

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,

1 they felt they could operate the new city in \$102 million
2 versus \$136 million, or whatever it is the City spends.

3 In addition, we went a step further, and it was
4 very briefly addressed in the CFA. We had our consultant
5 analyze seven similar size cities in southern California
6 to determine what their operating expenses per capita were
7 and whether that fell within the parameters of what the
8 applicant's proposed budgetary operating costs would be,
9 and it fell within those parameters.

10 But here again, we didn't have the specifics
11 of -- beyond just general expenditure numbers regarding
12 police, fire, public municipal functions.

13 And last, but not least, please understand that
14 Cortese-Knox, the Government code that we, LAFCO, operate
15 under, provides that the local government agency has to
16 supply us with the information we've requested to process
17 an application. What was provided to us as we started
18 these processes were not factual expenditure or real
19 numbers, but actually budgetary numbers, what the City of
20 Los Angeles had budgeted for the whole city-wide operation
21 for the fiscal year 1999-2000.

22 Then we had to territorially break that down
23 within the harbor area and how much was collected in
24 revenue and budgeted to be collected in revenue and how
25 much was budgeted to be expended within that harbor area.

1 Like the State Controller, we have no audit
2 ability. We have no way of determining what the City
3 actually spent. So consequently we have a CFA that says,
4 "Hey, these are the City's budgeted numbers as to revenue
5 and expenditures." We don't know if they're real or not.
6 We have the applicant's proposal regarding how they think
7 they can operate the City. We've done some checking on
8 it. By way of example, the L.A. County Sheriff has
9 written us and indicated he could provide the police
10 services at a substantially lower amount than the City of
11 Los Angeles is doing, at the same level of service.

12 And we have the historical numbers of seven
13 similar sized cities.

14 So what I'm simply saying is, that the decision
15 of the Lands Commission as to whether to include or not
16 include the tidelands property, if you choose to make it
17 based upon financial feasibility and if you choose to make
18 it based upon the continuation of the municipal
19 jurisdictions under the land grant document, that can be
20 accomplished.

21 The lands grant provision language can be
22 accomplished in terms of conditions of approval that the
23 LAFCO Commission may impose. And the financial
24 feasibility is still an open question. LAFCO has not
25 addressed this issue yet. So it seems to me that another

1 logical alternative action by this Commission would be to
2 approve the inclusion of the port subject to the LAFCO
3 Commission making a finding of financial feasibility and
4 subject to adoption of certain terms and conditions.

5 I think that also --

6 CHAIRPERSON CONNELL: Let me see if I understand
7 what you're -- you're saying that we could -- an
8 alternative to the staff recommendation, which is
9 basically, Paul, to continue the operation of the port
10 under the existing city of Los Angeles' jurisdiction.
11 Larry, you're suggesting an alternative proposal would be
12 for this Commission to basically adopt an action that
13 would take a current port operation and make them within
14 the jurisdiction of a new city if and when it's formed if
15 LAFCO subsequently finds that new city financially viable.

16 MR. CALEMINE: And if LAFCO does not, then the
17 action of this Commission means nothing, that such an
18 action on your part would also solve a number of my other
19 problems.

20 CHAIRPERSON CONNELL: We're just muttering
21 between ourselves here. We're trying to figure out what
22 this all means.

23 COMMISSIONER BUSTAMANTE: I think a decision has
24 to be made here.

25 CHAIRPERSON CONNELL: I mean that's -- I mean,

1 I've got to tell you, I think we're getting perhaps a bit
2 Draconian in our thinking here. I mean this is becoming
3 so complex, it's almost a Rubik's cube for me, maybe
4 because I'm still jet-lagged from my foreign travels. I
5 mean what you would be suggesting by two is that we make a
6 rather significant policy decision of this board based on
7 confidence of a report we have yet to see from LAFCO and
8 an action we have yet to determine from LAFCO.

9 MR. CALEMINE: I have some more colors to add to
10 that cube.

11 CHAIRPERSON CONNELL: Please continue. This is
12 remarkable.

13 MR. CALEMINE: Well, I looked at that map and I
14 scratched my head because I've been pouring over maps for
15 the last three months trying to nail down a boundary, and
16 it's impossible. You know, do we use the 1849
17 tideland high water mark as the tidelands boundary as
18 proposed by the city attorney? Do we use the 1911
19 high-tide line, wherever the heck that was, which was the
20 grant document? Do we use the 1965, the date Cortese-Knox
21 was adopted as where that tidelands boundary is? Or do we
22 use the current? I don't know the answer to that. That's
23 a legal question, quite frankly.

24 Not to get away from other legal questions before
25 us: One, has this Commission acted in a timely fashion?

1 Two, is this Commission legally empowered to deal with the
2 detachment, as distinguished from an incorporation as it
3 says in the code? I don't have the answer to those.
4 We'll get those answers from our own legal counsel with
5 their direction to our Commission.

6 CHAIRPERSON CONNELL: Well, let me ask you a
7 question, Larry. And I maybe should know this answer in
8 my role as the State Controller, but I am losing sight of
9 it, what is the time element? What is that drop-dead date
10 that the LAFCO Commission has to keep in mind in order to
11 get this matter before the voters in November? Assuming
12 that that is, you know, the objective of LAFCO.

13 MR. CALEMINE: Well, I didn't bring my schedule
14 with me. But just off the top of my head from memory, the
15 drop-dead date for the Commission action on the harbor, I
16 believe is mid-May.

17 Let me back it up. That's the date we have
18 scheduled for the LAFCO Commission to make its final
19 determination and findings and resolution.

20 Then clearly we go into a period of protest
21 hearings -- rather a period of reconsideration, thirty
22 days; then we have some protest hearings. So I would say
23 the end of June is probably the drop-dead date. I know we
24 have to have everything prepared by the first of August in
25 order to meet the deadline --

1 CHAIRPERSON CONNELL: Okay. That was the date I
2 was seeking. It's the first of August.

3 MR. CALEMINE: Because we have to prepare a
4 ballot proposition if the Commission so approves.

5 CHAIRPERSON CONNELL: Right. I was just trying
6 to -- we're wandering through a number of questions in our
7 discussion here today on, you know, the myriad of options
8 and, you know, the information that would be forthcoming
9 or the information that would need to be secured in order
10 to make other decisions. And I was just wondering -- you
11 know, at some point we are within a lock-down period here
12 where information has to be presented, whether it's to us
13 or to LAFCO, and certainly presented to the voter.

14 COMMISSIONER BUSTAMANTE: If we vote today, I'm
15 going against this proposal for -- I can only make a
16 decision based on information I have before me and not
17 about something that I don't. So if the Board decides --
18 the Commission decides to move forward and vote, I think
19 the vote for me today is clear.

20 CHAIRPERSON CONNELL: Okay. Well, before we get
21 to a discussion of where we might be as individual
22 members, do we have any more questions of Larry before --
23 because we have a number of other people. I want to
24 respect the opportunity for them to speak as well.

25 COMMISSIONER BUSTAMANTE: He's confused us. And

1 I thank you.

2 (Laughter.)

3 ACTING COMMISSIONER PORINI: No questions.

4 CHAIRPERSON CONNELL: Okay. David Mathewson,
5 Director of Planning and Research for the Port of L.A.

6 MR. MATTHEWSON: Good morning, Commissioners.

7 David Mathewson, Director of Planning and Research, Port
8 of Los Angeles. Thank you for the opportunity to address
9 the Commission.

10 Now, the port is concerned that uncertainties may
11 arise with a dual jurisdiction over the port if the
12 submerged and tidelands and the upland portions of the
13 port are not solely located within the geographical
14 boundaries of the City of Los Angeles.

15 The dual jurisdictional concerns would be
16 relating to several areas, including land-use controls,
17 public safety, taxation, and the delivery of public
18 services for the port and its customers.

19 With regards to land-use controls, master
20 planning efforts at the port, the application of zoning
21 controls, and the issuance of coastal and building permits
22 may be impacted as a result of conflicting policies and
23 desires between the new city and the port. And this may
24 impact our ability to develop to accommodate maritime
25 commerce.

1 In regards to public safety, I would concur with
2 the comments made earlier by Councilmember Hahn regarding
3 the potential of our public safety and security at the
4 port being compromised as a result of dual jurisdictional
5 issues at the port.

6 Also, there are some legal uncertainties that we
7 have some issues with regarding the taxing authority of
8 the new city as it relates to the port properties;
9 particularly the assessment of any fees or taxes relating
10 to utilities or businesses or properties located within
11 the port could lead to -- clearly lead to some legal
12 disputes and could also affect our ability to remain
13 competitive with other ports up and down the U.S. West
14 Coast.

15 Finally, the port may also be forced to make
16 disproportionate expenditures for public services as a
17 result of the City's inability either to deliver services
18 at an adequate level or service.

19 CHAIRPERSON CONNELL: You're speaking of the new
20 city?

21 MR. MATTHEWSON: Yes, for the new city.

22 Or because the City has the inability to deliver
23 these services within, and achieve economies of scale in
24 delivering those services. So we clearly have some
25 concerns about the --

1 CHAIRPERSON CONNELL: Well, you know, maybe I can
2 offer some information in that regard. It's certainly my
3 understanding that the new city would be required under
4 the actions of LAFCO, at least it's our understanding, to
5 maintain the contractual relationship with the City of
6 L. A. And that we're not expecting in any of these
7 potential new cities that they're going to on day one
8 operate their own municipal services. That would not be
9 possible, and they would have to contract with the
10 existing city of Los Angeles.

