
18 the State getting a percentage of the revenues from the
19 sale of this facility. I'm beginning to like this idea.

20 This is something we could perhaps negotiate,
21 Paul, since we've conducted the audit, we are maintaining
22 staff on the island to make sure that it is well
23 maintained in the interim, therefore enhancing the value
24 of the asset. I see my former investment banking skills
25 and interests are coming out here. And it seems to me

1 that therefore we should extract a small fee that could
2 then go into the revenue for the lands trust to maintain
3 our environmental resources statewide.

4 MR. MOYER: Certainly the additional drilling
5 will result in staff --

6 CHAIRPERSON CONNELL: I'm not talking about the
7 additional drilling. I'm speaking about the role that we
8 played as a caretaker and protector of this island,
9 encouraging you to bring it up to an environmental
10 standard that enables you to sell it. Because obviously
11 the most important issue in the purchase of any asset is
12 not to determine the collateral value of that asset, but
13 indeed to determine what the offsetting liability is,
14 because the liability is really, as we've learned, the
15 exposure that any owner carries. Since we are rapidly
16 reducing your liability, we therefore enhance your value,
17 and the net value, therefore, remains greater.

18 MR. MOYER: It's an interesting --

19 CHAIRPERSON CONNELL: You can see where I'm
20 going.

21 MR. MOYER: I'm not quite sure how to respond to
22 that, Madam Chair. I'm --

23 CHAIRPERSON CONNELL: Well, we're not --

24 MR. MOYER: Thank you, ma'am. "May I have
25 another," as they say in the Marines.

1 CHAIRPERSON CONNELL: We're not in an active
2 negotiations session. The State is not asking you to
3 serve as an investment banker for them at this point,
4 although I'd be happy to offer my skills at some point in
5 that regard.

6 But I just think you ought to be appreciative of
7 the role which our staff for the State has played. And
8 the sooner we can commence the sale of this asset to an
9 entity whose primary business is the operation of oil
10 facilities, the more relieved I think we will all be,
11 simply because -- obviously this has been a difficult
12 transition for all of us.

13 And while we are taking our roles seriously as a
14 daily caretaker of this facility, I would like to remove
15 the State from this awkward position that we're in. And
16 so I really hope that you can meet these safety standards
17 within the 60-day period that we're now talking about so
18 that you can move forward with your sale, we can remove
19 ourselves from this day-to-day operating role that we have
20 at, I might add, considerable expense, and I think we were
21 going to therefore enhance security that the public feels
22 about this.

23 MR. MOYER: I will commit on behalf of my client,
24 Rincon Island Limited Partnership, to continue closely
25 working with the staff and making every effort to finish

1 the safety audit and operate it in complete compliance.
2 That commitment is ongoing and has been out there, and I
3 absolutely agree that it does enhance the value of the
4 asset and certainly enhances the comfort level of you as
5 the trustees of this asset.

6 CHAIRPERSON CONNELL: Well, I was happy to see
7 that you did retain this well-respected industry
8 consultant. That's very reassuring. And I would hope
9 that the bank is communicating its strong concern about
10 public safety and environmental issues as well to the
11 operators of this facility. It's not sufficient, you
12 know, to have us there daily, Paul. We really wish to see
13 Compass Bank communicating at the strongest executive
14 levels the importance of getting this done quickly.

15 MR. MOYER: In addition to having retained
16 Schlumberger to operate the facility, several months ago
17 Compass Bank retained Peatree Parkman, perhaps the premier
18 oil operations investment banking firm in Houston, to sell
19 this asset, to market this asset. And their efforts are
20 also ongoing. So I think -- there is no question but that
21 there is commitment on the highest levels within the bank
22 on a daily basis to do everything it can to move this.
23 They are as anxious as you are to have this asset operated
24 by a walkin talkin company, whose core business is in the
25 oil and gas market.

1 CHAIRPERSON CONNELL: Thank you.

2 Are there any questions by the members of --

3 MR. MOYER: Yes, I'm really here to answer
4 questions.

5 CHAIRPERSON CONNELL: Mr. Bustamante, Ms. Porini.
6 Thank you.

7 Then we are completed with Item 64. And we will
8 move Item 64 to the active agenda, if we may, in our June
9 meeting.

10 EXECUTIVE OFFICER THAYER: Certainly. And then
11 would the Controller -- and staff will take note of that
12 and bring it back to the Commission as well as with a
13 report to indicate the compliance with the required
14 remediation of the deficiencies that are identified in the
15 audit.

16 Would the Commission want to take up then Item
17 C56 which had been deferred from the consent calendar?

18 CHAIRPERSON CONNELL: Yes, let's discuss that
19 quickly.

20 EXECUTIVE OFFICER THAYER: As has been presented
21 here, there is an ongoing -- there's an active application
22 before the Commission to do additional drilling from
23 Rincon Island into the existing leases. The drilling
24 would be not unlike the drilling that had gone on before.
25 But before the Commission can make a decision on that, we

1 need to do the environmental review to see what sort of
2 impacts this drilling might have. And so this item merely
3 asks your permission, your authorization to go out and do
4 the environmental review. Once that's complete, we would
5 bring back the actual proposal to the Commission for its
6 consideration.

7 CHAIRPERSON CONNELL: Well, I certainly want to
8 make sure we do a full environmental review here. I don't
9 think there's a more important issue before this Board for
10 the remainder of the calendar year as to how we're going
11 to stand on offshore oil drilling. And I am very
12 concerned that we have all the environmental matters
13 before us, that we've looked at all the negative
14 components and any mitigation which is required, that we
15 have a very defined timetable for mitigating that should
16 the Commission choose to move forward on this matter.

17 And what is the timetable for getting this EIR?

18 EXECUTIVE OFFICER THAYER: It depends upon the
19 kind of documents prepared. It will probably be an EIR --
20 it potentially or theoretically could be a mitigated
21 negative dec. But we're imagining that the processing of
22 that would take at least six to eight months, according to
23 the slide that was up there. So this will probably not be
24 back before the Commission until either later this year or
25 first part of next year.

1 CHAIRPERSON CONNELL: Well, I'd like it back
2 before the Commission while I'm still here. So we will
3 get it back before the Commission either September or
4 November.

5 EXECUTIVE OFFICER THAYER: If the full
6 environmental review is necessary, I'm not sure -- you
7 know, CEQA has mandated public review periods and that
8 sort of thing. We'll certainly do it as fast as we can.

9 CHAIRPERSON CONNELL: Excellent.

10 Any comments?

11 I need a motion to accept.

12 COMMISSION BUSTAMANTE? We won't receive any
13 requests for expansion of drilling until this is completed
14 and we've got the testimony?

15 EXECUTIVE OFFICER THAYER: And what's happened is
16 they've made that request, that proposal, that
17 application. But before the Commission can hear it, we
18 have to do the environmental review.

