

MEETING
STATE OF CALIFORNIA
STATE LANDS COMMISSION

STATE CAPITOL
ROOM 447
SACRAMENTO, CALIFORNIA

MONDAY, APRIL 5, 2004
2:00 P.M.

ORIGINAL

JAMES F. PETERS, CSR, RPR
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APPEARANCES

BOARD MEMBERS

Mr. Steve Westly, Chairperson

Mr. Cruz Bustamante, also represented by
Lorena Gonzalez

Ms. Donna Arduin, represented by
Mr. Fred Klass

STAFF

Mr. Paul Thayer, Executive Officer

Mr. Jack Rump, Chief Counsel

Mr. Curtis Fossum, Senior Staff Counsel

ALSO PRESENT

Ms. Toby Levine, Northeast Waterfront Advisory Group

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1 Chair, members of the Commission.

2 I just have two or three items to cover here.
3 I'm pleased to report that the proposed budget for next
4 year has gone through the Senate subcommittee with no
5 problems. It was on consent. And that we expect -- the
6 indications are that the Assembly subcommittee will have
7 no problems either. Although their hearings are occurring
8 a little bit later.

9 There are of course, as is the case with other
10 state agencies, several cuts this year -- this coming
11 year, that is. And we have experienced them this year.
12 So we're scrambling to make sure that we can cover the
13 Commission's mission. But since 1990-'91 we've lost about
14 50 positions out of about 250 positions. So there's going
15 to be some impacts. We're mindful of the fact that, as
16 with other agencies, we need to look carefully at what's
17 most important to the Commission. And we'll be doing our
18 best in that regard.

19 But certainly, as with the other agencies, we've
20 taken these cuts.

21 CHAIRPERSON WESTLY: Thank you, Mr. Thayer.

22 Let me just comment on that as the State's chief
23 financial officer.

24 The budget is not going to look better any time
25 soon. And I was just over at the FTB staff today. While

1 the State's income is a hair above projection, we're
2 looking at a tough 12 months and possibly 24. So I would
3 just urge the staff to batten down the hatches. Through
4 prioritization, you can bring it to us if you'd like our
5 input. And we'll do everything we humanly can with
6 technology and other efficiencies. But it's not going to
7 get better any time in the immediate future.

8 EXECUTIVE OFFICER THAYER: We understand. And we
9 don't feel singled out at this point in terms of receiving
10 cuts that are any different from what everybody else is
11 doing. So, in essence, we're doing our fair share.

12 CHAIRPERSON WESTLY: Most people in Finance are
13 tough, aren't they, Mr. Klass?

14 (Laughter.)

15 CHAIRPERSON WESTLY: Okay. Thank you.

16 Please proceed.

17 EXECUTIVE OFFICER THAYER: The second item that I
18 wanted to discuss a little bit were a -- or is a couple of
19 awards that the State Lands Commission and staff have
20 received recently. We belong to -- Gary Gregory, who is
21 our Division Chief for the Marine Facilities Division to
22 the Los Angeles Long Beach Propeller Club. And several
23 months ago Gary was awarded the Rear Admiral Frank D.
24 Higbee Award for significantly improving maritime safety
25 while facilitating maritime commerce. And of course Gary

1 as the chief for the Marine Facilities Division is
2 responsible for ensuring that the oil transfers that occur
3 at oil terminals do not result in any oil spills. And
4 he's had a very successful program. So I wanted to
5 acknowledge Gary. He's here in the audience today.

6 Gary, do you want to stand up.

7 MARINE FACILITIES DIVISION CHIEF GREGORY: Thank
8 you.

9 EXECUTIVE OFFICER THAYER: Gary Gregory.

10 The second award also goes to another office in
11 his shop. We have in addition an office in Hercules,
12 which provides inspectors to oversee transfers of oil and
13 gas in the San Francisco area. And the Coastguard made a
14 presentation to the State Lands Commission, in general,
15 and particularly to Ken Leverich, who's the manager of our
16 northern California office, for -- it was a Public Service
17 Commendation and Certificate of Merit for coordination
18 with the Coastguard on various aspects of public safety.

19 Ken's not here today. But, again, I wanted to
20 acknowledge publicly these awards. And it says a lot
21 about the staff, as well as the Commission.

22 The final item I wanted to note is just that our
23 next Commission meeting's going to be -- and I don't know
24 if other offices are aware of this -- on June 7th in
25 southern California. We haven't picked a venue yet, but

1 it will probably in the L.A./Orange County area.

2 And that concludes the Executive Officer's
3 report.

4 CHAIRPERSON WESTLY: Mr. Thayer, thank you.

5 I just want to comment on one issue that I know
6 my staff has worked with you on. And that's the issue
7 about increased pollution problems where people are
8 dumping into marinas. And I know Commission staff is
9 gearing up to look at this, to help ensure that our marina
10 leases are the toughest standard-wise in the nation. And
11 I just want to thank you for that. It's something I want
12 to be proactive about and it's something I want to
13 publicize, because this is a time when people are saying,
14 "Are we really getting bang for the buck for the
15 government?" And they forget all the things that are
16 being done. And this is an issue a lot of people see and
17 are concerned about, and I want to make sure we're as
18 proactive and tough as we can be. And just thanks for
19 pushing the staff to take a leadership role here.

