

BOARD MEETING
STATE OF CALIFORNIA
LANDS COMMISSION

STATE CAPITOL
ROOM 4202
SACRAMENTO, CALIFORNIA

WEDNESDAY, DECEMBER 3, 2008

10:05 A.M.

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

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Mr. John Chiang, State Controller, Chairperson,
also represented by Marcy Jo Mandel

Mr. John Garamendi, Lieutenant Governor,
also represented by Mr. Brian Bugsch

Mr. Michael Genest, Director of Finance, represented by
Mr. Tom Sheehy

STAFF

Mr. Paul Thayer, Executive Officer

Mr. Curtis Fossum, Chief Counsel

Ms. Marina Brand, Assistant Chief, Division of
Environmental Planning & Management

Ms. Judy Brown, Public Land Management Specialist

Ms. Kimberly Lunetta, Executive Assistant

ATTORNEY GENERAL'S OFFICE

Mr. Joe Rusconi, Deputy Attorney General

ALSO PRESENT

Mr. John Asuncion, Blue Whale Sailing School

Ms. Kelly Baraka

Mr. Stephen Clark, Point San Pablo Preservation Society

Mr. Christopher Dolan

Mr. Daniel Doellstedt

Mr. Fraser Felter, Trails for Richmond Action Committee

Mr. Walt Gill, Chevron

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APPEARANCES CONTINUED

ALSO PRESENT

Ms. Wende Heath, Point San Pablo Yacht Harbor

Ms. Zelda Holland

Ms. Patricia Jones, Citizens For East Shore Parks

Mr. Derek Liecty

Mr. Bill Lindsay, City of Richmond

Mr. James McGrath, Bay Access

Mayor Gayle McLaughlin, City of Richmond

Mr. Craig Murray, Las Gallinas Valley Sanitary District

Mr. Bill Pinkham, Easy Bay Bicycle Coalition

Mr. Robert Raburn, East Bay Bicycle Coalition

Ms. Mary Renfro, City of Richmond

Assemblymember Nancy Skinner, Assembly District 14

Ms. Nancy Strauch, Trails for Richmond Action Committee

Mr. Tony Suslak

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1 PROCEEDINGS

2 CHAIRPERSON CHIANG: Good morning. I'm calling
3 this meeting of the State Lands Commission to order. All
4 the representatives of the Commission are present. I am
5 John Chiang, the State Controller. I am very pleased to
6 be joined by Lieutenant Governor John Garamendi and Tom
7 Sheehy, who represents the Department of Finance.

8 For the benefit of those in the audience, the
9 State Lands Commission administers properties owned by the
10 State as well as its mineral interests. Today, we will
11 hear proposals concerning the leasing and management of
12 these public properties.

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

15 Could I have a motion for the approval of the
16 minutes.

17 COMMISSIONER GARAMENDI: So moved.

18 CHAIRPERSON CHIANG: Motion by the Lieutenant
19 Governor.

20 ACTING COMMISSIONER SHEEHY: Second.

21 CHAIRPERSON CHIANG: Second by Tom.

22 The minutes are -- without objection, these
23 minutes are unanimously adopted.

24 CHAIRPERSON CHIANG: The next order of business
25 is the Executive Officer's report.

1 Paul, may we have that report, please.

2 EXECUTIVE OFFICER THAYER: Thank you. Good
3 morning, Mr. Chairman and members of the Commission.

4 I have a few different items I wanted to discuss.
5 And as is our practice, I'd like to briefly go over the
6 status of the violations that we've been pursuing as
7 directed by the Commission.

8 First, on the Hulbert case, which was the
9 recreational dock that was overbuilt. Since the last
10 Commission meeting, the Office of Attorney General has
11 filed a cross-complaint against Mr. Hulbert requesting or
12 requiring that he remove all the improvements on the lease
13 premises.

14 With respect to the Spirit of Sacramento - this
15 is the ferryboat that parks against one of the levees just
16 south of downtown Sacramento - we're continuing to work
17 with the Attorney General's Office on this. There is no
18 lease for docking -- for either the pilings to which the
19 Spirit of Sacramento's tied and no lease which allows it
20 to remain there. So the Commission has asked us to pursue
21 this as a violation.

22 So we're working with the Attorney General's
23 Office. On October 31st staff of the Commission and the
24 Attorney General's Office conducted an inspection, found
25 that while the vessel appears to be in poor condition,

1 it's floating and not listing. It appears to be securely
2 fastened to the dolphins so it is not going to get away
3 and become a hazard to navigation. But we're continuing
4 to pursue this. The owner is in Long Beach. And we're
5 working with the Attorney General's Office to resolve the
6 situation.

7 The next case involved two larger vessels that
8 have been moored in the Delta. The vessel Faithful and
9 the ferryboat San Diego. These are the ones that, as I
10 explained the last meeting, the nominal owners have no
11 real resources, and so we're working with them to try and
12 find alternative ways to dispose of these vessels.

13 On one of them, with respect to the ferryboat San
14 Diego, we've contacted the owner's attorney in September
15 because of a contact that we worked up regarding a Mexican
16 scrapper who might be interested in purchasing the vessel.
17 The owner, as far as we know, has not been in contact with
18 this Mexican scrapper. And, again, we're pursuing other
19 options to try and figure out how to remove that.
20 Ultimately, we may have to look for State money or
21 something else to take it out. We don't believe the owner
22 has the funds to be able to do that himself.

23 Then with respect to the South Bay Yacht Club,
24 the yacht club continues to make progress. Most of the
25 boats and debris that were on State Lands and Water

1 District property have been removed as of November 24th.
2 The yacht club has purchased docking -- new docking -- or
3 secondhand docking from someone in Berryessa. And it's
4 looking to replace the old docking with that new docking
5 in the next few weeks. The major repairs have not yet
6 been begun yet because BCDC did not issue a permit until
7 November 25th. BCDC issued a permit which enabled them to
8 go forward. And we'd work closely with BCDC staff to
9 facilitate that.

10 We did talk with Fish and Game. Another permit
11 that's necessary for removal of vegetation has to be
12 granted by Fish and Game. As of December 3rd, today -- we
13 spoke yesterday with Fish and Game. They have not yet
14 issued a permit. But Fish and Game staff indicate that
15 they're soon going to do so, they have the appropriate
16 information. But without that permit, the yacht club
17 can't proceed with removing the vegetation.

18 The deadline that the Commission imposed last
19 year was for a year, and I believe that expires in another
20 week or so in December. And as we suggested at the last
21 Commission meeting, our approach on this is to continue to
22 work with all of these different agencies, as well as the
23 yacht club to get the work done, and that we'll evaluate
24 that at the first Commission meeting after the deadline
25 has passed. But for now, we'd like to continue to work on

1 this.

2 With respect to the Jeanne Bird Taylor houseboat
3 that was parked in the Delta -- and at one point she had
4 it for sale as a house -- as we indicated in the last
5 meeting, she has sold that houseboat to a new owner, who
6 has moved it away from her dock. And rather than applying
7 for an application to us to remove the other encroachments
8 on State lands, she undertook that herself, didn't -- the
9 job does not satisfy entirely the problem of having a
10 cabin and a deck encroach over State lands. And so we're
11 continuing to work with Ms. Taylor on removing the last
12 bit of that.

13 We've been in contact with the new owner of the
14 houseboat, who tells us that he's going to convert that
15 into a houseboat that isn't intended as a residence, but
16 is meant as a recreational houseboat. And we're locked
17 onto that process obviously. And it's just going to take
18 time to do -- and work through that.

