

MEETING  
STATE OF CALIFORNIA  
STATE LANDS COMMISSION

***ORIGINAL***

EL SEGUNDO CITY HALL  
COUNCIL CHAMBERS  
350 MAIN STREET  
EL SEGUNDO, CALIFORNIA

MONDAY, JUNE 7, 2004

2:00 P.M.

JAMES F. PETERS, CSR, RPR  
CERTIFIED SHORTHAND REPORTER  
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## APPEARANCES

### BOARD MEMBERS

Mr. Steve Westly, Chairperson

Mr. Cruz Bustamante, represented by  
Ms. Lorena Gonzalez

### STAFF

Mr. Paul Thayer, Executive Officer

Mr. Jack Rump, Chief Counsel

Mr. Eric Gillies, Project Manager

Mr. James Hemphill, Mineral Resources Management Division

Mr. Dwight Sanders, Division Chief, Environmental Planning

### ALSO PRESENT

Mr. Tony Brown, Atlantic Richfield Company

Mr. Alan Hager, Deputy Attorney General

Ms. Donna Hebert

Ms. Marilyn Fluharty, California Department of Fish and  
Game

Mr. Dave Koehler, San Joaquin River Parkway Conservation  
Trust

Ms. Kathy Knight, Ballona Ecosystem Project

Mr. John Lorentz

Mr. Wade Major, City of Rio Vista

APPEARANCES CONTINUED

ALSO PRESENT

Mr. Luis Perez, Santa Barbara County

Ms. Leslie Purcell

Ms. April Wakeman, United Anglers of Southern California

Mr. Gary Wayne

## INDEX

	<u>PAGE</u>
I. Opening and Roll Call	1
II. Confirmation of Minutes for the Meeting of April 5, 2004	1
III. Executive Officer's Report	2
IV. Consent Calendar	6
V. Regular Calendar Items	8
58. Atlantic Richfield Company and California Department of Fish and Game	8
Staff Presentation	8
Mr. Luis Perez	18
Ms. Marilyn Fluharty	20
Mr. Tony Brown	22
Ms. April Wakeman	22
Ms. Donna Hebert	24
Mr. John Lorentz	25
Board Discussion & Q&A	26
Motion	36
Vote	36
59. Resolution Regarding Oceans	36
Motion	38
Vote	38
60. Resolution Supporting Oil and Gas Lease Moratorium	38
Staff Presentation	39
Mr. Luis Perez	40
Motion	41
Vote	41
VI. Public Comment	41
Mr. David Koehler	41
Ms. Kathy Knight	44
Ms. Leslie Purcell	48

INDEX CONTINUED

	<u>PAGE</u>
VII. Closed Session	55
Adjournment	55
Reporter's Certificate	56

PROCEEDINGS

CHAIRPERSON WESTLY: I'd like to call this meeting of the State Lands Commission to order.

Can you hear me in the back here?

Is it on?

A quorum of the representatives of the Commission is present. I'm State Controller Steve Westly. I'm joined today by Lorena Gonzalez, representing Lieutenant governor Cruz Bustamante.

For the benefit of those in the audience, the State Lands Commission administers properties owned by the state as well as its mineral interests.

Today we'll hear proposals concerning the leasing and management of these public properties.

The first item of business will be the adoption of the minutes from the Commission's last meeting.

May I have a motion to approve the minutes?

ACTING COMMISSIONER GONZALEZ: I move to approve the minutes from the last meeting.

CHAIRPERSON WESTLY: That would be unanimous.

Let me explain to the members of the audience. The third member of the commission representing the Director of Finance is not here today. So we have a two-person quorum. And there may be a large number of two-number votes if something is moved. And I agree it

1 will be unanimous.

2 Having said that --

3 (Laughter.)

4 CHAIRPERSON WESTLY: -- the next order of  
5 business -- we're not doing anything funny with the voting  
6 here.

7 The next order of business is the Executive  
8 Officer's report.

9 Mr. Thayer, may we have your report.

10 EXECUTIVE OFFICER THAYER: Thank you. And good  
11 afternoon, Mr. Chair and members of the Commission.

12 I'd just like to highlight a few things that are  
13 on the consent calendar as part of my Executive Officer's  
14 report.

15 I think we find that there's a lot of good work  
16 that's done. But we accept the consent calendar items  
17 that aren't necessarily noticed in public, because I do  
18 know the Commission votes all of those items out in mass.  
19 We're going to have the opportunity to identify some of  
20 these things.

21 So I'd like to take a couple minutes just to look  
22 at some of the projects that are for the benefit of the  
23 public.

24 Item number 11 involves a survey of the Owens  
25 Valley which is being done preparatory to some work to

1 prevent dust storms and other environmental and air  
2 quality problems that are occurring out there.

3 That work has the potential to adversely impact  
4 any archeological resources out there. So this item,  
5 which the Commission proposed to approve today approves a  
6 survey to make sure that the -- that those resources will  
7 be protected and any artifacts uncovered will either go to  
8 museums or the universities or made available to the local  
9 tribes and remanded to them.

10 The second two items I wanted to highlight were  
11 items 36 and 42. Both of these are clean energy items.  
12 Thirty-six involves a wind monitoring proposal to  
13 determine whether or not there's sufficient wind energy at  
14 the location in San Diego to construct wind turbines and  
15 generate electricity.

16 The second of those two is Item 42. This  
17 involves putting a buoy off of Catalina Island to  
18 determine whether or not there's sufficient wave and  
19 current energy to generate electricity.

20 And both of these methods of electrical  
21 generation do not involve pollution.

22 Item 47 involves leasing the wreck of the Frolic,  
23 an 18 -- I think 1850 or thereabouts shipwreck to the  
24 Department of Parks and Rec, with the idea that it can be  
25 better protected and managed that way. There is a



1 citizens group that's very interested in helping to  
2 protect the wreck and would work with Parks and Rec on  
3 that. And I think the net result would benefit the state  
4 by preserving this historical resource.

5 And then, finally, there are three items dealing  
6 with Bolsa Chica. The Bolsa Chica Restoration Project --  
7 Wetlands Restoration Project has been very important to  
8 the Commission. We're playing the lead role in that  
9 project. And in the last couple meetings and probably the  
10 next few meetings we'll have a number of items that we  
11 need to prove to get that project under way, leading to  
12 groundbreaking taking place in the first week in October,  
13 an event that we're hopeful that the Commissioners will be  
14 able to attend.

15 The three items on today, two of them are  
16 relatively minor, 49 and 50, that involve obtaining right  
17 of way for construction -- a reconstruction of the highway  
18 there as it's affected by the project.

19 A little bit bigger item is Item 48, which  
20 involves the acquisition of 43 acres along the eastern  
21 fringe of the restoration area. We've reached a willing  
22 settler agreement with Hearthside. The name of the  
23 property's called Fieldstone. And the net result will be  
24 that this additional 43 acres will be subject to the same  
25 restoration as the rest of Bolsa Chica.

1 I also need to note that there is a cap on the  
2 amount of money that would be put into Item 49. And  
3 presently it's listed at \$250,000. We don't think that  
4 much money is necessary and so I'd like to orally modify  
5 that staff recommendation and lower it to 75,000.

6 So those are the consent calendar items that I  
7 wanted to highlight.

8 The other two things that I wanted to mention is,  
9 first, that our next Commission meeting will be August  
10 17th in Sacramento, probably in the Capitol. And it will  
11 probably be at 2 o'clock.

12 And then the final thing is to note, that I think  
13 we have a number of people who have indicated an interest  
14 in speaking. And although the time limit is at the  
15 discretion of the Chair, to remind people in the audience  
16 that our normal time period is three minutes.

17 The Chair of course can modify that as his  
18 desire.

19 CHAIRPERSON WESTLY: I think that is wholly  
20 appropriate. Unless we see a ground swell of people  
21 coming forward, I think we could probably allow the full  
22 three minutes.

23 EXECUTIVE OFFICER THAYER: And that concludes my  
24 report.

25 CHAIRPERSON WESTLY: Is there anyone in the

1 audience who'd like to speak to any items still on the  
2 consent calendar?

3 If not, what I'd like to do, the remaining  
4 consent items will be taken up as a for a single vote.

5 Do we have a motion?

6 ACTING COMMISSIONER GONZALEZ: Before I make that  
7 motion, I do have a request by the Lieutenant Governor;  
8 and I wanted to in conjunction with the Executive  
9 Officer's report.