20 EXECUTIVE OFFICER THAYER: Thank you.

21 What we intend to do is carry on with what we
22 started with already, which is to go out to other states
23 and review their lease provisions as well as to talk to
24 some of the groups here in California that are interested
25 in the results to see if there are ways we can tighten

1 what we do. And then return with a report to the
2 Commission at a future meeting.

3 I don't think that's going to be as soon as the
4 next meeting, in part because the research is somewhat
5 complex. But we also think it's appropriate to discuss
6 any improvements that we might make with the users, people
7 who are using the marinas as well as the marina operators
8 before coming to the Commission to try to come up with a
9 program that makes sense and is feasible.

10 But we'll be bringing that back to the Commission
11 at a future meeting.

12 CHAIRPERSON WESTLY: Terrific.

13 The next order of business is the adoption of the
14 consent calendar.

15 Mr. Thayer, if you could please indicate which
16 items have been removed from the consent calendar and
17 which other consent items we noted ahead of the meeting
18 might be of interest in the Commission.

19 CHAIRPERSON WESTLY: There are three items that
20 will be taken off. They're Items 5, 11, and 43. And some
21 of those will be back to the Commission at a future date.

22 I wanted to take note of a couple items that are
23 on there, for the benefit of the audience as well as the
24 Commission. We often, of course, approve the consent
25 calendar without further comments. But there are four

1 items there that are of particular benefit to the public.

2 The first one, Item 24. Orange County has asked
3 the Commission to approve imposing the public trust
4 designation on some uplands surrounding a valuable
5 wetlands habitat in Upper Newport Bay. And the result of
6 this would be to ensure that that land can't be used for
7 general development in the future. So it's a good thing
8 environmentally.

9 The second issue -- the second item that's of
10 public benefit has to do with wheelchair access at San
11 Clemente -- this is on Item 39 -- where an existing
12 concrete structure is amenable to being converted for
13 wheelchair access to the beach, something that doesn't
14 exist there now. And we think this is a great project.

15 The third item has to do with the disposition of
16 artifacts -- Native American artifacts that have been
17 recovered from the bed of Owens Lake. As the Commission
18 is aware, the Commission manages the state-owned lands
19 there. But they have had adverse environmental effects on
20 the area because the water that's been removed that goes
21 to L.A. for drinking water, as a result the area's been
22 converted to salt and sand flats. In the process of
23 remediating that, various artifacts were uncovered. And
24 these are going to be sent to the Paiute and Shoshone
25 office and tribe in that area as the tribe that has the

1 best jurisdiction over them. And they are very grateful
2 for having these items offered to them and they've
3 accepted them.

4 And then the last item has to do with an
5 off-shore oil lease off Santa Barbara presently controlled
6 by Union Oil. Production has ceased there. The
7 improvements in development has been safety removed so
8 that they don't present any continuing environmental
9 hazard. And that lease will be quitclaimed to go back to
10 the State. The net effect of that will be that there can
11 be no new oil development here. And pursuant to State
12 law, no new leases can be let, and this will be
13 permanently a sanctuary.

14 So those are the four items I want to highlight
15 that are on the consent calendar.

16 CHAIRPERSON WESTLY: Thank you, Mr. Thayer.

17 Is there anyone in the audience who wishes to
18 speak on any item still on the consent calendar?

19 COMMISSIONER BUSTAMANTE: Mr. Chairman?

20 CHAIRPERSON WESTLY: Yes, Lieutenant Governor.

21 COMMISSIONER BUSTAMANTE: I just want to make
22 sure that -- Paul, as we talked about on Item C 48, that
23 this was not an establishment of anything other than the
24 beginning of a review for the LNG and that we would have
25 public hearings later on on this issue. Is that correct?

1 EXECUTIVE OFFICER THAYER: That's a good point,
2 because, as the Lieutenant Governor will probably
3 remember, last summer we had an item which didn't involve
4 approval of any LNG facilities. But the public
5 misunderstood that as perhaps an action item that would
6 allow LNG facilities to go forward.

7 But as the Lieutenant Governor points out, this
8 item has only to do in general with LNG facilities, and
9 requires -- or authorizes us to obtain outside consulting
10 services to determine what seismic safety standards should
11 be imposed should the State decide to put in any LNG
12 terminals.

13 So, yes, you're correct, this does not approve
14 any action development.

15 COMMISSIONER BUSTAMANTE: And one last item is on
16 C 50 --

17 EXECUTIVE OFFICER THAYER: Yes.

18 COMMISSIONER BUSTAMANTE: -- which indicated
19 there was a fee increase to the various cruise ships that
20 were coming in and out as a result of changes in statute,
21 that these -- the increase wasn't to do what we were
22 already doing, but to do the new requirements that have
23 been added by statute by the Legislature.