19 With respect to the Courtland docks, the last
20 item, Shawn Berrigan and Diane House. This is a marina, a
21 very small marina, in the Town of Courtland, which was in
22 poor repair. They have completed the work on the docks.
23 The docks are entirely replaced with new docks, but they
24 have now missed a rent payment. We've worked with them,
25 and we have a schedule to repay the Commission the missing

1 rent as well as fines and penalties that should be
2 completed -- the payment should be completed by January
3 1st.

4 But again, this is an economic situation which is
5 difficult. And we're trying to work to bring the lessees
6 into compliance. And given the expense they've gone
7 through already putting in new docks, we think that
8 they'll work to compliance.

9 So that's our report on the violations, unless
10 there's any questions.

11 CHAIRPERSON CHIANG: No questions?

12 Thank you.

13 EXECUTIVE OFFICER THAYER: And then the two other
14 items I wanted to mention is with respect to scheduling
15 our future Commission meetings. As of right now, we're
16 scheduled now to meet in Santa Barbara on January 29th to
17 hear the PXP proposal for the new oil lease at Tranquillon
18 Ridge. And we had originally scheduled another meeting on
19 March 3rd to hear the Venoco leases. However, delays in
20 the Environmental Impact Report process suggest that we'd
21 be better off scheduling that for the end of March to
22 assure that that's done -- the EIRs are done before the
23 Commission meeting arrives.

24 So, we're working with your offices to set up
25 another meeting about April 1st.

1 And then, finally, the Chair has requested that
2 we have an informational-only meeting this month on PXP.
3 And we're working with your offices to try and set up some
4 dates that will work for that. And that meeting would
5 also be in southern California to allow people in the area
6 that have an interest in it to attend.

7 And then the final item I wanted to mention is
8 the -- we had presented to the Commission the Public Trust
9 brochure about a year ago.

10 Are copies up there? I can't --

11 CHAIRPERSON CHIANG: They are.

12 EXECUTIVE OFFICER THAYER: And so we wanted to
13 bring this back to you. And some of the commissioners,
14 particularly the Lieutenant Governor, believes that the
15 text was too small in the last one, so we've increased the
16 size of the format --

17 (Laughter.)

18 EXECUTIVE OFFICER THAYER: -- so that it's easier
19 to see. And copies of this will be made available to the
20 public. It's meant to be a generalized description of
21 what the Public Trust Doctrine is. And we'd be glad to
22 supply copies of this to your office in case you get
23 questions as Commissioners that this might help you with.
24 But hopefully this will do a good job of giving you a
25 basic background of the trust doctrine.

1 COMMISSIONER GARAMENDI: It has a good look to it
2 and we can read it now.

3 EXECUTIVE OFFICER THAYER: Good. And we've been
4 successful at making those changes.

5 And unless there are questions, that concludes
6 the Executive Officer's report.

7 CHAIRPERSON CHIANG: Please.

8 COMMISSIONER GARAMENDI: Thank you. I appreciate
9 the report.

10 We've been discussing on and off over the last
11 year or so the derelict boats and other hazards to
12 navigation that exist in the rivers and in the bays. I
13 had a discussion with Boating and Waterways about this.
14 And apparently they have money to remove these
15 obstructions, but they don't have partners to do it. They
16 can't do it themselves under the current law. And the
17 counties have to apply for the money to do it. And then
18 there's the reluctance on the part of the counties to get
19 engaged and involved. And I think I'd like you to engage
20 in a discussion with Boating and Waterways about some way
21 for us to clear the obstructions from State land, because
22 almost all of these are on State land.

23 Maybe we need the authority and we can do the
24 work -- the State Lands could do the work, or maybe a bill
25 that would allow the Boating and Waterways to do the work

1 or to contract for the work to be done.

2 But we ought to be moving forward, because there
3 are -- there is money available through the fees -- the
4 boating fees to deal with this.

5 So if you'd take a look at that, I'd appreciate
6 it.

7 EXECUTIVE OFFICER THAYER: We'd be glad to do
8 that. We did have a meeting - and I was involved with
9 that - with members of the Boating and Waterways staff a
10 couple months ago and talked about some legislation we
11 were interested in pursuing to give the State Lands
12 Commission a larger role. We already have some authority
13 and we'd like to enlarge upon that and find some way for
14 us to get the funds. And Boating and Waterways was
15 somewhat resistant in that conversation, saying that they
16 felt they were responsible for that. And we suggested
17 that perhaps if we could be an eligible applicant and be
18 the same status as the cities and counties, why couldn't
19 we do that? There was some reluctance. But we'll
20 continue those conversations.

21 COMMISSIONER GARAMENDI: Well, perhaps we can
22 persuade them to be more accommodating.

23 EXECUTIVE OFFICER THAYER: We'll do our best.

24 COMMISSIONER GARAMENDI: Well, between John and I
25 and the Department of Finance, perhaps there may be some

1 additional persuasion involved.

2 EXECUTIVE OFFICER THAYER: We could draft a
3 letter, that if the Commission would like us to send or if
4 the Commission wanted to sign; it would be a letter just
5 suggesting that we're partners in this and we'd like to
6 have the opportunity to pursue this further.

7 COMMISSIONER GARAMENDI: Why don't you have a
8 conversation first, then get back to us, and we'll be
9 meeting. And Tom is certainly in a position to have some
10 sway over this.

11 ACTING COMMISSIONER SHEEHY: Mr. Chairman?

12 CHAIRPERSON CHIANG: Yes.

13 ACTING COMMISSIONER SHEEHY: Mr. Thayer, I'm in
14 full agreement with the Lieutenant Governor if there are
15 funds available for this purpose. This would be a high
16 priority.

17 Does the State Lands Commission need any
18 additional statutory authority or not? I was unclear
19 about your answer whether you have the statutory authority
20 to be directly involved if necessary.

21 EXECUTIVE OFFICER THAYER: We have authority to
22 remove vessels in certain circumstances. And this gets
23 complicated, because I think that when -- when there are
24 health and safety issues or -- I can't remember the exact
25 criteria -- or perhaps obstacles to navigation are

1 involved, so there's a certain subset of the regs where we
2 already have authority. But we were looking to enlarge
3 upon that so that it wouldn't become a debate between us
4 and, say, a potential owner of the boat or somebody else
5 as to whether or not we had authority in that particular
6 situation. We wanted to have broader authority on that.

7 ACTING COMMISSIONER SHEEHY: Well, Mr. Thayer,
8 members of the Commission, I'd like you to know that I
9 would be delighted to work with you and your staff on a
10 legislative proposal, if that's appropriate, in order to
11 give -- propose to give the Commission some additional
12 authority in this area. And if there's anything that I
13 can do to help that process, it would be my pleasure to do
14 that. So just follow up with me as appropriate and we'll
15 see what we can do this year.

16 EXECUTIVE OFFICER THAYER: Sure. We'll work with
17 all of the Commissioners' offices on this.

18 CHAIRPERSON CHIANG: You'd want it brought up
19 during the next meeting, the proposal?

20 COMMISSIONER GARAMENDI: Well, we needed the
21 introduction in January to get this legislation.

22 EXECUTIVE OFFICER THAYER: We have some drafts
23 already of bills that some of our attorneys have been
24 working on. Curtis and retired annuitant, Peter Pelkofer,
25 have drafted up some bills. So we could bring -- we could

1 send you that now and perhaps discuss this at the next
2 Commission meeting.