10 There was an oil spill since our last meeting on  
11 the shore, not on our land. And unlike oil spills in the  
12 ocean, we have very little jurisdiction over what would  
13 happen or when that pipeline would go back into working  
14 order.

15 The Lieutenant Governor would like to know if we  
16 could begin a process where we look at our leases on  
17 on-shore oil. And if, in any part of the lease, we could  
18 write into a future lease that we'd have the power to keep  
19 the pipeline shut down in the same respect that we have  
20 offshore.

21 I know that to establish any regulations is going  
22 to take a lot more time and energy. But we were hoping  
23 for at least the immediate future that there might be  
24 something we could do with our leases so that we could  
25 have a little more power in exercising our jurisdiction

1 over any pipeline in California land that we have any  
2 piece of jurisdiction over.

3 EXECUTIVE OFFICER THAYER: As the Commission may  
4 be aware, our regulations do require that if an oil  
5 facility is shut down due to a pollution incident, that  
6 the operator has to obtain the permission, in some  
7 circumstances from the Commission itself and others from  
8 the staff, before they can start up again. That  
9 regulation does not apply in land. And we'll look into  
10 this further. And there's of course some question as to  
11 which would be the best way to go, as a lease condition or  
12 a regulation event. Which of course a regulation being  
13 that we could apply those to leases that are now in  
14 existence that might not be up for a renewal for 10 or 20  
15 years. But we'll come back with some proposals to the  
16 Commission about that. We'd be glad to do that.

17 ACTING COMMISSIONER GONZALEZ: Great. Thank you.

18 EXECUTIVE OFFICER THAYER: The one other thing I  
19 should mention is that I neglected to say that calendar  
20 items 54 and 55 have been removed from the consent  
21 calendar. The applications were withdrawn by the  
22 applicant.

23 So when you report on the consent calendar, those  
24 will be removed.

25 ACTING COMMISSIONER GONZALEZ: Given that, I make

1 a motion to accept the consent calendar, approve the  
2 consent calendar, with the removal of 54 and 55.

3 CHAIRPERSON WESTLY: Thank you.

4 My support. That would be unanimous.

5 And that brings us to item 58.

6 Item 58 concerns the certification of the EIR and  
7 a revised removal project of parts of an old oil pier,  
8 Santa Barbara County, called Bird Island. On Friday my  
9 staff learned the Department of Fish and Game proposed  
10 this project and believes it's needed for habitat. The  
11 County of Santa Barbara and the City of Goleta have some  
12 concerns and they've sent a representative to present  
13 these concerns to the Commission.

14 Would the representatives from Santa Barbara and  
15 Goleta as well as other speaker cards on this item -- if  
16 you'd pass those forward. And then I'd love to start with  
17 the Commission staff presentation.

18 EXECUTIVE OFFICER THAYER: Certainly. Mr. Chair,  
19 our staff presentation will be made first by James  
20 Hemphill, who is from our Mineral Resources Management  
21 Division and is expert in oil matters. And then he'll be  
22 followed up Dwight Sanders, who heads up our environmental  
23 unit who worked on the Environmental Impact Report for  
24 this project.

25 MR. HEMPHILL: Good afternoon, honorable Chair

1 and member, California State Lands Commission.

2 I'm James Hemphill, Engineering Manager for the  
3 Mineral Resources Management Division of the State Lands  
4 Commission.

5 I'll present a background of the PRC 421 oil and  
6 gas lease and ARCO's proposal to abandon the pier remnant  
7 known as Bird Island.

8 Dwight Sanders will then describe how this  
9 project evolved into the item before you today.

10 The lease is located offshore from the Sandpiper  
11 Golf course in the City of Goleta in Santa Barbara County.  
12 And it's shown in Exhibits A and B of your calendar item.

13 The original lease was issued to H.J. Barnson in  
14 1929. During the past 75 years the lease has been  
15 reassigned to many different lessees.

16 In the 1930s the lessee built three piers from  
17 the shore into the ocean for drilling, development, and  
18 production of the oil and gas reserves.

19 The end of Pier 1, the longest of the three  
20 piers, was reinforced with steel and concrete to hold the  
21 drilling rigs. By the mid-1950's most of the wells and  
22 portions of the piers had been removed, leaving just the  
23 offshore remnant. This remnant became a favorite  
24 roosting/nesting area for the marine birds and became  
25 known as Bird Island, as it is shown on the map on the

1 exhibit.

2 In February of 1993 the Commission approved the  
3 assignment of the lease from Atlantic Richfield/Mobil Oil  
4 Corporation, with the provision that ARCO would remain  
5 responsible for the abandonment of Bird Island.

6 In the 1990s the Commission staff and ARCO  
7 examined the potential for Bird Island's collapse. The  
8 staff subsequently determined that the structure was in  
9 extremely degraded condition and needed to be removed.  
10 ARCO submitted an application for the complete removal in  
11 May of 2000.

12 Dwight will now explain the events and  
13 circumstances that created the revised project.

14 ENVIRONMENTAL PLANNING DIVISION CHIEF SANDERS:  
15 Thank you, James, and Commissioners.

16 This is a special project that has been borne  
17 under and in response to meet local conditions and  
18 circumstances. The structure that you see on the left  
19 exhibit is the present Bird Island Pier remnant. And the  
20 reason it's called Bird Island can readily be assessed if  
21 you take a look at Exhibit C of your staff report.

22 As James indicated, we began a process to remove  
23 this structure and every remnant of the oil and gas  
24 development at that site.

25 During the circulation of the draft EIR for that

1 project, the Department of Fish and Game expressed its  
2 concern the local sea birds, including the California  
3 Brown Pelican, a federal and state endangered species, and  
4 Brandt's Cormorant, would lose an established  
5 roosting/nesting site along this portion of the coast.  
6 This site is evidently the only nocturnal roosting site  
7 for such marine birds in 120 kilometers of southern  
8 California coastline.

9           In response to Fish and Game's concern, sort of a  
10 unique team began working on a potential resolution. That  
11 team included your staff, both engineering and  
12 environmental, the avian experts from the Department of  
13 Fish and Game, Coastal Commission staff, applicants,  
14 engineers, and environmental consultants working with us  
15 on the environmental document.

16           That team over -- a little over a year developed  
17 a design that would provide a replacement for the existing  
18 roosting/nesting function that is served offshore. That  
19 replacement is simulated in the far right exhibit from  
20 precisely the same vantage point as the photograph for the  
21 existing facility is taken, giving one an idea of what the  
22 public might see from either Haskell's Beach, which is at  
23 the base of the Sandpiper Golf Course, or perhaps from the  
24 13th tee of said golf course.

25           Although the revised project would cost



1 approximately 10 percent more than the original project,  
2 the applicant ARCO agreed to proceed. And as a result,  
3 before we developed a new draft Environmental Impact  
4 Report for the revised project, we consulted with local  
5 environmental groups, including the Environmental Defense  
6 Center, staff of Santa Barbara County Energy Division, and  
7 the Santa Barbara Audubon Society.

8 Staff also received a commitment prior to  
9 engaging in any further work from the Department of Fish  
10 and Game to lease and maintain, at no cost to itself, the  
11 proposed improvements.

12 A draft EIR for the project before you was  
13 prepared and circulated for a 45-day comment period.

14 I'd like to have Mr. Eric Gillies of my staff,  
15 who is the project manager for the EIR, to briefly  
16 summarize some of the comments that we received both in  
17 support of and in expressing concern with the -- this  
18 particular project.

19 Following Eric's brief presentation I will  
20 describe to you project components that were finalized  
21 after the completion of the staff report, and I think will  
22 bear on the deliberation of the Commission.

23 Eric.

24 MR. GILLIES: Thanks, Dwight.

25 I'm Eric Gillies, Project Manager for the Bird

1 Island project.

2           The Environmental Impact Report for the proposed  
3 project was circulated for a 45-day period, ending March  
4 11th of this year. We received 15 comment letters for the  
5 proposed project. Some of the more notable comments in  
6 support of the project include: NOAA Fisheries, who  
7 strongly appreciates the effort to improve habitat  
8 quality, as well as quality habitat for fish species in  
9 the hard bottom substrate; United Anglers, a nonprofit  
10 group, strongly supports the project, both the bird  
11 roosting habitat and a hard bottom substrate for local  
12 fisheries; the Audubon Society also appreciates the intent  
13 of the project to minimize the loss of roosting/nesting  
14 site and providing a habitat for the aquatic community.