24 EXECUTIVE OFFICER THAYER: That's exactly the
25 case. The Commission had previously approved the \$500 of

1 voyage fee in December as emergency regulations. We're
2 back to you today to confirm those as permanent
3 regulations, and that that fee is an increase over what
4 had been before. That's in direct consequence of the
5 terms of the reauthorization legislation, which in fact
6 requires additional research, pilot programs, adoption of
7 additional regulations, all of which cost money and
8 resulted in the increase.

9 COMMISSIONER BUSTAMANTE: But we had moved our
10 fee down to \$200 if I recall correctly.

11 EXECUTIVE OFFICER THAYER: Yes, sir.

12 COMMISSIONER BUSTAMANTE: And now we've had to
13 bring it back up to the 500?

14 EXECUTIVE OFFICER THAYER: That's correct.

15 And of course if it turns out that we're able
16 to -- and something like that happened when we first
17 adopted the fee for the initiation of this program back
18 three or four years ago, where we originally started the
19 fee at a higher amount but were able to find that we
20 didn't need that much. We had better compliance from the
21 industry than we expected. And so we were able to
22 progressively lower the fee. And we will be tracking the
23 receipt of funds through this new fee. And certainly if
24 it turns out that we don't need as much money in order to
25 carry out the environmental protection required by the

1 law, we can come back with revisions to the Commission.

2 COMMISSIONER BUSTAMANTE: Okay. Thank you.

3 CHAIRPERSON WESTLY: Great. Thank you.

4 We have a few members from the public that wish
5 to speak on a later item. So unless anyone else comes
6 forward, I'd like to go ahead and ask if we could take the
7 remaining group of consent items as a group for a single
8 vote.

9 And I'd like to proceed with the vote, if we
10 could have a motion.

11 COMMISSIONER BUSTAMANTE: Move.

12 ACTING COMMISSIONER KLASS: Second.

13 CHAIRPERSON WESTLY: Great.

14 All in favor please say aye.

15 (Ayes.)

16 CHAIRPERSON WESTLY: Thank you.

17 That brings us to the next items, 59, 60, 61, and
18 62, concerning the Bolsa Chica wetlands restoration.

19 And may we have the staff for our presentation.

20 EXECUTIVE OFFICER THAYER: Yes, Mr. Chair.

21 The Bolsa Chica wetlands are an area that the
22 Commission's been involved with for 25, 26, 27 years. And
23 doing much of that work for us is -- has been Jim Trout,
24 and we hope he'll continue to do that for awhile.

25 Jim is officially retired. But he's back as a

1 retired annuitant and couldn't let go of this. And we're
2 glad that he hasn't. He's a former deputy executive
3 officer for the Commission. He has a lot of experience.
4 And we're glad that he's still with us to work on this
5 project.

6 MR. TROUT: I appreciate the opportunity. I've
7 been involved in this project for more than 30 years. In
8 1970 we started solving the Commission's ownership claims
9 on the site. And in 1973 Governor Reagan signed an
10 agreement whereby the State settled its claims for 300
11 acres in the Bolsa Chica area, that are now the Bolsa
12 Chica Ecological Reserve managed by the Department of Fish
13 & Game. And that's -- I don't think it's going to reach
14 over there.

15 It's kind of hard to see on the screen. But it's
16 right down in this area, that kind of dark area right
17 there.

18 Since then we've been trying to develop a plan
19 for the restoration of the Bolsa Chica area. At statehood
20 it was a marine wetland with an entrance just out of the
21 upper left corner of the picture there.

22 Over the years it was developed first for a duck
23 club, then for oil and gas development. And then starting
24 in the mid seventies the property owner wanted to develop
25 it for subdivisions. And at one time there was a proposal

1 for up to 5,800 dwelling units in the lowlands of Bolsa
2 Chica.

3 Fortunately, we were able to stop that
4 development. And we were able to bring together a
5 coalition of the Commission, along with seven other
6 federal and state agencies, to put together a restoration
7 plan.

8 It was largely made possible by the proposed
9 multi-modal terminals to be built in the ports of L.A. and
10 Long Beach. They had to mitigate for the filling of San
11 Pedro Bay. And the ports came up with approximately \$80
12 million in mitigation fees.

13 So in 1996, the eight agencies and the ports of
14 L.A. and Long Beach reached agreement on the acquisition
15 and restoration of the Bolsa Chica project area. On
16 February 14th of '97 the Commission approved that
17 agreement.

18 In 2000 and 2001 environmental documents for the
19 restoration project were circulated by the federal
20 government Corps of Engineers and U.S. Fish & Wildlife
21 Service under NEPA, and the Commission is lead agency
22 under CEQA. In January of 2002 the Commission approved,
23 certified that environmental document.