3 CHAIRPERSON CHIANG: If you could please schedule
4 that informational hearing.

5 EXECUTIVE OFFICER THAYER: Sure.

6 CHAIRPERSON CHIANG: Thank you.

7 Does that conclude your --

8 EXECUTIVE OFFICER THAYER: That concludes the
9 Executive Officer's report.

10 CHAIRPERSON CHIANG: Perfect. Thank you, Paul.

11 The next item is the consent calendar.

12 Paul, do you want to mention any items that have
13 been pulled?

14 EXECUTIVE OFFICER THAYER: There are three items
15 that we'd like to remove from the consent calendar. And
16 all three of these will be heard at a future meeting. And
17 those are items 20, 28 and 39.

18 CHAIRPERSON CHIANG: And did you want to pull any
19 other additional items?

20 No. Okay.

21 If not, could I have a motion on the consent
22 calendar.

23 COMMISSIONER GARAMENDI: So moved.

24 CHAIRPERSON CHIANG: We have a motion by the
25 Lieutenant Governor.

1 ACTING COMMISSIONER SHEEHY: I second.

2 CHAIRPERSON CHIANG: Second by Tom.

3 Without objection, motion passes.

4 Next item.

5 EXECUTIVE OFFICER THAYER: We move to the regular
6 calendar. The next item is Item 44, which is the proposed
7 lease to Chevron for use of an existing marine terminal in
8 Richmond.

9 I believe Barbara Dugal will start the -- or Judy
10 Brown will start the first staff presentation on this.

11 (Thereupon an overhead presentation was
12 Presented as follows.)

13 PUBLIC LAND MANAGEMENT SPECIALIST BROWN: Good
14 morning, Mr. Chairman and members of the Commission. My
15 name is Judy Brown and I work in the Commission's Land
16 Management Division.

17 Before I begin my presentation, I would like to
18 read an amendment into the record. On the staff's report
19 for Calendar Item 44, on page 8, there are two references
20 to the value of the easement for the construction of the
21 Bay Trail. And we would request that those be removed
22 from the calendar item.

23 So Calendar Item 44 involves the proposed
24 certification of a Final Environmental Impact Report,
25 termination of an existing dredging lease, and issuance of

1 a new 30-year general lease - industrial use to Chevron
2 U.S.A. Products for the use, operation and maintenance of
3 an existing marine oil terminal located on sovereign lands
4 in San Francisco Bay, City of Richmond, Contra Costa
5 County.

6 --o0o--

7 PUBLIC LAND MANAGEMENT SPECIALIST BROWN: The
8 existing marine terminal, which is often referred to as
9 the Long Wharf, is comprised of a 3,440 foot long T-head
10 pier, a 4,200 foot long causeway and pipeline trestles,
11 four deep water outer berths for mooring oil vessels and
12 barges, two inner cargo berths, an additional inner berth
13 that provide temporary moorings for standby tugs and
14 barges, and launch facilities for crew and oil spill
15 response boats. The Long Wharf operates 24 hours per day,
16 7 days per week.

17 --o0o--

18 PUBLIC LAND MANAGEMENT SPECIALIST BROWN:
19 Chevron's upland refinery processes over 240,000
20 barrels of crude oil a day, and the primary products are
21 motor gasoline, jet fuel, diesel fuel, and lubricants.

22 To give you a little history about the project,
23 Chevron's upland refinery began operation on July 3rd,
24 1902. However, crude oil was initially shipped by a rail
25 car to the refinery from the San Joaquin Valley until the

1 Long Wharf became operational later in 1902.

2 The Long Wharf was originally a wooden structure
3 supported on timber piles, but was modified in 1946 with
4 the construction of a concrete wharf causeway structure
5 supported on deeper concrete piles.

6 Various improvements to the wharf have been
7 completed since the wharf was originally installed,
8 including a modification in 1974 to accommodate larger
9 vessels, a platform was added to Berth No. 4 in 1986, a
10 breasting dolphin at Berth No. 3 in 1990. In 1991 a vapor
11 control system was installed. In 2000, an upgrade project
12 was completed that will enable the wharf to withstand a
13 475-year period seismic event. And in November 2004 a
14 comprehensive electrical infrastructure upgrade project
15 was completed.

16 The Commission, as lead agency, under the
17 California Environmental Quality Act, managed the
18 preparation of an Environmental Impact Report (EIR) for
19 Chevron's continued operation of the marine terminal.

20 During the EIR process, it became apparent that
21 the issue of access around Chevron's upland facility via
22 the Bay Trail was important to the citizens of Richmond
23 and other Bay Area community members. The Bay Trail is
24 planned to be a continuous 400 mile recreational corridor
25 that would encircle the entire San Francisco Bay Area and

1 connect communities to each other in the bay.

2 --o0o--

3 PUBLIC LAND MANAGEMENT SPECIALIST BROWN: The Bay
4 Trail plan, including a specific alignment, was developed
5 by the Association of Bay Area Governments in response to
6 Senate Bill 100, which was passed into law in 1987.

7 Earlier this year, Chevron received approval from
8 the City of Richmond for construction of an energy and
9 hydrogen renewal project at Chevron's upland refinery.
10 During the consideration of that project, Chevron and the
11 City of Richmond executed a community benefits agreement
12 that outlines various commitments made by Chevron.

13 The following is a summary of the commitments
14 that relate to the Bay Trail:

15 1. Chevron will dedicate an easement for
16 construction of the Bay Trail and public access.

17 2. Chevron will fund the construction costs for
18 security enhancement up to a maximum of \$2 million and
19 agree to maintain all facilities and equipment that
20 Chevron funds and installs on or next to the Bay Trail.

21 3. Chevron will work with the Bay Trail members,
22 the City of Richmond, the Association of Bay Area
23 Governments, CalTrans, and others in good faith to secure
24 base funding for construction of the Bay Trail.

25 Today, in addition to certifying the EIR and

1 issuing a new 30-year lease to Chevron, staff is
2 requesting that the Commission consider authorizing staff
3 to execute a letter of agreement with Chevron confirming
4 Chevron's commitment to the Bay Trail as is contained in
5 the Community Benefits Agreement between the City of
6 Richmond and Chevron and to reporting to the Commission
7 with respect to cold ironing or other comparable
8 technology.

9 This concludes my presentation.

10 Staff of the Commission's Division of
11 Environmental Planning and Management will be providing a
12 brief summary of the environmental process for the marine
13 terminal. And staff of the Commission's Marine Facilities
14 Division are available to answer questions pertaining to
15 the Commission's regulations for operations at the marine
16 terminal. And representatives of Chevron are also here to
17 answer any questions you may have.

18 EXECUTIVE OFFICER THAYER: Marina Brand from our
19 Environmental Unit will make the next presentation.

20 DIVISION OF ENVIRONMENTAL PLANNING AND MANAGEMENT

21 ASSISTANT CHIEF BRAND: Good morning. Good morning,
22 Chairman Chiang and members of the Commission. I am
23 Marina Brand. And I'm the Assistant Chief for the
24 Commission's Division of Environmental Planning and
25 Management.

1 Early in the application process a determination
2 was made to prepare an Environmental Impact Report in
3 order to comply with the California Environmental Quality
4 Act. The process was initiated on November 30th, 1998,
5 with circulation of the Notice of Preparation. In support
6 of this notice, a public scoping meeting was held in the
7 City of Richmond on December 10th of 1998. Federal,
8 state, and local agency representatives, as well as public
9 interest groups, affected landowners, and other interested
10 parties were invited to participate in this portion of the
11 CEQA process.

12 A draft EIR was prepared and circulated for
13 public review on February 24th, 2006, for a period of 45
14 days. And that 45-day public review period ended on April
15 13th.

16 In addition, on March 9th of 2006, a public
17 meeting was held to discuss the contents of the Draft EIR,
18 answer questions, and receive comments from agencies and
19 interested members of the public.