19 CHAIRPERSON CONNELL: I am not willing to
20 entertain that, Mr. Bustamante, until we have that EIR. I
21 want to make it absolutely clear today. That's why I
22 pulled that item from the consent calendar. I don't know
23 how other Members of the Commission feel, but I am not
24 going to move forward on a discussion of any extension.

25 EXECUTIVE OFFICER THAYER: It doesn't make any

1 sense.

2 CHAIRPERSON CONNELL: It would be nothing less
3 than irresponsible for us here as a Commission to move
4 forward discussing expansion of oil drilling off the
5 California coast without an EIR. It would be an
6 outrageous display of arrogance by this Board, and I'm
7 certainly not going to participate in that. So I do not
8 wish to see any item placed before this Commission that
9 deals with expansion of that oil lease until we have an
10 EIR concluded.

11 Is that the will of other Board members?

12 ACTING COMMISSIONER PORINI: Absolutely.

13 COMMISSIONER BUSTAMANTE: You bet.

14 CHAIRPERSON CONNELL: Yes, I would like to add
15 that as an amendment.

16 COMMISSIONER BUSTAMANTE: So moved.

17 ACTING COMMISSIONER PORINI: Second.

18 CHAIRPERSON CONNELL: All right. We have now
19 amended the staff recommendation in that regard. So we
20 now have a unanimous vote of the Board that Item 56
21 amended; and that when we have completed the EIR and it
22 has been presented to the Board, then we will discuss any
23 extension of the lease at that time.

24 EXECUTIVE OFFICER THAYER: I understand.

25 CHAIRPERSON CONNELL: Thank you.

1 Now, we are on Item 65. And I appreciate the
2 patience of those in the audience who have waited for this
3 item. This matter is a consideration of whether the
4 Commission should give its consent to the incorporation of
5 sovereign lands into a proposed new city in a Los Angeles
6 harbor area.

7 And, Mr. Thayer, I call upon you for a
8 presentation.

9 I'd also like to alert members of the public that
10 I have before me requests to speak by a number of
11 individuals. And after the staff makes their presentation
12 and I have allowed Members of the Commission to ask any
13 questions they have regarding that presentation, we'll
14 immediately commence with public speaking. When we have
15 public individuals who speak before the Commission, we ask
16 that you try to limit your comments to three minutes,
17 given the amount of time that would be required for all of
18 you to have an opportunity to speak before this
19 Commission. Thank you.

20 Please begin.

21 EXECUTIVE OFFICER THAYER: Thank you, Madam
22 Chair.

23 Giving the presentation for staff this morning is
24 going to be Curtis Fossum, one of our attorneys who has
25 spent a considerable amount of time on this issue.

1 I should also point out, as the Commission is
2 aware, this is a very important item for southern
3 California and for this state, and we've spent
4 considerable staff resources on research in this item.
5 Curtis Fossum has spent a lot of time on this, but several
6 other staff people have been involved as well.

7 CHAIRPERSON CONNELL: All right. Can you
8 identify yourself for the record, please.

9 SENIOR STAFF COUNSEL FOSSUM: Thank you.

10 Good morning, Madam Chair, Commissioner
11 Bustamante, Commissioner Porini. I'm Curtis Fossum,
12 Senior Staff Counsel to the Commission.

13 Item 65 asks for your consideration of a request
14 by the Harbor Study Foundation for consent to include
15 sovereign tide and submerged lands as special
16 reorganization that would detach those lands from the city
17 of Los Angeles and incorporate them into a proposed new
18 City.

19 To determine whether the inclusion of sovereign
20 tide and submerged lands in the proposed new city is in
21 the best interests of the State, the Commission must
22 evaluate potential impacts of the operations of the Port
23 of Los Angeles.

24 The quality and reliability of the municipal
25 services to be provided to these lands and the potential

1 impacts of a new municipal authority on the Port's
2 operations are issues of significant importance.

3 The staff has two areas of concern: Will the new
4 city have the fiscal resources to provide needed services
5 to the port. And will the division of municipal and
6 management authority between the new city and the city of
7 Los Angeles create conflicting and potentially damaging
8 problems for the port?

9 First, a few words about the stakes involved in
10 the Commission's decision. The Port of Los Angeles is one
11 of the world's largest and busiest ports. The port
12 currently handles the largest volume of containerized
13 cargo in the United States. According to some estimates,
14 the volume of that cargo will double in the next twenty
15 years.

16 The port's contribution to the regional, state,
17 and national economy are far reaching. The port directly
18 and indirectly generates employment for approximately
19 260,000 people in southern California and approximately a
20 million nationwide.

21 Additionally, the port generates \$26.8 billion
22 annually in industry sales, resulting in \$8.4 billion
23 annually in regional wages and salaries, and nearly a
24 million-and-a-half dollars in state and local taxes -- a
25 billion-and-a-half. Excuse me.

1 The port is not subsidized by tax dollars and has
2 maintained its financial strength through generated
3 revenues.

4 The Commission is required by Government Code
5 Section 56108 to review all proposals to change municipal
6 jurisdiction over tide and submerged lands. First, the
7 Commission is required to determine if the proposed
8 boundaries are technically logical. Are they at right
9 angles to the shore, for example. And in its November
10 27th, 2000, meeting the Commission approved the technical
11 description of the boundaries.

12 Section 56-108(a) requires the Commission to
13 decide if tide and submerged lands should be included in
14 the new city, the decision facing the Commission today.

15 The exhibit we have before you identifies the
16 area we're talking about. The yellow is a depiction of
17 the lands under the control of the port. They also
18 include the blue area within the red outline. The yellow
19 being filled lands. The area outside of the red line are
20 lands that the port has subsequently acquired. This red
21 line is an approximation of the historical mean high tide
22 line, the boundary, the lands that were generated --
23 excuse me -- were granted by the legislature to the city
24 in 1911 and 1929.

25 Your decision today will affect the lands that

1 are within the original tidelands shown approximately by
2 that red line.

3 In preparing its analysis, staff reviewed studies
4 prepared by the proponent of the Harbor Study Foundation,
5 the Local Agency Formation Commission, and the State
6 Controller's Office.

7 The first issue to be considered by the
8 Commission in determining whether to include the tidelands
9 in the new Harbor City is whether it's in the best
10 interests of the state.

11 Is the quality and reliability of those municipal
12 services to be provided by these tidelands by a new harbor
13 sufficient? The Harbor Study Foundation claims that
14 inclusion of tide and submerged lands within the new
15 Harbor City could potentially result in cost savings for
16 fire and police services.

17 They contend that the new city could eventually
18 provide more cost-efficient services. The LAFCO report
19 found that the Harbor Study Foundation's analysis failed
20 to provide a written description of the assumptions used
21 to develop their budget projections.

22 LAFCO concluded that the projections rely on
23 certain assumptions that do not appear realistic.

24 LAFCO further found that the proposed new Harbor
25 City would not appear to be fiscally viable unless certain

1 factors were met. The factors assumed were that the new
2 Harbor City would include the port, and that the city
3 could -- the new city could successfully implement
4 significant cost savings measures, the reduction of
5 municipal services.