24 Following that the Fish & Wildlife Service on
25 behalf of the eight agencies contracted with Moffatt and

1 Nichol Engineers to do the final design and specifications
2 for the restoration project.

3 The project involved several aspects. And it's a
4 little hard to see. But there was going to be a new
5 four-lane bridge down in the corner there.

6 Jane, maybe you could get up there and help us.
7 Jane Smith is the land officer who's helping us with this.

8 The PCH bridge right there will require the
9 restoration or reconstruction of about one quarter mile of
10 Pacific Coast Highway. The purpose of the bridge is to
11 allow new ocean inland that would go -- allow fresh marine
12 water to go into the facility. And there's a blue circle
13 down there. That's the off-shore head bar. And the water
14 would flow in then from that location.

15 We will build jetties at the ocean entrance.
16 There's -- the two lines there are the jetties. The
17 jetties will be buried in sand. You will not see them
18 except during extreme winter conditions. They'll be
19 buried and there won't be a hazard. And they won't
20 interfere with the up and down coast flow of sand.

21 Another thing we're going to do just inland of
22 Pacific Coast Highway, because we're going to build that
23 inlet, we have to build an ocean inlet bridge for the oil
24 company to provide them access to the state-owned wells,
25 which are right here in this area to the north, just above

1 the blue circle. Those wells are producing for the state
2 from off-shore reservoirs.

3 The other thing is we're going to create a
4 366-acre full tidal area. And, Jane, that's in the yellow
5 outline there. That will be rise and fall with the daily
6 tide, the full extent of the tide. Between there and the
7 blue line, the purple line there will be another 200 acres
8 of muted tidal area that will be affected only by a foot
9 or two as the tide rises and falls. There will also be
10 nesting islands, which are kind of clear blobs that are
11 showing up in the picture there.

12 Another part of it is that we have bought out the
13 resources of 60 wells. And these wells are being
14 abandoned to provide a clear area for the restoration.

15 And then in order to do the full tidal area we're
16 going to have to have the City of Long Beach relocate a
17 portion of a gas line that runs across the facility. And
18 the blue line there is the new location of the line.

19 The ocean entrance bridge on Pacific Coast
20 Highway will require a number of documents with CalTrans.
21 And the Commission action in Item No. 62 is to provide the
22 right-of-way for CalTrans to use during the time we build
23 a detour for Pacific Coast Highway during the construction
24 of the bridge and then to give them ownership of the new
25 bridge. So that's Item No. 62.

1 Item No. 61 is the relocation of the gas line by
2 the City of Long Beach. It's actually being relocated by
3 the Southern California Gas Company, an element of Sempra
4 Energy.

5 And then the Fish & Wildlife Service will
6 construct -- or undertake the actual work of awarding a
7 contract and supervising construction of the wetlands
8 restoration.

9 Calendar Item No. 60 is to grant them a four-year
10 lease to actually do that construction -- to allow their
11 contractor under the property to do the physical
12 construction.

13 There's a couple aspects yet remaining for the
14 project. One of them is the long-term management of the
15 project. And we don't have a designated operator yet.
16 We'll be back to the Commission for a long-term lease for
17 someone to operate it. I think the wisdom is that if
18 possible this would be included as a national wildlife
19 refuge and operated by the Fish & Wildlife Service. It
20 could be operated in conjunction with the Seal Beach
21 Refuge. They, like California, are little averse to
22 taking on additional responsibilities. And that'll have
23 to be worked out.

24 Other possibilities are the State Department of
25 Fish & Game, which now is not in a position to do that, or

1 governmental -- nongovernmental organizations, the trust
2 groups of one kind or another.

3 I'm really excited. This is going to be, when
4 we're successful, one of the largest wetland restorations
5 west of the Rockies, and maybe the largest ever
6 undertaken. And the Commission has had a vital part of
7 that. And we're happy to give you this briefing, and look
8 forward to the groundbreaking that we hope to have in the
9 fall, and of which we certainly hope all of you can make
10 it at that time, and get this project underway.

11 Construction should start October 1st and be done
12 in June of 2007.

13 CHAIRPERSON WESTLY: A terrific report.
14 Certainly very excited about that. Another area where I
15 think Californians can be proud that this would in fact be
16 the largest wetlands restoration west of the Rockies.

17 What I'd like to do now -- we've heard the staff
18 presentation -- is to ask if there are other speakers on
19 this issue. And if not, I'd like to ask for comments from
20 the Commissioners.

21 Any other speakers from the public?

22 Terrific.

23 Lieutenant Governor or Mr. Klass.

24 COMMISSIONER BUSTAMANTE: Only that I'd like to
25 have a copy of the oral report that was just made. I

1 think summarizes very quickly not only the history but
2 also the activity that's taken place up to now.