15           Some of the collective concerns over the project  
16 included several people from the public as far as the  
17 height of the platforms. And the concern there was  
18 aesthetics and one speed affecting bird use.

19           Another comment from several of the commenters  
20 was post-construction monitoring to make sure that the  
21 birds use it. And if the birds don't use it, what would  
22 happen? And Dwight will address that later.

23           And then we've got a couple letters from the  
24 County of Santa Barbara, City of Goleta. It concerns that  
25 this project is sort of a precedent for a Rigs to Reef

1 project.

2           There were several other comments that were not  
3 that substantial that we provided a response to in the  
4 final environmental document that's before you.

5           ENVIRONMENTAL PLANNING DIVISION CHIEF SANDERS:  
6 Thank you, Eric.

7           The avian experts that helped us design this  
8 project for the Department of Fish and Game are confident  
9 of the success of this project, that birds will readapt to  
10 the new platforms.

11           But, frankly, what if we build it and they don't  
12 come. To this end, we have worked with the applicant.  
13 And ARCO will post a bond that will be -- the effective  
14 date of which will be the Department of Fish and Game  
15 lease. The amount of the bond will be sufficient,  
16 combined with the unused maintenance fund, to remove the  
17 pile and the bird platforms.

18           The Department of Fish and Game lease provides  
19 that the facilities would be evaluated after four years  
20 and a decision made as to whether they were successful or  
21 not and whether they should be removed or allowed to be  
22 maintained.

23           Commissioners, the environmental impacts of the  
24 project before you are fully mitigated, as required by the  
25 California Environmental Quality Act. Nonetheless, a few

1 weeks ago staff was approached by ARCO and informed the  
2 project could be eligible to receive monies from an  
3 environmental enhancement fund provided by ARCO. Such  
4 monies are restricted, however, to use by nonprofit  
5 organizations.

6 Staff summarily contacted the Santa Barbara  
7 Audubon Society and the Santa Barbara Channel Keeper and  
8 solicited two distinct proposals, which I'd like to  
9 briefly describe to you right now.

10 First, the proposal through the science program  
11 of the Santa Barbara Audubon Society provides a five-year  
12 sea bird monitoring program, pre- and post-construction,  
13 be conducted in conjunction with the Department of Fish  
14 and Game. The Department of Fish and Game's lease also  
15 provides for a five-year monitoring time period in the  
16 concept as to have these two programs work with and  
17 complement one another.

18 As stated in the Santa Barbara Audubon Society  
19 proposal, the primary concern with the new Bird Island is  
20 if Cormorants and pelicans would use the new structure for  
21 roosting and nesting and how quickly the birds return to  
22 using the structure.

23 The tendency to -- the monitoring immediately  
24 after the completion of construction and during the first  
25 breeding season is called for to properly document the

1 success of the project from an avian perspective.

2 Second -- or excuse me. The preliminary cost  
3 estimates for the effort I just described to you range  
4 from \$85,000 to \$100,000 for a five-year period.

5 Second, the proposal from the Santa Barbara  
6 Channel Keeper would provide a five-year program for the  
7 artificial reef portion of the project. Santa Barbara  
8 Channel Keeper is doing a similar effort under a lease  
9 from the California State Lands Commission at the  
10 Carpenteria Reef.

11 This program has three major components:  
12 Restoration, monitoring, and public education.

13 The restoration component has at its goal to  
14 speed up the natural cycle of kelp recruitment by  
15 establishing adult or juvenile plants at the reef after  
16 rocks are in place.

17 The monitoring portion, baseline and long-term  
18 monitoring the reef, are necessary to evaluate the success  
19 of restoration and natural recruitment. The recruitment  
20 of algae, invertebrates, and fishes to the new reef will  
21 also be monitored and recorded.

22 And, lastly, public education. This program will  
23 be incorporated into the channel keeper's existing  
24 educational component, which includes -- involves the  
25 community, teachers, students, and volunteer divers.

1 School children in Santa Barbara County and Ventura County  
2 will, for example, be instructed in kelp cultivation  
3 techniques and use -- and use provided aquaria to grow  
4 kelp for eventual out-planting into the restoration area.

5 The primary cost estimates for this program range  
6 from \$50,000 to \$100,000 for the five-year period,  
7 depending on the frequency of monitoring.

8 In addition to the support for this project  
9 described by Mr. Gillies, staff has received this morning,  
10 and I believe Commissioners have been provided copies, of  
11 a letter of support from the Santa Barbara Audubon  
12 Society.

13 Mr. Chairman and member, staff believes that the  
14 project before you is truly one of a kind. We also  
15 believe that it is: 1) Consistent with the Commission's  
16 efforts to clean up former oil and gas facilities on state  
17 tide and submerged lands, 2) It is conscious of and  
18 beneficial to the environmental resources of the region,  
19 and 3) it will provide a wealth of scientific data and  
20 information for academia, area students, and the public.

21 Thank you. And staff is available of course for  
22 questions. And we are also aware that a representative of  
23 the Department of Fish and Game and the United Anglers and  
24 of course Santa Barbara County are present to also provide  
25 testimony to the Commission.

1 Thank you.

2 CHAIRPERSON WESTLY: Thank you, Mr. Sanders, for  
3 that thorough presentation.

4 You know, believe it or not here, we have so many  
5 people who'd like to speak, I think I may actually ask  
6 that people try to hold it to two minutes each. We have  
7 quite a number.

8 What I'd love to do is start with Luis Perez.

9 So welcome.

10 MR. PEREZ: Mr. Chairman, Commissioners, good  
11 afternoon. Luis Perez from Santa Barbara County,  
12 representing both the County of Santa Barbara and the City  
13 of Goleta. I'll try to be as brief as possible.

14 The Coastal Commission and State Lands Commission  
15 have in the past required that all sub-sea structures  
16 related to oil and gas projects be fully removed during  
17 the abandonment phase.

18 Of course the County of Santa Barbara has  
19 supported those efforts and we would prefer to see all of  
20 ARCO's remaining Pier C421 pier components completely  
21 removed from the site.

22 The current proposal to leave the caissons lying  
23 in the ocean floor and the creation of artificial habitats  
24 for pelicans and Cormorants may set an undesirable  
25 precedent for the future -- for future oil and gas

1 abandonment projects. And we know that there's quite a  
2 bit that has yet to be removed in the Santa Barbara County  
3 area specifically.

4 We don't think that the exception to make this  
5 project a special project as described by Mr. Sanders is  
6 warranted, or at least we haven't seen the evidence that  
7 supports that.

8 We understand that the nest for Cormorants, for  
9 example, were not discovered until 1997. We also -- and  
10 this is based on the information from the environmental  
11 document -- that pelicans were not documented at night,  
12 and are described as having a moderate attachment to the  
13 site.

14 Another comment with regards to Cormorants is  
15 that they only rarely nest on manmade structures, which  
16 could mean that they may not recolonize the site, which of  
17 course is the whole intent.

18 Another comment with regards to the design of the  
19 project, if you're Commission chooses to continue, is that  
20 you have a design that is based on a hundred year waves.  
21 Typically what happens with the nesting season is that it  
22 goes from the end of March until approximately the end of  
23 August, which is not the time that you have high waves in  
24 Santa Barbara County. Any good surfer will tell you that.

25 But, nevertheless, you're trying to protect



1 during a time that is unlikely to offer any benefit. What  
2 that does is that the people of Goleta that are going to  
3 be visiting the beach are going to have a higher profile  
4 to contend with and aesthetic impacts.

5 So if you continue to consider this project, we  
6 ask that you at minimum consider a redesign of the project  
7 to reduce the height and, thereby, reduce the aesthetic  
8 impact that the project may have.

9 And then finally I'd like to leave you with a  
10 point with regards to the timeliness of removal. I think,  
11 as the staff report suggests and that's written in the  
12 environmental document, this site has not been used for  
13 oil and gas development in 50 years. It has taken us this  
14 long to come up with a project for removal. We encourage  
15 that all projects be removed as promptly as possible and  
16 that they're taken care of as promptly as possible. The  
17 point being that if we leave anything out there for long  
18 enough, it will become habitat for anything.