6 LAFCO's reports found that the new city would
7 need to reduce its expenditures by \$51.3 million in order
8 to balance revenue and expenditures.

9 In light of the above-stated fiscal uncertainties
10 and revenue shortfalls, the new city would likely have to
11 either raise taxes or significantly cut services or both
12 in order to cover their revenue shortfalls and become
13 fiscally viable. Either result could adversely affect the
14 port and consequently the State of California.

15 The State Controller's Office report issued April
16 1st echoes this concern by concluding that the LAFCO
17 report correctly determined that the proposed new Harbor
18 City will not be fiscally viable without making
19 significant reductions in expenditures and services, and
20 notes that the proposed new Harbor City's ability to do so
21 is highly uncertain.

22 The second issue for the Commission's
23 consideration is to determine whether the management and
24 operation of the tide and submerged lands by the statutory
25 trustee is likely to be benefited or hindered by inclusion

1 of the lands in a new city.

2 Although the Harbor Study Foundation advocates
3 additional local government involvement in the development
4 and operation of port facilities, there is a possibility
5 that a new city with the authority for taxation, levying
6 of development fees, establishing building codes and other
7 local ordinances could disrupt the administration of the
8 port in its maritime commerce.

9 The new city may levy a tax on containers or
10 implement other methods to extract money from port
11 operations and attempt to constrain development of the
12 port.

13 Port security is especially important. The Los
14 Angeles Police Department, L.A. Fire Department, the U.S.
15 Coast Guard, FBI, and the U.S. Customs Services have
16 worked together to provide security to the port.

17 The port is currently fully integrated with the
18 emergency response and disaster preparedness plans for the
19 City of Los Angeles. The Port Police, Los Angeles Police
20 department, which are separate entities, and the Los
21 Angeles Fire Department all share in the emergency command
22 center with the City of Los Angeles. Their protocols and
23 procedures are integrated and their communication systems
24 are compatible, allowing for cross communications during
25 times of emergency.

1 There is an uncertainty as to whether the new
2 Harbor City could procedurally incorporate itself into
3 such an integrated system. According to the LAFCO report,
4 it is unclear and cannot be determined at this time
5 whether the new Harbor City could provide the same level
6 of police and fire services as the City of Los Angeles.

7 Ultimately, the operation and management as well
8 as the security and safety of the port may be compromised.

9 In only two of the eighty-plus legislative grants
10 of tide lands to local governments has the legislature
11 intentionally placed tidelands located within one
12 municipal jurisdiction under the management and control of
13 another. This ensures that the special responsibilities
14 involving management of trust property by a local entity
15 are being carried out through a unified administration of
16 laws, rather more than overlapping and conflicting
17 authorities.

18 Staff is aware of only two instances where
19 tidelands initially granted to one jurisdiction were
20 subsequently incorporated within the political boundaries
21 of another.

22 CHAIRPERSON CONNELL: What were those two
23 circumstances?

24 SENIOR STAFF COUNSEL FOSSUM: The second two
25 circumstances were again the County of Orange where the

1 legislature in about 1917 granted some parcels to the
2 county, and subsequently they were annexed to the City of
3 Newport Beach.

4 In at least three of the four situations
5 mentioned above conflicts have arisen. These have
6 resulted in confusion over jurisdictional issues, and
7 subsequently resulted in litigation or legislation.

8 Staff believes that creation of a similar
9 conflict in Los Angeles is not conducive to sufficient
10 port operations.

11 Before concluding, staff would like to focus on
12 an ancillary issue. The port has acquired additional
13 lands that are not tide and submerged lands and are
14 outside of the Commission's specific authority regarding
15 the inclusion in the proposed new Harbor City. If the
16 Commission's decision is to withhold consent to include
17 the tide and submerged lands in the new Harbor City,
18 jurisdiction of the upland portion the port could still
19 pass to a new city.

20 To prevent this bifurcation of municipal
21 jurisdiction over the port, the Commission could recommend
22 to LAFCO that LAFCO in consultation with the new city
23 proponents and the Port of Los Angeles set appropriate
24 boundaries along a more practical and logical line
25 separating port operations from the local community.

1 CHAIRPERSON CONNELL: Let's just stop at this
2 moment, because this is a very important point. Just
3 repeat what you said. Because if this matter comes before
4 the people of Los Angeles on a ballot initiative and the
5 people of Los Angeles should choose to vote in the new
6 Harbor City, let's go through what would be the situation
7 then before the Commission.

8 SENIOR STAFF COUNSEL FOSSUM: Before LAFCO or
9 before this Commission?

10 CHAIRPERSON CONNELL: Before LAFCO, what you're
11 saying would be the role of --

12 SENIOR STAFF COUNSEL FOSSUM: What the staff is
13 recommending that the Commission do is to suggest to LAFCO
14 that rather than using the red line, which goes through
15 the middle of various properties that the port operates
16 today, that a more logical line could be followed along as
17 LAFCO typically would do, a city street or something that
18 would separate the port's industrial operations from the
19 adjacent municipal area.

20 You can see that some of these lines are quite
21 zigzaggy, and that's because that was the historic
22 shoreline 150 years ago. Today, with the port having
23 acquired additional lands in various areas, if this red
24 line was used by LAFCO, it would create anomalies within
25 certain leaseholds that they have and it would be

1 difficult to separate for building permits, for taxation
2 purposes and so forth. And so our recommendation to the
3 Commission is that they recommend to LAFCO that they work
4 together with the local proponents and the port to
5 establish a logical boundary along, for example, the first
6 public road above the port properties. I think that's
7 typically how we see city governments segregate themselves
8 from adjacent properties, and we would recommend that the
9 Commission urge LAFCO to do likewise.

10 CHAIRPERSON CONNELL: That would only occur if
11 there is a vote of the people to move forward.

12 SENIOR STAFF COUNSEL FOSSUM: Certainly. But
13 LAFCO would decide where that boundary is.

14 CHAIRPERSON CONNELL: What would our role be as a
15 Commission, if any, at that time?

16 SENIOR STAFF COUNSEL FOSSUM: None.

17 CHAIRPERSON CONNELL: You're just giving us that
18 as a point of information.

19 SENIOR STAFF COUNSEL FOSSUM: It's a
20 recommendation. It's not --

21 COMMISSIONER BUSTAMANTE: Prior to the vote of
22 the people?

23 SENIOR STAFF COUNSEL FOSSUM: We're recommending
24 that we urge LAFCO to rather than adopting the red line or
25 the mean high tide line, that it adopt a more logical

1 line. It's beyond this Commission's authority to do so,
2 but LAFCO has the authority to set the upland boundary for
3 a city.