3 All right. I'd like to have a copy.

4 CHAIRPERSON WESTLY: Okay. I think it's a
5 terrific piece of staff work. We'll make sure you get
6 that.

7 And, again, thank you. I appreciate we're doing
8 a lot of interdisciplinary work between federal and state
9 agencies. And, again, at a time with budget cuts, I think
10 this is the sort of thing Californians will look at and
11 say, "Boy, it's great to see different parts of government
12 working harmoniously" -- "largely harmoniously together to
13 accomplish a common good."

14 Any other comments from the Commissioners?

15 If not, I'd like to ask for a motion and a
16 second.

17 COMMISSIONER BUSTAMANTE: Motion.

18 ACTING COMMISSIONER KLASS: Second.

19 CHAIRPERSON WESTLY: Terrific.

20 All in favor please say aye.

21 (Ayes.)

22 CHAIRPERSON WESTLY: Thank you. Motion passes
23 3-0.

24 EXECUTIVE OFFICER THAYER: And we will take that
25 as a motion on all three items if it seems appropriate.

1 CHAIRPERSON WESTLY: Forgive me. That was meant
2 to be on Items 60, 61, 62. That was the understanding,
3 yes.

4 That brings us to -- concludes the regular
5 calendar.

6 No, forgive me.

7 I'm sorry. Item 63 -- forgive me -- is the
8 proclamation in support of Earth Day 2004. How could I
9 forget?

10 Mr. Thayer, will you introduce the presentation.

11 EXECUTIVE OFFICER THAYER: Certainly.

12 Mr. Chair and members of the Commission, Earth
13 Day is an event that's been celebrated not only in the
14 United States but around the world for 34 years now. It's
15 the 34th anniversary of the first one. Senator Nelson
16 being one of the instigators of that and Dennis Hayes
17 helping to implement it.

18 Many of the goals of Earth Day, in fact all of
19 them I think, are consistent with the mission of the Lands
20 Commission. We have custody over some of the most
21 sensitive environment in the state, with all the
22 underwater lands and the area along the coast. And so it
23 seems appropriate today that we adopt this resolution in
24 support of Earth Day, and calling on all Californians to
25 celebrate appropriately to mark that occasion. It's

1 usually a day of learning and proactive projects that
2 benefit the environment. And what we would propose to do
3 is send copies of this resolution once it's adopted by the
4 Commission to all of the grantees so that they would
5 understand our full support for the goals of Earth Day.

6 CHAIRPERSON WESTLY: I think it's a terrific day.

7 Just on a personal basis, there's a fellow named
8 Dennis Hayes who was the student body president at
9 Stanford about ten years ahead of me. And I think he was
10 one of the co-sponsors with Senator Nelson, and something
11 I've followed with great interest and participated in for
12 years.

13 Are there any other speakers from the audience on
14 this? I don't expect much controversy here.

15 Commissioners?

16 If not, I'd love to ask for a motion.

17 ACTING COMMISSIONER GONZALEZ: Before I make a --
18 some kind of a motion, we still, for some reason, never
19 got a copy of the --

20 EXECUTIVE OFFICER THAYER: Oh, my apologies. I
21 think the secretary has them. And if you wanted to take a
22 moment to look at it or at least look at the "resolved"
23 sections, that'd be fine. I apologize for not getting it
24 to you sooner.

25 ACTING COMMISSIONER GONZALEZ: I'm sure it's the

1 same as what we've done in the past.

2 CHAIRPERSON WESTLY: Forgive us, Lorena. I know
3 Sidney's reviewed it. And she assures me there are no
4 trick clauses this time.

5 (Laughter.)

6 ACTING COMMISSIONER GONZALEZ: I'm sure it's
7 fine. I just very -- for something I hadn't read.

8 EXECUTIVE OFFICER THAYER: No, I apologize for
9 not getting this to you.

10 ACTING COMMISSIONER GONZALEZ: We're fine with
11 it.

12 Fred, were you going to make a --

13 ACTING COMMISSIONER KLASS: I move the
14 resolution.

15 ACTING COMMISSIONER GONZALEZ: We second it.

16 CHAIRPERSON WESTLY: All in favor please say aye.

17 (Ayes.)

18 CHAIRPERSON WESTLY: Terrific.

19 Item 64 is consideration of a letter opposing the
20 development of the 36 federal oil and gas leases offshore.

21 I'd love to hear a presentation.

22 EXECUTIVE OFFICER THAYER: Mr. Chair and members
23 of the Commission, these 36 leases are in federal waters
24 off of California and for the most part off of central
25 California and further north, and we've seen development

1 in California in the past.

2 They're in federal waters. They were leases that
3 the federal government entered into with five or six
4 different oil companies. But have not been developed so
5 far.

6 They have received suspensions of the
7 due-diligence requirements. These are requirements that
8 are contained in most of the leases that state that
9 lessees must proceed with development in a timely fashion.

10 There's been recently litigation over the last
11 couple of years brought generally by the Coastal
12 Commission to ensure that the State will have review
13 opportunities before development can occur of these
14 leases.

