

MEETING  
STATE OF CALIFORNIA  
STATE LANDS COMMISSION

**ORIGINAL**

LEGISLATIVE OFFICE BUILDING  
1020 N STREET  
ROOM 100  
SACRAMENTO, CALIFORNIA

TUESDAY, APRIL 26, 2005  
10:00 A.M.

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

### BOARD MEMBERS

Mr. Cruz M. Bustamante, Lieutenant Governor, Chairperson

Mr. Steve Westly, State Controller, represented by  
Ms. Cindy Aronberg

Mr. Tom Campbell, Director of Finance, represented by  
Ms. Anne Sheehan

### STAFF

Mr. Paul Thayer, Executive Officer

Mr. Jack Rump, Chief Counsel

Ms. Kimberly Lunetta, Executive Assistant

Mr. Greg Scott, Assistant Chief, Mineral Resources  
Management Division

### ALSO PRESENT

Mr. John Asuncion, Blue Whale Sailing School

Mr. John Berge, Pacific Merchant Shipping Association

Mr. Doug Bloyd

Mr. Barry Christian

Mr. Dan Knowlson, Minerals Management Service

Mr. Floyd Robertson, El Paseo Natural Gas

Mr. Gregory Schrage, Venoco

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CHAIRPERSON BUSTAMANTE: Call the meeting of the  
State Lands Commission to order.

I'd like to open this meeting in memory of Claire Dedrick, a former executive director of this Commission, as well as a noted environmentalist who helped pass the California Coast Alliance. I think it is appropriate that we recognize her life's work to preserve and protect our oceans and our bays. From all accounts she was a true gift to the environmental movement in California.

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 here 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.

1 Do I hear a motion?

2 ACTING COMMISSIONER SHEEHAN: I'll move the  
3 minutes.

4 CHAIRPERSON BUSTAMANTE: There's a motion. I  
5 second it.

6 Let the record show that there are two votes in  
7 favor of adopting the minutes of the last meeting. And we  
8 will assume that -- well, here's Cindy. We'll let her go  
9 ahead and cast her vote herself.

10 We are adopting the minutes of the last meeting.

11 ACTING COMMISSIONER ARONBERG: Great.

12 CHAIRPERSON BUSTAMANTE: Support it with us?

13 ACTING COMMISSIONER ARONBERG: Yes. Agree with  
14 the motion.

15 CHAIRPERSON BUSTAMANTE: All right. Let the  
16 record show that the Commission has adopted the minutes of  
17 last meeting by unanimous consent.

18 Next order of business is your report, Paul, as  
19 the Executive Officer.

20 EXECUTIVE OFFICER THAYER: Yes. I have only two  
21 things. And the first is just to echo the sentiments  
22 expressed by the Chair concerning Claire Dedrick. She is  
23 someone that a lot of people still at the Commission on  
24 staff worked with closely. She was the Executive Officer  
25 of the State Lands Commission from 1982 to 1989. And her

1 influence continued well past her presence at the  
2 Commission, which is someone who's always stayed  
3 interested in environmental issues. And I think the Chair  
4 summed up the extraordinary value she brought to the State  
5 of California and the service she performed for the  
6 public.

7           The second thing I -- the only other thing I have  
8 is just to mention that our next Commission meeting will  
9 be June 20th, and it will be in the Bay Area. We're  
10 looking for public places in either Oakland or San  
11 Francisco. And this part of the Commission's policy of  
12 bringing our Commission meetings to the various parts of  
13 the state. And it's time to visit northern California.

14           And that concludes the Executive Officer's  
15 report.

16           CHAIRPERSON BUSTAMANTE: Where in northern  
17 California?

18           EXECUTIVE OFFICER THAYER: Either San Francisco  
19 or Oakland.

20           CHAIRPERSON BUSTAMANTE: We don't have a location  
21 yet?

22           EXECUTIVE OFFICER THAYER: We do not. We were in  
23 San Francisco last time. So we're looking to see if  
24 there's someplace in Oakland that we can center it around.

25           CHAIRPERSON BUSTAMANTE: Any questions of the

1 Commission on that?

2 The next item of business is the adoption of the  
3 consent calendar. Follow item have been removed from the  
4 consent calendar, for which items have been removed from  
5 the consent calendar.

6 EXECUTIVE OFFICER THAYER: Items 58 and 59 have  
7 been removed from the consent calendar, and are likely to  
8 be heard at the June meeting. And I'll just note that  
9 regular Item 81 is also removed.

10 CHAIRPERSON BUSTAMANTE: I'd like to also add  
11 to -- and pull Item 51 from the consent calendar. The  
12 applicant is El Paso Natural Gas Corporation.

13 EXECUTIVE OFFICER THAYER: Okay.

14 CHAIRPERSON BUSTAMANTE: Is there any other items  
15 that the members would like to pull?

16 ACTING COMMISSIONER SHEEHAN: No. I have on my  
17 notes though 60 was pulled.

18 EXECUTIVE OFFICER THAYER: Yes. And thank you,  
19 Commissioner Sheehan. Jack Rump reminded me that as well.  
20 This is the item that deals with an exchange involving the  
21 City of Sacramento. Due to a recent Appeals Court  
22 decision, we need to go back and look at that item before  
23 we bring it to the Commission.

24 CHAIRPERSON BUSTAMANTE: And so what are the  
25 total number of items?

1 EXECUTIVE OFFICER THAYER: There are four items  
2 now. There would be items 58, 59, 60, and the El Paso  
3 item, as well as 81 from the regular calendar.

4 CHAIRPERSON BUSTAMANTE: Okay. The remaining  
5 items are on consent. We could take them up as a single  
6 vote if the Commission is interested.

7 ACTING COMMISSIONER SHEEHAN: Yeah, I'll move the  
8 remaining consent items.

9 ACTING COMMISSIONER ARONBERG: Second.

10 CHAIRPERSON BUSTAMANTE: Motion to move, a  
11 second.

12 Let the record show that those -- all items  
13 except for 51, 58, 59, 60 have been approved by unanimous  
14 consent.

15 EXECUTIVE OFFICER THAYER: Thank you very much.

16 CHAIRPERSON BUSTAMANTE: Let's see. So 51, 58,  
17 59, 60 will be moved to the June calendar?

18 EXECUTIVE OFFICER THAYER: Yes.

19 CHAIRPERSON BUSTAMANTE: Okay. And the first  
20 order of business that we have to deal with today is Item  
21 No. 80.

22 EXECUTIVE OFFICER THAYER: Yes, sir.

23 CHAIRPERSON BUSTAMANTE: A report on the well  
24 control incident at Platform Gail.

25 May we have a staff presentation please.



1 EXECUTIVE OFFICER THAYER: Certainly.

2 The Commission -- this concerns a leak and spill  
3 that occurred at Platform Gail in federal waters. The  
4 operator however has several state leases. And last fall  
5 when this occurred, on November 17th, the Commission was  
6 very interested in learning the cause and perhaps ways of  
7 prevention so that this couldn't happen again, and ask  
8 staff to prepare a report. Staff delayed responding until  
9 we'd gotten the information from MMS, which was doing an  
10 investigation of that since it's under their jurisdiction.

11 They have completed their -- MMS has completed  
12 its report. And staff is now looking to it and would like  
13 to respond to the Commission's request for information  
14 about this.

15 And Greg Scott from our MRM, Mineral Resources  
16 Management Division in Long Beach, will make the  
17 presentation.

18 (Thereupon an overhead presentation was  
19 Presented as follows.)

20 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
21 CHIEF SCOTT: Thank you, Paul.

22 Good morning, Chairman Bustamante, Commissioners.  
23 My name is Greg Scott. I'm the Assistant Chief for the  
24 Mineral Resources Management Division in Long Beach.

25 And this presentation is in response to the

1 Commission's' request last December to report on the  
2 Platform Gail loss of well control and oil spill incident  
3 that occurred November the 18th.

4 The information that I'm presenting to you this  
5 morning and that which is in the calendar item as well is  
6 based on information contained in an incident  
7 investigation report prepared jointly by the U.S. Coast  
8 Guard and the MMS. And we also received some additional  
9 information from vendor regarding their operation  
10 activities at the time of the incident.

11 --o0o--

12 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
13 CHIEF SCOTT: This is a regional map of the Santa Barbara  
14 Channel. Don't know how clearly you can see that. But  
15 you have slides with you that you might be able to see  
16 them better.

17 Platform Gail, which is located right there, is  
18 an offshore drilling and production facility operated by  
19 Venoco. It's approximately nine miles from the coastal  
20 city of Oxnard. It produces about 5,000 barrels of oil a  
21 day and transports that by a sub-sea pipeline to Venoco's  
22 onshore processing facility located in Carpinteria.

23 --o0o--

24 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
25 CHIEF SCOTT: This is a -- I'm sorry, Gil. One back.

1           This is a photo of Platform Gail, showing the  
2 approximate location here of where the incident occurred,  
3 which was directly beneath the drilling rig, which you can  
4 see here.