4 COMMISSIONER BUSTAMANTE: Acceptable language
5 before it goes before the voters?

6 SENIOR STAFF COUNSEL FOSSUM: Yes, before it goes
7 to the voters, then the City boundaries would be
8 established by LAFCO and -- proposed city boundaries, and
9 the people would be able to vote. The people in San Pedro
10 and the people in Wilmington and Harbor City would all be
11 able to vote on their new city, and it would be a logical
12 line separating the port operations from that.

13 CHAIRPERSON CONNELL: But that's a decision of
14 LAFCO?

15 SENIOR STAFF COUNSEL FOSSUM: That's LAFCO's
16 decision, correct.

17 EXECUTIVE OFFICER THAYER: The fundamental
18 problem that I think Curtis is trying to highlight here is
19 that we're concerned -- the port is an asset of the public
20 trust, and therefore properly of concern to this
21 Commission and to the State and it has statewide
22 implications.

23 It's clearly within the jurisdiction of this
24 Commission pursuant to the Government Code section that
25 Curtis has cited. But the problem is that this Commission

1 can act today only on the area within that red line, below
2 the mean high tide line, which defines where the tide and
3 submerged lands are. And that Government Code section has
4 to determine whether that area, the tide and submerged
5 lands, should be part of what municipal jurisdiction.
6 That's the decision today. But the problem is the port
7 has gone on through history and acquired these upland
8 areas that are above the mean high tide line that we don't
9 have jurisdiction over.

10 Should the Commission act today as staff is
11 recommending to not allow the jurisdiction of the new city
12 to include these tide and submerged lands, the problem is
13 the proposal will end up with these upland areas of the
14 port being included within the municipal jurisdiction of
15 the new city because they don't have jurisdiction over
16 that. The only way out is for us -- if we want to proceed
17 in that way, is for the Commission to recommend to LAFCO
18 to draw the logical boundary to exclude the rest of the
19 port from the new city as well.

20 CHAIRPERSON CONNELL: So that's what I was trying
21 to focus on here, first. I mean, you're basically -- I
22 mean, this refinement is an important refinement.

23 EXECUTIVE OFFICER THAYER: Absolutely.

24 CHAIRPERSON CONNELL: So you're not only
25 asking -- I mean, the decision before the Commission is

1 not only are we going to retain the jurisdiction within
2 the City of L. A. or are we going to allow it to be deeded
3 to a new city should the new city be formed, that is
4 Decision A.

5 Decision B is if we go that route, what are we
6 going to do with the upland areas that are no longer --
7 are not yet in the tideland trust? And since we can't
8 take action on that ourselves today because of the
9 intervening circumstances you've defined, then we need to
10 take a second action of the Commission that would
11 basically instruct or request that LAFCO take action on
12 their own to define that, so that there's not confusion
13 when it comes before the voter.

14 I mean I've got to tell you as a voter in the
15 City of Los Angeles, it's going to be confusing enough to
16 have all these various matters should they appear on the
17 ballot before us without confusion as to what are the
18 boundaries of the various cities that are being proposed.

19 EXECUTIVE OFFICER THAYER: And my understanding
20 -- and, Curtis, stop me if I have this wrong, because he
21 knows more about this than I do -- but that LAFCO is
22 probably going to meet and act on this and could act on
23 boundaries like this next month, in May. And that will
24 define the proposal that will go before the voters in
25 November. So this Commission's recommendation could be

1 considered by LAFCO next month.

2 CHAIRPERSON CONNELL: Fine, excellent. I don't
3 want to -- are there any other questions? I just wanted
4 to clarify that for Members of the Commission. Because in
5 reading the staff report, I don't think you clearly
6 indicated that you expect us to take a bifurcated action
7 here today. And we really need to clarify to the public
8 that that's what we would have to do.

9 SENIOR STAFF COUNSEL FOSSUM: Point of
10 clarification, Madam Chair. There would not be any
11 deeding regardless of the port property. Only the
12 legislature would be able to change the trusteeship of the
13 City of Los Angeles over the tidelands.

14 What would occur if you went along with the
15 Harbor Study Foundation's request is that the City of Los
16 Angeles would be operating the tide and submerged lands
17 within this new city, and would have to then deal with the
18 conflicts over possible different directions that they
19 would be going.

20 CHAIRPERSON CONNELL: Right. What seemed to be
21 one of the many conflicts that they have is if they had to
22 develop a contractual relationships with these new cities.
23 And there are many of those that also exist in the valley
24 proposal as well. So these are matters that LAFCO and the
25 City of Los Angeles will perhaps have to deal with later.

1 SENIOR STAFF COUNSEL FOSSUM: Well, in conclusion
2 then, staff believes that upon the information submitted
3 and gathered from the proponents, the opponents, and
4 neutral third parties, that there's a substantial risk to
5 the ongoing operations of the Port of Los Angeles if the
6 tide and submerged lands granted by the legislature to the
7 City of Los Angeles were to be included within the
8 proposed new city.

9 Staff also believes that it's not in the State's
10 best interest that the lands granted to the City of Los
11 Angeles be included in the proposed new Harbor City.

12 Based upon its analysis, staff proposes the
13 Commission withhold consent to transfer municipal
14 jurisdiction over those tide and submerged lands to the
15 proposed new city.

16 And further staff recommends the Commission pass
17 its recommendation on to LAFCO that it redraw the
18 boundaries of the new city to exclude the upland portions
19 of the port from the new city as well.

20 Thank you.

21 CHAIRPERSON CONNELL: Thank you.

22 Now, I would just like to disclose to the members
23 of the public that as State Controller it was my office
24 that under law was contracted by LAFCO to perform an
25 analysis of the viability and the review of the LAFCO

1 matter regarding the harbor.

2 In that role, my role was to perform that
3 function. That function has been completed today. I sit
4 as the Chair of the Lands Commission, and I have a
5 different hat on today. My role today as State Controller
6 is to be the Chair of the Lands Commission. And my
7 singular focus today is to look at the issue of the
8 security of the State's environmental concerns and the
9 impact that it has in our environmental trust.

10 So I want to clarify that while it may be
11 confusing to you members of the public, that I clearly
12 understand the difference between the responsibilities
13 that we had beginning some fifty days ago and the other
14 responsibilities I have this morning as a Chair of this
15 Commission.

16 In that regard, I'd like to have the speakers --
17 I believe we have 12 now -- address these two issues.
18 Because I'm sure that other members of the Commission are
19 as focused as I am on the two concerns of the staff
20 recommendation: The first one being the fiscal
21 uncertainty that was referenced; and the management
22 conflicts that might occur. And on the management
23 conflict issue, I don't know whether I should address this
24 to you, Paul, or to Curtis. I don't know where Curtis
25 went. I am interested in your comment in the staff

1 report.

2 Can you give in greater detail on how -- why you
3 felt that the management conflict issue would work to the
4 detriment of our port operations.