20 On March 7th of 2007, the Final EIR was released.
21 The Final EIR addressed all of the comments and issues
22 that were raised during the 45-day public review period
23 for the Draft EIR. And on November 19th of this year, a
24 Notice of Intent to certify the EIR was mailed to federal,
25 state, and local agencies as well as to environmental and

1 public interest groups, affected landowners, and other
2 interested parties, as well as to all individuals who
3 commented on the Draft EIR.

4 The major issues that were addressed in the EIR
5 were operational safety and risk of accidents, water
6 quality, biological resources, commercial and sport
7 fisheries, land use and recreation, air quality, noise,
8 vehicular and rail transportation, visual resources
9 including the effects of light and glare, cultural
10 resources, geological resources, and a review of -- which
11 included a review of the structural integrity of the
12 facilities, socioeconomics and environmental justice.

13 As a result of the impact analysis, it was found
14 that continuation of operations at Chevron's Long Wharf
15 facility would not have a significant impact on air
16 quality, vehicular and rail transportation, cultural
17 resources or socioeconomics.

18 In addition, the analysis showed that although
19 there would be a potential for significant impacts in some
20 issue areas, these could be mitigated to a
21 less-than-significant level through the implementation of
22 a variety of measures. These issue areas include
23 geological resources, integrity of facility structure, and
24 environmental justice.

25 The remaining issue areas that were analyzed in

1 the EIR were found to have impacts that range from less
2 than significant to significant even after mitigation
3 measures are applied.

4 With respect to noise, Chevron has agreed to
5 identify noisy ships and work with their operators to
6 reduce noise levels. But even with this measure, the EIR
7 determined that the impact would remain significant.

8 The remaining impacts that cannot be mitigated to
9 a less than significant level center around two types of
10 events. These are the effects of oil spills that are
11 greater than 50 barrels in size, that could occur during
12 product transfer operations, and the potential discharge
13 of ballast water by visiting tankers.

14 Oil spills greater than 50 barrels in size would
15 have significant and unmitigable impacts on water quality,
16 biology, commercial and sport fisheries, recreation, and
17 visual resources.

18 Should an oil spill occur, it would substantially
19 degrade the quality of the water affected. It would
20 impact biological organisms at or near the terminal, and
21 potentially the oil spill could spread through the
22 Carquinez Strait into Suisun and San Pablo bays.
23 Sensitive species and habitats that could be affected
24 including Castro Rocks, eelgrass beds, and the
25 double-crested cormorant breeding colony that's located on

1 the Richmond-San Rafael Bridge.

2 Commercial and sport fisheries could also be
3 potentially severely impacted by an oil spill that is
4 greater than 50 barrels in size. Shrimp, herring and
5 sport fisheries in central and north San Francisco Bay,
6 San Pablo Bay, the Carquinez Strait, and elsewhere in the
7 estuary are at the highest risk of spill contamination.

8 And depending on the location and size of the
9 spill, as well as water and weather conditions, areas
10 upstream of the confluence of the Sacramento and San
11 Joaquin rivers could also be affected. In other words,
12 the Delta.

13 Likewise, an oil spill could potentially impact
14 recreational facilities, such as parks, wildlife
15 preserves, and other forms of open space, as well as
16 recreational uses, such as nature viewing, boating,
17 fishing, surfing and other types of uses. The effect
18 would be to preclude access and uses for some unknown
19 period of time.

20 And, finally, the visual impact of a spill at or
21 near the terminal could last for a long period of time.
22 Spills for vessels that are in transit to the terminal
23 would change color and texture of the water and shoreline
24 conditions, and could be considered a significant impact
25 depending on the characteristics of the spill and residual

1 effects.

2 The other type of event that the EIR concluded
3 could result in significant and unmitigable impacts is
4 from potential discharge of ballast water by visiting
5 tankers.

6 Ballast water that contains harmful
7 microorganisms could impair several of the beneficial uses
8 located in the area of the marine terminal facility. This
9 would include effects on commercial and sport fishing,
10 estuarine habitat, fish spawning and migration, wildlife
11 habitat, rare and endangered species, as well as water
12 contact and non-contact recreation.

13 Now, several of the actions that you are being
14 requested to take today involve the EIR. First, we are
15 requesting that the Commission certify the EIR that was
16 prepared for this project and adopt the associated
17 mitigation monitoring program.

18 Since the EIR identified a number of significant
19 environmental effects, we are also requesting that you
20 adopt the findings that have been prepared as required by
21 CEQA.

22 And, finally a number of significant effects were
23 identified in the EIR that can not be mitigated to below a
24 level of significance.

25 So should the Commission approve a new lease for

1 the continued operation of the Chevron Long Wharf Marine
2 Terminal, CEQA requires that the Commission adopt a
3 Statement of Overriding Considerations. And this
4 Statement of Overriding Considerations is included as
5 Exhibit E to the calendar item.

6 This statement provides the specific reasons why
7 the benefits associated with this project outweigh the
8 unavoidable adverse environmental effects.

9 Thank you. That concludes my presentation.

10 CHAIRPERSON CHIANG: Thank you.

11 EXECUTIVE OFFICER THAYER: And that concludes
12 staff presentation on this item.

13 CHAIRPERSON CHIANG: Very good.

14 Questions, comments?

15 COMMISSIONER GARAMENDI: Thank you, Mr. Chairman.

16 There are a series of findings -- CEQA findings
17 that relate to spills and other kinds of incidents that
18 might occur. It appears from the documents presented here
19 that these issues are addressed. And in the remaining
20 discussion, perhaps with Chevron, I'd like to hear about
21 how these issues are addressed.

22 EXECUTIVE OFFICER THAYER: Would you like staff
23 then to --

24 COMMISSIONER GARAMENDI: Well, let's hear what
25 Chevron has to say. And then there's, you know, half a

1 dozen different CEQA issues that have come up with regard
2 to spills, and then the mitigation for those. I'm
3 thinking back on a certain ship that hit a bridge, and bar
4 pilots and OSPR and others that are relevant here.

5 EXECUTIVE OFFICER THAYER: I understand. And
6 we'll hear from Chevron. And then if there's additional
7 information we need to provide, we'll be glad to do it.

8 COMMISSIONER GARAMENDI: Thank you.

9 CHAIRPERSON CHIANG: Would the representative
10 from Chevron please join us.

11 Good morning. Please introduce yourself.

12 I'm not sure if you heard the Lieutenant
13 Governor's query but --

14 MR. GILL: I believe I did.

15 Good morning, Chairman Chiang and Commissioners.
16 My name is Walt Gill. I'm the Government Affairs Manager
17 from the refinery.

18 And regarding the Lieutenant Governor's question
19 about spills and our spill response, I can tell you that's
20 something that we take very, very seriously. It is
21 something that we, as a company on the wharf, prepare for
22 and drill for. We have an extensive amount of equipment
23 on the wharf. We work closely with OSPR, who's the
24 primary state agency in charge of spill preparation and
25 spill response.

1 And in addition to that, we have a contract with
2 our oil spill response organization, which is a company
3 called MSRP. They're located in the Richmond inner
4 harbor, which is a few miles from our wharf. And they
5 have an extensive amount of equipment - boats and skimmers
6 and boom. I think they have at that facility something in
7 the order of 27,000 feet of boom which they can deploy.
8 My recollection in looking at the state requirement from
9 OSPR is that in order to boom all the sensitive sites
10 around the wharf, that would require about half of that,
11 which is 15,000 feet of boom.

12 So I can tell you I think we're well prepared in
13 preventing spills as far as our daily operating practices.
14 And in the odd event that we do have a spill, we can
15 respond.