5                           --o0o--

6           MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
7 CHIEF SCOTT: And this is the same platform. It's an  
8 elevation view showing the distances above water of the  
9 drilling rig and some of the operating decks. And the two  
10 decks that were actively involved would tie into this deck  
11 here. And one below it, which you can barely see here, it  
12 extends deeper into the platform.

13           The well control incident on Platform Gail  
14 occurred November the 18th, 2004, during the final stages  
15 of a recompletion operation on Well E-15. It was being  
16 performed by Venoco to increase the oil production from  
17 that well.

18                           --o0o--

19           MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
20 CHIEF SCOTT: This is a cross-sectional diagram of the  
21 well itself, which shows a cutaway of the equipment that  
22 is installed in the well from the surface of the platform  
23 all the way down to the bottom of the well here. That's  
24 about a 5,000 foot distance from here to here.

25           This particular well produces from two oil

1 reservoirs, one here and one here. And because of that --  
2 and also shown on this Board on the other side of the  
3 room. Because the two reservoirs require separate means  
4 of production, each of them requires a length of piping  
5 that extends from the surface down to the particular oil  
6 reservoir. In this sketch only one of those pipings is  
7 shown because that was the configuration at the time of  
8 the incident. These were installed separately. And they  
9 are supported at the surface by this piece of equipment in  
10 blue, which is called the tubing hanger. And at the time  
11 of the incident Venoco personnel were involved in actually  
12 trying to position correctly this tubing hanger.

13 Now, normally during all well work operations  
14 it's normal practice to fill the well with seawater or  
15 heavy fluid. And the purpose of that is to prevent the  
16 natural pressure from the reservoir to flow back into the  
17 well and come up to the surface.

18 In this particular case, however, a decision was  
19 made to discontinue that flow of seawater coming. And the  
20 reason they did that was because where this arrow was  
21 pointing here there is a fairly large pin that they wanted  
22 to unscrew and remove so they could visually look inside  
23 and determine visually if this hanger was in the correct  
24 position.

25 And the next slide is a picture of what those

1 hangers look like.

2 --o0o--

3 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
4 CHIEF SCOTT: They're in two pieces, in two halves. And  
5 when they come together they mate and form a steel  
6 cylinder. This is the one that was in the well at the  
7 time. And they support about, as I said, approximately 20  
8 tons of piping each as it extends to the bottom of the  
9 well.

10 --o0o--

11 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
12 CHIEF SCOTT: This is a picture of the pin that was  
13 removed from the wellhead. It's about 11 inches long and  
14 an inch and a half in diameter, allowing enough opening to  
15 visually look inside the wellhead.

16 --o0o--

17 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
18 CHIEF SCOTT: During the period of time that the seawater  
19 pumping was discontinued, however, the level of fluid in  
20 the casing had dropped to a point to where it would no  
21 longer overcome the natural pressure of the reservoir.  
22 When that happened oil and gas and water seeped into the  
23 casing itself and overcame the water over -- hydrostatic  
24 weight of the water and it began to flow up to the  
25 surface.

1           The well work technician and other operators were  
2     unaware of this rise in fluid until it actually reached  
3     the surface and started flowing out of the hole where that  
4     pin had been removed, even though this well was equipped  
5     with prevention equipment which is at the surface of the  
6     well, and that is used to seal the well in case there's  
7     any sudden release of pressure. That was sealed.  
8     However, because the hole was beneath it, it was not  
9     effective in shutting off the release of the fluids.

10           Therefore, oil, gas and water continued to spray  
11     out of the hole on to the well decking, the grading and  
12     into the well bay area. And this is a photo of the well  
13     bay. You can see -- you can barely see in the back here,  
14     that is the well that was being worked on, showing the  
15     risers. You can see some staining in the back wall area  
16     as well as some staining on the equipment that was stuck  
17     in here by the well.

18           Now, this well also was flowing natural gas  
19     through the hole. And because of that, the fire  
20     extinguishing data of the system was activated, which  
21     sprays a heavy volume of water due to this particular wild  
22     bay area. And that was activated to prevent any ignition  
23     to the gas that was escaping from the hole.

24           Platform operations were also shut down manually.

25           And at this point the abandoned platform alarm

1 was sounded and all nonessential personnel were evacuated  
2 from the platform, 39 people, using the platform escape  
3 capsules. Those round -- large round vessels that are  
4 lowered into the ocean.

5 --o0o--

6 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
7 CHIEF SCOTT: Twelve people stayed on-board however to  
8 manage the fluid release. And although initial efforts to  
9 reinstall the pin were unsuccessful, they were finally  
10 able to -- approximately two and a half hours later able  
11 to thread a small fitting with a valve on the end into  
12 that hole and then turn the valve to the closed position  
13 and finally secure it as well.

14 During this entire period approximately three  
15 barrels of oil were released from the well, an unknown  
16 amount of well water was released and also an unknown  
17 amount of gas was released. Of that three barrels of oil,  
18 approximately three gallons of that oil and water -- plus  
19 water spilled off the deck and into the ocean.

20 The coast guard arrived on site and transferred  
21 the personnel from the escape capsules to boats for  
22 transit to shore. And during the entire incident no  
23 injuries to personnel occurred and no harm to wildlife was  
24 observed. However, I understand that there was a  
25 considerable amount of seasickness going on in the escape

1 capsules before they were picked up by the coast guard.

2 (Laughter.)

3 --o0o--

4 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT

5 CHIEF SCOTT: That was the incident. The coast guard and  
6 MMS conducted an on-site investigation the next day. They  
7 examined all of the equipment that was involved in the  
8 incident. They photographed all of the parts,  
9 photographed the pins, the oil areas that were stained,  
10 conducted interviews with the key personnel on the  
11 platform as well as on shore at Venoco's office. They  
12 collected all of the documentation related to permits from  
13 the ports, personnel manifests and so forth. And then  
14 they inspected the platform evacuation and lifesaving  
15 equipment to ensure that those escape capsules would go  
16 back in the correct position and operable.

17 After the investigation was completed, Venoco was  
18 authorized to return the platform to production.

19 --o0o--

20 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT

21 CHIEF SCOTT: The MMS as a result of their investigation  
22 identified two main causes -- direct causes. These were:

23 1) they discontinued pumping well control fluids  
24 down into the well, which allowed the natural reservoir  
25 pressure to be built up in the well and float up to the



1 surface.

2 The other was the decision made at the field to  
3 remove this lock-down pin. And that in doing that it  
4 defeated the pressure intake of the wellhead itself.

5 Some of the other contributing causes were that  
6 the MMS found the operator not adhering to some of the  
7 rules and permits. They felt that there was inadequate  
8 operator training as well as inadequate monitoring of the  
9 fluid level in the well. If they had been able to detect  
10 the fluid level had been rising, I don't think there would  
11 have been a problem.

12 Then, in addition, they determined that there was  
13 inadequate supervision by the operator.

14 --o0o--

15 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
16 CHIEF SCOTT: The actions taken by both the MMS and the  
17 coast guard were: The day of the incident the MMS issued  
18 two noncompliant citations to Venoco. The coast guard  
19 issued Venoco a letter of warning. About six weeks later  
20 the team finalized their incident report and issued that  
21 to all of their operators as well as the State Lands  
22 Commission. And then a week later they submitted a safety  
23 alert notice to all of their operators which described  
24 basically a summary of the incident report. And we  
25 received a copy of that and the safety alert as well.

1                   --o0o--

2                   MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT

3 CHIEF SCOTT: Some of the things that the MMS is doing  
4 presently is they're reviewing the regulations for  
5 possible revision. They are looking at their  
6 communications procedures to see if there's better ways  
7 to -- for the personnel to communicate on the platform  
8 during the well work operation. And they are also  
9 evaluating with the lessee what the limitations of the  
10 contract duties should be during well work operations.

11                   --o0o--

12                   MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT

13 CHIEF SCOTT: And, finally, the State Lands Commission  
14 also has taken action as a result of the incident. And  
15 that initially consisted with a thorough review of our  
16 existing State Lands regulations for drilling and  
17 production. We have found them to be extremely  
18 comprehensive and detailed to the level that they are  
19 found to be sufficient to adequately handle a situation  
20 like this.

21                   We have issued letters to all of our operators  
22 describing the incident and provided them with copies of  
23 the report and the safety alert. And we've also begun  
24 conducting workshops with each of the operators  
25 individually to discuss proper procedures during well work

1 operations, review their training for well control  
2 situations, and focus on some of the routine work that is  
3 done. Perhaps may have some failings or weaknesses that  
4 could result in a problem if they are not attended to  
5 properly.

6 And of course we discussed the incident with all  
7 of our staff, our operations and engineering personnel.  
8 And, finally, we are reviewing the well control training  
9 courses and their curricula that the operators send their  
10 people to so that the course of training is relevant to  
11 the activities that we have on offshore platforms.

12 --o0o--

13 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
14 CHIEF SCOTT: That concludes my presentation. I'm  
15 available for questions.