5 EXECUTIVE OFFICER THAYER: When the
6 Legislature -- let me give it a try at answering your
7 question. Curtis may have some additional information
8 that would be helpful. When the Legislature makes these
9 legislative grants of tide and submerged lands to local
10 entities for management, it has almost a uniform record of
11 assigning the state tide and submerged lands for
12 management to the same local entity that already has
13 municipal jurisdiction over that area.

14 And in the assignment of the legislative grant,
15 there are special responsibilities that are made to the
16 grantee to carry out the public's interest in these lands.

17 So they must be used for public trust purposes.
18 They cannot be used for strictly local or strictly
19 municipal purposes. There are a lot of admonitions and
20 requirements that are included in the grant.

21 The problem that's created when you have two
22 different entities, as in this situation, that could have
23 happened here with this proposal, where one entity, in
24 this case the City of Los Angeles, has the grant and will
25 be managing the port pursuant to that grant, and the other

1 entity, the new Harbor City, who is exercising municipal
2 jurisdiction, municipal control, providing services, that
3 sort of thing, over the tide and submerged lands, that new
4 city is not subject to any of the legislative grant
5 language that was imposed on the City of Los Angeles for
6 the City of Los Angeles to carry out or to manage that
7 property.

8 And so in every other place in the state, or
9 almost every other place in the state -- for example, in
10 Oakland, the City of Oakland is both the owner of the
11 granted lands and has the municipal jurisdiction as
12 required in carrying out municipal responsibilities. With
13 respect to statewide interest in this land, as would be in
14 the case here, with the assignment of the grant to one
15 entity and municipal jurisdiction held by another, you
16 will not be subject to the same controls that the
17 Legislature deems appropriate for management of state
18 lands.

19 CHAIRPERSON CONNELL: So the way we would remedy
20 that, Mr. Thayer, would be, should the new city be
21 formed -- obviously, this would be an exposure.

22 EXECUTIVE OFFICER THAYER: That's right.

23 CHAIRPERSON CONNELL: How would you suggest we
24 remedy this. Would we have to carry special legislation
25 to make sure that the same kind of safeguards are in

1 place?

2 EXECUTIVE OFFICER THAYER: What the staff is
3 recommending is that the Commission not ascent to the
4 transfer of municipal jurisdiction over the port to the
5 new city.

6 CHAIRPERSON CONNELL: I know. What happens if
7 the voters disagree with that action and should that
8 be taken? That's a final. The voters cannot overturn
9 that decision by the Lands Commission.

10 SENIOR STAFF COUNSEL FOSSUM: Madam chair,
11 basically the area in the port is uninhabited territory.
12 There are no voters in the port. The port operates public
13 lands for the statewide public. The adjacent communities,
14 the voters in those areas will be able to vote their will
15 as to whether they want to secede from the City of Los
16 Angeles. But it's your job under the Government Code to
17 make this decision as to whether that territory within the
18 port that's publicly owned goes within the new city or
19 stays with the City that the Legislature transferred.

20 CHAIRPERSON CONNELL: I understand that. I'm
21 asking you a different question. Let me restate my
22 question.

23 The issue that I see is, because the new city
24 does not have the same kind of mandated requirements under
25 legislative code, Paul, hypothetically, if the new city is

1 formed, we are in a different context than we are today.

2 EXECUTIVE OFFICER THAYER: Sure.

3 CHAIRPERSON CONNELL: What kind of managerial
4 exposure do we carry then?

5 EXECUTIVE OFFICER THAYER: The problem would be
6 that that -- if the Commission agreed that the state
7 tidelands should be subject to the jurisdiction of the new
8 city -- and it's strictly the Commission's decision; it
9 cannot be overturned by the vote of the populations; this
10 part of the boundary line decision is the Commission's
11 solely -- then the concern would be that this new city is
12 not subject to the legislative grant language and could
13 manage -- could exercise its municipal jurisdiction in a
14 manner that does not respect the goals of the public trust
15 document.

16 CHAIRPERSON CONNELL: Well, you see where I'm
17 going on this. This becomes an awkward situation. I
18 mean, there could be a situation where the Harbor City is
19 approved by the voters; and at that point there would be a
20 conflict between the new city and the existing city of Los
21 Angeles. The existing city -- if we voted as a Commission
22 to continue to allow the existing city to manage the port,
23 we have the existing city not having actually a geographic
24 link to the port and the new city having the geographic,
25 you know, adjacency to the port operations, I see this as

1 an uncomfortable situation, to put it mildly.

2 I'm just raising this issue because I do think
3 that at some point these issues are part of the conundrum
4 that the voter is faced with in terms of the managerial
5 efficiency of these new entities.

6 But I don't want to detail this. I'm just
7 raising this, you know, as a future concern should the
8 voters make decisions in November.

9 I'd like to move on, if I could, to the public
10 members.

11 EXECUTIVE OFFICER THAYER: Certainly.

12 CHAIRPERSON CONNELL: And we have a number of
13 members of public who wish to speak. And I'd like to
14 first address -- now, has everyone sent in a form to me?
15 If you have not filled out a form here today, you can't be
16 identified to speak. So I certainly hope you have filled
17 out a form and that you are -- if you're planning to
18 speak.

19 I'd like to identify first the Honorable
20 Councilwoman Janice Hahn. Welcome, Janice.

21 And as before, I think you arrived -- I had
22 announced, we'd like to keep our comments abbreviated. If
23 you could do that, we'd appreciate it.

24 MS. HAHN: Thank you very much, honorable members
25 of the Commission. And I want to thank you for addressing

1 this issue, considering it very seriously, and
2 understanding, as you said, you're wearing a different hat
3 today. However, I think the findings that you found
4 wearing the other hat last week clearly will influence
5 your decision wearing this hat this week.

6 This clearly is an issue that is extremely
7 serious. I represent the harbor community. I live in San
8 Pedro. And two years ago I was one of those who signed
9 the petition with thousands of others to request a
10 comprehensive analysis of what indeed this would mean to
11 not only those who would like to detach from Los Angeles,
12 but for those who would remain in the remaining city.

13 These studies have begun to paint a bleak picture
14 for the harbor area city. The recent report, and with
15 your analysis, concluded that a new harbor city would need
16 to reduce expenditures by approximately \$50 million in
17 order to meet its projected revenues. And faced with
18 these kinds of drastic cuts, one of the concerns that came
19 out in your report was the necessity to cut the basic
20 services of public safety, police and fire.

21 This is of great concern to me, not only for the
22 remaining city, but for the residents of San Pedro and
23 Wilmington. On September 11th, after the Los Angeles
24 International Airport concern, our biggest concern was the
25 next major port-of-entry to this entire region, which was

1 the Port of Los Angeles, and realizing that the security
2 issues there are huge, securities that -- issues that
3 actually have been raised many times by residents of
4 Wilmington and San Pedro, which seemingly sometimes went
5 on deaf ears.