16 The other thing I'm happy to say is that I think
17 you should look at our record as far as spills. It's a
18 very good one at the Long Wharf.

19 COMMISSIONER GARAMENDI: There's new technology
20 that is required by the CEQA and the lease. Could you
21 speak to the new technologies. I think it has to do with
22 both the way in which the ships arrive as well as the
23 kinds of connections to the pipelines from the ship.

24 MR. GILL: Yes, those are mitigation measures
25 that are included in the EIR. And there are really two

1 main elements there. One is what's called an approach
2 meter. Those are radar screens, if you will, that as the
3 ships approach, the bar pilots can judge -- better judge
4 the rate of speed such that they're not running into the
5 dock potentially. So that's one important mitigation that
6 we're working to install.

7 The second are --

8 COMMISSIONER GARAMENDI: Excuse me. Is that
9 installed on the ship or on the dock or --

10 MR. GILL: That's installed on the dock. It's
11 actually an approach meter, if you will. As you drive
12 down residential streets you see police departments with
13 the speedometer type of things on the side of the road.

14 COMMISSIONER GARAMENDI: I have no experience
15 with those radar things.

16 (Laughter.)

17 MR. GILL: It's that type of device that would
18 allow the bar pilots and those operating the ships to make
19 sure they're approaching the wharf at a safe speed so
20 they're not potentially ramming the wharf.

21 But the second, as you mentioned, Lieutenant
22 Governor, are some quick release devices and tensometers
23 on the dock that attach to the ship that allow the wharf
24 operators to determine if a ship is unsafely drifting away
25 from the dock.

1 The other mitigation -- or operating measure that
2 I'll mention that we have on the wharf that assist those
3 devices is that our wharf, as was mentioned, is operated
4 24 hours a day, 7 days a week. It is manned by a fairly
5 large crew of operators. If we have a ship in berth,
6 there is an operator that's dedicated to -- on the dock
7 watching that ship and working with our control room.

8 COMMISSIONER GARAMENDI: Thank you.

9 Are there any other significant mitigations that
10 we should be aware of that you would like to address here?

11 MR. GILL: Relative to oil spills or --

12 COMMISSIONER GARAMENDI: With regard to the
13 safety of the wharf and the pipelines that cross State
14 lands.

15 MR. GILL: I can tell you that once again in
16 addition to a lot in the way of technology - and we're
17 always looking for opportunities to improve that
18 technology, some of those have been suggested by staff -
19 the wharf is staffed and manned on an ongoing basis. We
20 have folks that are out on the dock 24 hours a day doing
21 inspections to look for leaks, to look for any
22 abnormalities so that those can be corrected and addressed
23 rather immediately.

24 COMMISSIONER GARAMENDI: There are numerous State
25 and federal agencies involved in the operations of the

1 wharf, the loading, unloading, and shipping and so forth.

2 Does the -- Mr. Thayer, does the State Lands
3 Commission under this lease have an opportunity to require
4 upgrading of any of the facilities and mechanisms for
5 additional safety? I think this lease is for an extensive
6 period of time, and I suspect over that time there will be
7 new technologies. Do we have the opportunity to review
8 and force those technologies?

9 EXECUTIVE OFFICER THAYER: I think there's two
10 responses to that.

11 First, with respect to the agencies with
12 expertise on those matters, they're the ones who would
13 usually generate the requirements and have the regulatory
14 authority to require that that be done. Our lease has
15 language in there that requires that Chevron be consistent
16 with all their permits and entitlements, be in violation
17 of their lease if it's not.

18 So if they do not comply with these requirements,
19 they both face enforcement difficulties with the agencies
20 that impose them, but also face the potential that the
21 Commission can review the status of their lease because of
22 those.

23 The second aspect of this is that for both of the
24 items that Marina's discussed with respect to unmitigable
25 significant impacts, the Commission has separate programs,

1 non-lease programs. Also on today's agenda are three
2 different items that deal with the running of the ballast
3 water program. And there are tough new standards coming
4 down the road which will require that the Commission has
5 approved, that have to be met by a certain schedule, for
6 all the tankers that will be calling there, and that those
7 performance standards are the toughest in the nation and
8 the world. And so we're in a position of moving towards
9 addressing those in a non-CEQA basis.

10 The other area that we have jurisdiction over is
11 the terminal. As a marine oil terminal, under the
12 Lempert-Keene-Seastrand Bill, the Commission has
13 inspection and operating responsibility to assure that all
14 of those, whether they're on granted or ungranted lands,
15 whether they're under a lease or not, have to meet certain
16 standards. And Gary Gregory is here from that division,
17 who could discuss the Long Wharf's compliance record.
18 Generally, it's been very good. We have the new program
19 in place -- relatively new -- to require seismic
20 modifications to make sure that in the event of a 500-year
21 earthquake, there wouldn't be pollution and the terminal
22 would survive. And I think Mr. Gregory could go into
23 those if you wanted to hear about their compliance.

24 COMMISSIONER GARAMENDI: Perhaps as we continue
25 on I'll pick it up. But thank you very much.

1 MR. GILL: Great. Thank you.

2 CHAIRPERSON CHIANG: Okay. You'll be given --
3 we're going to call for public comment. You'll be given
4 three minutes each. I will call three names. So I would
5 appreciate if you'd come on cue so that we don't have to
6 have everybody waiting.

7 The first three are Bill Lindsay -- oh, actually
8 let me start with Gayle McLaughlin, the Mayor of the City
9 of Richmond - thank you for joining us - followed by Bill
10 Lindsay, followed by Kelly Baraka.

11 Good morning.

12 RICHMOND CITY MAYOR McLAUGHLIN: Good morning,
13 Commissioners. Thank you so much for this opportunity to
14 address you today. My name is Gayle McLaughlin. I am the
15 Mayor of the City of Richmond. And I'm here today to
16 speak on a decision you will be making, a decision that's
17 really of crucial importance to the people of Richmond,
18 who I represent.

19 For over a hundred years the people of Richmond
20 have been subjected to the impacts of having the second
21 largest oil refinery in California operate in our city.
22 And the impact has been looming. We have and continue to
23 be affected in a myriad of ways.

24 We live with the heavy industrial pollution and
25 the resultant health impact. We have epidemic rates of

1 asthma, cancer, and heart disease in neighborhoods
2 bordering the refinery, and we live with daily risk from
3 having this inherently dangerous oil refining industry in
4 our city.

5 The Commission today is reviewing the 30-year
6 tidelands lease to the Chevron refinery. This is the
7 first time this lease has been reviewed since 1947.
8 Chevron has enjoyed immense economic benefits from its
9 exclusive use of the State's tidelands over the last 100
10 years. It's critical that this lease be looked at with
11 fresh eyes.

12 The Commission as trustee of the Public Trust
13 resources must look at this lease at this time in 2008 in
14 a different way than in the era of 1947. Since the
15 Commission's 1947 action, the Legislature has established
16 priorities of the State's tidelands, including public
17 access along those tidelands via the San Francisco Bay
18 Trail and public access over the tidelands through the San
19 Francisco Bay water trail.

20 Chevron does not own these lands and waters.
21 They are public lands and waters. That is why I'm here
22 today speaking before the Commission. As an elected
23 public official, it is my responsibility to speak out in
24 behalf of the public interest. And as the Commission, I
25 know you have stated in your explanation of the Public

1 Trust Doctrine that, quote, "Trust lands belong to the
2 public and are to be used to promote public rather than
3 exclusively private purposes."