11 Now, the conundrum I think Andrew and others are
12 addressing here from the City viewpoint is that there
13 appear to be limited resources to do that adequately, and
14 there are going to have to be some types of readjustments
15 within any budgetary allocation that a new city would have
16 in the harbor. And that is why Larry was addressing this
17 issue of whether some of the services might be provided by
18 alternative vendors, in this case, the Sheriff's Office.

19 But there obviously is the expectation that the
20 vast majority of services would be contracted out for the
21 transition period to the City of Los Angeles -- from the
22 City of Los Angeles, I could add.

23 MR. MATTHEWSON: I appreciate those comments.
24 But, again, we are concerned about readjustments and
25 reallocation of resources in order to provide services to

1 the port.

2 Clearly, the port's ability to accommodate
3 maritime commerce and trade results in significant
4 economic benefits, not only at the local level, but more
5 importantly statewide and nationwide.

6 If I could just clarify some of the staff
7 comments regarding those economic benefits. Those numbers
8 that he was citing really related just to the local and
9 regional impacts. Looking at the statewide impacts, which
10 this body should be looking at, the number of jobs created
11 as a result of port activities really are 330,000 jobs and
12 \$11 billion in wages and almost \$2 billion in state and
13 local tax revenues that occur statewide for the people of
14 the state of California as a result of the port's
15 operations.

16 The port as well as its partners have invested a
17 tremendous amount of capital and planning effort to
18 accommodate and facilitate maritime commerce through this
19 port. And it's the port's ability and reliability in
20 carrying out the trust mandate that's critical for
21 ensuring these continued economic benefits to the people
22 of the State of California.

23 And the potential uncertainty relating to this
24 dual jurisdictional issue is a concern of the port and to
25 our maritime partners in the trade and commerce area.

1 And lastly I would just like to add regarding
2 Exhibit B -- we're talking about the boundaries -- we have
3 some information, the port does, which we believe the
4 boundaries need to be adjusted accordingly for the
5 submerged areas as well as the upland areas.

6 CHAIRPERSON CONNELL: We're going to have to wrap
7 up your comments.

8 Are there any questions by members of the
9 Commission?

10 Then let us move on. And I'm going to be more
11 demanding. We're going to have to move through these
12 speakers more rapidly.

13 R. D. Kleist from Evergreen America Corporation.

14 Mr. Kleist, welcome.

15 MR. KLEIST: Good morning, members of the
16 Commission. My name is Bob Kleist -- Robert D. Kleist.
17 I'm representing Evergreen America Corporation, one of the
18 large tenants of the Port of Los Angeles. Historically,
19 the company has been at the Port of Los Angeles since it
20 started on the west coast.

21 I want also to compliment this Commission this
22 morning. I have a little history of involvement with the
23 Commission dating back to a man named Alan Cranston, who
24 was your predecessor.

25 COMMISSIONER CONNELL: And my mentor.

1 MR. KLEIST: And also Glen Anderson was the Lt.
2 Governor's predecessor at that time. And Hale Champion
3 was the Director of Finance.

4 I appeared, at that time, before the Commission
5 because there was a discussion about the development of
6 the Wilmington oil fields, as they were known. And the
7 Commission I believe made a very, very wise decision after
8 considering all of the possibilities in that.

9 Since that time I've had the opportunity to
10 appear before you in connection with the ballast water
11 issue a couple of years ago, and worked with the
12 Commission on the so-called Nexus lawsuit which took place
13 the past couple of years.

14 What I'd simply want to say is that these matters
15 of security and dual jurisdiction, if that should become a
16 problem, and the capacity of a new city are all very real.
17 And I personally, and our company is happy to know, that
18 all of them are being very seriously considered.

19 In my view, California in its wisdom established
20 the tidelands trust. And under that development, the Port
21 of Los Angeles has been developed into one of the world's
22 superior ports, working close by with the Port of Long
23 Beach next door, have developed the third largest port
24 complex in the entire world. And the possibilities for
25 the future are as good as they have been in the past.

1 The development of Terminal Island is something
2 that is very, very remarkable. Few people realize that
3 all of Terminal Island is manmade. And it has the
4 capacity for handling probably up to a total of at least
5 14, 15 million containers per year, not under its present
6 configuration, but as it's being developed and as the
7 infrastructure will have been developed.

8 And so there are just so many things that would
9 draw the attention of the world to what we're talking
10 about here today. And I want to commend the Commission
11 for taking this matter as seriously as it has. I wish --
12 as a director of what's known as the International
13 Visitors' Council of Los Angeles, I wish we could have a
14 video of this meeting to show to many of the foreign
15 visitors that we have coming to Los Angeles and of course
16 also to San Francisco. I wish they'd go to Sacramento
17 more often because they'd have an opportunity to see state
18 government is working well.

19 CHAIRPERSON CONNELL: Well, it might be best if
20 they didn't.

21 (Laughter.)

22 CHAIRPERSON CONNELL: I'm just teasing. This is
23 why we like to bring government to the people.

24 MR. KLEIST: And I just want to say very much
25 that you're doing exactly that. I commended you for it.

1 The world is watching the decision that you're going to
2 make with respect to this issue of the jurisdiction of the
3 Port of Los Angeles.

4 The port is looked upon around the world. The
5 company that I work for is based in Taiwan. It's really a
6 large conglomerate in addition to just a steamship
7 company. And they're watching very carefully, and
8 concerned with what is going to be done with respect to
9 the future of the Port of Los Angeles. And I urge you to
10 continue your exploration for it. And if there's anyone
11 in the steamship business who can be of any assistance to
12 you, I can pledge that we, as an industry, would provide
13 all the assistance that we possibly can.

14 CHAIRPERSON CONNELL: Thank you. I appreciate
15 your being here today.

16 Are there any questions of the Commission of the
17 speaker?

18 Fine. We will then move on to Janet Gunter.

19 And following Janet will be Timothy Parker.

20 We don't seem to be making a sufficient headway
21 here. Every time we finish a speaker, we have new
22 requests to speak.

23 All right. Moving on to Janet.

24 Identify yourself for the record, please.

25 MS. GUNTER: Yes, Janet Gunter. I'm a San Pedro

1 resident. I'm also a representative on the San Pedro
2 Peninsula Homeowners Coalition.

3 First of all, I would like to respond to our
4 councilwoman's remarks regarding security. I think it's
5 kind of ironic that the news radio just did a major expose
6 about the security that doesn't exist in the harbor at
7 present. And, in fact, since 9/11 there has not been any
8 additional staff port police hired. I think that that is
9 one of the major troubling issues. They have two
10 volunteers, senior citizens that were interviewed on the
11 radio, that go in a patrol boat at night, unarmed, with
12 flash lights, looking for any suspicious activity.

13 And, you know, one of the big concerns or one of
14 the major determinations I made is that if any one of us
15 as local residents were on the City council and met with
16 the federal authorities on this issue, we would absolutely
17 have volunteers, trained volunteers. We would have an
18 army of volunteers from the community that would certainly
19 feel the need to respond to this in a more effective and
20 efficient way.

21 I think that that is something that is -- it's a
22 direct analogy that you can look at and say, well, you
23 know, would we respond that way? No. But the City is 26
24 miles away, and it's an issue that doesn't concern them as
25 directly. It doesn't have the impact. And if our

1 community were aware of this, they would respond.

2 CHAIRPERSON CONNELL: May I just point out as a
3 state official -- and I certainly do not want to negate
4 the actions or role of the City of Los Angeles and its
5 council and mayor. I've got to tell you, the Port of Los
6 Angeles is critical to the economy of California and to
7 the identity of California. All of our ports are
8 important, but certainly the Port of Los Angeles is a
9 visible representation of the state in its foreign trade,
10 its ability to be -- the role that we play now, as you
11 probably are aware, Janet, Long Beach and L. A. have now
12 eclipsed New York as the number one import and export
13 arena for this country.

14 So it's crucial, not only for California, but for
15 the country. And we certainly should be heightening the
16 concern of the federal government and this administration,
17 the Bush administration, to the importance of protecting
18 our port. I can't imagine that they are not sensitive.
19 And if they're not, they need to be sensitized at an
20 immediate level to the importance of securing this port.

21 MS. GUNTER: And I agree with you completely and
22 I don't diminish the importance of the Port of Los
23 Angeles, or any other port for that matter. But I also
24 realize that six months have passed and we still don't see
25 any very strong proactive tendencies to secure the area

1 any better than it has been for a number of years now.

2 My comment, I'd like to get back to -- when San
3 Pedro and Wilmington were incorporated into the City of
4 Los Angeles, there were many, many promises made. San
5 Pedro and Wilmington were lured to this option
6 particularly by the opportunity of water and electricity;
7 the City of Los Angeles, of course, motivated only by
8 access and ownership of the harbor. The consolidation
9 contracts signed close to 100 years ago promises to
10 deliver not only the needed water and electricity, but
11 also to allow those communities surrendering this
12 tremendous asset to share in the great benefits that the
13 harbor offers.

14 Many decades later the communities of Wilmington
15 and San Pedro share only in the negative impacts of the
16 harbor. We have the most polluted -- diesel polluted air
17 in the state, and it's greatly increased our risk for lung
18 cancer and pulmonary disease. We're exposed to an
19 extensive terrorist situation, the possibility of
20 flammability from chemicals, and the beauty of our towns
21 have been decimated.

22 When my father arrived in Wilmington from Akron
23 in 1939, his letters reflected the prosperity and beauty
24 of this small port town. My mother soon moved to
25 Wilmington and my whole life has been spent in the harbor.

1 I have seen the deliberate decline of this part of the
2 City of Los Angeles over those years, which has
3 surrendered the integrity of lovely communities once
4 prosperous and healthy.