6 But now, I believe, the consensus is clearly, we
7 have enormous potential for danger at the Port of Los
8 Angeles on a daily basis, before September 11th and after
9 September 11th. The amount of cargo that comes in and out
10 of that port on a daily basis is enormous, particularly
11 when we realize that less than three percent of that is
12 ever inspected to find out what it contains.

13 The residents of Wilmington and San Pedro feel
14 like they are literally at risk for a potential disaster,
15 probably more than any other region of Los Angeles. And
16 it is for this reason that I believe very strongly that --
17 and I'm addressing Decision A, which is not to include the
18 Port of Los Angeles in the tidelands area within the
19 jurisdiction of the new city.

20 Clearly, right now, Los Angeles spends about \$60
21 million just on police and fire in the harbor area. We
22 are currently looking to fund full-time a hazardous
23 materials recovery team within the fire department to
24 address on a daily basis the potential for hazardous
25 materials to create a major disaster in the Port of Los

1 Angeles. As you know, we have liquid bulk terminals that
2 contain everything from jet fuel to nail polish remover.

3 But right on the waterfront, within the
4 boundaries of Wilmington and San Pedro, if these were to
5 be for any reason attacked or, you know, tampered with, it
6 could cause a major disaster within the footprint of that
7 area.

8 So my concern is that we must keep this -- the
9 tidelands within the City of Los Angeles so that we can
10 continue this integrated effort to address any major
11 potential disaster for the area. And while -- even if
12 this new city does take place, I believe the residents of
13 the new city would be safer on a daily basis if the Port
14 of Los Angeles was kept within the jurisdiction of Los
15 Angeles so that we could continue this public safety
16 effort.

17 And let me just say, I know this is not the issue
18 we're addressing today, but clearly I'm one of those that
19 does feel like the Port of Los Angeles could spend more
20 money in the local community. They could address more
21 concerns where right now the State Tidelands Trust
22 Agreement seems to prohibit them from doing.

23 And at a later date, I would like to address your
24 Commission on possibly looking at some changes in the
25 State Tidelands Trust Act to accommodate some of things

1 which I believe with all my heart the community deserves
2 to benefit from, because they are burdened, I think,
3 unequally with the rest of Los Angeles in being
4 geographically located next to the Port of Los Angeles.

5 But in this issue, I think it is the most
6 responsible act to maintain, first and foremost, the
7 public safety, not only of the residents of Los Angeles
8 but of all the surrounding communities that live in and
9 around the Port of Los Angeles.

10 I thank you for addressing this issue.

11 CHAIRPERSON CONNELL: Thank you.

12 Members of the Commission, do you have any
13 questions of the Councilwoman?

14 COMMISSIONER BUSTAMANTE: No.

15 CHAIRPERSON CONNELL: Thank you very much.

16 And our next speaker then will be Andrew
17 Mardesich.

18 And, Larry, have you sent in a form? I don't
19 have a form for you. Did you wish to speak?

20 CHAIRPERSON CONNELL: Andrew, can you identify
21 yourself for the record. And welcome.

22 MR. MARDESICH: Andrew Mardesich, Executive
23 Director, Harbor Study Foundation. I submitted a response
24 to the staff report. Do you have that in front of you?
25 And I did it phrase by phrase, with our response in bold.

1 Obviously, in the short time I'm not going to go through
2 it all. But it's there in front of you that you can
3 review during the course of the other testimony.

4 COMMISSIONER BUSTAMANTE: Is there a date on that
5 document?

6 MR. MARDESICH: The date is today's date. It has
7 Harbor Study Foundation on top of it.

8 And after I speak, I would like to present a
9 Draft Environmental Impact Report which refutes the
10 earlier testimony. It indicates that the Los Angeles Fire
11 Department provides substandard service to the City of Los
12 Angeles in the harbor area and, more specifically, in the
13 port itself, and that the Los Angeles Police Department
14 does not comply with the national averages for patrolling
15 and law enforcement. And this is an environmental
16 independent report that was performed for LAFCO. So this
17 refutes many of the assumptions that were made in the CFA
18 by the consultant, which was referred to as a LAFCO
19 report, and it's by an outside third party consultant.

20 With regards to the Controller's report, we agree
21 with it in total, 100 percent.

22 CHAIRPERSON CONNELL: Why thank you. I'm
23 honored.

24 MR. MARDESICH: And we're sorry --

25 CHAIRPERSON CONNELL: And I want to thank -- I'm

1 sure my staff in absentia will thank you. They spent many
2 long hours.

3 MR. MARDESICH: You know, we're sorry that you
4 were not provided with our proposal, budget, and transfer
5 plan. And you did acknowledge that. And what that leads
6 to is the fact that the study phase is not over with.
7 LAFCO has not determined financial feasibility, viability.
8 And the consideration, at this time, is premature with
9 regards to financial viability.

10 The word "conflict" has come up over and over
11 again. And I still haven't heard what "conflict" is. If
12 one were to carry forward the logic of conflict or
13 conflict of interest, one then could say that every parcel
14 of state, federal, or county property located within a
15 municipality needs some type of trust act.

16 COMMISSIONER BUSTAMANTE: Are you asking us to
17 postpone our decision today?

18 MR. MARDESICH: No, I'm just saying that you are
19 not totally informed with the facts, you've read, that
20 were not viable.

21 COMMISSIONER BUSTAMANTE: So you want us to make
22 a decision today even though we're not fully informed of
23 the facts?

24 MR. MARDESICH: I would ask that you make a
25 decision in the affirmative based on the fact that we are

1 financially viable, which will be determined by LAFCO.

2 COMMISSIONER BUSTAMANTE: It's kind of hard to do
3 that when you have three reports saying that you're not,
4 and then you come here saying, "Yes, we are."

5 MR. MARDESICH: You're absolutely correct. And
6 the frustration is is that in none of the reports has any
7 report gone in any form of detail or referenced our budget
8 plan, our transition budget, and our transition plan. We
9 did provide it with State Lands. But if you look at your
10 staff report, there is no mention of it at all. We
11 offered our consultants available to State Lands, and they
12 refused to talk to them or ask them any questions.

13 COMMISSIONER BUSTAMANTE: Paul, it seems like a
14 sort of fundamental piece here that's missing in trying to
15 come to a conclusion or decision here.

16 EXECUTIVE OFFICER THAYER: I can ask Curtis to
17 respond more in depth. But I know that we specifically
18 went to both the City of Los Angeles and to Mr.
19 Mardesich's organization when we were preparing our staff
20 report and asked them for any input they wanted to give us
21 to consider, and we reviewed all the information that was
22 provided.

23 COMMISSIONER BUSTAMANTE: When was your report
24 finished?

25 EXECUTIVE OFFICER THAYER: Last week.

1 COMMISSIONER BUSTAMANTE: Last week. So their
2 response couldn't come until recently.

3 EXECUTIVE OFFICER THAYER: For the information
4 they have given us today, yes, that's correct. But we had
5 asked them -- how long ago was it, Curtis?