19 Thank you.

20 CHAIRPERSON WESTLY: Thank you.

21 I'd love to ask Ms. Marilyn Fluharty to come  
22 forward.

23 MS. FLUHARTY: Good afternoon. I'm Marilyn  
24 Fluharty and I'm an environmental scientist with the  
25 Department of Fish and Game. I'm here today to provide

1 the Department's view on this project.

2           Foremost, I'd like to say the Department is in  
3 favor of this revised project because it does address all  
4 of our environmental concerns.

5           The new project will provide critical resting  
6 habit for the endangered Brown Pelican and the nesting  
7 habit for the Brandt's Cormorant.

8           In addition, it will also enhance the hard bottom  
9 area. And in this area of Santa Barbara hard bottom  
10 habitat is very limited.

11           And although this could be viewed as a Rigs to  
12 Reef project, there is a clear environmental benefit to  
13 leaving this -- well, this revised structure in place.

14           The Bird Island site is truly a unique site.  
15 There is no other site in the area that has the nesting  
16 birds. These communal roost sites are essential for  
17 pelicans as well as Cormorants. And other roost sites in  
18 the area are typically offshore rock islands and sand  
19 islands where they're going to have large estuaries. And  
20 because of the intense shoreline development and the  
21 wetland filling, another habitat alteration, there really  
22 isn't much area for these pelicans to go to. And so  
23 they're now relying heavily on artificial structures such  
24 as jetties.

25           So it is the Department's intent to take on the

1 lease and long-term management of the site.

2 Sorry, I don't do a lot of public speaking.

3 But I hope you'll approve this project.

4 CHAIRPERSON WESTLY: I appreciate that. Thank  
5 you.

6 I'd like to call on Mr. Tony Brown from Atlantic  
7 Richfield.

8 MR. BROWN: Sorry, I don't have any direct  
9 comments to the Commission. But we are available here to  
10 answer questions, if necessary.

11 CHAIRPERSON WESTLY: Thank you. Again, I just  
12 have to compliment you on the work you and ARCO have done  
13 here. Whenever I hear that the Audubon Society has  
14 written letters on your behalf, that says to me that  
15 something is going right in the world. So I appreciate  
16 the efforts you're making.

17 MR. BROWN: Yes, thank you very much.

18 CHAIRPERSON WESTLY: It's good to know you're  
19 available for questions.

20 I'd like to then move ahead.

21 April Wakeman, United Anglers of Southern  
22 California.

23 MS. WAKEMAN: Good afternoon. My name is April  
24 Wakeman, and I'm an attorney representing United Anglers  
25 of Southern California. We support this project

1 wholeheartedly.

2           The construction of bird platforms will provide  
3 critical roosting and nesting habitat for endangered and  
4 threatened species. In addition, the construction of the  
5 artificial reef by toppling the concrete caissons and  
6 enhancing them with quarry rock will provide valuable  
7 habitat for fish and other marine life.

8           We endorse the State Lands approach, making use  
9 of the existing structures to enhance the existing  
10 environment and provide important ecological benefits. In  
11 fact, we believe that the value of increasing hard bottom  
12 substrates in this location is greater than the draft EIR  
13 suggests.

14           According to the draft EIR, only minor benefits  
15 are expected from creating an artificial reef, improving  
16 recreational and commercial fishing, compared to removing  
17 the caissons. Elsewhere the document suggests that  
18 impacts on recreational fishing and diving could be  
19 beneficial, but this is not certain.

20           In United Anglers' view, this understates the  
21 case for the artificial reef in an area where natural hard  
22 bottom substrate is so limited. It's clear that fish,  
23 including the over-fished species such as Rock Fish,  
24 congregate and shelter such structures. And we really  
25 need to encourage these fish and give them a safe place to

1 live.

2 It is because we believe enhancing hard bottom  
3 habitat in this area has considerable value that United  
4 Anglers is considering the use of hard bottom mitigation  
5 funds to support this project.

6 And in addition to placing quarry rock, the  
7 artificial reef could be further enhanced with reef balls  
8 to increase the value to the fish. The State Lands  
9 Commission should recognize this important benefit as it  
10 considers the final decision in this project.

11 Thank you.

12 CHAIRPERSON WESTLY: Thank you very much Ms.  
13 Wakeman.

14 We have Donald -- I'm sorry -- Donna Hebert.

15 MS. HEBERT: Yes. I'm with Padre Associates.  
16 And Simon Poulter also is here. We're available for  
17 questions. We assisted in the State Lands Commission and  
18 the environmental review document preparation.

19 CHAIRPERSON WESTLY: So you're supportive of this  
20 movement?

21 MS. HEBERT: That's correct.

22 CHAIRPERSON WESTLY: -- to move forward, to move  
23 ahead?

24 MS. HEBERT: We're actually unbiased.

25 (Laughter.)

1           CHAIRPERSON WESTLY: Supportive in an unbiased  
2 way. Duly noted.

3           And Mr. John Lorentz.

4           MR. LORENTZ: Yes. I'm not here to really make a  
5 comment. But if it would be okay, if I could address a  
6 comment that Mr. Perez had made.

7           My name is John Lorentz. I'm a representative  
8 for Atlantic Richfield.

9           In Mr. Perez's comments discussing the height of  
10 the platforms as being designed for the 100-year wave.  
11 It's not an issue with regard to whether the birds are  
12 nesting there during the 100-year wave. This has an issue  
13 to do with the structural integrity of the platforms  
14 themselves. And typically there's many industrial codes  
15 that require structures to be designed for a 100-year  
16 event. And certainly along the California coast we can  
17 document a number of instances where we've had 100-year or  
18 very near 100-year events in successive years or near to  
19 successive years.

20           So the height is developed based on hindcasting  
21 of predicted waves in that immediate area. And as well,  
22 given an air gap above the crest of that wave to the  
23 bottom of the platform to prevent wave slam on the  
24 platform. So it's not an issue with -- as far as the sea  
25 bird nesting.

1           The other item is, as far as the removal of oil  
2 field facilities that Santa Barbara County requires, it's  
3 also true that quite a bit of pipelines are allowed to be  
4 abandoned in place and so forth. So it's -- that  
5 statement wasn't entirely correct.

6           Thank you.

7           CHAIRPERSON WESTLY: At this point, unless there  
8 are any more speakers from the public, I'd love to ask the  
9 other members if you'd like to make a comment or ask any  
10 questions of the speakers at this time.

11           ACTING COMMISSIONER GONZALEZ: I do. I have a  
12 few questions. And the gentleman just addressed some of  
13 it concerning the height.

14           The second question I had actually is to the  
15 representative, Mr. Perez. I know that we hear often from  
16 community activists and stakeholders in Santa Barbara.  
17 And I was a little curious. It's unusual that we would  
18 hear from the county and not also get kind of a stream of  
19 opposition from some of the locals who are very involved  
20 in many of our decisions from the State Lands Commission.

21           I wondered if you could speak to that. Because  
22 I'm feeling a little perplexed we could actually have a  
23 letter in support of it from the Audubon Society, and  
24 you're making some of the arguments that we usually hear  
25 from some of the other stakeholders.

1 MR. PEREZ: Mr. Chair, Commissioners. Thank you.

2 I think one of the problems that you have is that  
3 the project has been moving very fast through the process.  
4 I believe the final EIR was released last week. It's very  
5 hard for the environmental groups to react and provide an  
6 opinion this fast.

7 So if that's the problem, the reason why --  
8 typically we would have a letter of comment that would  
9 give you a detailed description. And we as staff do not  
10 have the time to put that together for you consideration.  
11 That's also demonstrated here. We have to come with  
12 essentially oral comments.

13 ACTING COMMISSIONER GONZALEZ: Okay. Well, even  
14 from our own -- I tend to stir up the problems if I think  
15 there is one. And even from calling around trying to stir  
16 up problems, I couldn't really do so. I was just  
17 wondering --

18 (Laughter.)

19 ACTING COMMISSIONER GONZALEZ: I mean it's  
20 horribly the truth.

21 I was just wondering -- there's part of me that's  
22 very conflicted. Some of the things that you say I  
23 completely agree with. The Lieutenant Governor is  
24 completely opposed to Rigs to Reef. If you take it  
25 theoretically, I don't believe that any oil company should



1 be able to leave any debris in the ocean. But this seems  
2 like a very unique case where you have a lot of groups who  
3 are very supportive of the type of bringing together that  
4 Mr. Sanders did here to really solve an environmental  
5 problem, at the same time as -- it's not saving the  
6 company any money.