5 Secession offers the only hope of restoring that
6 integrity to these communities. It's frustrating that the
7 revised budget submitted by the Harbor Study Foundation
8 was not reviewed -- seriously reviewed before we came to
9 this meeting today.

10 We are no different than the communities of
11 Lomita, Carson or any other small town who can and do
12 exist on their own with reasonable and frugal planning.
13 We are interested in maximizing our potential on quality
14 of life issues. We are dedicated, hard working and
15 focused people. We will work hard to make sure that we
16 are not deprived of the things that we've been deprived of
17 in the past.

18 We need to be -- we need for our submerged lands
19 to be included in this separation. If not, this would be
20 a major slap in the face, another one, to a public who's
21 endured neglect and abuse by Los Angeles for many, many
22 years.

23 We urge you to do your very best to grant the
24 people of the harbor the right to include our submerged
25 lands and what is rightfully ours in the new study.

1 Thank you.

2 CHAIRPERSON CONNELL: Thank you.

3 Any comments from members of the Commission?

4 Thank you.

5 We will now move on to Timothy Parker. And the
6 next speaker after Tim Parker will be Dennis Dyer.

7 MR. PARKER: Good afternoon, members of the
8 Commission.

9 For over 75 years the Steamship Association of
10 Southern California has worked with the Port of Los
11 Angeles to develop the most dynamic infrastructure and
12 system of handling maritime cargo in the country.

13 Throughout the world I've seen what the
14 partnership of the port and the City really mean. It's
15 not just enough to say that you're from the Port of Los
16 Angeles. It's equally important to say you're from the
17 City of Los Angeles.

18 This valuable and economic resource is for the
19 entire region and for the entire country.

20 It requires skilled management developed over
21 many years. The city of Los Angeles and many business
22 interests in the port have built a close relationship to
23 skillfully manage this resource. As a result, the port is
24 a model of efficiency. It handles more cargo and less
25 acreage than any place in the country.

1 The businesses and the tenants of the port have
2 developed a strong relationship through port staff and
3 have a long history of cooperation with the City of Los
4 Angeles.

5 Together the City of Los Angeles and the port
6 tenants have worked closely to promote efficiency, safety,
7 and, yes, security for environmental improvements
8 throughout the port.

9 The Steamship Association of Southern California
10 is concerned whether the proposed new city would have the
11 capacity and capability to continue the success and to
12 effectively manage one of the largest and most important
13 seaports in the world.

14 The Steamship Association of Southern California
15 strongly supports maintaining the efficiency and
16 protecting the utilization of the port. We believe that
17 the port, as one of the most important economic resources
18 in the State, needs the solid strength of the City to
19 assure its future.

20 And as a final comment to some of the questions
21 regarding security: I'm on the Southern California Safety
22 and Security Committee, which is chaired by the captain of
23 the port, who very recently said that the Port of Los
24 Angeles he considers to be one of the safest ports in the
25 United States.

1 Thank you.

2 CHAIRPERSON CONNELL: Fine.

3 Let us move on. Dennis Dyer. And then we will
4 have Jo Ann Wysocki. I hope I'm not mutilating your name
5 too badly, Jo Ann.

6 MR. DYER: Yes. Good morning, Commissioners. My
7 name is Dennis Dyer. I live in San Pedro. I'm a resident
8 there. And there are three critical problems with the
9 staff write-up regarding this whole area, especially
10 organization.

11 First, it does correctly identify the army
12 disparity that exists in the harbor area.

13 Second, it demonstrates the staff's simplistic
14 view of the Cortese-Knox Act.

15 And, third, it presents only a very limited
16 analysis of the legal issues involved.

17 Another consideration I just realized when Mr.
18 Fossum was speaking, he made the statement that no voters
19 live on port property. That's absolutely false. There
20 are 400 -- at least 400 live-aboards living on boats in
21 that area. Okay.

22 Now, the disparity that is present in the harbor
23 area is a problem for all us. It's a problem for the
24 local government; it's a problem for the city; it's a
25 problem for the county; it's a problem for this

1 organization; it's a problem for the State. Something has
2 to be done.

3 But the solution is not to maintain the status
4 quo, as suggested by the staff. The basic problem is that
5 municipal policies needed in the harbor area will not work
6 in other parts of Los Angeles. You know, they don't have
7 very many supertankers cruising around, spewing out diesel
8 fumes in downtown L.A. Okay.

9 The time to address these problems is now,
10 because these problems are only going to get worse in the
11 future.

12 Now, there's a number of major legal issues to
13 deal with in this area, such as boundaries, property
14 ownerships, special reorganization, and many others.

15 Regarding city boundaries, staff correctly
16 recommends deferring these decisions to LAFCO.

17 But staff recommends -- your staff recommends
18 that LAFCO violate the law by creating a non-contiguous
19 city. Unfortunately, it's not illegal for you to
20 recommend that another agency break the law. It's illegal
21 for them to do so, or have the good sense not to, or to
22 ignore your recommendation.

23 Staff claims -- your staff claims that the bounds
24 of State Lands Commission authority is the tide line of
25 1911. This line is the true boundary for your authority

1 -- for your constitutional authority, but not for the
2 setting of a municipal boundary.

3 There is good case law authority from the
4 California Supreme Court to indicate that the tide-line
5 date for this boundary, the municipal boundary would be
6 the date the Cortese-Knox Act was adopted, not some
7 preceding that.

8 The tide-line date cannot be 1911 because the
9 critical issue in question is, what authority does the
10 Cortese-Knox Act give to you guys, the State Lands
11 Commission?

12 Now, also in an incorporation of a newly formed
13 city, one was, say, being formed out of just from county
14 territory, it would be absurd for you to recommend that
15 the municipal boundary be the tide line as it existed in
16 1911. No court in the country would support that.

17 Okay. Staff claims that you can consent to a
18 special reorganization. This is not precisely true.
19 Cortese-Knox states that no tide lines can be incorporated
20 into or annexed to. It doesn't say reorganize. It says
21 only incorporated into or annexed to a city.

22 Also, it says a city, not a city being organized.
23 Perhaps, you know, your consent is not even required in
24 this manner because you've already -- or some predecessor
25 organization of the State Lands Commission has already

1 consented to having that area incorporated into a city.

2 CHAIRPERSON CONNELL: Mr. Dyer, you need to wrap
3 up your comments, please.

4 MR. DYER: Okay. LAFCO has already consented to
5 hear you out anyway.

6 There are other legal issues besides the ones
7 I've identified. But according to county records, for
8 instance, port property is commingled with L. A. city
9 land. But in view of these many unaddressed legal
10 issues -- see, you guys have several options. Today, you
11 can vote on this item in accordance with what staff
12 recommends. Any such resolution from you, however, will
13 not be in conformance with the law; and, therefore, will
14 not binding upon LAFCO.

15 Thank you.

16 CHAIRPERSON CONNELL: Thank you.

17 And now, Jo Ann, how badly did I mutilate your
18 name?

19 MS. WYSOCKI: Wysocki, like Winsocki, the
20 football player.

21 CHAIRPERSON CONNELL: Thank you very much.

22 MS. WYSOCKI: Josephine Wysocki, first of three
23 signatures on the original petition to study the
24 feasibility of harbor city. Retired school teacher, 43
25 years, like -- in two cities. I used Google to get into

1 your web site. Secretary of the original homeowner group
2 trying for secession.

3 CHAIRPERSON CONNELL: I won't take it against
4 your time period here, Jo Ann. How did you find our web
5 site?

6 MS. WYSOCKI: I'm a librarian. I know it all.
7 (Laughter.)

8 CHAIRPERSON CONNELL: You need to talk to her,
9 Paul. She can be part of our focus group in the future.
10 Go ahead, Jo Ann.

11 MS. WYSOCKI: And unlike the Council person,
12 resident of the harbor area for 50 years.

13 San Fernando Valley and Hollywood are to be
14 congratulated. They want to be cities and they don't have
15 a harbor to deal with. Let's be honest about it, this
16 meeting is what it's all about, keeping control of Los
17 Angeles port under Los Angeles City.

18 I have serious concerns on this report. And I
19 did read it after I got it awfully wet.

20 On Page 4, third paragraph, quality and
21 reliability of municipal services. But all I keep hearing
22 are fire and port Police. There's only one fire station
23 in Wilmington. The other one is devoted to the port.

24 The police -- the port has its own police. And
25 our councilperson is going to have to remember that she is

1 quoted in the newspaper as saying sometimes there's not a
2 police car available in the harbor division.

3 Page 5, the last paragraph, cost savings. Cut
4 down the number of employees of the port building and you
5 will have some cuts -- some savings.

6 Page 6, trust and related park services. What
7 are park services when the City keeps on going away from
8 park land, in Wilmington in particular.

9 Page 7, mitigation of port development. In case
10 you haven't looked at that map, look. The street you're
11 thinking about is C Street. It's just been closed off on
12 the west end. And to close it off they had to take out a
13 residential area on the south side. All the feeder
14 streets that feed into C street are strictly residential.

15 This one, page 8, may levy tax on containers.
16 Okay, this has been said before but the word "empty" has
17 always been. And its missing from this report. Because
18 once those containers are filled, don't they become
19 interstate commerce? And I don't think any municipality
20 could interfere with that.

21 Page 8, description to port's operation could
22 lead to adverse impact on local, et cetera, et cetera.
23 Oh, don't kid yourself. Because of the importance of this
24 port, there's going to be found a way to work together;
25 unless you want to admit that the community of Wilmington,

1 in particular 60,000 people of all races, is to bear the
2 weight of the port's development.

3 Page 9, fourth paragraph, jurisdictional issues.
4 Okay, that's the American way. We sue if we don't like
5 you. Besides, it says something about the California
6 State Lands Commission planning and inability to write
7 something that will not have to be taken to court.