15 But simultaneously there's been some efforts,
16 some negotiation ongoing between the federal government
17 and the lessees to see if there's any way to extinguish
18 these leases. And what was done by the federal government
19 in Florida was to purchase these leases back and to end
20 the development of threat from the State.

21 The State, of course, has already been very
22 proactive in this matter, and in 1994 enacted legislation
23 to prohibit all new oil leases in the State waters. And
24 what the Commission has generally done is taken the
25 position that the feds should act in a similar way.

1 And in fact in 1991 -- excuse me -- 2001, at a
2 September 17th meeting, the State Lands Commission adopted
3 a resolution calling on the federal government to take all
4 steps necessary to prevent development of these 36 leases.

5 This spring we've started to enter into a
6 critical phase with respect to those negotiations. And
7 there's been some difficulty in reaching a conclusion.
8 But I think the Chair of the Commission -- I know the
9 other Commissioners -- the Lieutenant Governor was
10 involved with the initial resolution -- that the
11 Commission is eager to see a conclusion to this in a
12 manner which would prevent future development.

13 And so the letter which we're asking you to
14 sign we'll -- actually a copy of it's here today for you
15 to sign, if you'd like; or, if necessary, we can send it
16 down for the Lieutenant Governor's signature before we
17 send it out -- in which we're going to reaffirm the
18 Commission's position on this and forward a copy of that
19 earlier resolution to the President, with copies to
20 Department of Interior, that actually controls this lease,
21 and to members of the State's congressional delegation and
22 to other appropriate authorities to make sure that the
23 position of the Commission is well understood.

24 CHAIRPERSON WESTLY: Let me just say a quick
25 word.

1 We asked that this letter be drafted. And I know
2 the Lieutenant Government's staff has worked on it again.
3 We all recognize there are many current oil leases that
4 were signed into effect in the fifties and sixties. You
5 know, obviously we need to honor those commitments. But
6 in terms of new oil leases and drilling, I think we need
7 to send a clear and consistent message to the federal
8 government, frankly, everywhere that we do not want to see
9 any additional drilling in this state.

10 What I wanted to ask from you is: When you
11 identified the area and region, you said it's further
12 north than we've typically seen. Can you give the Board a
13 sense of where?

14 EXECUTIVE OFFICER THAYER: It's -- I don't -- I'm
15 sorry, I don't have a map with me. But it's off -- more
16 off of San Luis Obispo County.

17 Let me ask Paul Mount to make sure I'm complete
18 about that.

19 Is that -- Paul does have a map.

20 Let me bring this up to the Commissioners.

21 CHAIRPERSON WESTLY: Great. Thank you.

22 Is there any of the other Board members who would
23 like to comment on this?

24 ACTING COMMISSIONER GONZALEZ: I have quick
25 comments from the Lieutenant Governor. And I'm sorry that

1 I wasn't able to get you these before the letter was
2 drafted completely. Just two slight, slight changes.
3 He'd like in the third paragraph, the last sentence there
4 was -- I don't know if this was already caught an
5 inappropriate "comma" after "ocean."

6 EXECUTIVE OFFICER THAYER: Okay.

7 ACTING COMMISSIONER GONZALEZ: Sorry. I usually
8 like to do those before the meeting.

9 And in the last -- or second to last paragraph --
10 excuse me -- the sentence, it's midway through, it says,
11 "The impacts from development discussed above suggest that
12 such development may not be consistent with California's
13 coastal management program." He would like to know if we
14 could change that to "is not consistent," so just to be a
15 little stronger.

16 Is there a problem with that?

17 EXECUTIVE OFFICER THAYER: Absolutely not.

18 ACTING COMMISSIONER GONZALEZ: Okay.

19 EXECUTIVE OFFICER THAYER: And then we'll
20 incorporate those changes and just circulate the letter to
21 the offices to make sure we get those signatures on them.

22 CHAIRPERSON WESTLY: We're 100 percent
23 comfortable with those changes. And --

24 ACTING COMMISSIONER KLASS: I believe we are --

25 CHAIRPERSON WESTLY: -- Mr. Klass, if you are as

1 well, I'd love to ask for a motion that we support the
2 letter.

3 ACTING COMMISSIONER GONZALEZ: Move to support
4 the letter.

5 ACTING COMMISSIONER KLASS: Second.

6 CHAIRPERSON WESTLY: All in favor?

7 (Ayes.)

8 CHAIRPERSON WESTLY: Great.

9 Well, Mr. Thayer, you've gotten off easy this
10 time so far.

11 We do -- that includes the regular calendar.

12 There are, however, speakers who wish to address
13 the Commission during the public comment period. This is
14 very important to me. There are a number of complex
15 issues we need to deal with judiciously.

16 There's always members of the public who wish,
17 and I think should be granted, the right to speak on
18 issues of concern.

19 And what I'd like to do is ask that Toby Levine
20 from the Northeast Water Advisory Group, Port of San
21 Francisco, to come up.