4 What is required under the Public Trust Doctrine
5 here is that Chevron, in exchange for its private
6 commercial benefit, provide an equivalent public benefit
7 with respect to access to the area affected by the
8 granting of this lease.

9 Now, Chevron's continuous use of this public cove
10 for its private industrial operation harms the public in
11 many ways. Of course it impacts the public water usage.
12 It also impacts nighttime noise, glare, a steady dose of
13 fumes and smoke from the tankers, enormous diesel engines
14 in the water and droning oil pumps.

15 Of course the public views of San Francisco Bay,
16 Mount Tamalpais, Tiburon Peninsula and Angel Island along
17 several miles of the city's adjacent shoreline are
18 dominated by Chevron's gargantuan industrial complex.

19 The Final EIR before the Commission mistakenly
20 assumes that Chevron has the right to exclude the public
21 from these tidelands and to occupy them with its wharf for
22 exclusive refinery use. Consequently, it declines to
23 examine the impacts of this exclusive use. And that needs
24 to be remedied.

25 The Commission, as trustee of the public

1 resources, seeks to occupy -- excuse me. This Commission,
2 as trustee of the Public Trust resources that Chevron
3 seeks to occupy for its immense economic benefit, has
4 ample power.

5 The need for conditions on Chevron's lease could
6 not be more compelling. Many, many local agencies and
7 organizations have commented on this lease and agree that
8 additional conditions are imperative. East Bay Park
9 District, Contra Costa County, Save the Bay, Point
10 Richmond Neighborhood Council, East Bay Bicycle
11 Coalition - many, many - in addition to the City of
12 Richmond that has passed a resolution that is urging the
13 Commission to require Bay Area improvements as a condition
14 of this 30-year lease in accordance with our city's --
15 with this city resolution.

16 Our city manager, who will be speaking next, has
17 identified three conditions that the City is asking for,
18 which I think are very reasonable. One is this --

19 CHAIRPERSON CHIANG: Ma'am, I've given you an
20 additional minute if --

21 RICHMOND CITY MAYOR McLAUGHLIN: Oh, I very much
22 appreciate that. I will wrap it up.

23 So the three conditions are the support for the
24 improvements of the Bay Trail, reducing air emissions from
25 tanker vessels, and reducing VOC emissions with various

1 retrofitting.

2 And I just want to end by saying it's clearly a
3 new day and we really should not be allowing free rides
4 for the oil industry. And to support this lease, without
5 the conditions -- without balancing the public interest,
6 would, in fact, not be looking at the future in the way
7 that we need to. We know the impact of the oil industry
8 over the past and we want to alter that. And, you know,
9 Richmond is in a state of transformation. We have a new
10 council coming on that has new relationships to Chevron
11 that will not allow them to exercise the same rights over
12 city government that they have in decades past. So we ask
13 that the Commission look at this new day that we are
14 locally, nationally, globally entering and require that
15 conditions in the public interest be placed on this lease.

16 I thank you very much for the extra time.

17 CHAIRPERSON CHIANG: Thank you.

18 MR. LINDSAY: Good morning, Mr. Chair and members
19 of the Commission. My name is Bill Lindsay, and I'm the
20 City Manager for the City of Richmond.

21 I'm speaking on behalf of the other eight council
22 members. So the Mayor clearly is able to speak for
23 herself on this. And I feel a little bit like maybe
24 having one person speak for the State Legislature with
25 eight people to talk with. But on this the --

1 COMMISSIONER GARAMENDI: That actually might be
2 helpful.

3 (Laughter.)

4 MR. LINDSAY: It might be helpful.

5 Well, on this it's clear that all of the council
6 members for whom I'm speaking are of one voice, which
7 might be helpful too in some ways.

8 Your staff indicated in their review that
9 recreation facilities would be impacted by the lease and
10 that access to recreational opportunities would be
11 precluded. And also, as I believe it was Commissioner
12 Garamendi noted, this lease is for an extended period of
13 time. And there's a window of opportunity in this new
14 lease to look at what the needs are, what the public
15 interests are for -- in the year 2008 and moving forward.

16 I won't reiterate what's in the letter in terms
17 of the conditions. But I did want to focus on one issue
18 and, that is, the Bay Trail access. We feel that in terms
19 of balancing the public interest that it is always helpful
20 to be able to look at different interests and use an "and"
21 instead of an "or" between those interests. And this is
22 one where we feel that the Commission can make a decision
23 where it grants the lease to Chevron providing them with
24 their benefits and the State with economic benefits, but
25 also includes broader public interest with access to the

1 recreational facility and to the bay. And we ask that you
2 balance all of those interests, that we think there really
3 is no need to have this be exclusive in the way it's
4 constructed.

5 The issuance of this new general lease is, as I
6 said, a great opportunity. The times have changed since
7 1947. And this opportunity to examine the public
8 interests -- again, this lease does not have to be
9 exclusive in the way it's constructed and it can be
10 broadened in terms of its benefit with appropriate
11 conditions.

12 The way we feel to do this is -- with respect to
13 the Bay Trail is, as a condition of the lease, require
14 that the leaseholder construct or contribute financially
15 to construct the Bay Trail that is necessary to safely
16 circumvent the pipeline that connects their facility to
17 the Long Wharf. That is, in fact, what creates the
18 obstruction. And providing a route around that would
19 basically allow the Bay Trail be completed. Chevron has
20 already agreed to provide the land for it. It's really a
21 financial issue.

22 So with that, I'll close by just asking you to
23 restore the public access, which was once had before this
24 lease existed.

25 Thank you.

1 CHAIRPERSON CHIANG: Thank you, Mr. Lindsay.

2 Yes.

3 COMMISSIONER GARAMENDI: We really ought to put
4 on the record here a little more detail about this trail.

5 My understanding is that an easement has been
6 obtained or will be obtained as a result of the expansion
7 of the hydrogen facility.

8 MR. LINDSAY: Yes, that's correct, sir.

9 COMMISSIONER GARAMENDI: Is there a map that we
10 could put up? I can see one here, but -- the question of
11 transiting the pipeline, could you talk about that. What
12 is the plan to accomplish that?

13 MR. LINDSAY: Well --

14 COMMISSIONER GARAMENDI: Is there such a plan?

15 MR. LINDSAY: There is such a plan. Actually,
16 with -- there have been members of the State -- of ABAG
17 and Chevron. And actually there's a preferred alignment,
18 which I probably can't point out precisely. But, in
19 essence, I think the point is that there is something that
20 is agreed to as a safe alignment that can be used to
21 construct the trail. And I think that's the critical
22 point. It's not about where it goes anymore. It's about
23 how to really get the project done.

24 COMMISSIONER GARAMENDI: Okay. So it's going to
25 go along the south side of the freeway in some way. So it

1 would have to be some sort of a bridge over the pipelines.

2 MR. LINDSAY: Yeah, I --

3 COMMISSIONER GARAMENDI: If I'm looking at
4 that --

5 MR. LINDSAY: That's right. And, again, it
6 connects to the other side of Western Drive in a way that
7 doesn't require that bicyclists or pedestrians, in
8 essence, walk along the side of the freeway on a path
9 where, sadly, there's no -- there was a gentleman who was
10 killed on a bicycle and one put in a wheelchair. So this
11 is really a critical safety issue.

12 COMMISSIONER GARAMENDI: Do you have an estimate
13 of what it would cost to build this?

14 MR. LINDSAY: We're using, as sort of a round
15 number, the additional financial contribution that would
16 be needed is about \$5 million. And I think it is
17 important --

18 COMMISSIONER GARAMENDI: Total cost of the
19 project?

20 MR. LINDSAY: Total cost would be in excess of
21 10. And I don't think it should be overlooked that
22 Chevron has agreed to provide the easement that's
23 absorbing that cost of the land. And they have agreed --
24 since their interest is to make sure that their facility
25 is secure with the adjacency to the recreational trail,

1 they've agreed to fund the security improvements that are
2 needed. But there's still this financial gap, which again
3 we believe is appropriate to close through a condition on
4 this lease.