8 Lastly, let's not hear about the Port of Los
9 Angeles and the City of Los Angeles responding to
10 citizens' complaints. I'm president of a homeowners group
11 that is largely inactive. We have since 1985 taken part
12 in meetings, written comments, and it has gotten us like
13 very little, if anywhere.

14 And, please, don't let me hear about the port
15 having these committees. They knew who to pick on these
16 committees. I'm asking you, grant what the Harbor Study
17 Foundation is asking.

18 Mr. Bustamante, you're quite right. It isn't
19 just financial facts that you need.

20 And, Ms. Connell, I'd like to hope that I speak
21 for 18,000 people. It would have been nice to have held
22 this meeting in either San Pedro or Wilmington.

23 Thank you.

24 (Applause.)

25 CHAIRPERSON CONNELL: Nicholas Tonsich, President

1 of the L.A. Board of Harbor Commission. Are you still
2 here?

3 MR. TONSICH: Still here.

4 CHAIRPERSON CONNELL: You're to speak next.

5 MR. TONSICH: Thank you.

6 CHAIRPERSON CONNELL: Excellent. And then we'll
7 have Michael Podue.

8 MR. TONSICH: Madam Commissioner and fellow
9 Commissioners, there's a certain advantage to going on
10 later in the process, you get an opportunity to hear the
11 other persons' comments and perhaps put them in a little
12 perspective.

13 One thing that's evident from listening to
14 comments from the other persons who have spoken before me
15 is that there's certain amount of frustration that you can
16 tell from the community. I was born in San Pedro. My
17 grandfather immigrated to this country and established his
18 residence in San Pedro. So I'm very familiar with San
19 Pedro and its history and what its expectations are for
20 the future.

21 Part of this growth that the port has experienced
22 in the past and is projected for the future, as well as
23 the frustrations of the communities that surround the port
24 are this need for a balance. And I think the community
25 has spoken already in the sense that they've elected a

1 mayor from San Pedro. That mayor has expressed his
2 awareness of concern for San Pedro and Wilmington, has
3 appointed commissioners from that area. Three of the five
4 commissioners that are on the Board of Harbor
5 Commissioners are from that area.

6 So these commissioners have in turn implemented a
7 process under the guise of an entity called the port
8 Community Advisory Committee, in which many local members
9 from various community groups such as the San Pedro
10 Homeowners Association, other community neighborhood
11 councils, are part of this group. And their charge is to
12 review all past, present, and future Environmental Impact
13 Reports of the Board.

14 The budget -- the funding for this endeavor is
15 provided by the Board. The port will provide experts,
16 which are identified by this port Community Advisory
17 Committee. It will fund these experts to study these past
18 Environmental Impact Reports, so that any wrongs that the
19 community felt were achieved in the past by some type of a
20 quick review will now be readdressed by this group, and
21 recommendations will be provided to the Board of Harbor
22 Commissioners.

23 Additionally, the mayor has heard the people
24 surrounding the communities and requested that the Board
25 adopt a policy of no further net increase in air or

1 traffic emissions surrounding these communities.

2 That policy has been adopted by the Board of
3 Harbor Commissioners. And that will be the goal of the
4 port's growth at this time in the future. More emphasis
5 will be put on mitigation measures, so that the concerns
6 that have bred this secession movement will be addressed.
7 Mitigation members will be brought to the Board of Harbor
8 Commissioners, not just by the staff in the Harbor
9 Department, but by a committee of people who are -- live
10 within the community, who are members of neighborhood
11 groups within the community, who can bring these
12 mitigation members to the Board so they can be
13 implemented.

14 There was some talk about port security and the
15 ability of the port to address -- or this new city to
16 address port security in the future. That's a strong
17 concern because the port police currently do not have
18 crime labs, bomb squads, SWAT teams. And those are all
19 things that would have to be contracted for. It appears
20 as though the revenues to be generated from this new city
21 from the port is going to be relatively small. It's a
22 percentage -- my understanding is a percentage of the
23 property tax revenue that the port's charged.

24 I think there is a misconception within the
25 community that if we get the port within our city

1 boundaries, then we're going to be the benefactors of the
2 revenue that the port generates. And I think there was an
3 inability or not enough information has been disseminated
4 to the community that they'll still be subject to the
5 State Tidelands Trust, and the revenue available to the
6 new city will be relatively small compared to the new
7 costs it will have to bear in order to support such things
8 as port security. The port is sensitive to security. The
9 port has budgeted money and has implemented a program for
10 sea marshals, which are responsible for boarding vessels
11 25 miles out to and escorting them in to make sure that
12 there's no explosives or any improprieties in the
13 operation of the vessels as they approach the shore.

14 This is the National Guard station at the bottom
15 of the Vincent Thomas Bridge. There's -- I'm a member of
16 the port security task force, which is meeting today
17 between 11 and 1.

18 So there's a wide variety of things that are
19 being implemented.

20 I think one thing that is the utmost concern --

21 CHAIRPERSON CONNELL: You're going to have to
22 wrap up your comments.

23 MR. TONSICH: Yes.

24 The thing I think that's -- the point that needs
25 to be addressed and driven home is the impact and the

1 balance that the City hopes to achieve by its -- by the
2 port's operations on the state as a whole as opposed to
3 what a new city's intentions and goals may be relative to
4 the port activities. And that impact is crucial. As the
5 State Controller's audit indicated, the port projected
6 financial condition of the new city would ultimately
7 create a situation which is analogous to a landlord who
8 doesn't have money sufficient to maintain its properties.
9 I think we're all familiar with what happens to the decay
10 in a property and what impact it ultimately has.

11 Thank you very much for your time today.

12 CHAIRPERSON CONNELL: Thank you.

13 Michael Podue. And after Michael, we're going to
14 have Dennis Hagner.

15 MR. PODUE: Good morning, Madam Chair and
16 Honorable Commissioners.

17 My name's Michael Podue. I'm the Vice President
18 with the International Longshoreman and Warehouseman's
19 Union/Marine Clerks Association Local 63.

20 I've been asked by the membership to appear
21 before you today to put our concerns before the Commission
22 today of the Union.

23 I am also like many in here as well as
24 Commissioner Hahn and -- Chairwoman Hahn and many others
25 in the room today. I'm born and raised in San Pedro,

1 born in 1956 in San Pedro Peninsula Hospital. My children
2 still attend San Pedro High School.

3 The International Longshoreman and Warehouseman
4 Union in the Port of Los Angeles represent approximately
5 10,000 members; 6,000 full-time and 4,000 part-time
6 members in the Port of L.A.

7 The Port of Los Angeles I believe was
8 established, if my history is correct, some time in
9 December of 1907. Prior to that, the International
10 Longshoreman -- where you get the term "longshoreman" is
11 longshoreman waited along the shore for the vessels coming
12 into the port. And that's where the term "longshoreman"
13 came from, men waiting along the shore. Not long after
14 that, about -- less than 30 years later the International
15 Longshoreman's Union was established in this port.

16 The Port of Los Angeles is one of the busiest and
17 most successful seaports in the world. And that's in
18 direct connection working with the terminal operators, the
19 Port of L.A., and the International Longshoreman and
20 Warehouseman Union.

21 Our concern is that we would like to see the Port
22 of L. A. -- and I'll make it short. I had a lot here to
23 read, but I'm not going to read it all.

24 There's been well over -- I believe in the Port
25 of Los Angeles last year alone there was over 5 million

1 containers handled by the Port of Los Angeles. And the
2 Longshoreman -- the International Longshoreman and
3 Warehouseman Union directly handled those containers.

4 We would like to -- there's a fear -- and the
5 reason I'm here today is that last night at a membership
6 meeting the members asked me to come and present it before
7 you today. There's a fear that the infrastructure that's
8 been created by the City of Los Angeles and the Port of
9 L. A. will be impacted if this new city is allowed to
10 operate the port.

11 The membership wanted me to express to you that
12 we would like to show our support that the people that
13 created this great port, the City of Los Angeles and the
14 Port of Los Angeles, that the Port of L. A. stay in the
15 hands of the City.

16 Thank you.

17 CHAIRPERSON CONNELL: Thank you.

18 Dennis Hagner. Following Dennis we're going to
19 have Frank. And, Frank, I can't see your last name. I
20 think it's Fasullo.

21 MR. HAGNER: Good afternoon, Commissioners.
22 Thank you for allowing me --

23 CHAIRPERSON CONNELL: Identify yourself for the
24 record, please.

25 MR. HAGNER: I am Dennis Hagner. I am

1 representing the Engineers and Architects Association, the
2 largest civilian union in the City of Los Angeles. And I
3 represent the people that Jo Ann Wysocki would like to
4 fire.

5 We have looked very, very closely at all the
6 documents that have been produced on this issue up to last
7 week. And rather late in the game we came to the
8 conclusion that this whole issue raises serious concerns
9 for our members and the future of their employment, either
10 directly or indirectly through the general economic
11 impacts that this bifurcation of authority could lead to.

12 We also have people work down in the harbor.
13 We're very concerned about their security. This also
14 raises a concern. We've addressed those concerns in
15 comments to your staff, so I won't enumerate them.

16 But we do support the recommendation. We believe
17 that keeping the port whole is in the best interests of
18 not only our employees, but also the State.

19 Thank you very much.

20 CHAIRPERSON CONNELL: Thank you.

21 Now, Frank Fasullo. I hope that was a correct
22 pronunciation of your name.

23 MR. FASULLO: You did very well. Fasullo.

24 CHAIRPERSON CONNELL: Okay, great. Thank you.

25 MR. FASULLO: My comments are to Mr. Thayer's

1 best interests of California. How many times has the
2 State had to sue the City of Los Angeles over port
3 services?