6 SENIOR STAFF COUNSEL FOSSUM: We obtained volumes
7 of information. Mr. Mardesich was in contact with our
8 office for many months. We received lots of mailings,
9 forwarding of information by E mail and other ways. He
10 did, in fact, offer to us to make his consultants
11 available if we had any questions. We didn't refuse. We
12 just didn't find it necessary to do so.

13 The report was issued on Friday and when we spoke
14 with Mr. Mardesich and asked him to provide us with
15 anything if he thought there was anything erroneous with
16 the staff report, and at that time he declined. And today
17 he provided us with the --

18 MR. MARDESICH: That's not true. That's a total
19 misrepresentation. You called me one hour after a, what,
20 10 or 15 page item was E-mailed. I told you specifically
21 that I hadn't looked at the technical aspects of it and
22 had no comments. But I was totally infuriated by the
23 suggestion to separate the port from the community and to
24 go off and tell us to go back to the City of Los Angeles
25 and seek recourse in our problems there, thus by negating

1 the Cortese-Knox.

2 And then I said I would look at it and I would
3 comment. I received that I believe sometime about 3:30 on
4 a Friday afternoon. This is Tuesday morning. And I think
5 we responded as quickly as we could to the Commission, to
6 you, and here's the documents.

7 SENIOR STAFF COUNSEL FOSSUM: All I suggested,
8 Mr. Mardesich, was that I asked you, at that time, after
9 you had read the report whether you had any -- you said
10 that you disagreed with aspects of it. I asked you to
11 respond to those, and you said that you would.

12 MR. MARDESICH: I only told you I read the
13 conclusion and the recommendation, I didn't read the
14 report.

15 COMMISSIONER BUSTAMANTE: Paul, maybe you can
16 tell me, because basically the information I received made
17 a pretty damning case about whether or not we were going
18 to move, you know, to allow this to take place. You know,
19 my -- I'm coming into this meeting basically seeking to
20 withhold consent. And what do you say about the statement
21 that's being made that none of the financial information
22 was considered in any analysis?

23 EXECUTIVE OFFICER THAYER: No, this was the point
24 that I was trying to make, that when we started on the
25 analysis, staff went to the City -- at least the City and

1 to Mr. Mardesich and asked him to provide any information
2 he wanted us to consider. And we reviewed all of that
3 material in preparing our staff report. So we did not
4 just look at the LAFCO report, we did not look just at the
5 Port of Los Angeles that came from the State Controller's
6 Office, we made a point of going out and soliciting the
7 opinion and information from, we thought, the most
8 important parties, the City and Mr. Mardesich, prior to
9 preparing our report.

10 COMMISSIONER BUSTAMANTE: So the Controller's
11 office didn't have information or financial --

12 CHAIRPERSON CONNELL: I think we should clarify
13 for the record what the role of the Controller's office
14 is. And I'm sure we'll be happy to define this. I've
15 stated this so many times on the record. I'll be happy to
16 repeat it once more, Cruz. Not in this session, but I
17 mean in the last couple weeks.

18 The Controller's office is very limited in what
19 its role is. My role is simply to look at the LAFCO
20 report and to address within the context of the
21 information contained in the LAFCO report the questions
22 that were identified by the City of Los Angeles and
23 they're inquiry to LAFCO regarding the LAFCO report.

24 The city of Los Angeles or any other party,
25 including the Harbor Foundation, could have sent a letter

1 to LAFCO raising questions about LAFCO findings, the LAFCO
2 report; and those questions could have been directed to
3 the State Controller's Office, and within a period of, I
4 believe it was 30 days, that they had to respond to the
5 LAFCO report once it was published.

6 Once that report was published, the 30-day period
7 ended, there was only one inquiry regarding the harbor,
8 and it came from the City of Los Angeles. Those
9 questions, as you know, Andrew, were very specific. And
10 within the context of those questions the Controller's
11 office answered those questions, basing their answers
12 required by law on the information within the LAFCO
13 report.

14 And I don't think Andrew questions the validity
15 of the conclusions we reached, but our conclusions were
16 restricted to the LAFCO report. We're not allowed to go
17 out on an independent audit and seek additional new
18 information. That is not permissible. And should we have
19 done that, it would have been rejected by LAFCO as
20 inappropriate expansion of our jurisdiction.

21 So we did not have any additional information
22 from the Harbor Foundation report within our report
23 findings.

24 COMMISSIONER BUSTAMANTE: So LAFCO did have
25 financial information?

1 EXECUTIVE OFFICER THAYER: Yes. What we did
2 was -- and you can see this in the support concern letters
3 that are in front of you here.

4 COMMISSIONER BUSTAMANTE: I just want to make
5 sure we clear it up because, you know, there is a
6 statement on the record saying that there's been no
7 financial information considered. And then how if we make
8 a decision can we possibly come to a decision if we don't
9 have any financial information? And I thought that your
10 report as well as LAFCO had indicated that there were
11 certain financial information, that, in fact, was stated,
12 you reviewed that information, and the conclusions were
13 that it was going to be difficult, if not impossible, for
14 anybody to be able to meet those financial arrangements.
15 Is that not true or is that --

16 EXECUTIVE OFFICER THAYER: That is absolutely
17 true.

18 COMMISSIONER BUSTAMANTE: Okay.

19 MR. MARDESICH: Maybe a better way to clarify it
20 is to ask LAFCO if they are considering our CFA that we
21 submitted, our transition budget, and budget in the
22 application process and is it still --

23 COMMISSIONER BUSTAMANTE: Are you telling us that
24 you are, that LAFCO --

25 MR. MARDESICH: Yes, yes, yes.

1 CHAIRPERSON CONNELL: Why don't we hold those
2 questions.

3 COMMISSIONER BUSTAMANTE: Would that presume then
4 that we're making a decision too early?

5 CHAIRPERSON CONNELL: Well, I would like to
6 address that question when Mr. Calemine comes up. And
7 after Andrew finishes his comments we'll have a
8 presentation by Larry Calemine, who is the Executive
9 Director of LAFCO, and he can identify what their process
10 is. I hear what you're saying, Andrew. But, you know,
11 your financial analysis is directed at LAFCO. And then
12 Larry can indicate whether he's considering integrating
13 your comment. And I don't think you disagree with that.

14 MR. MARDESICH: I don't disagree with that.

15 CHAIRPERSON CONNELL: Okay.

16 MR. MARDESICH: On the issue of conflict again,
17 municipal government versus the trust and how the
18 proprietary department of the port, which the City of Los
19 Angeles refers to, shouldn't be any conflict.

20 And to say there's a conflict between the trust
21 is like to say there's a conflict between the City and
22 citizens, there's a conflict between private enterprise
23 and citizens. And the trust is an entity, a municipality.
24 And all municipal regulations are done in such a way that
25 it applies to all fairly and equally. And to say that the

1 140,000 people that live in the San Pedro/Wilmington area
2 don't have the capacity to be fair and reasonable, I think
3 is an unconscionable way of painting it; and that's the
4 way this report paints us.