5 COMMISSIONER GARAMENDI: It would be useful to me
6 to understand the other participants in the construction
7 and the payment for the trail. Certainly the Park
8 District, I suppose, is engaged?

9 MR. LINDSAY: There actually are a number of
10 potential sources. The East Bay Regional Park District is
11 one.

12 COMMISSIONER GARAMENDI: And they just passed the
13 recent bond? Is any of that money available?

14 MR. LINDSAY: They just passed Measure WW, if I
15 read these letters right. And that does provide funds for
16 recreational opportunities, including Bay Trail
17 specifically.

18 And then ABAG has some grant money through its
19 transportation funds. The City of Richmond through other
20 development conditions, not in this area, has also
21 contributed cost to construct the Bay Trail -- significant
22 portions of the Bay Trail.

23 COMMISSIONER GARAMENDI: CalTrans?

24 MR. LINDSAY: I don't believe CalTrans has
25 committed funds yet. We'd love to have them. We think

1 that that is really in their interest as well to help
2 shore up this gap.

3 COMMISSIONER GARAMENDI: So I don't know. \$50
4 billion of infrastructure bonds. I think there's some
5 laws on the book having to do with CalTrans and bike
6 trails and funding thereof.

7 MR. LINDSAY: That could be, sir. I'm not sure.

8 COMMISSIONER GARAMENDI: All right. So there's
9 multiple sources of money for the \$10 million project?

10 MR. LINDSAY: Some has already been committed.
11 But there certainly is an identified gap.

12 COMMISSIONER GARAMENDI: Has Chevron committed
13 any money yet, other than the lease?

14 MR. LINDSAY: Other than the lease and -- well,
15 I'm sorry -- other than the easement and the security, no
16 they have not.

17 COMMISSIONER GARAMENDI: Thank you.

18 MR. LINDSAY: Thank you.

19 CHAIRPERSON CHIANG: Thank you very much.

20 I'm sorry. Tom.

21 ACTING COMMISSIONER SHEEHY: I don't have a
22 question so much for the witness. But I've heard him say
23 several times during his testimony, he'd like to see the
24 provisions of the lease agreement broadened to seek
25 conditions put in the lease. Presumably this would be

1 broadened to require Chevron to contribute additional
2 funds towards the construction of this project.

3 I note from the staff report there are some
4 pretty serious legal concerns here. I note that we do
5 have Mr. Rusconi from the Attorney General's Office here
6 and we do have Mr. Fossum, our Chief Counsel. I'd like to
7 hear from them what, if any, legal flexibility we have
8 under the law as it stands to put additional conditions on
9 this lease that would compel Chevron to contribute
10 additional funds.

11 I would just mention for the record, you know, I
12 don't pretend to have an accounting of everything, who's
13 contributed what. And I would certainly hope that
14 Chevron's being a good neighbor in Richmond and is
15 participating. But it seems to me the decision before
16 this Commission is, you know, what are our options? And
17 we've been lobbied pretty -- I've been lobbied pretty
18 heavily on this issue. And I'd like to know what our
19 legal flexibility is here because I would hate to see the
20 Commission act in an ultra vires manner outside of the
21 law.

22 CHIEF COUNSEL FOSSUM: Primarily, I think our
23 restrictions on extracting additional revenues from the
24 applicant here are based on Public Resources Code Section
25 6217.6 that requires basically the consideration that the

1 State obtains in its leasehold to be put into the General
2 Fund and doesn't give the Commission a great deal of
3 flexibility because of that.

4 EXECUTIVE OFFICER THAYER: I guess -- we have
5 been struggling with this issue for over a year and, in
6 fact, were hoping to bring this item to the Commission
7 over a year ago, but put off doing so, partly at the
8 request of the Lieutenant Governor, in an attempt to kind
9 of struggle through to see if we could find some way to
10 get this trail constructed.

11 And there are a variety of actors involved, as
12 the last speaker mentioned, all of whom advocate having
13 this trail constructed and all of whom have different
14 roles to play. So over the last year, we've had meetings
15 with CalTrans, the City, Chevron, ABAG, a variety of
16 different entities down there; and State Parks and members
17 of the Lieutenant Governor's staff also participated in
18 this.

19 COMMISSIONER GARAMENDI: And we had a very nice
20 hike.

21 EXECUTIVE OFFICER THAYER: Yeah, there you go.

22 But overlaying this struggle was the legal
23 considerations. And we, in our review, came up with three
24 bases by which the Commission might require Chevron to
25 contribute money -- or contribute anything really. But in

1 this case we're talking about money because Chevron's
2 already agreed to provide the right of way.

3 And the first one is the one that Curtis talked
4 about. There have been those who have suggested - and
5 staff has been interested in itself to see if we could do
6 it this way - that we forgo some of the rent that would
7 normally be charged. And, in turn, Chevron -- I think
8 Chevron even thought of this too or suggested that this
9 would be the result, if we required payment for a trail,
10 then it shouldn't have to pay so much in the way of rent.

11 And, in fact, via -- there's a regulation -- in
12 addition to the Public Resources Code section that Curtis
13 cited, 6217.6, which requires that all revenue from the
14 lease be deposited in the General Fund - and this would
15 potentially be contrary to that, because in effect the
16 lease revenue would be then dedicated for construction of
17 the trail - we also have a Commission regulation that says
18 we can only charge fair market rent. So we couldn't go
19 the other way.

20 We couldn't, pursuant to 6217.6, take some of the
21 rent and have Chevron give it for the trail. And we also
22 couldn't charge Chevron more than the fair market rent;
23 and that is \$875,000 a year is what we've arrived at is
24 the amount for this lease. So we couldn't, in addition to
25 that, ask them to pay the 5 or \$10 million, which

1 different people have asked, to complete the trail. So we
2 didn't think working with diverting some of the revenues
3 to the State was a legal way to proceed.

4 The second way to proceed is pursuant to the
5 Public Trust Doctrine: Is there something about the
6 Public Trust Doctrine, which is the basic body of law that
7 the Commission follows in granting its leasees or taking
8 its actions, that would require this?

9 And the problem here is that the Chevron Marine
10 Terminal is entirely consistent with the Public Trust
11 Doctrine. There is no adverse impact to the Public Trust
12 Doctrine from a terminal. Whether it's private or public,
13 it's consistent with that body of law.

14 So, from our perspective, there's not a
15 mitigation that's possible for this terminal under the
16 Public Trust Doctrine. It's foursquare, a consistent use.
17 And the doctrine does not distinguish between uses that
18 are operated by private or public entities. And, in fact,
19 of course, from an economic perspective, this terminal
20 does provide benefit to the State of California.

21 I know we're all -- I think everyone here is
22 working to move beyond fossil fuels and that kind of
23 thing. But for now, there's still a need for the oil. So
24 it provides a public benefit.

25 The third general area for Commission

1 consideration, as to whether or not it has the basis for
2 requiring Chevron to pay for the trail, is CEQA. And as
3 the Commission knows and as the witnesses have indicated,
4 we've conducted an Environmental Impact Report on renewal
5 of this lease.