16 And Venoco and the MMS also have representatives  
17 here if you'd like to have them respond to questions.

18 CHAIRPERSON BUSTAMANTE: Any questions by the  
19 members of the Commission?

20 Please.

21 ACTING COMMISSIONER ARONBERG: Controller Westly  
22 asked the Commission to call for this. We do have grave  
23 concern for our coastline and that incidents like this not  
24 occur.

25 So I want to ask the staff about -- I saw a list

1 of actions that MMS had taken. I didn't see anything  
2 about penalties imposed or something to ensure that this  
3 be an educating experience for Venoco and others and in  
4 turn for future incidents such as this.

5 EXECUTIVE OFFICER THAYER: It's my understanding  
6 that -- and there's a representative here from MMS who can  
7 probably speak with greater certainty about this. But  
8 it's my understanding that they haven't completed their  
9 review of the incident to decide if enforcement's  
10 necessary.

11 But you might want to talk directly to the MMS.

12 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
13 CHIEF SCOTT: I can comment on that too a little bit and  
14 then MMS.

15 EXECUTIVE OFFICER THAYER: I don't I think they  
16 had -- I think that Commissioner Aronberg is correct. As  
17 of now my understanding is there have been no penalties  
18 imposed.

19 ACTING COMMISSIONER ARONBERG: Maybe we should  
20 ask our staff and also the MMS --

21 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
22 CHIEF SCOTT: The MMS -- I have spoken to an MMS  
23 representative in Camarillo, who's said that they do have  
24 a civil penalty program. This particular incident  
25 triggers that program. They are -- their Compliance

1 Office in Washington I believe is evaluating this incident  
2 and will make a decision as to whether it warrants further  
3 action in the way of a civil assessment. But that will  
4 take another month or two, I'm told, before they come to  
5 that decision.

6 ACTING COMMISSIONER ARONBERG: Maybe Paul would  
7 we be able to urge the MMS to --

8 CHAIRPERSON BUSTAMANTE: Is there a  
9 representative here from the MMS?

10 Please come forward.

11 MR. KNOWLSON: Hello. My name is Dan Knowlson.  
12 I'm a petroleum engineer in the Santa Maria District  
13 Office with Minerals Management Service.

14 CHAIRPERSON BUSTAMANTE: Go ahead.

15 ACTING COMMISSIONER ARONBERG: If you know, can  
16 you tell us what process the MMS is undergoing right now  
17 to decide whether to assess initial penalties.

18 MR. KNOWLSON: What I heard was accurate, that we  
19 are still pursuing the civil penalty review process. And  
20 I guess there's several layers it has to go through. And  
21 it's my understanding that it would be another month or  
22 two to go through the process.

23 CHAIRPERSON BUSTAMANTE: How are we notified?

24 MR. KNOWLSON: I'm sorry?

25 CHAIRPERSON BUSTAMANTE: How are we notified with

1 respect to the outcome?

2 MR. KNOWLSON: We -- I don't know. I guess we  
3 could set up some kind of a line of communication and just  
4 let you know as soon as --

5 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
6 CHIEF SCOTT: But we will request from the MMS  
7 notification once they have arrived at a decision on that.

8 CHAIRPERSON BUSTAMANTE: I think that's what the  
9 Commissioner's looking for.

10 ACTING COMMISSIONER ARONBERG: It may be. I'm  
11 wondering if we could have some input in that process,  
12 such as, if the other Commissioners would agree, sending a  
13 letter expressing our concern about the incident, and  
14 urging the MMS to take maximum action that it can.  
15 Something like that, if the other Commissioners agree, I  
16 think that's what the Controller would be interested in.

17 CHAIRPERSON BUSTAMANTE: I think we clearly have  
18 history. And I think we could probably indicate what our  
19 history is with this particular provider, and ask that all  
20 of the our history with this vendor to be considered in  
21 this -- in whatever their findings are.

22 ACTING COMMISSIONER SHEEHAN: Could somebody give  
23 me a brief, as a newcomer on this, a brief history of this  
24 provider and what are the range of penalties MMS has. I  
25 mean just a little bit of background on this. And I don't

1 know who the appropriate --

2 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
3 CHIEF SCOTT: I have some information, but I'm not an  
4 expert in that area.

5 The range of penalty in the civil program is,  
6 depending on the type of incident and if there were any  
7 injuries to the personnel or significant environmental  
8 damage, range anywhere from 5,000 to \$20,000 per day per  
9 violation; and, again, depending on the nature of the  
10 incident.

11 And that is basically the extent of the range of  
12 fees that are assessed.

13 ACTING COMMISSIONER SHEEHAN: Okay. And this  
14 was -- if the incident was a one-day incident but the  
15 issue would be some of the other procedures that could  
16 have -- you know, if they reasonably may not have been  
17 followed consistently previously or if MMS investigation  
18 has determined it's a -- just fill in the one-day  
19 incident?

20 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
21 CHIEF SCOTT: Yeah. I won't speak for MMS. But I believe  
22 that they view the incident as a one-day incident, and had  
23 made corrections to the areas that they were violating  
24 that same day or the next day. So I believe it's just a  
25 one-day violation.

1           ACTING COMMISSIONER SHEEHAN: Okay. And someone  
2 else maybe have the history on this operator, this  
3 platform, I guess with the --

4           MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
5 CHIEF SCOTT: With regard to state waters we have that  
6 information. I don't have the information as to their  
7 record in federal waters.

8           But the state waters they are really on par with  
9 the other operators that we have in California. There  
10 really are only four major offshore platforms in state  
11 waters. Venoco has one off of Santa Barbara.

12           We have reviewed the last six years of history.  
13 Venoco has had three spill incidents. The total amount  
14 has been about eight gallons of oil. And almost all of  
15 that occurred in one event.

16           The other operators' history put in comparison  
17 is: We have two that are anywhere from six to eight  
18 incidents during that same period; and one of the  
19 operators just had one incident. So I'd say they are  
20 right in the middle there as far as how they compare with  
21 the other offshore operators in state waters.

22           As far as their -- another measure that we look  
23 at to evaluate an operator is the history of their safety  
24 and compliance. And that is reported to OSHA. And in the  
25 last two years that we have records for, Venoco has been



1 equal to or better than the other operators and well below  
2 the industry average. So we feel from a safety --  
3 personnel safety standpoint they are, you know, a very  
4 capable operator and have shown a good safety record.

5 And we have also incorporated a safety audit  
6 program from all of our offshore platforms. And the work  
7 that we have done on Venoco has resulted in part in  
8 bringing their safety record to an even better level.

9 CHAIRPERSON BUSTAMANTE: Isn't it true that the  
10 Venoco platform was at one point shut down?

11 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
12 CHIEF SCOTT: In state waters?

13 CHAIRPERSON BUSTAMANTE: Yes.

14 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
15 CHIEF SCOTT: Yes, sir, it was. In 1999 it was.

16 CHAIRPERSON BUSTAMANTE: Wasn't it during that  
17 time found that there were dozens of major violations on  
18 that platform?

19 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
20 CHIEF SCOTT: That was in 1999, which was that one  
21 incident where the eight gallons occurred -- most of the  
22 eight gallons. We had conducted a safety assessment of  
23 the platform following that incident. And the number of  
24 action items, as we call them, during that particular  
25 review -- and I may have to defer to our Operations

1 Supervisor, Pete Johnson, who handles that. But I believe  
2 it was in the neighborhood of about 500 items on that  
3 particular safety audit, which is about the norm when we  
4 do an offshore facility, because it's a wide range of  
5 items that are looked at. The most critical ones usually  
6 fall into the 1 to 3 number. Then you get the lesser  
7 critical type of items that, you know, bring the number  
8 well up into the hundreds.

9 CHAIRPERSON BUSTAMANTE: Maybe we need to change  
10 our protocol if when we go out there we're finding 500  
11 items --

12 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
13 CHIEF SCOTT: We don't -- we --

14 CHAIRPERSON BUSTAMANTE: -- on average.

15 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
16 CHIEF SCOTT: Yeah, we do not find 500 on -- these are --

17 CHAIRPERSON BUSTAMANTE: That's what you said.

18 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
19 CHIEF SCOTT: Yes, sir. But these are items that have to  
20 do with the actual design and physical make-up of the  
21 platform.

22 CHAIRPERSON BUSTAMANTE: Well, regardless of what  
23 it is, it's not done properly. We're finding 500 items  
24 out there.

25 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT

1 CHIEF SCOTT: But those have all been remedied. We  
2 conduct a monthly on-site inspection using our field  
3 inspectors --

4 CHAIRPERSON BUSTAMANTE: Were you doing that  
5 before this -- that spill?

6 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
7 CHIEF SCOTT: Yes, we were. But they were not involved  
8 with the engineering design of the platform. So this was  
9 something -- this is a new program that we have initiated  
10 to not only look at the function of the safety of the  
11 facility, but also to evaluate and examine very carefully  
12 the actual make-up of the platform, how the platform was  
13 constructed, is it capable of the loads that are placed on  
14 the platform, are the pipings designed properly, are the  
15 diameters and their ability to withstand pressure adequate  
16 for the use on the platform? That was something that we  
17 hadn't done in the past, but we have incorporated that  
18 into our new program, which was started again as a result  
19 of the 1999 incident. And --

20 EXECUTIVE OFFICER THAYER: Well, I was just going  
21 to add that I think a number of the shortfalls were 1 to 1  
22 off problems, that once they were fixed -- it isn't a  
23 question of deferred maintenance, more like: Is the valve  
24 in the right place and that kind of thing. And once it's  
25 put in the right place, you're done.