7           So I'm just wondering -- and, I'm sorry, I don't  
8 mean to put you on the spot -- that sometimes we're  
9 looking for -- is there another reason maybe that's not so  
10 obvious or that I'm missing why the city and the county  
11 would be so opposed? I mean it's visual. I understand  
12 that there's no curing matter, there seems to be no  
13 ability to cure that. But it's one thing to theoretically  
14 oppose leaving trash in our ocean. We absolutely oppose  
15 that. And I don't want in any, if we make a motion to  
16 approve this, want this to serve as any kind of precedent,  
17 and part of that motion would be that we will take this on  
18 a case-by-case basis.

19           And I thought you brought up a great point about  
20 how long it's taken to get to the point of removal. And  
21 that's something that maybe we need to address with the  
22 State Lands -- with our staff, is that we want these  
23 structures removed and we want them removed now. We don't  
24 want them removed 50 years from now.

25           But in this particular case is there something

1 else maybe? I want to make sure that we give you the full  
2 time to express your concerns.

3 MR. PEREZ: And I appreciate that. And I think  
4 that the concern is it could be precedent setting. You  
5 have a situation where a reef is being added, and it's  
6 constructed as part of the support for scouring. But  
7 there's really no proof that you need the amount of rock  
8 that you're going to put down there for kelp restoration.  
9 There's no support for that.

10 We also don't feel there's sufficient information  
11 to support having the roosting habitat. It could be very  
12 possible that four years from now we'll be before the  
13 State Lands Commission asking to remove this, because the  
14 Cormorants have really very little attachment to manmade  
15 structures. And that's documented in the record, in the  
16 biological record.

17 And then, similarly, the pelicans have a hard  
18 time with and have a moderate attachment to this  
19 particular site. And that is part of the record in the  
20 environmental document.

21 So what we feel is that we have looked at this;  
22 and, yes, we are opposed to the rigs-to-reef type of  
23 situation, this is a precedent-setting project in our  
24 mind, and the record has not been made in our appreciation  
25 to make the exception.

1           I would also like to comment that, obviously if  
2   you're giving the Audubon Society and if you're giving  
3   Channel Keepers money to do the monitoring projects, that  
4   would make it a lot easier for them to be supportive of  
5   them. So I caution you that there may be a bit of  
6   conflict there. If it's the Audubon Society that's going  
7   to be doing the monitoring and they're going to be  
8   receiving a hundred thousand dollars for X period of time  
9   to do it, there may be a reason for their support.

10           ACTING COMMISSIONER GONZALEZ: And in all  
11   fairness, I am a member of the Board of Trustees for the  
12   California Coast Keeper, the parent society to the Channel  
13   Keepers. And I hope that they would not oppose something  
14   based on the fact that they're receiving a grant for a  
15   kelp restoration. They receive numerous grants throughout  
16   the state for the great work they do.

17           So I can't imagine that that would be the reason,  
18   but I understand your questioning.

19           That was my questions for him. I don't think I  
20   have any more.

21           CHAIRPERSON WESTLY: Mr. Perez, I'd love if you'd  
22   stay there just for a minute.

23           I'd love to ask Mr. Thayer here -- I think this  
24   is an interesting issue, for an awful lot of reasons, to  
25   go ahead. And I certainly don't want to table the issue

1 to next month when there's pretty compelling evidence  
2 there seems to be a fairly broad base of support that we  
3 move forward. But can you provide perhaps some top-level  
4 thoughts as someone who sees the big picture.

5 EXECUTIVE OFFICER THAYER: I hope that that's  
6 true, that I can see the big picture --

7 CHAIRPERSON WESTLY: More often than not.

8 EXECUTIVE OFFICER THAYER: The Chairman's very  
9 kind.

10 Rigs to reef is an issue -- a broader issue that  
11 California's faced in a number of different environments.  
12 There's been legislation introduced sponsored by the oil  
13 companies that would allow them to engage in a Rigs to  
14 Reef program that eventually -- I can't remember whether  
15 it failed the final vote or was vetoed by the Governor,  
16 but it did not get through.

17 Aware that we'd be facing this problem more  
18 often, we had a Rigs-to-Reef workshop that occupied half a  
19 day before a Commission meeting about four years ago. And  
20 we invited experts from the oil industry. We had Milton  
21 Love from UC Santa Barbara, who testified after his  
22 investigations of platforms and the value that they had.

23 The Commission did not adopt any policy direction  
24 after hearing all this expert testimony. And my own  
25 personal conclusion from that workshop was that there was

1 no one-size-fits-all solution, and that the best approach  
2 the Commission could take would be to take these projects  
3 on a case-by-case basis, not set a precedent and either to  
4 leave stuff in or to take it out, but determine, you  
5 know, the overriding consideration should be "What's best  
6 for the environment?" and not adhere to any one particular  
7 policy in terms of whether it should come or go.

8 California's somewhat lucky. We think that we  
9 have a lot of development. But as compared to the Gulf  
10 Coast, we have much less. And so we're looking at, you  
11 know, under 10 facilities to have to be abandoned still  
12 off of California.

13 And one of the -- Santa Barbara's at the  
14 epicenter of what we do have, with the shell mounds, with  
15 Platform Holly, with -- Rincon of course is up in Ventura.  
16 But it's understandable that there's this concern. But I  
17 think our approach that we've taken on at staff level is,  
18 again, to treat these on a case-by-case basis.

19 As was pointed out in the original staff  
20 presentation, the initially proposed project was to take  
21 it all -- everything out, just as Santa Barbara County  
22 wanted. And we were proceeding in that direction, and  
23 only changed course when we got the expert input from the  
24 Department of Fish and Game, who basically said, "No, this  
25 is valuable habitat. It would be worse for the

1 environment if you took everything out than if you left  
2 some in or came up with these mitigation measures."

3 So as a staff, we don't have any predilection in  
4 terms of taking out or leaving in. And we were thinking  
5 two years ago, three years ago that we'd be bringing to  
6 the Commission a project for removal of everything. But  
7 it's only with this expert input from Fish and Game that  
8 caused us to go to ARCO and ask them to revise the  
9 project.

10 And, finally, to take up a little bit further on  
11 the input from Commissioner Gonzalez. We contacted  
12 several of the prominent representatives of the  
13 environmental community in Santa Barbara County -- I  
14 remember a representative of EDC and another one -- during  
15 the preparation of the Environmental Impact Report several  
16 months ago and again two weeks ago to find out if they had  
17 any objections to where we were going. I don't want to  
18 say that they were in support of the project. They didn't  
19 say that. But they also said that they had no objections  
20 to us going forward.

21 CHAIRPERSON WESTLY: Okay. Thank you, Mr.  
22 Thayer.

23 You know, based on that -- and I'd like to thank  
24 Mr. Perez for coming. This has been very helpful to me.

25 Second, I'd just like to say it's a fascinating

1 case. I understand both sides.

2 On balance though, you know, what I'm hearing  
3 is -- while there is no perfect solution, I'm seeing more,  
4 you know, general consensus here from ARCO, from the  
5 Audubon Society, from the state, and from others, the  
6 anglers, that I feel I think comfortable enough to move  
7 forward.

8 I do agree strongly with Mr. Perez that we don't  
9 want to set a precedent here. I think the Lieutenant  
10 Governor and I have grave concerns about the concept of  
11 rigs to reefs. And I would like it duly noted that we  
12 will view each of these cases on a case-by-case basis.  
13 And this is not meant to set a precedent.

14 But having said that, I'd love to ask my fellow  
15 Commissioner if she'd be willing to make a motion.

16 ACTING COMMISSIONER GONZALEZ: I would like to  
17 make a motion. There is something that he brought up  
18 though that I think we need address and, that is -- and  
19 I'm not sure. Maybe, Mr. Thayer, you can help me with  
20 this. But if we could get some sort of indication on the  
21 time between abandonment and removal, that we have -- I  
22 know that there has been some abandonment. How many are  
23 out there that we're still working with? Like you said,  
24 two to three years ago you thought you were going to come  
25 with this to us. But how many more are just sitting out

1 there, you know, like is it -- Mr. Perez said it's been  
2 out there for 50 years. I mean --

3 EXECUTIVE OFFICER THAYER: Parts of it have been,  
4 yes. I think -- you know, several years ago we did what  
5 was called a lease status report, and where we went  
6 through all of our leases and described for the Commission  
7 which ones were active, which ones were inactive, what  
8 might happen next? And I know the county's been very  
9 concerned about -- they've gone through their own policies  
10 in an effort to move past what was really an historical  
11 development. It's not something that's happening any more  
12 off the California coast. There's no new development.