4 I think that a new and smaller city without the
5 larger budget and needs would streamline all the facets
6 with less delays; and would not only be in the best
7 interests of all of California, but all the steamship
8 associations, too, which I've had the time to sit down and
9 talk at breakfast with a few of them and been able to
10 offer them, we believe, something much better and much
11 cheaper, at the same time while still making Los Angeles'
12 port the best and fastest growing port in the world.

13 With all respect to Mr. Fossum, his argument
14 is -- all I heard was just a bunch of "what ifs" and
15 "maybes," having nothing to do with the reality, but are
16 meant to keep Los Angeles in control; which Los Angeles is
17 still in control even if we do receive the tidelands.

18 There's nowhere in there saying we're going to
19 take control, or for our longshoreman friends that we're
20 going to manage the port. Nowhere. That's not what we're
21 asking for.

22 But we believe that we have been -- and the
23 public knows that Los Angeles has dealt with us and has
24 been doing business in our area in bad faith. If not, why
25 would at all ends of the City of Los Angeles is it

1 breaking up, if Los Angeles wasn't the landlord that was
2 alluded to earlier?

3 As to Ms. Hahn, I really like what she's doing in
4 our town. But it only is common knowledge or common sense
5 that we would want to, of course, keep the security in our
6 town at the highest rate that could possibly be. We live
7 there. We're in the surrounding areas there. I have
8 children that go to school there also.

9 But I have no political gains here. I'm not
10 looking for any money. Nobody's paying for me. We have
11 been involved in this, the Harbor Vote, for 13 years
12 because of the ineffect that Los Angeles has played with
13 the cries to our community. We're still crying out to
14 them. And at no time has our city council come and said,
15 "how can we fix the problem?" Instead, we've had to pass
16 major legislation, AB62, in order to get our first
17 amendment right to petition our government to get our tax
18 base.

19 If you guys vote against this right now, you will
20 be voting against our first amendment rights. If not
21 anything but giving us political -- another nail in the
22 coffin, so to speak, when these things are not true.

23 So in closing, I think that the \$13 million plus
24 that these monies that are coming up that we don't have
25 the revenues for, they're dollars and cents that the --

1 that Los Angeles port pays for services rendered. That's
2 all. This is just all about the monies that they pay for
3 services rendered.

4 Thank you so much.

5 CHAIRPERSON CONNELL: Thank you. And, Frank, let
6 me just assure you that as the person who sat at the
7 negotiating table for the State of California to try to
8 resolve the removal of dollars from the trust fund by the
9 City of Los Angeles in that lawsuit, as you recall, that
10 we settled some year and a half ago, we certainly support,
11 as a Commission, the fact that there should be
12 availability of services in the harbor area.

13 And I think the continued persistence of the
14 Governor -- at that time was the Lieutenant Governor --
15 and myself in that regard, and subsequently Mr. Bustamante
16 in his role in the Commission is an indication the State
17 stands solidly behind the rights of the community of San
18 Pedro and Wilmington to have access to quality services
19 and to make sure that those dollars are spent within the
20 community, which was, of course, the intent of that entire
21 litigation and the subsequent resolution of it.

22 Can we have Molly Squire now. Is Molly still
23 hanging with us?

24 And I believe the next person will be Dan Miller.

25 DR. SQUIRE: I have my prepared 3 minute thing,

1 but I've been staring at this map all along, and I want to
2 show you a picture of the area I'm talking about.

3 That triangle right in there, right at the tip of
4 your harbor red line, that triangle between those two
5 bridges, those blocks.

6 I'm glad Commissioner Janice Hahn, who is also on
7 the Alameda Corridor Transportation Authority Committee,
8 is here, since we've contacted her office a couple of
9 times but she said she is helpless to do anything.

10 The Alameda corridor was exciting to all of the
11 businesses in this area. That's about nine blocks --
12 about nine blocks, at least, of businesses.

13 The 1991 Environmental Impact Report stated one
14 reason to vote for the project was the enhanced traffic
15 flow pattern promised for local businesses. Instead
16 August 16th the active board voted to take the whole
17 neighborhood. By the way, all those voters in there would
18 have been for seceding from L.A.

19 One friend of mine, who was bludgeoned in
20 February, is still only speaking in one-word sentences
21 now. That was at the property.

22 Most businesses were devastated. Not only were
23 they taken without an Environmental Impact Report, but
24 there was no relocation plan in place. I paid almost 500
25 bucks to get a copy of the Environmental Impact Report

1 made for this Alameda corridor section here, and it shows
2 that whole neighborhood is missing from it. They weren't
3 supposed to take it in the first place. They showed all
4 the bridges they were going to build to go into different
5 neighboring areas, and that's what the voters and the
6 state and whoever approves this thing voted to approve.

7 So they took these blocks without having them
8 shown on the Environmental Impact Report.

9 In this respect, okay, the California Code of
10 Regulations Title 25 states, "A project must cease if
11 there is no relocation planned." In this respect, an EIR.
12 In this respect it has acted unlawfully. There is federal
13 funding. And they must follow state and federal
14 standards.

15 Additionally, they are refusing to honor their
16 own grievance procedures, denying a hearing to those who
17 request a hearing for their administrative grievances.

18 One man has four grievances. They aren't all
19 about relocation money. They're about the problems due to
20 this. And the lawyers for ACTA are telling him you can't
21 have a hearing until you name a price for relocation.

22 In the meantime many, especially the Hansons and
23 the Mayfields, have been denied a penny of relocation
24 benefits even after submitting required bids months ago
25 for a self move. Their possessions are being held in

1 temporary storage. And ACTA's counsel has told them they
2 cannot remove the property unless they can take it out in
3 one day and also sign an invalid full release of all
4 claims against ACTA. They can't do it. It took the
5 moving and storage company three weeks to move tons of
6 equipment using semi-trucks and a team.

7 CHAIRPERSON CONNELL: Molly, may I just have the
8 jurisdiction of the Chair here for a moment? I apologize
9 for interrupting you.

10 I think the issue of the Alameda corridor is an
11 importance issue. Unfortunately, it is not within the
12 jurisdiction of this Commission, as I understand it.

13 Is that correct, Mr. Thayer?

14 EXECUTIVE OFFICER THAYER: That's correct. And
15 Dr. Squire has submitted a letter outlining the concerns
16 that she's now speaking of. I guess what I would propose,
17 and maybe as a way to dispose of this quickly, is that we
18 would attempt to ascertain what entities do have some
19 involvement of that, and forward this letter to those
20 entities.

21 CHAIRPERSON CONNELL: Yes. I think the concerns
22 that you were expressing, Dr. Squire, are certainly
23 legitimate, and we're not in any way trying to dismiss
24 them, but it is not the power of this Commission to really
25 address those. But I do think that we can give you some

1 assistance in identifying who. But I do believe it would
2 be the federal agencies responsible for this matter.

3 DR. SQUIRE: Thank you. I was referred here by
4 the Federal Railroad Administration, Washington DC.

5 CHAIRPERSON CONNELL: Why am I not surprised.

6 (Laughter.)

7 DR. SQUIRE. Well, I'm sorry. I didn't know
8 where to go.

9 CHAIRPERSON CONNELL: I don't mean to -- you
10 know, I'm not making light of your concerns.

11 DR. SQUIRE. Yeah, I know. If you were going for
12 governor today, I'd vote for you. Okay?

13 CHAIRPERSON CONNELL: Well, thank you, thank you.
14 I want you to know I'm not. Let me dispel that. Lest
15 there be any, you know, press in the room, I don't want
16 that rumor to trickle out. I'm supporting our candidate
17 for governor, Governor Gray Davis, if anyone has a
18 question of where my support is. But I thank you for
19 that.

20 And I share with you your frustration. I mean,
21 the Alameda corridor has been a mishandled operation from
22 its birth, and has disappointed many of us who are
23 residents of the area. It has accomplished many economic
24 objectives, but it has shown, I think, in many cases
25 insensitivity to the needs of the people in the

1 surrounding communities.

2 And I would urge you, Mr. Thayer, to make it a
3 priority to try to help Dr. Squire. And you could become
4 an advocate on the part of the Commission in making sure
5 that she is not railroaded, to use the word of the agency
6 that sent you over here, to yet another series of agencies
7 that don't have the jurisdiction to respond. I think we
8 are well aware of which jurisdictions can respond to those
9 matters, and we will allow our own experts in bureaucracy
10 to assist you in threading that needle.

11 DR SQUIRE: Thank you.

12 One comment. Alan Cranston endeared himself in
13 the early 1970s to everybody in the Huntington's Disease
14 Association when he got a girlfriend's mother her Social
15 Security and nobody else could. So if you're following in
16 his footsteps, I look forward to a resolution.

17 CHAIRPERSON CONNELL: Thank you. We will follow
18 it forward with you on that.

19 Now, Mr. Miller. And we have only, I believe,
20 one speaker after that, and that will be Frederick Markin.

21 MR. MILLER: Thank you, Commissioners. My name
22 is Dan Miller. I am a member of the project consultant
23 team for San Fernando Valley, Hollywood, and the harbor.

24 Our firm prepared the budget and the transition
25 plan that was alluded to earlier. Our firms that have

1 worked with these three communities with very few
2 exceptions have probably prepared all of the comprehensive
3 fiscal analysis that have been done statewide on new
4 cities. So we have a lot of background in this.

5 What I would want to stress today is the fact
6 that what was first alluded to by your staff was that
7 LAFCO had made a finding that this was not fiscally
8 viable. That is not the case. A consultant's report
9 submitted to LAFCO made those statements and based on a
10 number of assumptions.