22 And I think Jennifer Cleary could perhaps be on
23 deck.

24 And if you could start by identifying yourself.

25 MS. LEVINE: Good afternoon, Commissioners.

1 My name is Toby Levine, and I'm the Chair of the
2 Northeast Waterfront Advisory Group. This is a group that
3 advises the Port of San Francisco in the area of between
4 the Agriculture Building and Pier 39. Actually we stop at
5 Pier 35. And I'm the chair of the group. And we came
6 today to talk to you about some difficulties that we are
7 having, in a nutshell, to Piers 27 and 29 and 31.

8 And I do have remarks printed out. So I don't
9 know how you handle that. Do I give them to you or --

10 CHAIRPERSON WESTLY: You know, Toby, what I would
11 love is if you could maybe hand your remarks out to the
12 staff and the Board if you have them. And then maybe just
13 summarize -- you don't need to read every word, we can go
14 through it -- but the thrust, that would be terrific.

15 MS. LEVINE: Right. Okay.

16 Our committee recognizes the ways that State
17 Lands and BCDC and the Attorney General's Office has
18 improved our project, that is, the Mills project combined
19 with the YMCA and America True, which is a sailing
20 training group. And we do recognize the fact that you
21 have made some important improvements to that project.

22 And of course you were also aware of the fact
23 that San Francisco has many different plans, a variety of
24 plans which control and direct the development of the
25 waterfront, including the BCDC Special Area Plan, the

1 Waterfront Land Use Plan, and then the Northern Waterfront
2 Land Use Plan. And all of these together provide guidance
3 with regard to our development.

4 But the problem is is that we have -- and your
5 staff knows very well that we have a whole series of piers
6 which are historic, but also many of them rotting. And in
7 order to make it possible for these piers to be
8 rehabilitated, we have to find uses which make it possible
9 for the developers and the people who have funds to
10 redevelop these piers and make them seismically safe and
11 historically restored, which is the goal at least at 29
12 and 31.

13 Now, the focus that we have chosen for those
14 piers is recreation. And it's primarily to be a
15 recreation project. And that's why the Y is there and
16 that's why America True is there.

17 But the Y provides affordable recreation. They
18 don't provide high priced recreation.

19 So there has to be some way -- some other way to
20 raise funds for restoring the two rotting piers and to do
21 the historic rehab.

22 And so as a result of that, there has to be some
23 uses which produce funds. And those of course are the
24 office uses and the retail uses that we are permitted to
25 do.

1 However, we would like to be able to expand the
2 recreation in a bigger and stronger way. And to some
3 extent we are limited on that, because I believe, unless
4 we've gotten it mixed up, that most indoor recreation
5 that's sports oriented is not permitted as a trust use.

6 And so what we are doing -- or what we're doing
7 today is asking that you look further at the issue of
8 recreation and recreation -- indoor recreation, which is
9 sports oriented, so that we can make this project even
10 more recreation oriented than it already is.

11 And the reason that we want to do that is, if you
12 look up and down the waterfront right now, we -- have one
13 minute. I'll finish in a minute. Thank you.

14 We have the ballpark, which really draws a lot of
15 residents, and it's very, very beautiful and people do
16 love it. We have now the Ferry Building. If you've been
17 down there, you know that the market and the ferry boats
18 are really attracting people to that area. And you're all
19 familiar, I'm sure, with Pier 39 and you know how
20 interesting the sea lions are to the people who go to Pier
21 39 as well as the shopping.

22 What we really want to do is to create a strong
23 recreation project. And we want your help in whatever way
24 you can give it to us so that we can expand that element
25 and perhaps reduce some of the elements that are not

1 recreation oriented. And you'll find if you read through
2 this letter that that is what this letter says, probably
3 in a better way than I have said it just now.

4 And that's about it. And we're interested in
5 attracting both visitors and residents to Piers 27 and 29
6 and 31, which are 1,400,000 square feet when you put it
7 all together. I mean it is huge.

8 So thank you.

9 CHAIRPERSON WESTLY: Thank you, Ms. Levine. I
10 appreciate that. I appreciate your coming all the way up
11 from San Francisco. I think everybody understands it's
12 huge assets for the city and the state, and we want it to
13 be developed the most appropriate way.

14 MS. LEVINE: Right.

15 CHAIRPERSON WESTLY: Let me ask: Do the
16 Commissioners have any other questions or comments. And
17 I've got a brief one.

18 ACTING COMMISSIONER GONZALEZ: I do have a quick
19 question. I want to make sure it's well understood -- and
20 I know from conversations with other people in San
21 Francisco that maybe it's not -- we, I think, at the
22 Commission don't establish the public trust doctrine. We
23 simply try to follow it --

24 MS. LEVINE: -- interpret it.

25 ACTING COMMISSIONER GONZALEZ: -- and interpret

1 it with the help of the Attorney General's Office. And in
2 this case that's exactly what we've done. So in a way I
3 think that you're asking -- and I could be speaking out of
4 turn -- but at least from our perspective -- the
5 Lieutenant Governor's Office perspective, there's
6 something that maybe we can't do, we can't change the
7 public trust doctrine.