1           So we're going to do these engineering safety  
2 audits on a regular basis depending upon funding, which is  
3 an ongoing problem.

4           But we fully expect that the next go-round won't  
5 identify nearly as many, because we will have taken care  
6 of kind of the endemic problems that have existed out  
7 there, and that we didn't have a handle on because we  
8 didn't have the expertise and the staff that we needed to  
9 go out there and do it.

10           MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
11 CHIEF SCOTT: And the next go-round is this year actually.  
12 They're a five-year cycle. It came up this year, and they  
13 will be reevaluated again toward the end of this year.

14           ACTING COMMISSIONER SHEEHAN: And that's on the  
15 engineering design --

16           MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
17 CHIEF SCOTT: Exactly, yes.

18           ACTING COMMISSIONER SHEEHAN: -- that  
19 investigation? Okay.

20           CHAIRPERSON BUSTAMANTE: Any other questions?

21           ACTING COMMISSIONER SHEEHAN: I guess MMS -- in  
22 terms of history of the record for Venoco with MMS and  
23 some of the issues, do you have --

24           MR. KNOWLSON: I don't have the records  
25 available. We have a ranking process. And I believe

1 they've done fairly well over the years.

2 ACTING COMMISSIONER ARONBERG: In my opinion,  
3 none of this can be considered good or -- or good at all.  
4 I think that we have these safety procedures in place  
5 because the risk that is so -- even if it's a small risk  
6 of a spill, even if it's one gallon, that's one gallon too  
7 much. And the safety of the folks working on the platform  
8 is obviously very, very important. So seemingly small  
9 violations or only one or only three major violations is  
10 too many, in my opinion.

11 EXECUTIVE OFFICER THAYER: Certainly.

12 ACTING COMMISSIONER ARONBERG: And these are  
13 very, very risky operations we have off our extremely  
14 economically and environmentally important coastline.  
15 So --

16 CHAIRPERSON BUSTAMANTE: Perhaps the Commissioner  
17 might work with staff to prepare a draft that could be  
18 then circulated to the other members of the Commission.

19 EXECUTIVE OFFICER THAYER: Certainly.

20 CHAIRPERSON BUSTAMANTE: Okay.

21 EXECUTIVE OFFICER THAYER: The one thing that I  
22 would add is that it seems as though on a one-day basis  
23 these fines are not very big, because it's just one single  
24 incident that's being looked at.

25 The flip side of that though is that just as we

1 would be going through a process looking at a variety of  
2 factors to determine what the appropriate fine is, I'm  
3 sure MMS is going through the same thing. And there is  
4 some argument to be made that the heaviest fines should be  
5 reserved for those operators -- and there are few of them,  
6 but they are there occasionally -- who are  
7 non-cooperative, who have been negligent or are willfully  
8 causing problems. And I think the analysis shows that  
9 that wasn't the case here. That doesn't mean that it's --  
10 that any spill is forgivable. But the question is whether  
11 or not the most severe fines should be reserved for those  
12 cases where the operators are willfully causing a problem  
13 or refusing to take any steps to remedy --

14 CHAIRPERSON BUSTAMANTE: Well, maybe I  
15 misunderstood then. My understanding was that there was  
16 established protocol for maintaining certain fluid levels,  
17 and that wasn't done. And you don't call that negligence?

18 EXECUTIVE OFFICER THAYER: I believe it was  
19 negligent. I'm sorry if I misspoke. But I don't think  
20 it's willful. I don't think somebody said, "Who cares  
21 about the water. We won't put any down" or "We know we're  
22 not supposed to take that pin out." I suspect when the  
23 pin was taken out that the person was just saying, "Oh  
24 we're making sure that that's there." I'm not saying  
25 that's a correct procedure. But I am saying that we

1 occasionally run into circumstances where operators are  
2 much more willful about their disregard of the  
3 regulations. And should they be fined the same amount as  
4 somebody who isn't?

5 CHAIRPERSON BUSTAMANTE: Well, is the procedure  
6 that was outlined, is this -- you know, a difference  
7 between federal and the state?

8 EXECUTIVE OFFICER THAYER: No, we believe our  
9 regulations would have prohibited that procedure that was  
10 followed out there, the illegal procedure in state waters  
11 as well.

12 CHAIRPERSON BUSTAMANTE: Now, the people who  
13 performed this procedure, was it Venoco people or was it  
14 some independent contractor?

15 EXECUTIVE OFFICER THAYER: I believe it was an  
16 independent contractor. But that as far as I'm concerned  
17 is still Venoco's responsibility to make sure that --

18 CHAIRPERSON BUSTAMANTE: Right. But I'm just  
19 trying to figure out -- I mean -- are they still there?

20 EXECUTIVE OFFICER THAYER: I don't know.

21 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT  
22 CHIEF SCOTT: The --

23 CHAIRPERSON BUSTAMANTE: Are the Venoco people  
24 here?

25 EXECUTIVE OFFICER THAYER: Yes.

1 MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT

2 CHIEF SCOTT: Yes, they are.

3 CHAIRPERSON BUSTAMANTE: Would somebody from  
4 Venoco please come forward.

5 Welcome. Would you mention your name for the  
6 record please.

7 MR. SCHRAGE: Greg Schrage with Venoco.

8 Just to expand on some things I've heard.

9 We take it very seriously as well, and we intend  
10 to follow the regulations.

11 And the thing that I believe Paul was alluding to  
12 was that we make every effort to follow those rules and be  
13 a good operator and to take care of this.

14 The personnel that were involved in it were  
15 independent contractors. They were subsequently  
16 terminated from our service. It's been very clearly  
17 expressed, anybody involved in this operation that's going  
18 to -- will not be acceptable in our operations.

19 So we terminated personnel that hadn't had  
20 significant experience and we believe were solid  
21 personnel. The wellhead company that was doing the  
22 procedures for us was an authorized representative of the  
23 wellhead manufacturer. We've terminated their services.  
24 And we actually fly people in from out of state to perform  
25 these operations because they have higher level of



1 expertise.

2 So we have made those type of changes, made it  
3 clear to everybody involved that this is not acceptable  
4 and will not be tolerated --

5 CHAIRPERSON BUSTAMANTE: Are they working on any  
6 other platforms that you have?

7 MR. SCHRAGE: Not working on our platforms, no.

8 CHAIRPERSON BUSTAMANTE: But I just want to ask  
9 you: The personnel or the contractor, they're not working  
10 on any of your other platforms on our state waters"

11 MR. SCHRAGE: The wellhead contractors that are  
12 working on our -- we fly in some --

13 CHAIRPERSON BUSTAMANTE: Are any of the  
14 contractors who were involved in this procedure and this  
15 spill activity?

16 MR. SCHRAGE: The individual personnel are not.  
17 Some of the contract companies are.

18 CHAIRPERSON BUSTAMANTE: And the contract  
19 companies that are, they are there with your full  
20 confidence?

21 MR. SCHRAGE: I believe they have very good  
22 representatives on board, yes. We've --

23 CHAIRPERSON BUSTAMANTE: So they've changed out  
24 their personnel. You still have -- you still have  
25 confidence in management, but you don't -- you didn't have

1 confidence in personnel?

2 MR. SCHRAGE: I didn't have -- we didn't have  
3 confidence in those particular individuals, yes. We were  
4 disappointed in their performance and --

5 CHAIRPERSON BUSTAMANTE: So what kind of  
6 safeguards do we have at this point that the supervision  
7 of this new personnel are not likely to do the same thing  
8 or go beyond some other protocol that's fairly established  
9 in the industry?

10 MR. SCHRAGE: Well, one of the things we have is  
11 we do look for various skilled personnel. I think that  
12 goes without saying, that we're trying to -- we deliver  
13 the best personnel we can get. We believe we have them.

14 We've also gone through this incident with our  
15 contractors. And this whole process obviously is not  
16 acceptable. So we've sat down with those contractors,  
17 expressed that to them. We've gone through it with their  
18 personnel, up and down. They've instituted new procedures  
19 with these personnel to look forward so they have better  
20 reviews and better job safety analysis about what's coming  
21 up in the day as they move forward through the procedures,  
22 so that there'll be less of an opportunity to vary from an  
23 agreed-upon procedure. So they have -- they have more  
24 formalized methodology for what they're going to do as  
25 they go -- as they work it up.

1           We've always had formal procedures. But we've  
2 actually added more layers to that to increase that  
3 awareness and kind of force people into that agreement  
4 that they develop the procedures and --

5           CHAIRPERSON BUSTAMANTE: Okay. So you have a  
6 group of people who are involved as a contractor and  
7 you've eliminated the personnel and brought in new  
8 personnel to establish the other procedures and other  
9 protocols.