13 And perhaps the best thing to do, rather than  
14 trying to pick some number offhand, is to come back with  
15 some sort of memo or a report to the Commissioners so  
16 they'd understand exactly what facilities are still  
17 remaining out there and their status, where we're going  
18 with those --

19 ACTING COMMISSIONER GONZALEZ: That would be  
20 great.

21 EXECUTIVE OFFICER THAYER: -- so it would be more  
22 comprehensive --

23 ACTING COMMISSIONER GONZALEZ: That would be  
24 great.

25 Given that, I again want to thank Mr. Perez for



1 bringing these concerns to us. As the Controller said,  
2 the Lieutenant Governor is adamantly opposed on the whole  
3 to the theory of rigs to reef. But when you have a  
4 compelling case like this, where we actually are going  
5 back and asking the company to make some modifications and  
6 to keep some of the stuff there, I think we have to be  
7 open to a case-by-case basis and review.

8 Given that, I move to pass Calendar Item No. 58.

9 CHAIRPERSON WESTLY: Okay. That item will be  
10 unanimous.

11 Thank you. Thank all of the members of the  
12 public for coming to comment today.

13 With that -- I'm sorry?

14 California -- Item 59 -- through the Commission,  
15 has jurisdiction and stewardship over 3.1 million acres of  
16 ocean. Item 59 relates to the bipartisan Pew and U.S.  
17 Ocean Commission reports, which looked at the state of our  
18 millions of acres and the rest of the oceans, which  
19 comprise more than 70 percent of the earth's surface.

20 The Pew Commission was chaired by my good friend,  
21 Leon Panetta. I had dinner with him the week before last.  
22 He speaks eloquently about the perils that our oceans face  
23 and his hope for the future.

24 The U.S. Commission report was released in April  
25 following our last meeting. Both the Pew and the U.S.

1 Ocean Commission solicited the testimony of hundreds,  
2 including some of the best thinkers and leading scientists  
3 in the state and the firsthand experiences of fishermen,  
4 conservationists, and business people.

5 After learning of the similarity in findings and  
6 recommendations in these reports and that there is a  
7 consensus the oceans are in crisis, that reforms are  
8 essential, I've asked staff to help prepare an appropriate  
9 resolution supporting the Commission's key  
10 recommendations.

11 And may we now have a presentation from the  
12 staff.

13 Mr. Thayer.

14 EXECUTIVE OFFICER THAYER: Thank you, Mr. Chair.

15 Actually I think the Chair's comments were pretty  
16 much what I was going to say.

17 (Laughter.)

18 EXECUTIVE OFFICER THAYER: And I wouldn't want to  
19 waste the Commission's time. And I couldn't do it as -- I  
20 couldn't say the case for that resolution nearly as well  
21 as you have.

22 We've worked with your staff preparing the  
23 resolution. And I think it puts the Commission squarely  
24 on record as supporting doing more for the oceans than is  
25 presently being done. There were these two ocean

1 commissions. And I think it's remarkable that their  
2 report ended up so similar. It shows that there is a  
3 unanimity amongst the experts about what needs to be done.  
4 And I think we can take a lot of comfort in knowing that  
5 they're on the right track by having that agreement.

6 So I would hope that the Commission would find  
7 the resolution expresses the will of the Commission and  
8 would be willing to adopt it.

9 CHAIRPERSON WESTLY: I think there's a broad  
10 public support, certainly support from the Commission.

11 If there's anyone from the public who'd like to  
12 speak, please let me know. Otherwise I'd love to ask  
13 Lorena to make a comment if she'd like.

14 ACTING COMMISSIONER GONZALEZ: I move to accept  
15 your very eloquent resolution.

16 CHAIRPERSON WESTLY: Okay. That would be  
17 unanimous.

18 Item 60 relates to drilling in federal oil and  
19 gas leases along our coast.

20 You know, I feel like we've made our position  
21 clear on this topic before. But it seems that the  
22 Administration in Washington has not fully heard us. And  
23 I have asked for this resolution because I don't want to  
24 ignore these continued threats to our coastline. Given  
25 how clear California's voice has been on this issue, it's

1   troubling that the Department of Energy continues to push  
2   the working group that could lead to a lifting of the  
3   drilling moratorium under the pretext of exploring for  
4   natural gas as opposed to oil.

5           And, Mr. Thayer, I'd love to here the  
6   presentation from the staff on this.

7           EXECUTIVE OFFICER THAYER: Once again you've said  
8   a lot of what I would say. But I would add that the  
9   historical background, which is covered in the resolution  
10  itself, is that there was an industry report from the  
11  National Petroleum Council that came out in September  
12  which recommended that the federal government throw open  
13  areas off coast in various places in the United States,  
14  but certainly including California, for a new gas  
15  development.

16           The fact that the industry had called for this  
17  did not have that great of significance in terms of the  
18  impact on a moratorium. However, when in May the  
19  Department of Energy instructed their working group with  
20  the specific task of looking for ways to implement  
21  recommendations from that report, I think the matter  
22  became more serious and is why your staff came to us and  
23  asked us to work up this resolution. It shows that at  
24  least at some level the federal administration is  
25  considering this. And so I think, you're right, that even

1 if we've said it before, it's time to reemphasize that we  
2 still feel the same about this.

3 CHAIRPERSON WESTLY: Terrific.

4 I know there is a speaker.

5 Mr. Perez, if you'd like to come up. And I just  
6 have to say, tongue in cheek, if only the President had a  
7 closer relationship with the Governor of Florida, perhaps  
8 they could do more with the coast of that state.

9 (Laughter.)

10 MR. PEREZ: Mr. Perez. Mr. Chair, Commissioners.  
11 Good afternoon again.

12 And in this particular case we're in full support  
13 of your resolution from both the County of Santa Barbara  
14 and the City of Goleta.

15 In particular, the City of Goleta has recently  
16 sent you a letter dated May 17th, that mentions the  
17 previous letter that you had sent to the President, and  
18 fully supports that. And also I think has the expectation  
19 that, in that same vein, you recognize that you have the  
20 two remaining piers off the coast of California that could  
21 be brought back for production. And that in that same  
22 vein, as you're opposing the offshore leasing, that you  
23 also take a look at the particulars of those cases where  
24 perhaps after 10 years of idle operations, it may be  
25 worthwhile to pursue abandonment of those leases.

1 CHAIRPERSON WESTLY: That's very helpful. And  
2 we're very aware that a lot of concerns are in your very  
3 backyard, and we're trying to keep a close eye on these.

4 Lorena, would you like to say a few words?

5 ACTING COMMISSIONER GONZALEZ: I just want to  
6 thank you for again bringing up the issue. I know as long  
7 as the Lieutenant Governor has been there, this is the  
8 third time we have then issued a similar resolution, and  
9 we've also I think done a letter separately. And I guess  
10 there is still some confusion about whether or not  
11 California is opposed to offshore oil drilling. But thank  
12 you for reclarifying that again for the Administration.

13 CHAIRPERSON WESTLY: Thank you.

14 I'd love to ask you for a motion on that.

15 ACTING COMMISSIONER GONZALEZ: I move to accept  
16 Calendar Item No. 60.

17 CHAIRPERSON WESTLY: And that would be unanimous.

18 Thank you very much.

19 That concludes the regular calendar.

20 If there are any speakers who wish to address the  
21 Commission during the public comment period -- and we have  
22 one, Mr. -- or two -- Mr. Koehler -- or three.

23 Mr. Koehler, from the San Joaquin River Parkway  
24 and Conservation Trust, please.

25 MR. KOEHLER: Thank you, Mr. Chairman and

1 Commissioner. My name is Dave Koehler. And I serve as  
2 Executive Director of the San Joaquin River Parkway and  
3 Conservation Trust.

4 And the River Parkway Trust is a nonprofit land  
5 trust. We have about -- approximately 2,000 members that  
6 provide us with an annual contribution, and overall more  
7 than 4,000 donors.

8 Our mission is to preserve the San Joaquin River  
9 for all of the valley's people. And we provide program  
10 services of land conservation, trail development, and  
11 education programs such as our school field trips and  
12 guided canoe trips.