11 Our plan -- our budget has also been submitted to
12 LAFCO, which contradicts a lot of those assumptions and
13 the methodologies that were used.

14 LAFCO in mid-May will take all this data, all the
15 reports, all the testimony, and at that time will make a
16 finding as to fiscal viability.

17 So I think it's premature to make any decision
18 today based on whether this community is going to be
19 fiscally viable or not. Those findings have not been --
20 what was referenced was one study that made -- came to
21 those conclusions.

22 I think the biggest difference that our study and
23 the CFA that was done by the consultants to LAFCO is that
24 they applied a 3.6 million population budget structure
25 and/or organization to a small community of 140,000. That

1 just does not work.

2 And, yes, as the councilwoman indicated, that
3 there will be a reduction in expenditures, a substantial
4 reduction in cost of those services, but not a reduction
5 in service. There will actually be an enhanced level of
6 service and at a reduced cost, so that makes it fiscally
7 viable. I think that's what we'll be presenting to LAFCO
8 in mid-May.

9 And based on all the testimony, at that point,
10 LAFCO will make a determination as to whether the Harbor
11 City is fiscally viable. So it's premature today for
12 anyone to get up and say a decision, a finding has been
13 made. And that basically is what the executive officer of
14 LAFCO also indicated, that no finding has been made. The
15 Commission based on LAFCO's staff's recommendations will
16 make that finding in mid-May or some time after that.

17 Thank you.

18 CHAIRPERSON CONNELL: Mr. Miller, may I ask, why
19 has there been such a delay in getting this fiscal
20 material, you know, put forward? We're now well into the
21 month of April. This matter has been, you know, certainly
22 debated and discussed for a period of time, almost years.

23 MR. MILLER: Our study and a transition plan in
24 the budget were submitted to LAFCO six months ago. The
25 study has been out there, and it's public knowledge. As

1 to who accessed that, either with your staff -- and we did
2 have contact with the State Controller's Office. And, as
3 you indicated, they were very limited in their analysis.

4 And he indicated he could not look at all these
5 other studies. So, yeah, it's common knowledge that this
6 document is out there. And LAFCO has that document. It
7 has been commented to by the City of L.A. It's been
8 discussed in all our negotiations on terms and conditions.
9 So it should be no surprise that the document exists. As
10 to who has tried to get access to it, I don't know.

11 Thank you.

12 CHAIRPERSON CONNELL: All right. Thank you.

13 Frederick Markin. Then we do now have another
14 additional speaker following Frederick.

15 Go ahead.

16 MR. MARKIN: Madam Chair, Members of the
17 Commission, my name is Fred Markin. I'm with the Los
18 Angeles City Attorney's Office representing the City of
19 Los Angeles.

20 CHAIRPERSON CONNELL: It's nice to see you again.

21 MR. MARKIN: Nice seeing you.

22 I'm not actually speaking either in favor or in
23 opposition despite the speaker form card which forced me
24 to make a choice. But I am -- I'm one of the speakers who
25 is prompted to speak by something I've heard today from

1 Mr. Calemine and now Mr. Miller. And it has to do with
2 this question of fiscal viability and the role -- the
3 prospective roles played by your Commission and LAFCO.

4 I think Mr. Calemine has said to you, and I think
5 Mr. Miller is supporting him in this regard, let LAFCO
6 make its determination. LAFCO has made no finding on
7 fiscal viability. This Commission -- so we ought to defer
8 to LAFCO.

9 I think there are at least two problems
10 associated with that. The first is this: This Commission
11 has its own independent responsibility. Act upon the
12 information and opinions before you. For you to defer to
13 LAFCO, I question firstly the legality of that, and you
14 ought to talk to your counsel. I think it's highly
15 inappropriate to essentially allow your decision to ride
16 upon some other agency's determination.

17 And the second problem is this: At least -- and
18 the point has been made that there are certain proposals
19 that have been studied. There's a comprehensive fiscal
20 analysis and there's a State Controller's review of that.
21 But there are other proposals that are in the works. At
22 least we have some idea with regard to the proposals that
23 have been evaluated as to what the conclusion is with
24 regard to fiscal viability.

25 A further proposal that may be considered by

1 LAFCO, which is a possibility, I guess, is unknown to you.
2 The question I think before you is, if there is some
3 revised proposal, some other design of government, let's
4 say, for the proposed Harbor City, how will it be equipped
5 to deliver fire service, police service, for the poor?
6 And that is entirely unknown. And so, essentially, what
7 you're doing is deferring to an analysis of something that
8 has yet to be devised. It's something certainly you
9 haven't analyzed.

10 So I think that on those two reasons, I think
11 that this Commission ought not to simply defer to LAFCO,
12 but rather make an assessment based upon the information
13 before you. And if you need more information, get more
14 information. But in any event, make that decision based
15 upon the information that's before you rather more
16 deferring to LAFCO on this important question.

17 Thank you very much.

18 CHAIRPERSON CONNELL: Thank you.

19 And I would like to call what I hope will be the
20 final speaker here today. Xavier Hermosilo. Am I saying
21 that anything close to -- my goodness, we have a patriotic
22 tie here today.

23 MR. HERMOSILO: You must be learning your Spanish
24 from Member Bustamante.

25 CHAIRPERSON CONNELL: Yes.

1 MR. HERMOSILO: Because it was excellent.

2 My name is Xavier Hermosilo, and I'm a life-long
3 resident of the port community of San Pedro. And I have
4 over the last -- well, giving my age away -- 30 years plus
5 been involved in segments of a call for secession, while
6 I was chief of staff to former Assemblyman Vincent Thomas,
7 who every year would introduce a piece of legislation to
8 secede San Pedro from the City of Los Angeles and --
9 unsuccessfully, I might add -- and his successor, Dr.
10 Jerry Filando (phonetically). One a democrat and one a
11 republican. And I worked for both.

12 And so this issue of secession, though its
13 present state is only about 13 years old, the roots go
14 back very, very deep.

15 And in looking at the staff report, there are a
16 number of issues that are of concern. But probably the
17 greater issue overall is this notion that -- you know,
18 we're caught between a rock and a hard place. We're
19 caught in a classic Catch 22, because while the proposal
20 is attacked as not being financially viable -- when we
21 proposed to prepare a city the size of a Carson or a
22 Torrance or Garden Grove, which is realistic, the State
23 Lands Commission staff comes back and says precisely
24 because of that you can't handle a port, because of the
25 costs. And Councilwoman Hahn has talked about, you know,

1 the port burning down and things like that. And certainly
2 after 911, the issue of security is one of paramount
3 concern.

4 But I would remind the Commission and staff that
5 the issue of fire protection and police protection of the
6 port is handled 75 percent by revenues generated by the
7 port already. And the notion that this new community
8 would impose an unreasonable or usury tax on cargo
9 containers, et cetera, I think is also fallacious in its
10 base because we have seen before, for example, that
11 outside regulatory agencies, including yourselves, slap
12 the City of Los Angeles on the wrist when they took \$40
13 million and transferred it from the port revenues to the
14 City's general revenue.

15 CHAIRPERSON CONNELL: Sixty-eight million.

16 MR. HERMOSILO: It was sixty-eight. That was
17 with interest.

18 And so there are safeguards in place that would
19 prevent the kinds of horror stories that are presented
20 here as being contrary to the viability of this community
21 having control or some access or revenue sharing with the
22 Port of Los Angeles.

23 The other issues that have been raised in terms
24 of your staff report I think, you know, raise serious
25 questions about the depth of knowledge that some people

1 may have about how this can operate. And I think it
2 created unnecessarily some scare tactics that I think are
3 beneath this Commission and beneath the effort and the
4 Cortese-Knox Law that enables a secession to proceed as
5 far as it has.

6 CHAIRPERSON CONNELL: Excuse me just a moment.

7 Are we not getting a transmission of this at this
8 point? Are you still being able to record.

9 All right, fine. You adjusted.

10 I'm sorry. We were having a transmissional
11 problem. And I certainly believe we want to make sure we
12 have the recorded minutes of every speaker of this
13 meeting, as I anticipate that will be important in the
14 future.

15 So we are continuing to record?

16 Good. Thank you.

17 I'm sorry. Go Ahead.

18 MR. HERMOSILO: All right. I'll wrap up with
19 this. In looking at the background of the Commission's
20 report and the responses that the Harbor Study Foundation
21 has put together, I would ask you to the extent that it's
22 possible to remove politics from this and look into the
23 fact that the port communities of San Pedro, Wilmington,
24 and Harbor City, but predominantly San Pedro and
25 Wilmington, have tried for a number of years to work with

1 the Port of Los Angeles to deal with the issues of
2 environmental difficulties.

3 I think there's environmental justice issues, not
4 because the communities are of any particular minority
5 make up, but because of the fact that the port has been
6 unwilling to be responsive to this community even after
7 Mayor Hahn and his sister, Councilmember Hahn, created a
8 citizens' committee to look at a number of these issues
9 the port has been blatant and arrogant in its dismissal of
10 concerns of the community.

11 This is one of the largest reasons why these
12 communities have been seeking secession. It's one of the
13 largest reasons why these communities need to be able to
14 have an element of say-so in the continued development of
15 the port.

16 I am in the business of moving freight. I am in
17 the business -- I am the Executive Director of the NAFTA
18 Corridor Institute. And we're about the movement of
19 goods; we're not about the movement of stopping any growth
20 in the harbor. But we're also about the responsible
21 movement of goods. And we've had to turn to our
22 assemblyman, Al Lowenthal, to introduce legislation to,
23 for example, cover up the coke piles over on Terminal
24 Island because of the irresponsible way in which they were
25 handled by the Port of Los Angeles.