10           And to what extent are you going to be  
11 supervising the supervisors now to make sure that it  
12 wasn't them and not the personnel?

13           MR. SCHRAGE: Supervise -- we have --

14           CHAIRPERSON BUSTAMANTE: You have the contracts  
15 or --

16           MR. SCHRAGE: Well, we have a company engineer, a  
17 drilling engineer who's in communications with the  
18 personnel throughout the day essentially, on call -- their  
19 personnel are on call. The engineers are --

20           CHAIRPERSON BUSTAMANTE: Well, where are they  
21 contacted about the day before?

22           MR. SCHRAGE: They are in contact. And  
23 variations from accepted procedure are generally expected  
24 to be discussed with the engineers. It was not discussed  
25 in this particular incident.

1           That particular process has been reinforced with  
2 the personnel we do have that, yes, we expect these  
3 procedures to be followed. There are -- there was an FMC  
4 wellhead landing procedure that was not followed. We've  
5 reemphasized with all those people -- like I said, we've  
6 started these 24-hour looking-forward type of procedures  
7 that they -- the engineer and the personnel on-site will  
8 have a written agreement on more of the specifics of what  
9 might have been construed as a routine activity  
10 historically.

11           CHAIRPERSON BUSTAMANTE: But the Commission  
12 has -- as you can imagine, we're at a zero-tolerance  
13 policy for spills. My guess is that everybody says that  
14 that's their goal as well.

15           But when members of your company indicate that  
16 oil and gas business is all about economics, we want to  
17 make sure and assure you as their representative that it's  
18 not just about economics.

19           MR. SCHRAGE: But I fully agree. It's not just  
20 about economics.

21           CHAIRPERSON BUSTAMANTE: We want to communicate  
22 back to Mr. Edwards that it's not just about economics.  
23 It's -- because people of the State of California don't  
24 believe it's that cut and dried.

25           MR. SCHRAGE: And I agree with you. I'm born and

1 raised near the coast and have grown up along one my whole  
2 life. And I love it there. And I -- if I can't smell the  
3 ocean, I think something's wrong. So I --

4 CHAIRPERSON BUSTAMANTE: Are you into surfing?

5 MR. SCHRAGE: I've got -- surf, scuba dive,  
6 deep-sea fish. I thoroughly enjoy it.

7 But we value it as well. I mean we do have a  
8 dedicated staff for our safety and processes. We have a  
9 lot of programs in place. It's not just about economics,  
10 you know. And obviously it brings -- business economics  
11 are important. But safety is paramount for the  
12 environment and our personnel. I believe that's why  
13 Venoco has been able to work so well in Santa Barbara  
14 County, in Lake Texoma, a private refuge. We're in the  
15 Sacramento area, a lot of the duck refuge areas. And we  
16 intend to be a good neighbor and a good environmental  
17 citizen. That's one of our corporate goals as well.

18 CHAIRPERSON BUSTAMANTE: We look forward to that.

19 MR. SCHRAGE: We're working on it everyday.  
20 Thank you.

21 CHAIRPERSON BUSTAMANTE: Any other questions?

22 ACTING COMMISSIONER SHEEHAN: Well, I just had a  
23 question, as I say, as a newcomer, and probably to the  
24 chairman.

25 Did I miss a meeting where Venoco said this was

1 only -- only the economics? Was that in something that  
2 we've ever seen --

3 CHAIRPERSON BUSTAMANTE: It was the L.A. Times.  
4 A gentleman by the name of Mike Edwards of their company  
5 said -- you know, an article in the L.A. Times.

6 ACTING COMMISSIONER SHEEHAN: Maybe staff could  
7 send me that, yeah, because I have not seen that.

8 CHAIRPERSON BUSTAMANTE: Sure.

9 ACTING COMMISSIONER SHEEHAN: Thanks.

10 MR. SCHRAGE: I quite honestly -- I'd make a  
11 supposition that maybe there was something taken out of  
12 context there. But that wouldn't surprise me. I mean  
13 I -- I don't remember the article, but that is not our --

14 CHAIRPERSON BUSTAMANTE: Well, we'll send you a  
15 copy.

16 (Laughter.)

17 MR. SCHRAGE: I still go with -- I still would  
18 hope that there was something said taken out of context by  
19 a reporter at the Times. I'd be glad to look at it.

20 CHAIRPERSON BUSTAMANTE: I doubt that that would  
21 ever, ever happen.

22 (Laughter.)

23 CHAIRPERSON BUSTAMANTE: Based on personal  
24 experience, I don't think that --

25 (Laughter.)

1           MR. SCHRAGE: But we do -- we take it very  
2 seriously, I can assure you of that.

3           CHAIRPERSON BUSTAMANTE: Very good. Thank you  
4 very much.

5           Any other questions?

6           ACTING COMMISSIONER ARONBERG: Yeah, in thinking  
7 about it though, in the letter -- I think the  
8 other suggestion was great -- sounds to me like in the  
9 methods sort of outdated fine structures where, if that's  
10 the maximum you can -- it has to involve some --  
11 personnel. Seems like there should be a much greater  
12 range of fine and maybe some really, really old point  
13 instruction on that. What kind of disincentive is that to  
14 a company to engage in --

15          EXECUTIVE OFFICER THAYER: I think that's a good  
16 point. And perhaps what we could do in this letter is,  
17 number one, make that observation, that it's apparent --  
18 it seems from our understanding of this -- and it's not  
19 our reg, so we could be missing something -- that for  
20 one-day events that could have catastrophic consequences,  
21 that fine structure that we certainly just heard today  
22 doesn't seem to address this situation. So I think that  
23 could be part of the letter.

24          And then if I could just suggest that, because  
25 it's MMS and they have their own structure here and they

1 consider various factors in imposing the fine -- but we  
2 want to express our concern is what I'm hearing the thrust  
3 of the Commissioners' comments. And I think the letter  
4 can certainly do that, and ask them to take appropriate  
5 action. While noting our great concern and the fact that  
6 this is one of our operators, and we all share the ocean  
7 though. And so we want them to look at this carefully  
8 rather than recommending a particular --

9 CHAIRPERSON BUSTAMANTE: Perhaps even more  
10 importantly, that we might want to include any enforcement  
11 history in any future actions that the staff takes, and  
12 they include that as a part of the consideration when  
13 we're reviewing and we are making determinations about  
14 their operations on state lands.

15 EXECUTIVE OFFICER THAYER: I understand. Good  
16 point.

17 ACTING COMMISSIONER ARONBERG: And I think  
18 without regard to, you know, what the norm is in the  
19 industry, because it sounds like the norm is really --  
20 it's really bad. And if we accept all sorts of violations  
21 as the norm, that doesn't seem right and I don't think  
22 that's the proper way to look at this.

23 EXECUTIVE OFFICER THAYER: All right.

24 CHAIRPERSON BUSTAMANTE: What's the disposition  
25 of this item?



1 EXECUTIVE OFFICER THAYER: It was agendized  
2 primarily as an information item and to give the  
3 Commission -- or it's an opportunity to speak with Venoco  
4 about our concerns. But, again, if it's the Commission's  
5 direction, we'd be happy to draft up a staff letter and  
6 circulate it to the Commissioners' offices --

7 CHAIRPERSON BUSTAMANTE: I think that's the  
8 interest of the Commission, if we could pass it along.

9 My understand is Item 81 has been pulled?

10 EXECUTIVE OFFICER THAYER: Yes, sir.

11 CHAIRPERSON BUSTAMANTE: Okay. So we're going to  
12 item 82?

13 EXECUTIVE OFFICER THAYER: Yes.

14 CHAIRPERSON BUSTAMANTE: And there's no further  
15 action necessary on Item No. 80?

16 EXECUTIVE OFFICER THAYER: Correct.

17 CHAIRPERSON BUSTAMANTE: Okay. Item No. 82.

18 EXECUTIVE OFFICER THAYER: Item 82 is a  
19 resolution proposed for Commission adoption at the request  
20 of the lieutenant Governor to express the Commission's  
21 concern about proposals that have been made in Congress  
22 and discussed in Washington regarding lifting the ongoing  
23 federal offshore oil and gas leasing moratorium. This  
24 moratorium has been in place in federal waters for some  
25 time. And there are a variety of legislative proposals

1 that would change or eliminate that moratorium.

2 The State -- as the resolution notes, the State  
3 of California has a long history of protecting its own  
4 waters. This Commission adopted an administrative  
5 moratorium on new oil and gas leases in state waters clear  
6 back in the late eighties, which the Legislature  
7 eventually ratified in the mid-nineties to put into  
8 statute. So California and this Commission's expressed a  
9 leadership role in stopping new oil and gas leases  
10 offshore California.

11 And this resolution's consistent with other  
12 actions and other resolutions that have been adopted by  
13 the Commission in the past and is complete timely because  
14 of the discussion that's now occurring over the energy  
15 bill and other pieces of legislation.

16 This is also consistent with what the Ocean  
17 Protection Council adopted several -- or a letter that was  
18 sent out several months ago expressing a similar concern  
19 over the loss or the potential loss of the moratorium.