13 I'd like to take this opportunity also to thank  
14 the State Lands Commission, the Commission members and the  
15 staff for your help in implementing and establishing the  
16 San Joaquin River Parkway over a number of years now.

17 And I'm here actually on a very serious matter  
18 that affects the river and the San Joaquin River Parkway.  
19 I'm here to ask the Commission's legal support to protect  
20 the San Joaquin River and the public's right of access to  
21 the San Joaquin River. We have a situation that has  
22 developed in Madera County, that is precedent setting,  
23 threatens the river and the public's right of access to  
24 the river. And it also frustrates the implementation of  
25 the San Joaquin River Parkway plan. And I'd like to

1 briefly show that area to you here.

2 EXECUTIVE OFFICER THAYER: This speaker is about  
3 10 seconds from the two-minute limit you talked about  
4 earlier.

5 CHAIRPERSON WESTLY: We do have a bunch of people  
6 behind you. So if you could maybe conclude as quickly as  
7 you can.

8 Thank you.

9 MR. KOEHLER: I provided an area of maps showing  
10 the San Joaquin River Parkway here. And the project --  
11 I'll just leave these here where you can look at them.

12 The figure down below here is the development  
13 project that is not -- the area of which is not providing  
14 public access to the river and ignores some of the  
15 planning policies that will help implement the parkway  
16 plan.

17 In the area of the parkway, it's this upper  
18 section. It's the first project coming forward in a  
19 15,000 acre regional plan. And my board of directors has  
20 authorized our organization to file a legal challenge to  
21 provide public access and to implement the planning  
22 policies of the Madera County. And we're asking the State  
23 Lands Commission's help in that. You can probably imagine  
24 how much support that would mean to our local  
25 organization.



1           And thank you for your consideration.

2           CHAIRPERSON WESTLY: Great.

3           Mr. Thayer, we'll ask you to follow up on that as  
4 is appropriate.

5           EXECUTIVE OFFICER THAYER: Thank you.

6           CHAIRPERSON WESTLY: We'd love to ask Kathy  
7 Knight to come forward, from the Ballona Ecosystem  
8 Regional Project. Thank you so much. We'll ask you to  
9 keep it to three minutes to be fair to the other speakers.

10          MS. KNIGHT: Okay. Good afternoon,  
11 Commissioners. Thank you. My name is Kathy Knight. And  
12 I also work with the -- I'm Chair of the Air Quality  
13 Marine Group, Sierra Club. And I gave you a packet. I  
14 hope you got it. I'm sorry, the printer -- I wrote you a  
15 beautiful letter and the printer wouldn't print it.

16          (Laughter.)

17          MS. KNIGHT: So you have a scribbled handwritten  
18 note. But it has a picture of the bluff. And the reason  
19 I'm here today is to ask your support in any way. I'm not  
20 an expert. So if you know ways you can help us, write a  
21 letter or whatever. We're looking for funding to acquire  
22 the bluff. The reason is that this bluff adjoins the land  
23 purchased by California last year for 139 million, the  
24 Ballona Wetlands west of Lincoln.

25          I gave you a letter with two expert opinions

1 saying that the wetlands need an upland with them. When  
2 it floods out, the animals have to get away. Some of the  
3 pollinators live up -- have nests up there, the  
4 pollinators of wetlands lands. We need that bluff. It's  
5 the last one left.

6 The good news is Senator Debra Bowen is fully on  
7 board. She supports it. Also Catellus Development  
8 Corporation, I speak to them on a regular basis. They  
9 totally want to sell the bluff. They don't care if it's  
10 sold for open space or for homes. They want to sell it.

11 And the bad news is Catellus is bulldozing the  
12 bluff. And so it's time urgent. It's really a priority  
13 to help find some money. Trusts for Public Lands are  
14 willing to help put a deal together. But they need a  
15 beginning amount of money.

16 So we're looking for even up to five million down  
17 payment to get this going. We want to see it -- we  
18 have -- there's two lawsuits at the California Supreme  
19 Court. But Catellus is not waiting till they're heard.

20 We want to see it saved as a cultural site. It  
21 was a sacred site, a very, very important burial site. We  
22 want to see it saved as both an example of an almost  
23 extinct cultural ecosystem and a place for the Gabrielino  
24 Indians can go and have some land in L.A. They've lost  
25 everything. Even though they've lived here for -- they

1 lived here for 10,000 years, they've lost everything.

2 The California Native Plant Society and Lowell  
3 University are both willing to help us do a restoration.  
4 And we're working with the Gabrielino Indians.

5 So if there's anything you can do to help us,  
6 write a letter of support, whatever it is, we're trying as  
7 hard as we can to even find a down payment five million.

8 Thank you so much.

9 CHAIRPERSON WESTLY: Ms. Knight, let me just ask  
10 you. I just have to note, as the state's chief financial  
11 officer, we're a little short in Sacramento.

12 But the down payment is five million. And what  
13 do you think the total amount would be if some worthy  
14 person or group were to step up here?

15 MS. KNIGHT: Well, there's two different ideas of  
16 what it's worth. Catellus will tell me it's worth 80, 90  
17 million, okay? But we have another source that says maybe  
18 28 million -- 28 to 30 million.

19 So I think if we could come up with some good --  
20 what do you call it -- good -- what do you call it, a good  
21 down payment money -- there's a word for it -- good faith  
22 money, that they would work with us. But we're entrusted  
23 with public lands to work with them on the wetlands. They  
24 saved the wetlands down there and they saved -- and they  
25 want to help us on the bluff. But we just need something

1 to get started here. And we're working on resources at  
2 the federal level too.

3 CHAIRPERSON WESTLY: Great. What's the time line  
4 here?

5 MS. KNIGHT: As soon as possible. They are  
6 bulldozing it. They're putting in the infrastructure. So  
7 far they haven't been able to sell it to a home builder  
8 because there's been four lawsuits on it. One was lost at  
9 the trial level and may be appealed. But there's three  
10 other lawsuits on it, one by a native American over his  
11 ancestors.

12 CHAIRPERSON WESTLY: Okay. Go ahead, Mr. Thayer.

13 EXECUTIVE OFFICER THAYER: This area is generally  
14 outside of our jurisdiction. However, the entities -- we  
15 don't have that kind of money. But the entities that have  
16 had that money -- I don't know if it's all -- that would  
17 be the Wildlife Conservation Board and the State Coastal  
18 Conservancy. And if it's the will of the Commission, I  
19 could forward the information that the commenter has  
20 provided to those two entities.

21 CHAIRPERSON WESTLY: That's exactly where I was  
22 going with this, is I think that is the way to be most  
23 helpful. Mr. Thayer and the staff know the organizations  
24 that are in the business of doing this. And if you could  
25 ask staff to reach out to them for this information, I

1 think that that would be a most efficacious way of dealing  
2 with this.

3 MS. KNIGHT: So we would tell them that we  
4 appeared today and that we asked for help with it?

5 CHAIRPERSON WESTLY: You made a compelling case  
6 as to why one should consider this.

7 MS. KNIGHT: Okay. Thank you.

8 CHAIRPERSON WESTLY: No, thank you very much for  
9 being here.

10 We have Ms. Leslie -- or is there a Mr. Leslie  
11 Purcell?

12 MS. PURCELL: Good afternoon. I appreciate being  
13 here. And I am fully in support of what Kathy Knight said  
14 about the west bluff. And I actually came about a year  
15 ago when they were getting ready to start poisoning the  
16 small rodents on top of the bluff. And it was, you know,  
17 a concern for the State Lands Commission the wetlands  
18 below.

19 And Mr. Thayer was very helpful and wrote a  
20 letter. Unfortunately Catellus ignored it. But any help  
21 we can get, we would appreciate.

22 And I'm actually here more in support of the  
23 native American issue today. And it's of grave concern to  
24 me. I also spoke with Mr. Thayer on Friday about this.  
25 And I regret to say I stapled the pages together wrong.

1 It should be -- the last page should be the second page.  
2 So don't let that deter you from reading the article.  
3 This is a New York Times article that was last Wednesday.

4 I've been working closely with some of the native  
5 American people who are vehemently opposed to their  
6 ancestors being dug up. And do not for a minute believe  
7 what Playa Vista and their attorneys say. It is not  
8 legally acceptable. There's a federal lawsuit both on the  
9 Catellus development and on the Playa Vista development.  
10 And they've had it -- they've tried to get it dismissed.  
11 It has not been dismissed.