1 There are now lawsuits involving china shipping.
2 All of these involve port trust lands, and I think they go
3 straight to the heart of the inability of the City of Los
4 Angeles in the Port of Los Angeles as an administrative
5 body to be responsive in concern about the quality of life
6 issues and the health issues involved with the people of
7 San Pedro and Wilmington.

8 That is at the genesis of this request to the
9 State Lands Commission, that you please reconsider the
10 information that you have been given, that you look at
11 this as impartially as you can. And while I know that
12 there are people on this Commission, specifically you, Ms.
13 Connell, who ran for mayor of Los Angeles and perhaps may
14 have a personal feeling about that -- I love L.A. And I
15 say to you and to everybody here that Los Angeles is a
16 state of mind.

17 I have traveled all over the country and all over
18 the world in connection with my business, and I hear
19 people say I'm from L.A. whether they're from Orange
20 County or whether Ventura, because Los Angeles is Los
21 Angeles. And the fact that we choose to request revenues
22 and control -- participation control over the port as a
23 separate independent city does not mean that we don't like
24 L.A. or we despise L.A.

25 It's just that in 1910 when we became a part of

1 the City of Los Angeles, it was with some specific
2 understandings. And I don't want to go back 100 years to
3 agreements that have been broken since then. Although, I
4 do want to mention that in the progress that has been made
5 with the ports has been both to the benefit and detriment
6 and with the help of the people of San Pedro and
7 Wilmington.

8 And so I ask you to please, as you make your
9 deliberations on this matter, that you can consider that
10 we just want our house back, we want to have a say. We
11 let somebody come into our house, the City of Los Angeles,
12 a hundred years ago, and they have sullied it, they have
13 polluted it, they have over-occupied it. They have given
14 us absolutely no voice. And all we ask is to have a voice
15 in the future of our families, our kids, our businesses,
16 and the beautiful coast land to which we have virtually no
17 access, the only major city in the United States that has
18 significantly limited the access of its owners and people
19 to the tidelands for which you are entrusted and have the
20 power to entrust to a new organization. And we ask that
21 you look at this issue carefully.

22 And I'll close by saying this: In the field of
23 law -- and I know a couple of you are lawyers up there --
24 they say --

25 CHAIRPERSON CONNELL: Actually, none of us are

1 lawyers, which is a gift.

2 MR. HERMOSILO: None of you? Okay. I apologize.

3 CHAIRPERSON CONNELL: I pray every night that my
4 children will use their talents in a field that is not
5 litigious.

6 MR. HERMOSILO: Well, you know, as I go through
7 life, I can say that the only thing that I ever did
8 absolutely at the request of my mother was not to become a
9 lawyer because that would have taken her to her grave
10 earlier than --

11 CHAIRPERSON CONNELL: No offense to lawyers in
12 the audience of course, including my staff here at the
13 Lands Commission.

14 MR. HERMOSILO: No more lawyer jokes.

15 Let me just close by saying this: In looking at
16 the facts and the law in this situation, I am reminded of
17 an axiom often used in the legal field; and that is, if
18 you don't have the law on your side, argue the facts; and
19 if you don't have the facts on your side, argue the law.

20 Well, I will submit to you, members of the State
21 Lands Commission that in this particular case we have both
22 the law and the facts on our side, and we ask you to rule
23 in that vein.

24 Thank you very much.

25 CHAIRPERSON CONNELL: Thank you.

1 And before I ask for comments from my fellow
2 Commissioners, I want to thank all of the well-informed
3 and impassioned speakers that have come before us. I was
4 asked yesterday by a member of the media whether I was
5 walking into this meeting with any preconceived notions;
6 and I didn't. And I must tell you, I think this has been
7 one of the most educational exchanges we've had before
8 members of this Commission. I want to thank you all for
9 respecting the limited time that we've given you and the
10 other matters that occurred before this Commission that
11 you have had to patiently sit through.

12 I did ask the Attorney General to give some
13 thought -- attorney general's representative -- regarding
14 the legal issues that have been commented on during the
15 various speakers' discussions. And I'd like you to
16 identify yourself for the record and maybe give us your
17 sense of where we are on that.

18 DEPUTY ATTORNEY GENERAL HAGER: My name is Alan
19 Hager and I'm a Deputy Attorney General.

20 CHAIRPERSON CONNELL: Can everyone hear?

21 (Nos.)

22 CHAIRPERSON CONNELL: Okay. Let's see if we can
23 get a larger volume on the mic.

24 DEPUTY ATTORNEY GENERAL HAGER: How's that? Is
25 that better?

1 CHAIRPERSON CONNELL: Not really. Maybe you can
2 exchange with Paul.

3 DEPUTY ATTORNEY GENERAL HAGER: Is that better?

4 CHAIRPERSON CONNELL: Yes.

5 DEPUTY ATTORNEY GENERAL HAGER: Okay. I'm Alan
6 Hager. I'm a Deputy Attorney General. And you noted that
7 I smiled when you first propounded a question. And the
8 reason for the smile was that I really am not familiar
9 with the law that governs LAFCO. So I don't want to give
10 an opinion of what LAFCO can do. But I am familiar with
11 the law that governs the Commission. And let me say a few
12 things about that.

13 The law that we're talking about is a provision
14 in Government Code 56740. And the question that I have
15 is, can the Commission in making a decision under that
16 section condition what it does? It doesn't say that you
17 may. And I have grave concerns about making a decision
18 that is conditional.

19 Also, if you may excuse me for making a practical
20 comment, making a conditional decision is essentially a
21 loss of control. And also I am concerned, and this is --
22 what you are trying to do with respect to infringing upon
23 the role of the Legislature.

24 And here's another loss of control or legislative
25 problem. The legislature made the grant to the City of

1 Los Angeles. The legislature, if it wants to amend that
2 grant, may -- amends the grant and its relationship and
3 its control is with the City of Los Angeles.

4 Could LAFCO condition -- issue a condition so
5 that a new city is bound by whatever the Legislature may
6 choose to do in the future? I'm very concerned about
7 whether that could be done. And, you know, making a --
8 even if LAFCO could make a condition, could they condition
9 them -- could they condition the City -- the new Harbor
10 City to be bound by the present terms of the grant? But
11 of course the Legislature may, as it chooses, amend the
12 grant, change the grant in any other way.

13 And it seems like a loss of control. In order to
14 attain control, maybe the Legislature would have to say we
15 should address our concerns directly to the City, which
16 would be tantamount to transferring the grant from the
17 City of Los Angeles to the new city.

18 I just see that the idea of making a condition,
19 if it's by the Commission, is legally uncertain to me.
20 Whether it can be done by LAFCO creates all sorts of
21 questions that I think create a great deal of uncertainty
22 as to the legality of that.

23 CHAIRPERSON CONNELL: Well, then as Chair, I'm
24 going to ask that we limit our deliberation here today to
25 the issue before us. And the issue then before us upon

1 counsel of the Attorney General -- I thank you for that
2 wisdom -- is the staff recommendation and singular the
3 staff recommendation, so I will only take discussion
4 regarding that matter. We have staff recommendation
5 before us, and either we can choose to accept that or
6 reject that. But I don't think we want to start wandering
7 into areas where there is uncertain legal grounds,
8 conditioning action that we have now been advised might be
9 inappropriate.

10 Mr. Bustamante, do you have any thoughts that you
11 want to share with the public at this point? And then,
12 Ms. Porini, I will call on you as well.

13 COMMISSIONER BUSTAMANTE: Unlike you, Madam
14 Chair, I had my mind made up when I came here. I came
15 here with what I believed to be all the facts and the
16 audits. And having reviewed that information, came here
17 with what I believed to be a clear decision about what was
18 in the best interests of the State and tidelands.

19 I have to tell you, while I've been here and I've
20 been listening to the testimony, I find that there are
21 some issues that I just cannot allow to be let go. My
22 position, I don't believe, has changed at this point on
23 the staff recommendation. I will support the staff
24 recommendation.

25 However, the issues that have been addressed here

1 by the residents of San Pedro and Wilmington I believe are
2 significant. I think that our staff -- regardless of how
3 this goes, that the staff ought to make a -- and I'm
4 asking the staff to do a review of the environmental
5 problems as well as any environmental justice issues that
6 are affecting the communities of San Pedro and Wilmington
7 because of the port operations.

8 I want to have a list prepared within 90 days,
9 and have it come to the Commission in the meeting
10 following those 90 days. And I want to know exactly the
11 kinds of issues that are being talked about, because it is
12 outrageous that the port would be -- one of the largest
13 ports not only in this country, but in the world -- the
14 impacts of a community are such, and from what the
15 residents of this community are saying is that those
16 issues are not being addressed neither by the port nor the
17 City of Los Angeles. And I think that that's something
18 significant that we should review.

19 The second thing that came up that I'm very
20 concerned about, we've heard conflicting information about
21 this, is the security of the port. I'd like to know -- I
22 heard that there was a couple people with flashlights in
23 row boats in the Bay Area. And we've heard that the
24 number of police trips into this community are amazingly
25 low, if not some of the lowest in the nation.

1 I want to get to the bottom of those two major
2 issues, because even though I support the staff
3 recommendation, those are two major issues that affect
4 this community, that affect the port operations, that
5 affect the protection of both in terms of city fire and
6 police. And I want to have answers to those questions in
7 order to resolve them.

8 EXECUTIVE OFFICER THAYER: Okay.

9 CHAIRPERSON CONNELL: Thank you.

10 Annette.

11 ACTING COMMISSIONER PORINI: Well, my only
12 comment is that putting on my Department of Finance fiscal
13 hat, looking at the audit that the Controller did, and
14 looking at the information that's before us, because I
15 can't comment on other fiscal analysis that's not before
16 us or decisions that may be made in the future, I am in
17 support of staff's recommendation.