20 So staff has drafted up this resolution and is  
21 recommending that the Commission adopt it.

22 CHAIRPERSON BUSTAMANTE: I don't know as the  
23 Commissioners feel comfortable enough to pass it even  
24 though they've had only a short time?

25 ACTING COMMISSIONER SHEEHAN: Yeah -- no, this

1 has been -- at least from our perspective, it's been  
2 circulated and is fine with passing it -- approving it.

3 CHAIRPERSON BUSTAMANTE: Well, then we'll take --  
4 I'll take a motion to move this resolution.

5 ACTING COMMISSIONER ARONBERG: So moved.

6 ACTING COMMISSIONER SHEEHAN: Second.

7 CHAIRPERSON BUSTAMANTE: It's been moved and  
8 seconded to send the resolution, by the California State  
9 Lands Commission, requesting Congress to continue the  
10 federal offshore oil and gas leasing moratorium.

11 There's a motion and a second.

12 Let the record show that the resolution passes by  
13 unanimous consent.

14 EXECUTIVE OFFICER THAYER: Thank you.

15 This will be forwarded on to the Congressional  
16 delegation and other representatives in Washington so that  
17 they'll know about the Commission's position on it.

18 CHAIRPERSON BUSTAMANTE: Will it also be sent to  
19 the leadership of both houses?

20 EXECUTIVE OFFICER THAYER: We'll make sure that  
21 that happens.

22 CHAIRPERSON BUSTAMANTE: And the White House.

23 EXECUTIVE OFFICER THAYER: That the White House,  
24 yes.

25 CHAIRPERSON BUSTAMANTE: Any other business

1 before the Commission?

2 CHAIRPERSON BUSTAMANTE: There's some public  
3 comment period. I think there's some speakers signed up  
4 to make comments.

5 CHAIRPERSON BUSTAMANTE: At the end of every  
6 meeting we allow the public to come forward to be able to  
7 discuss any items. And We have several people who have  
8 requested to speak.

9 If you have -- if you'd like to speak and you  
10 have not yet filled out one of these request to speak  
11 forms, we ask that you please do so and bring it forward.

12 This first person, I'm not sure I understand  
13 the -- I'm sorry. You must be a doctor, from a school.  
14 And I think it's John --

15 MR. ASUNCION: -- Asuncion.

16 CHAIRPERSON BUSTAMANTE: I'm sorry?

17 MR. ASUNCION: John Asuncion.

18 CHAIRPERSON BUSTAMANTE: Okay. Please come  
19 forward.

20 MR. ASUNCION: My pleasure. Thank you. Thank  
21 you for this opportunity.

22 I'll introduce myself. I'm John Asuncion.

23 CHAIRPERSON BUSTAMANTE: Remember, all public  
24 comments are limited to approximately three minutes.

25 MR. ASUNCION: I'm John Asuncion and I'm the

1 President and founder of the Blue Whale Sailing School.  
2 We're charitable educational corporation here in the  
3 state. This is our 11th year. And my residence is in  
4 Santa Barbara. I live in Santa Barbara County. But I  
5 have a project in northern California in San Francisco Bay  
6 in Alviso. And myself and my wife have adopted the Alviso  
7 Slough six years ago when we purchased this property for  
8 our educational foundation and then donated it to the  
9 foundation.

10 We've spent approximately about \$500,000 in  
11 cleaning up the Alviso Slough. Derelict boats have been  
12 abandoned, you know, trash, tires, all those particular  
13 things that have been polluting the bay. And the main  
14 thing that we're trying to accomplish is we purchased this  
15 property to provide public access for the people of the  
16 State of California.

17 We're really environmentalists. I'm a retired  
18 golf course architect and a landscape architect. So what  
19 I do is build parks, donate them, and do retrofits and  
20 wetlands. And I've done that my whole life up and down  
21 the state in different projects.

22 So I have -- you know, I want to thank State  
23 Lands, number 1, Mr. David Plummer and his assistant,  
24 Nancy Smith, for working with us over the years. We're in  
25 the position right now to try to lease a small piece of

1 the property from the state. And we have a neighbor next  
2 door that's polluting the bay. And I've stepped forward  
3 to pay for the cleanup. It'll probably be about a million  
4 plus to clean it up. And we want to work with the state  
5 to clean this up so provide public access.

6 And 80 percent of our students are all  
7 handicapped adults that we provide -- we take them  
8 sailing, we take them boating, we take them hiking. And  
9 we provide universities in the south bay, Santa Clara  
10 University to do research; san Jose State, Coach  
11 Montgomery is one of my board of directors. His brother  
12 Mike with the Warriors. Joe Capp -- all us old football  
13 players or whatever you want to call us, okay? What we  
14 try to do is try to give something back to the community.

15 CHAIRPERSON BUSTAMANTE: That's very generous.

16 MR. ASUNCION: But I need to just really thank  
17 Mr. Plummer to try to -- you know, assisting us for the  
18 last year, and his assistant Nancy.

19 And so I just wanted to take some time and see if  
20 the state and our educational foundation could work  
21 together on this parcel next door that is polluted.  
22 There's fuel, oil, derelict boats. And I put a package  
23 together for you.

24 CHAIRPERSON BUSTAMANTE: What do you think, Paul?  
25 Do you think you can work with this gentleman?

1 EXECUTIVE OFFICER THAYER: Absolutely. In fact,  
2 as he's alluded to, we've had several conversations I  
3 think in the last few weeks, and further before that.

4 We've been involved in a couple different cleanup  
5 efforts down in that location. We don't have any money  
6 really to take these boats out. But we've been able to  
7 work cooperatively with several other agencies. And there  
8 was a big cleanup I think several years ago. But we got  
9 volunteered trucking services to truck away some of the  
10 debris.

11 But particular the facility that the gentleman is  
12 referring to is largely not on state lands. It's in an  
13 artificial cut. So although they have a lease for part of  
14 their facility, to get a real handle on this we're going  
15 to have to work cooperatively with DCDC and some of the  
16 other agencies so that the different jurisdictions can  
17 make sure that we can address the issue,

18 CHAIRPERSON BUSTAMANTE: But does the pollution  
19 impact state lands?

20 EXECUTIVE OFFICER THAYER: Oh, Absolutely. And  
21 we are -- there's definitely a nexus and they do have a  
22 lease from us, so that we have some opportunity to get  
23 involved. It's also true that that entity --

24 CHAIRPERSON BUSTAMANTE: Can we get any help from  
25 Finance?

1 (Laughter.)

2 EXECUTIVE OFFICER THAYER: It's also true that --

3 CHAIRPERSON BUSTAMANTE: Finance is committed.

4 (Laughter.)

5 EXECUTIVE OFFICER THAYER: That's what we like to  
6 hear.

7 It's also true though that this facility is in  
8 the process of getting permitting for a pump-out station  
9 for boats for the septic. And so that we're hoping that  
10 once that gets in place, that will address at least some  
11 of the problem. That's not to say it's going to deal with  
12 the other issues that you've raised.

13 MR. ASUNCION: Well, we're working with the state  
14 to have a pump-out station at our site. The reason why is  
15 they have no access to it because it's all polluted,  
16 derelict boats. But I accept that personally. I'm not  
17 asking for any money from the state or anybody. I will  
18 pay for the cleanup on the state property. And, you know,  
19 there's a continuance on that, because what I want to see  
20 is public access for the community. There is no public  
21 access in the south bay except for our site. And we  
22 provide public access. That's one of the criteria of our  
23 educational foundation and -- to provide public access and  
24 boating to everybody in the state that wants to put a  
25 kayak in or a boat or a sailboat.



1 CHAIRPERSON BUSTAMANTE: John, any more at home  
2 like you?

3 ASUNCION: Well, there is --

4 CHAIRPERSON BUSTAMANTE: You need a family to  
5 adopt you?

6 (Laughter.)

7 MR. ASUNCION: There actually is. Yeah, you  
8 know, if it wasn't for my wife to -- this is her thing,  
9 you know. And I'm just a side cart, you know. But she --  
10 we've been, you know, activists to try to clean waters up.  
11 And especially, you know, living in Santa Barbara with oil  
12 spills over the years. So listening to these gentlemen as  
13 we're out there sailing with our students and everything  
14 like that.

15 CHAIRPERSON BUSTAMANTE: Well, great. Thank you  
16 so much.

17 MR. ASUNCION: I just wanted to take some time --

18 CHAIRPERSON BUSTAMANTE: We appreciate your work  
19 and we appreciate your effort. And they're very, very  
20 generous actions.

21 MR. ASUNCION: Thank you.

22 EXECUTIVE OFFICER THAYER: I would point out to  
23 the Chair that one of the other people who signed up,  
24 you've probably noticed, Doug Bloyd is concerned about the  
25 same matter. And so you may want to take him --

1 CHAIRPERSON BUSTAMANTE: Is Doug here?

2 Please come forward.

3 Is that Doug Bloyd?

4 MR. BLOYD: Doug Bloyd, yeah.

5 I'm just going to read my letter, if you don't  
6 mind.

7 CHAIRPERSON BUSTAMANTE: Please. Go right ahead.

8 MR. BLOYD: And I'm a person who went to Mr.  
9 Asuncion and asked for public access, and he gave it to  
10 me. The South Bay Yacht Club didn't. Okay?