8 But we could ask once again -- and I know that
9 there's been constant work and cooperation with our
10 offices -- maybe once again to come together and see if
11 maybe on some of the designated areas which were not
12 designated for public trust uses, there could be
13 recreations in there in place of office or retail. But
14 maybe there's some more negotiations that could be done.

15 I just want to make sure that it's clear that we
16 can't re-examine the recreation and I think at this point
17 come to a different conclusion about whether or not it
18 fits with the public trust doctrine.

19 MS. LEVINE: Right. Thank you. I think that's a
20 good point.

21 CHAIRPERSON WESTLY: Let me just add to that.
22 And then I want to ask Ms. Cleary if she can begin to come
23 forward.

24 MS. LEVINE: I'm not sure that she's hear. She's
25 from San Francisco Tomorrow. And I do not see her in the

1 audience.

2 Do you have any other speakers?

3 CHAIRPERSON WESTLY: Okay. Well, in that case
4 don't go away.

5 I'm very interested in this issue. And I was
6 just talking about Paul and Jack. We may know about this
7 very issue in the last week, and cares about the same
8 thing. And --

9 MS. LEVINE: -- interested in more recreation
10 too. I know Telegraph Hill is.

11 CHAIRPERSON WESTLY: You're very outspoken in
12 voicing that concern.

13 What the Lieutenant Governor's representative
14 said is key. There's only so far we can go. But within
15 those realms we'd like to go as far as we can, exactly.
16 And I was literally just talking with Paul and Jack about
17 this issue last Friday, I think, or last week. And I know
18 they've been doing some work on it. So we don't want to
19 get expectations unduly high, but I do want you to know we
20 are working, and there still may be some small things we
21 can do.

22 But, Paul, would you, or Jack or staff, do you
23 want to comment briefly on this? I know this is not a new
24 issue. It's something you are genuinely working on.

25 EXECUTIVE OFFICER THAYER: Of course we were

1 involved with this before the Commission acted on it last
2 June when it took its decision on El Segundo. And we've
3 benefited from input from the Attorney General's Office,
4 who wrote a letter last May which basically described the
5 problem with using indoor recreational use as a public
6 trust use.

7 But we're also mindful of the fact that the
8 Commission wants to look -- that life is more complex than
9 the law and that we're always on the lookout for ways that
10 we can accommodate what life requires.

11 I think Commissioner Gonzalez is correct, that as
12 a whole indoor public recreational -- indoor recreational
13 uses are not per se consistent with the public trust
14 doctrine. And the challenge is to find one or more that
15 would be consistent. So in certain circumstances, for
16 example, indoor pools are -- swimming pools are considered
17 to be a public trust, especially when it's available in a
18 very broad sense rather than just to a local community.

19 So there may be other things like that that we
20 can find. And certainly we're going to be in discussions
21 with Paul and others from the community, such as yourself,
22 to see if there's something we can do.

23 But I want to say both things at the same time,
24 which is it's tough to get through that eye of the needle
25 with respect to public trust doctrine. And certainly the

1 case is that the developer, should he -- he or she choose,
2 could incorporate into our recreational uses as to replace
3 existing non-trust uses, that we have no issue with that.
4 But that's difficult.

5 CHAIRPERSON WESTLY: Mr. Thayer, could I ask --

6 MS. LEVINE: The community understands that, by
7 the way.

8 CHAIRPERSON WESTLY: If I could just ask Mr.
9 Thayer then -- and I appreciate you're in a Solomon-like
10 role, in between the developer and the community -- to see
11 if you can perhaps do one more level of outreach with the
12 community and the developers to see if there are one or
13 two things we might do, given that the options are
14 somewhat truncated at this point.

15 But I very much appreciate, Ms. Levine, you
16 coming here.

17 By the way, I'm a big fan San Francisco Tomorrow.
18 I was hoping to hear the representative from that group.

19 Please know we are listening and trying to do as
20 much as we can.

21 MS. LEVINE: I will do that.

22 Now, you have no more public comments now? Are
23 you finished with public comment? Because I'm wondering
24 if she can come later, you know, if you're going to be
25 doing more --

1 CHAIRPERSON WESTLY: We are done with public
2 comment now. And I think we're going to need to adjourn
3 to closed session.

4 MS. LEVINE: Closed session. Okay. So that's --
5 so that's it.

6 Okay. Well, thank you very much. I appreciate
7 it.

8 CHAIRPERSON WESTLY: Well, we appreciate you
9 being here and for leaving a letter with staff. This sort
10 of public comment helps us greatly.

11 MS. LEVINE: Okay. Great.

12 Thank you.

13 CHAIRPERSON WESTLY: Great.

14 That concludes the open meeting. We will now
15 adjourn into closed session. And I would please ask if we
16 could have the room cleared.

17 (Thereupon the California State Lands
18 Commission meeting adjourned at 2:55 p.m.)

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