5 Wilmington is an area that's 95 percent
6 Mexican-American and Hispanic. These people have
7 suffered.

8 We talk about environmental -- and I'm happy that
9 you brought up the environment. One thing that we learned
10 in the study is that San Pedro and Wilmington do not want
11 gifts and gratuities from the port trust. What we want is
12 conformance to current laws, to do true environmental
13 impact statements when it involves federal and do true
14 Environmental Impact Reports that involve just state and
15 local development.

16 Going to just the last ten decades -- forget the
17 last century -- there's been well over a billion dollars
18 of development. You heard Janice saying we need to change
19 the tidelands trust. We don't need to change the
20 tidelands trust. Had the City of Los Angeles done
21 Environmental Impact Reports properly and in fairness with
22 reason, they would have acknowledged negative impacts, and
23 then they would have mitigated those negative impacts that
24 have been acknowledged to San Pedro and Wilmington
25 communities.

1 Yet in the last ten years there has not been an
2 Environmental Impact Report that has been performed,
3 reviewed and permitted by the City of Los Angeles where
4 mitigation has been performed to the communities of San
5 Pedro and Wilmington.

6 The study foundation is not advocating the city.
7 It took on the role to do a study. And we also took on
8 the role of improving the quality of life.

9 And this is a fundamental issue where you have
10 people of color, people that don't have the wealth that
11 are being negatively impacted, as well as residents and
12 businesses, and yet there is no impact, there is no
13 mitigation. The history in the data shows it.

14 I ask your consideration on this matter because
15 we're talking about justice, not politics. This even goes
16 against Cortese-Knox to create a checkerboard city. There
17 are some fundamental issues here. And I ask your strong
18 consideration here, maybe even to defer it today and
19 research it some more, because you're going to meet within
20 45 days or 60 days. But truly you do not have all the
21 facts and information before you and to listen to 11 more
22 speakers to make an intelligent decision.

23 Thank you.

24 CHAIRPERSON CONNELL: Before you leave, Andrew,
25 were there any questions of this speaker by Members of the

1 Commission?

2 ACTING COMMISSIONER PORINI: No.

3 CHAIRPERSON CONNELL: Mr. Bustamante, did you
4 have any questions you wish to address?

5 COMMISSIONER BUSTAMANTE: No.

6 CHAIRPERSON CONNELL: Thank you, Andrew.

7 Okay, Larry, you're on. Larry Calemene.

8 Can you identify yourself for the record.

9 Welcome, Larry.

10 MR. CALEMINE: Larry Calemene, Executive Officer,
11 Local Agency Formation Commission. I hadn't planned on
12 speaking today. But in light of the staff report, which
13 we got late Friday and documentation submitted to me by
14 Mr. Mardesich, Mr. Dyer and others this morning as well as
15 the comments that I've heard so far from the Commission, I
16 thought I could clear up some issues.

17 The good news is that nobody's proposing the name
18 Camelot for this new city.

19 (Laughter.)

20 MR. CALEMINE: The bad news, Madam Speaker, is
21 your other role as State Controller, we delivered to you
22 late yesterday afternoon the City's request for review of
23 the Hollywood comprehensive fiscal analysis.

24 But in any event, the LAFCO Commission will
25 shortly be faced with making a very tough decision on a

1 very controversial issue. It's controversial because no
2 matter which way our Commission decides, somebody is going
3 to get gored, and that makes for controversy, as you know.

4 The staff report submitted by your staff was very
5 extensive and very comprehensive, but I believe that it
6 failed to recognize some things and to put those items in
7 the mix.

8 But before I get to that, Madam Chair, you made
9 the comment and Lieutenant Governor made the comment
10 regarding the financial feasibility of this Harbor City,
11 whether it will work or not. And you also -- and I
12 thought you focused very sharply on that. And you also
13 made the comments regarding the municipal jurisdictions
14 and the conflicts relating to that.

15 Well, it seems to me that the municipal
16 jurisdiction problem can easily be solved if this
17 Commission were to -- that is, your Commission, were to
18 include the port lands within the harbor boundary subject
19 to LAFCO adopting a term and condition that the new Harbor
20 City would have to be subject to all the terms and
21 conditions of the grant.

22 CHAIRPERSON CONNELL: So that would be Part B of
23 my earlier discussion, Larry.

24 MR. CALEMINE: Yes. So that's an option.

25 CHAIRPERSON CONNELL: I'm sorry, but my mind was,

1 you know, streaming here in a, you know, very simplified
2 level of consciousness, because we do have a bifurcated
3 action, as I tried to indicate earlier today.

4 So if we did move forward in that regard -- you
5 know, I personally do not want to leave this open-ended.
6 I mean, I do think it's important for the voters to know
7 what they're voting on here. And I do think it's
8 important should a new city be formed, at some point, that
9 they operate under the state guidelines.

10 MR. CALEMINE: Well, as you know, the LAFCO
11 Commission can adopt many terms and conditions for it to
12 make its approval, subject to -- so if the Lands
13 Commission had other concerns --

14 COMMISSIONER BUSTAMANTE: Well, if I understand
15 it correctly, what he's suggesting is that even though we
16 have three independent reports saying that they are not
17 financially viable, or at least two saying they're not
18 financially viable, that we could say that they have to be
19 in order to be able to do what we're saying needs to be
20 done on behalf of the port tidelands.

21 MR. CALEMINE: Now, I'd like to speak to that, if
22 I might.

23 COMMISSIONER BUSTAMANTE: It seems kind of odd.

24 ACTING COMMISSIONER PORINI: And at some point
25 I'd like to find out from staff, from counsel, if it's

1 possible for LAFCO to adopt terms and conditions to a
2 statute that grants the land to Los Angeles -- to the City
3 of Los Angeles. I don't know, and you may not be prepared
4 to answer that.

5 CHAIRPERSON CONNELL: We're going to address that
6 to the Attorney General's representative here shortly. So
7 you might want to spend a few moments cogitating about
8 that. I see you smiling. It's kind of an awkward
9 situation to place you in, and I realize that, but I think
10 it's a germane question, and I respect that, Ms. Porini.

11 MR. CALEMINE: I would suspect that the LAFCO
12 Commission would give great weight and serious concern to
13 any terms and conditions that your Commission would make
14 your approval subject to.

15 Secondly, as to the financial feasibility, please
16 understand that the comprehensive fiscal analysis is not a
17 finding of financial feasibility. The State Controller's
18 review thereof is not a finding of financial feasibility.
19 It's only the LAFCO Commission that can make that finding.
20 Those are just documents within the process.

21 As indicated by Mr. Mardesich, they, the
22 applicants, had submitted to LAFCO a budgetary proposal.
23 We considered that. But it lacked, from our perspective,
24 a lot of detail and backup to substantiate the numbers
25 they felt they can operate the City in. In other words,