11 And I've given you some information. I've given  
12 you a copy of the lease that this gentleman was talking  
13 about. I've given you some photographs and some other  
14 information that is referenced here.

15 My name is Doug Bloyd. I'm a resident of San  
16 Jose in Santa Clara County. I'm a boater, fisherman,  
17 hunter and a friend of the Guadalupe River watershed that  
18 flows into the south end of the San Francisco Bay through  
19 Alviso Slough. Please give consideration to my concerns.

20 I do not understand why the state is allowing the  
21 stretch of state-owned land in Alviso Slough being leased  
22 by the South Bay Yacht Club to be managed the way it is.  
23 I reviewed the state's lease No. PRC 3979.1, and the South  
24 Bay Yacht Club is clearly in violation. They provide no  
25 public access to the lease property. They do not maintain

1 the facilities. And as you look through the pictures,  
2 you'll see -- it's not rocket science -- they're not  
3 maintaining it. And their derelict boats and docks are a  
4 flood danger to the surrounding town of Alviso.

5 And I've had representatives at the Santa Clara  
6 Valley Water District tell me that these -- if there was  
7 ever like a hundred year flood, some of these big derelict  
8 houseboats, they would break loose at the point, they  
9 could sink, clog the channel, flood into Alviso. So the  
10 water district knows. But they are -- for some reason  
11 they're letting them stay there. I'm not sure exactly  
12 why.

13 CHAIRPERSON BUSTAMANTE: Okay.

14 MR. BLOYD: Also I fear is that the state of the  
15 South Bay Yacht Club grounds could severely jeopardize the  
16 funding of a project called Alviso Slough Restoration  
17 Project being proposed by the Santa Clara Valley Water  
18 District. And I've included that as well.

19 The project plan clearly states that the water  
20 district will only be responsible for using -- removing  
21 plant and root matter in the proposed area. And there's  
22 no way a crew could ever stay on budget having to work  
23 around all the derelict boats and docks in the state of  
24 this property.

25 CHAIRPERSON BUSTAMANTE: Do we know about how

1 many there are, so --

2 MR. BLOYD: Yeah, I'd that there's like -- if I  
3 counted them, probably 14 or 15. It's not a huge amount,  
4 but it's just -- it's a problem.

5 This project will increase flood protection to  
6 the town of Alviso, it will improve navigation so the  
7 community can expand on boating and other recreational  
8 opportunities, and restore historic public access and  
9 aesthetics for the Alviso community.

10 I would hate to see this project go away because  
11 of the negligent actions of a few. Please do something  
12 about this.

13 I think one of the problems is because it's been,  
14 oh, so overgrown, people don't see it. And the problem is  
15 in two years the State Boat and Waterways has partnered  
16 with the Santa Clara County Parks and Rec Department  
17 about -- probably a quarter mile downstream they're going  
18 to be putting in -- finishing like a \$5 million project  
19 like 2006, 2007. Right now they're finishing the first  
20 phase of it, which was from 2004 to 2005, which was a \$2  
21 1/2 million project. And then what they're doing is  
22 they're going to put a new boat launch so that people  
23 would actually finally be able to access the south bay.  
24 There's nothing at the south end of the bay for people to  
25 access. And I'm duck hunter and fisherman. That's why I

1 like Mr. Asuncion, because he let me go out there.

2 Now, do you think if you have a problem with that  
3 now, you wait for two years when all of a sudden all the  
4 people from the Bay Area start going up and looking at  
5 those grounds? You just can't see it now unless you're in  
6 the slough. Because I'm in the slough fishing and  
7 hunting, I see it. There's going to be a bigger problem  
8 once these people get to that boat launch and start  
9 driving up there and seeing the problem that there is up  
10 there.

11 Those are my concerns.

12 CHAIRPERSON BUSTAMANTE: Okay. Thank you so  
13 much. Appreciate the information.

14 Staff has made note. We are moving.

15 And why don't we -- I mean I don't know what the  
16 other members of the Commission feel. But I think that  
17 this warrants some kind of a follow-up by staff back to  
18 the Commission, at least give us a report as to where  
19 we're at on the next -- by the next meeting.

20 EXECUTIVE OFFICER THAYER: Certainly. As I  
21 indicated earlier, we're already in contact with DCDC and  
22 the regional water quality control board about this, and  
23 water agencies, and we're trying to coordinate with them  
24 to accomplish much of what they're asking for.

25 CHAIRPERSON BUSTAMANTE: Pacific Merchant

1 Shipping Association. John Berge.

2 Welcome.

3 MR. BERGE: Thank you.

4 CHAIRPERSON BUSTAMANTE: Please give your name  
5 for the record.

6 MR. BERGE: Thank you, Mr. Chairman. My name is  
7 John Berge with the Pacific Merchant Shipping Association.  
8 We represent the major vessel operators throughout  
9 California ports. And I'm basically here just to make the  
10 brief comment on an item that's not on the agenda but I  
11 expect to see on it probably in your June meeting. And,  
12 that is, the proposed rule-making package on the coastal  
13 transfer ballast water that the State Lands Marine  
14 Facilities Division is working on.

15 I'm a little ahead of the game here. But I think  
16 there was a slight delay in the proposed rule-making  
17 package, so we've actually been working this issue over  
18 the last few months.

19 And I just want to state that, you know, our  
20 industry, we support -- we supported AB 433, the current  
21 ballast water law. We also supported the previous law,  
22 which was Ted Lambert's -- gosh, I think it was 733 --  
23 bill previously. And, you know, I think what this gives  
24 California is probably the most rigorous protection in  
25 terms of invasive species probably in the world. I think

1 the proposed regulations that are being formulated now  
2 will probably strengthen that considerably.

3 Our concern primarily deals with a small -- a  
4 very small population of vessels that due to their  
5 construction or particular trade restraints that might  
6 affect the voyage duration between one port and another,  
7 in a sense could face an economic barrier to continuing  
8 these particular trade routes. And we just would like to  
9 urge the Commission and the staff to work with us to kind  
10 of accommodate those instances somehow so that we can  
11 basically -- continue moving these regulations forward and  
12 at the same time not necessarily terminate or eliminate  
13 certain trade routes -- certain pieces of business I think  
14 that are important in California.

15 CHAIRPERSON BUSTAMANTE: Well, California  
16 clearly, Mr. Berge, believes that it is a national port.  
17 It is a pathway of goods and services to the entire  
18 nation. We believe that we service the entire Pacific Rim  
19 through our ports. And as a result, that has benefited  
20 our economy and the people of the State of California.

21 But, you know, tell me what ships are not going  
22 to be in compliance, and we won't put them -- you know, we  
23 won't enforce the regulations on them. How do we know  
24 which ships are going to have what it contained inside the  
25 ballast water? How do we determine that?

1           MR. BERGE: Well, the good news is when we  
2 reached out to our membership -- and I must point out that  
3 are membership is not necessarily representative of the  
4 entire fleet that calls at California ports. But the vast  
5 majority of them, I would say 99 percent of them, said,  
6 "We will be able to comply with these regulations." There  
7 might be some difficulties, some costs, but, you know, we  
8 understand the problem.

9           As far as those that cannot, I think there were  
10 probably two scenarios. There are probably -- you could  
11 probably name them on a hand the number of vessels that  
12 are regularly involved in certain trade routes in and out  
13 of California. I know one tanker industry, for instance,  
14 has a couple of their vessels that they feel under these  
15 regulations would probably have to -- they'd probably have  
16 to pull those from those particular trade routes. In  
17 those instances it would be great if we could somehow work  
18 some sort of a solution out. And I think there's probably  
19 language in the regulations now to address some of that.

20           The other scenario though --

21           CHAIRPERSON BUSTAMANTE: Where are they going to  
22 go? They're not going to be accepted in Seattle and  
23 Portland. I mean are they going to go to Mexico?

24           MR. BERGE: The vessels?

25           CHAIRPERSON BUSTAMANTE: Yeah.



1 MR. BERGE: The tankers?

2 Well, this is a particular --

3 CHAIRPERSON BUSTAMANTE: They're eliminating in  
4 California from their trade route.

5 MR. BERGE: They might have to run this I guess  
6 maybe through a pipeline instead. I can't honestly speak  
7 for them because they're not part of my membership.

8 CHAIRPERSON BUSTAMANTE: Okay.

9 MR. BERGE: But the other scenario is there are  
10 vessels that I think by and large would not have an issue,  
11 but under certain circumstances they may find themselves  
12 in a situation on a very short voyage duration going from  
13 San Diego to Los Angeles, San Francisco to Eureka, where  
14 the short voyage duration and the amount of ballast water  
15 that needs to be exchanged almost precludes them from  
16 fitting into that trade route.