12 And they're -- you know, there's a problem  
13 because it's not a federally recognized tribe and yet  
14 there is some state -- you know, there's state laws. The  
15 State's Native American Heritage Commission both on the  
16 bluff and at Playa Vista requested a cease and desist from  
17 the developers from digging up these graves. The  
18 developers just bring in more archeologists and more  
19 bulldozers and go faster.

20 And, you know, there is an article today, an OpEd  
21 piece in the L.A. Times -- unfortunately I didn't get a  
22 chance to copy it -- by a professor at UCLA, Peter  
23 Nabokov. It's titled "City is losing a part of its soul  
24 in Playa Vista." They're up to 275 plus burials. Some of  
25 the burials are actually composites, there's more than one

1 body in each one.

2 It is shocking that no other people get their  
3 cemeteries dug up like this. I think it's a human rights  
4 and civil rights issue. I'm sorry. I feel very emotional  
5 about it.

6 I appealed directly to Steve Zobov. He basically  
7 laughed in my face and said, "We can't move this riparian  
8 channel." They could easily move it. The Historic Creek  
9 runs a little bit north of there, of course. The indians  
10 wouldn't bury their people in the creek. They buried them  
11 just up from the creek, both on the bluff and in this  
12 Playa Vista site.

13 Now, where I believe you guys could actually help  
14 us -- I mean I know you're state officials. Mr.  
15 Bustamante has been supportive of the native American  
16 tribes. And this riparian corridor is an integral part of  
17 that fresh water marsh system. They sold this as a  
18 package. It's a mitigation system. I know it's on the  
19 other side of the road from you -- from your jurisdiction,  
20 but it is an integral part of the way they got this  
21 project approved. Fresh water marsh fed into by this  
22 riparian channel. And they could easily move that. Even  
23 now they could stop digging up these ancestors' burials.  
24 And I'm just appealing to you in some fashion to try and  
25 help.

1           And what Mr. Nabokov said about the environmental  
2 groups not weighing in with the native Americans is not  
3 really true. You know, people are trying to be careful  
4 and respectful. But, you know, I'm a Sierra Club member  
5 with the -- task force. And we've been working with the  
6 native Americans too.

7           So this issue needs to be brought up into the  
8 light. The City of L.A. basically is pushing this  
9 forward. So if the state could help us, we would really  
10 appreciate it.

11           CHAIRPERSON WESTLY: Thank you.

12           MS. PURCELL: I'm sorry.

13           CHAIRPERSON WESTLY: No, no. This is a very  
14 powerful and I think an important presentation you've  
15 made. And I have spoken out on this issue myself. I know  
16 the Lieutenant Governor has.

17           What I'd love to do is ask Mr. Thayer, because I  
18 think we all care about this issue, to say a word or two  
19 on what you think are potential things we could do to be  
20 helpful here.

21           EXECUTIVE OFFICER THAYER: The site isn't  
22 generally publicized, I presume, to avoid people knowing  
23 about it. But I presume it's the one you can see from  
24 Lincoln as you're driving by.

25           MS. PURCELL: Yeah. And actually this article



1 shows a map. Yeah, you can see it from Lincoln Boulevard.

2 EXECUTIVE OFFICER THAYER: The two tents and all  
3 of the --

4 MS. PURCELL: Right.

5 EXECUTIVE OFFICER THAYER: Yeah. So I drove by  
6 there this morning. It's, again, not on property that we  
7 have jurisdiction over. It is true that the channel  
8 that's being dug through there takes drainage water,  
9 runoff water from the development into the fresh water  
10 marsh, which we do own. I think that -- we have members  
11 on the Commission, such as yourself and the Lieutenant  
12 Governor in particular, that are in a position as elected  
13 officials to provide input on these kinds of things that  
14 involve broad public policy. And that might be the  
15 format.

16 We'd be glad to meet further with Ms. Purcell and  
17 perhaps bring some information to you that we then  
18 uncovered.

19 CHAIRPERSON WESTLY: I think I'd like to ask the  
20 staff to do that and to get creative on ways that we can  
21 help bring attention to what is I think a very important  
22 issue. And I understand that -- counsel, that we don't  
23 have direct jurisdiction, which limits the scope of things  
24 we can do. But I think if we can get just a little bit  
25 creative, there may be some ways we could help.

1           Congratulations on this article. I did take a  
2 look at it. This sort of press, that's phenomenal. And I  
3 hope there is at least a small budget to send this around  
4 to other local elected officials in the area. Because  
5 obviously something that hit the New York times, an awful  
6 lot of people are seeing this. But that would be great if  
7 you could do that.

8           Lorena, would you like to make a comment on this?

9           ACTING COMMISSIONER GONZALEZ: No, I also --  
10 who -- I understand that we don't have direct  
11 jurisdiction. Have we looked at any kind of indirect or  
12 jurisdiction from the fact that this is flowing into our  
13 land?

14           EXECUTIVE OFFICER THAYER: Well, I think maybe  
15 we -- we'll try and look further into it. It may be that  
16 we can make a point that, you know, the Commission was  
17 certainly happy to take possession of this parcel, but  
18 that it's unconscionable for it to -- for anybody to  
19 expect that our acceptance of that property is condoning  
20 the kinds of things that are happening upstream on what is  
21 a fundamental part of the -- but we'll look further.

22           We have an attorney, Pam Griggs, who looks at  
23 archeological issues for us. And I suspect that she'd be  
24 more in tune with how we can do something about this.

25           ACTING COMMISSIONER GONZALEZ: So it is the city

1 who has jurisdiction? Does anyone know --

2 MS. PURCELL: Well, the Army Corps, you know,  
3 granted them a permit. And they're using a 1991  
4 memorandum of agreement that they did not really update  
5 properly. And the tribal members have objected to it as  
6 well.

7 ACTING COMMISSIONER GONZALEZ: Army Corps -- I  
8 mean, I'm assuming that you've taken -- I'm sorry, but I  
9 haven't read the article yet. But has there been an  
10 attempt to get an injunction?

11 MS. PURCELL: Well, there is a one federal suit  
12 that Mr. Rose has filed from the Gabrielino/Tongva Indian  
13 California Tribal Council. And he -- you know, he's sort  
14 of doing it himself. And he's not actually an attorney,  
15 but he's done some litigation before.

16 And so it's tricky, you know. He has not  
17 actually tried to get an injunction as such. There's been  
18 a number of people looking at it and -- you know, it's  
19 because the laws are really not strong enough. And the  
20 State Attorney General would not step in to back up the  
21 Native American Heritage Commission unfortunately. I mean  
22 they asked for it to stop, the state's Native American  
23 Heritage Commission. And they don't have legal authority  
24 either. So it is a problem, you know.

25 CHAIRPERSON WESTLY: Let me -- I don't think

1 we're going to solve it here now. But I think you've got  
2 a great support here. And I think we need to huddle up  
3 with the staff and, frankly, possibly with each other and  
4 see if we can't come out of the box with something. But I  
5 want to thank you for coming and for making such a  
6 persuasive presentation.

7 MS. PURCELL: Could I say one more thing.

8 There was a complaint through the State Water  
9 Board at the end of February, because there was a huge  
10 rainfall and it actually flooded into some of the burial  
11 areas. And then that water went out and was pumped into  
12 the -- they actually were pumping it out into the wetlands  
13 across the street. And it was not clean. And so I don't  
14 think they were actually written up -- they were written  
15 up in some fashion. But I don't know if that's another  
16 tie-in or not. But I just thought I'd mention that.

17 Thank you.

18 CHAIRPERSON WESTLY: Great. Thank you.

19 That concludes the open part of the meeting.

20 What we're going to do now is adjourn into closed  
21 session. And what I would like to do is ask if we could  
22 have the room cleared please. Thank you all, especially  
23 members of the public, for being here.

24 (Thereupon the California State Lands  
25 Commission meeting adjourned at 3:20 p.m.)

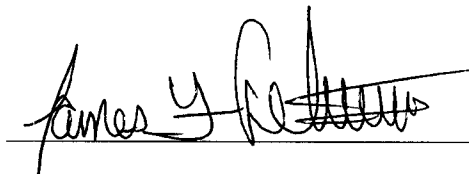
CERTIFICATE OF REPORTER

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of June, 2004.

A handwritten signature in dark ink, appearing to read "James F. Peters", is written over a horizontal line.

JAMES F. PETERS, CSR, RPR  
Certified Shorthand Reporter  
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