18 CHAIRPERSON CONNELL: Well, let me then offer my
19 perspective as well. As I said, I came into this meeting
20 with an open mind. I think it's my obligation when I sit
21 on the several dozen boards that I'm honored to represent
22 the people on, that I always come into a meeting with an
23 open mind. I try to educate myself ahead of time, but I
24 always listen attentively and hopefully respectfully to
25 the input.

1 I am increasingly troubled that some of the
2 information that needs to be before LAFCO has not had as
3 much review as perhaps is necessary. And I would like to
4 suggest that LAFCO as it moves forward in what has been a
5 truly arduous process -- and I do respect the works,
6 Larry, of your staff and your Commission. And having
7 partaken in just the very small segment of that, I know
8 how truly grueling that is, because my own staff committed
9 65 to 70 hours a week just to get the work done within our
10 restricted 45-day timetable. And we didn't even begin to
11 dent the surface.

12 But what has come out here today is clearly a
13 reflection that there is additional information that
14 members of the public and residents of the community would
15 like to have considered by LAFCO. And I certainly want to
16 urge LAFCO as it moves forward in this process. And Larry
17 is correct in saying that the final determination of
18 viability is not made by my office or by this Commission,
19 nor does any action that we may take today suggest that.
20 It is to be made officially by LAFCO.

21 So I would suggest that LAFCO try to integrate
22 some of the information that's been shared today that's
23 obviously been offered in both written and verbal form
24 before this Commission.

25 But I am also mindful of the fact that we have

1 very limited authority here on this Commission; that we
2 must really look at what the jurisdiction is of this
3 Commission and what the very focused responsibility is of
4 this Commission, and that is really the tidelands trust.
5 And in the tidelands trust the role that we have as
6 Commission is really to keep the interests of the State
7 and the port within that framework as we move forward.
8 And the material that has been presented by our staff, I
9 think, has been presented in their best efforts to look at
10 some of these issues.

11 I am not satisfied, however, that we are doing
12 all that we can to be an advocate for some of these
13 communities that are neighbors to the ports -- and we've
14 had this discussion, Paul, on many occasions --
15 whether it's in Oakland where we -- by the way, for those
16 of you who don't know, the people of Oakland feel just as
17 strongly about their community around that port as you do.

18 The Port of San Francisco is a little bit more
19 isolated, so we have the residential communities that are
20 impacted by the decisions of that port.

21 Certainly the Port of Long Beach -- when we meet
22 in Long Beach we have the engagement, the involvement,
23 appropriately. A lot of the communities there who feel as
24 strongly as you do about what's going on in their
25 community.

1 And we've already had that situation in San
2 Diego.

3 So I certainly would like to really discuss,
4 after we take action on the item before this Board today,
5 how we might move forward in trying to make sure that we
6 really insist on a partnership that -- not only here in
7 Los Angeles, but in Long Beach and San Diego and Oakland,
8 and San Francisco -- really moves forward this issue of
9 responsibility for quality of community.

10 And when we talk about representation in these
11 communities, I don't think it's adequate that the state
12 has to step in and be the advocate for the local
13 communities, in which we have done, I might add, prior to
14 the current leadership of Mayor Hahn and many members of
15 the city council including Councilwoman Janice Hahn. We
16 have had to assume that role because there has been an
17 absentee sense of support for the harbor and Wilmington.
18 And just as we are assuming that role in Rincon Island at
19 this point, I'd like to see us not have to be in that
20 role. I don't think it's necessarily the appropriate role
21 for the State.

22 And so I would like us to begin to examine how we
23 can begin to use our influence and our leverage as a
24 Commission to try to exact a higher level of involvement
25 of community residents on some of these issues.

1 I certainly share with you, Mr. Bustamante, some
2 of your concerns in that regard. But I am going to
3 support after much reflection today the staff
4 recommendation. So that will be unanimous support of the
5 staff recommendation.

6 I would like to be the maker of a motion though,
7 that at our meeting in September, to give you adequate
8 time, Mr. Thayer, that we review where we are going to be
9 in this wider issue. And I want to broaden it out. I
10 want it to be more than the issue of the harbor of Los
11 Angeles. I want to look at the five major harbors -- or
12 ports, excuse me, as we look at the State of California
13 and try to determine what kind of paradigm might be
14 developed, Mr. Thayer, to use the resources and the
15 influence and the legality that we represent in the State
16 Lands Commission to encourage and urge local jurisdictions
17 to be more respectful of the communities in which they are
18 operating their activities. And I think we have a second
19 and perhaps unanimous vote.

20 we have unanimous vote of the Commission in that
21 regard.

22 Are there any concluding comments that we need to
23 make on this matter? If not, I'd like to move to, I
24 think, the final matter before the Commission today.

25 COMMISSIONER BUSTAMANTE: I just want to be able

1 to make a final comment before the meeting adjourns.

2 CHAIRPERSON CONNELL: We now have concluded the
3 regular calendar. And there is a public comment period
4 which we always have at the end of our Commission hearing.
5 If there is anyone who would like to address the
6 Commission at this point, we are receptive to that.

7 Not seeing anyone who's moving forward to do
8 that -- yes.

9 MR. FASULLO: Frank Fasullo. I'd like to know
10 how you managed to have a unanimous decision when the
11 facts that were put in front of you say that you weren't
12 dealing with all the facts. Is this a totalitarian
13 government now or is this still a democratic thing and we
14 are -- you guys -- do you represent me or do you represent
15 yourselves or -- who do you represent here? That would be
16 my question. As a veteran, who do you represent? And I
17 just cannot believe that you just made a unanimous
18 decision knowing that you did not have all the
19 information.

20 Thank you.

21 CHAIRPERSON CONNELL: Mr. Bustamante.

22 You have another comment? Please.

23 MR. DYER: My name is Dennis Dyer. I assume that
24 your unanimous decision is that you are going -- that the
25 provisions as recommended to the Commission, that is the

1 provisions that are on page 11, are exactly the provisions
2 that you have thus passed and this is the exact wording.

3 CHAIRPERSON CONNELL: Mr. Thayer.

4 EXECUTIVE OFFICER THAYER: My interpretation of
5 the Commission's action was to adopt the staff recommended
6 action, which is spelled out in the staff report, yes.

7 MR. DYER: That's the last page of the staff
8 report.

9 EXECUTIVE OFFICER THAYER: Yes.

10 MR. DYER: And so that is the official action of
11 this Commission?

12 EXECUTIVE OFFICER THAYER: Yes.

13 MR. DYER: Very good. Thank you.

14 CHAIRPERSON CONNELL: Any further public comment?
15 If not, Mr. Bustamante.

16 COMMISSIONER BUSTAMANTE: Madam Chair and
17 Commissioners, as overseers to the San Diego port and to
18 their granted public trust tidelands, I think we need to
19 take a more active role to ensure that the San Diego Bay,
20 especially the south bay wildlife refuge, is protected
21 when a lessee is causing severe environmental damage.

22 It currently has an application into the regional
23 water board to renew their discharge permit, which is to
24 be voted on in May. The draft permit is far too lenient.
25 Among other things, it fails to establish several critical

1 discharge limits for copper, zinc, chlorine, and does not
2 establish a maximum temperature, a limit for water
3 discharge. It doesn't require any independent monitoring,
4 and it doesn't assess maximum impacts. There is no
5 requirement for mitigation on the impacts that are
6 assessed.

7 I would like to ask that the Commission consider
8 a motion to look into the issue and express the concerns
9 of these specific items via letter to both the port and to
10 the regional water control board.

11 CHAIRPERSON CONNELL: Ms. Porini.

12 ACTING COMMISSIONER PORINI: I would like to have
13 the staff -- I'm supportive. I'd like to have staff
14 prepare a letter and distribute it to members, if that's
15 acceptable.

16 COMMISSIONER BUSTAMANTE: Yes, the meeting of the
17 regional water board will be meeting in May, so we can't
18 wait until the next Commission meeting.

19 CHAIRPERSON CONNELL: Well, may I suggest that
20 what we do, since this is new information for the
21 Commission at the end of an extended morning, could we,
22 Mr. Thayer, try to put that in writing and circulate it
23 among Members of the Commission. And if Commission
24 Members are comfortable, then they will sign that letter
25 as individuals and as Commissioners.

1 EXECUTIVE OFFICER THAYER: Certainly, we could do
2 that. And our intent would be to try and get that out to
3 you by the end of next month.

4 MR. PARKER: Timothy Parker for the Steamship
5 Association. Page 11 of the report is not what you voted
6 upon, I believe. Page 11 would be, in effect, the
7 negative, not the positive. You voted actually to keep
8 the status quo. If you voted on 11, would that not have
9 changed everything?

10 COMMISSIONER BUSTAMANTE: We voted to keep the
11 status quo.

12 MR. PARKER: You voted to keep the status quo.
13 The gentleman who just asked you the question was
14 referring to Page 11. I think he was in error.

15 CHAIRPERSON CONNELL: No, actually Page 11 is the
16 action of the Commission.

17 Mr. Thayer.

18 EXECUTIVE OFFICER THAYER: Yes, that's correct.
19 And page 11 objects to the transfer --

20 MR. PARKER: Rejects --

21 EXECUTIVE OFFICER THAYER: Rejects it.

22 MR. PARKER: Thank you.

23 CHAIRPERSON CONNELL: Seeing that there is no
24 other business before this Commission, we stand adjourned.

25 Thank you.

1 (Thereupon the California State Lands
2 Commission meeting adjourned at 1:30 p.m.)
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