17 I know that the staff has, you know, been open to  
18 these issues before. However, I'll also note that under  
19 the regulations I believe the Commission is the body that  
20 needs to provide for these exemptions -- one time  
21 exemption, what have you. And I'm just concerned that in  
22 the course of business whether or not the Commission would  
23 be able to react fast enough to deal with those issues.

24 CHAIRPERSON BUSTAMANTE: I understand your  
25 concern. And I understand that there is some interest in

1 having some leeway in California to California trips. I  
2 think we'll be swayed by good science. I think that's  
3 where it's going to fall. If we have good science that  
4 says -- that allows us to be able to do these kinds of  
5 activities, I think that's where we'll be swayed. I think  
6 that you would be swayed as an industry. Even though  
7 you're actively promoting this industry, I think you would  
8 have to be swayed by good science.

9           And so I think that that's probably the best  
10 thing that we can suggest, is that we're going to try to  
11 do the very best that we can in trying to assess the  
12 situation. We already have contamination. We already  
13 have species from all over the world that are in this.  
14 And there's more and more. And there are some ports that  
15 are not doing a very good job internationally, and they're  
16 always trying to do something in which -- whether  
17 intentionally or unintentionally bringing a variety of  
18 different organisms here and potentially the destruction  
19 of many of the species and many of the environmental areas  
20 that we have here in California.

21           So I know that that's not your intention. I know  
22 that your intention is to try to figure out how to make  
23 things smoother, help the bottom line, which I perfectly  
24 understand, and be able to provide the most efficient way  
25 of doing business for your industry.

1 But after all that is said and done, I think it  
2 would be good science that we would have to default to.  
3 And I hope you'll work with us on that. And feel  
4 confident to be able to come to us as a commission to be  
5 able to say that, "Well, we don't think -- you know, Paul  
6 got this crazy person, you know, and the guy, you know,  
7 doesn't know what he's doing. And we've got this  
8 information that we think is good science and we want you  
9 to consider it." We're always open to be able to do that.  
10 We're always open to that kind of logic and reasoning.

11 But in the end, my guess is it will be good  
12 science that will prevail.

13 MR. BERGE: No, I appreciate those efforts, Mr.  
14 Bustamante. And we're certainly not asking for some sort  
15 of a carte blanche exemption. We feel confident that we  
16 can work with both the Commission and the staff through  
17 this rule-making process to address this issue.

18 CHAIRPERSON BUSTAMANTE: You should -- reverse  
19 osmosis planted on every single tanker ship.

20 MR. BERGE: If it gets to that point, I guess we  
21 will, you know. I think that science is still kind of in  
22 its infancy here. So we're all trying to move this  
23 forward.

24 CHAIRPERSON BUSTAMANTE: I think you're right.

25 Thank you.

1 MR. BERGE: Thank you.

2 CHAIRPERSON BUSTAMANTE: Really appreciate your  
3 being here and speaking on behalf of the industry.

4 Barry Christian. I believe that's -- did I say  
5 that correctly?

6 MR. CHRISTIAN: Yes, you did.

7 CHAIRPERSON BUSTAMANTE: And you're to speak on  
8 the --

9 MR. CHRISTIAN: -- the State Lands Pond, we call  
10 it.

11 CHAIRPERSON BUSTAMANTE: Please, have a seat.

12 MR. CHRISTIAN: Is that hard on your neck --

13 CHAIRPERSON BUSTAMANTE: That's quite all right.  
14 I'll just turn my chair. Don't worry about it.

15 Go ahead and state your name for the record.

16 MR. CHRISTIAN: I'm Barry Christian. I'm a  
17 citizen volunteer from the City of American Canyon on  
18 the -- just inside Napa County on the southern border, on  
19 the north border of Vallejo. And we share -- well, we  
20 have a border with the Napa River too. It flows along our  
21 entire western border. But there's not any public access  
22 there.

23 So that's how I got involved in this. There's a  
24 closed landfill out there. And we believe we have an  
25 agreement at least on staff level with the city and the

1 Waste Management Authority that will allow public access  
2 perhaps next year along the landfill, the perimeter access  
3 road which goes along the Napa River.

4 And what that brings me to is a piece of State  
5 Lands property. It's a -- I gave you a little map of the  
6 assessor's parcel. And in the center there it says,  
7 "State Lands com." It's a little triangle-shaped piece of  
8 land.

9 CHAIRPERSON BUSTAMANTE: Right.

10 MR. CHRISTIAN: Traditionally this was an inlet.  
11 It was open to the river. And I believe that's why it was  
12 never actually a parcel. Someone built a levee across  
13 there, where it's the little cross-hatching, the beach  
14 area and created a large pond in the middle. That's why  
15 we call it the State Lands Pond.

16 The levee was constructed of landfill burn pit  
17 material. So it's slag. I've given you a couple little  
18 photos.

19 I've been in contact with your staff. And I want  
20 to commend your staff. Nancy Kasana answered my  
21 questions. Nancy Smith did some good research in finding  
22 out more about this. And Dave Plummer's been very  
23 helpful. And I think they support this.

24 The problem with that levee is it's eroded into  
25 the river, and so it's allowing lead contamination -- I

1 believe it's contaminated with lead and PNA's. I'm not  
2 even sure what those are. But it doesn't appear to be  
3 highly toxic. It's low levels.

4           The -- Mr. Trent Cave, the Director of the Napa  
5 County Environmental Management Office -- they oversee the  
6 landfill. And a couple years ago they floated Prop 13  
7 proposal to get that levee taken out, place it into the  
8 landfill before it closed and restore the area to  
9 wetlands. But they were prevented by the State Regional  
10 Water Quality Control Board because they couldn't put the  
11 waste into a Class 3 landfill. They wanted to go to a  
12 Class 1, which is going to greatly increase the expense.

13           So right now I've been looking for a way around a  
14 variance. We can still -- I'm told we can still open up  
15 that landfill and get those placed in there. It would be  
16 better, we feel, in a landfill than eroding into the river  
17 if it's contaminating it.

18           And also if we do get that public access, that's  
19 going to bring the public into this area. And so, you  
20 know, we could probably have people wondering out there.  
21 So it really needs to be cleaned up. Maybe it's a  
22 question of how and funds and getting everybody together.

23           I've also contacted Wesley Chesbro's office and  
24 how they can get with regulatory relief.

25           So I wanted to just let you know what I'm up to.

1 I sent photographs to your staff. I didn't give you a lot  
2 of great materials. But this was three minutes.

3 And I also wanted to thank you all for your  
4 service to the State of California.

5 So I'll just be working with your staff and  
6 trying -- I figure it's going to take a large group of  
7 funding, a lot of different agencies all cobbled together  
8 to try to get this cleaned up. But it needs to be done  
9 now. We may end up putting a fence around it for the time  
10 being to keep the public out.

11 So thank you.

12 CHAIRPERSON BUSTAMANTE: Thank you. Appreciate  
13 it.

14 Do we have --

15 EXECUTIVE OFFICER THAYER: I think this is very  
16 analogous to the earlier gentleman. Both of these people  
17 have done a great job in their community to try and  
18 improve public amenities, and that we've had some land  
19 involved.

20 As the gentleman has said, we've worked with him.  
21 And it's one of these things that's going to require  
22 several different agencies. There's some discussion about  
23 perhaps getting some money from the Coastal Conservancy.  
24 And if that's what it takes, I presume the Commission  
25 would find it appropriate that we write a letter in

1 support of this for that kind of funding from the Coastal  
2 Conservancy and take whatever other steps we can take to  
3 bring this about.

4 I'm not sure legally where the landfill company  
5 is with respect to responsibility for that levee. I think  
6 they've indicated some willingness to remove it. But,  
7 again, they have this hope that they can dispose of it  
8 right next door at the dump, which is right there.

9 But, again, there's probably good policy reasons  
10 why there's some restrictions on disposing of this more  
11 contaminated material there. And it's just one of those  
12 things we're just going to have to work through with a lot  
13 of staff time to try and find some way that we can make  
14 all this happen.

15 CHAIRPERSON BUSTAMANTE: Great.

16 MR. CHRISTIAN: Thank you.

17 CHAIRPERSON BUSTAMANTE: Thank you.

18 Is there any other person who is interested in  
19 making a public comment?

20 Going, going, gone.

21 I believe that concludes the business of the  
22 Commission for today.

23 Is there any other items for the Commission?

24 EXECUTIVE OFFICER THAYER: Just closed session is  
25 all.



1           CHAIRPERSON BUSTAMANTE: Okay. Well, then we'll  
2 adjourn this meeting and go into closed session.

3           (Thereupon the California State Lands  
4 Commission meeting adjourned open session  
5 at 11:20 a.m.)  
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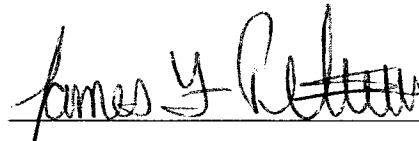
CERTIFICATE OF REPORTER

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 9th day of May, 2005.

A handwritten signature in cursive script, appearing to read "James F. Peters", written over a horizontal line.

JAMES F. PETERS, CSR, RPR

Certified Shorthand Reporter

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