6 But I should say, when you look through the
7 calendar, on all the other leases where the Commission's
8 being asked to renew the lease for existing facilities,
9 each and every one of those has an exemption based on the
10 CEQA guidelines, the regulations, which say that these are
11 existing facilities and therefore are not subject to CEQA.
12 And basically the idea is if there's a certain level
13 of -- you have to evaluate a proposal in light of the
14 environmental -- environmental context that exists at the
15 time that it's being evaluated. And that's where this
16 is -- right now that terminal is up and operating. And
17 that's the context under CEQA.

18 So technically an argument can be made, we should
19 not have even done that Environmental Impact Report, that
20 we have a baseline condition that is with this terminal
21 and operation.

22 We, in fact, 10 or 15 years ago decided we would
23 do EIRs for marine terminals and marine terminals only,
24 because the threat of an oil spill is not a baseline
25 condition, that that was something that hadn't happened

1 now. It wasn't part of the existing environmental
2 context, but could happen in the future.

3 And so we do EIRs. And sometimes we look at
4 other issues in the environmental analysis. But our sole
5 basis for doing an EIR in this circumstance is concerned
6 over whether or not oil was -- an oil spill was considered
7 part of the baseline. And our determination was that it
8 was not the baseline, therefore we could do it.

9 That's not without controversy. And a number of
10 oil companies have suggested that we're overstepping CEQA
11 by doing that. I'm certainly not going to say anything to
12 undercut our position on this. But we haven't had that
13 tested in court yet. We will continue to require them and
14 give the Commission an opportunity to look at the
15 potential impacts of oil spills when it renews the marine
16 oil terminal and to ask the questions that the Lieutenant
17 Governor did about whether or not these issues are being
18 looked at.

19 But we don't think therefore that CEQA provides
20 the basis for going in with an existing facility and
21 requiring a trail that's not even on Public Trust lands.

22 Our position would be entirely different if there
23 were a new terminal being proposed. And then there would
24 be -- it would be a new project that would involve both
25 onshore facilities that aren't under our jurisdiction, but

1 which would be part of the facilities that are under our
2 jurisdiction, the terminal. And if there's an existing
3 trail and the new terminal's going in, we would say
4 pursuant to CEQA that they, Chevron, would have to pay for
5 relocating that trail. But that trail wasn't even planned
6 or wasn't under consideration when this facility was put
7 in, and so we don't think, at this point, that the
8 Commission has the authority to mandate it.

9 We did work with Chevron and the City looking for
10 other ways to accomplish it. We're continuing to meet.
11 And I think some of the discussions from CalTrans was that
12 the County could look for funds from their five-year plan
13 as alternate ways to go. We're not going to pretend money
14 is easy to come ahold of -- to get ahold of now. And so I
15 understand why the people today are asking the Commission
16 to require this.

17 But we don't think we've got the regulatory
18 authority to do it and that other options have to be
19 pursued.

20 ACTING COMMISSIONER SHEEHY: Thank you, Mr.
21 Thayer.

22 Well, we have Mr. Rusconi here.

23 Mr. Rusconi, I think Mr. Thayer gave a pretty
24 comprehensive answer. But you do represent -- you are
25 Deputy Attorney General. Is there any condition we could

1 place on this lease or any way to broaden this lease
2 agreement that you imagine that would provide additional
3 funds in order to help with the construction of this bike
4 trail?

5 DEPUTY ATTORNEY GENERAL RUSCONI: Attorneys don't
6 like to ever say that something is impossible or -- and I
7 won't say that now. However, given the facts of this
8 case, which is an existing facility, there is no access --
9 present access that will be interrupted.

10 The limits on State Lands jurisdiction -- the
11 jurisdiction of the State Lands Commission is to the
12 tidelands.

13 The fact that we're getting consideration from
14 them now in the form of our usual rent. And there's a
15 case, the WOGA case, that the Commission was involved in
16 about 20 years ago, where the 9th Circuit Court of Appeals
17 when the Commission tried to change its regulations to
18 gain more money for its pipelines from offshore terminals
19 that was the highest and -- that would have been the
20 highest in the nation, the 9th Circuit Court of Appeals
21 said, "You have a monopoly of these tidelands, which are
22 necessary for the transport of this product. And what
23 you're trying to do is an impermissible burden on
24 interstate commerce. You're trying to use the deep
25 pockets of the oil companies in a way that they have no

1 choice but to do."

2 And so you must, in effect, treat them like you
3 would treat any other lessee. And to ask for full
4 compensation for the exclusive use of the tidelands and
5 then to try and exact other funds on top of that may very
6 well run counter to that.

7 ACTING COMMISSIONER SHEEHY: Okay. Thank you.

8 CHAIRPERSON CHIANG: We have Kelly, followed by
9 Mary Renfro and Robert Raburn.

10 MS. BARAKA: Good morning. My name's Kelly
11 Baraka and I'm here representing myself, my partner Dawn,
12 and many of my neighbors in Point Richmond. I leave at
13 875 Ocean Avenue and I am the Long Wharf's closest
14 neighbor.

15 Although the noise and air pollution from the
16 Long Wharf are an issue, the bright lights are the most
17 significant and the most easily solved problem for many of
18 us. I have many testimonials from my neighbors as to the
19 effect these lights have on the quality of life, including
20 their inability to sleep at night.

21 I believe you also have several written comments
22 in your Email file.

23 The residents of Point Richmond have tried for
24 many years to get Chevron to address this lighting issue.
25 Despite Marina Brand's claim that the EIR addresses the

1 light and glare, I was unable to find any mention of it in
2 the mitigations that the SLC's Statement of Findings has
3 for the Final EIR that's in Exhibit D.

4 What we'd like to see is for Chevron to cover or
5 hood or replace the existing Cobalite fixtures on the Long
6 Wharf in order to reduce the glare that we experience.

7 We understand that lighting is a safety issue.
8 However, PG&E is leading our state in the effort to reduce
9 glare in the night environment and to reduce the use --
10 the energy use at the same time. They've shown that this
11 can be accomplished easily, inexpensively, and without
12 sacrifice to effective lighting or safety issues.

13 We would appreciate having the lighting issue
14 addressed before the lease is renewed.

15 Thank you.

16 CHAIRPERSON CHIANG: Thank you. Mary.

17 MS. RENFRO: My name is Mary Renfro. I'm an
18 assistant city attorney for the City of Richmond. And I'd
19 like to address some of the CEQA legal issues.

20 First of all, the question is whether or not this
21 renewal of the lease would qualify for a CEQA exemption as
22 an existing facility. And it would not, because in order
23 to qualify as an existing facility, there would have to be
24 negligible or no expansion of use. And to continue the
25 use, the exclusive use, keeping out all other Public Trust

1 users for another 30 years would constitute an expansion
2 of use beyond the existing facility's exemption under
3 CEQA.

4 Because the EIR was prepared, it needed to
5 discuss the environmental setting, the existing
6 environmental setting thoroughly, and that includes a
7 discussion of any inconsistency between the proposed
8 project and applicable regional plans.

9 The proposed project could have an -- is
10 inconsistent with the Bay Trail plan. Therefore, the City
11 contends that absent the conditions that were requested by
12 the City, the EIR is deficient because the mitigation of
13 the significant impacts on public regulation and the
14 adopted land-use plan is not infeasible. It is feasible
15 as a mitigation measure. For the inconsistency with the
16 Bay Trail plan, you can impose the requirement, as
17 requested by the City, that the Bay Trail be included.

18 We're not asking for a payment to the City,
19 because we understand that the income from the rent must
20 go to the General Fund and it needs to stay there. But we
21 can say that the impact on the adopted Bay Trail plan
22 needs to be mitigated by having Chevron contribute to or
23 provide the Bay Trail.

24 COMMISSIONER GARAMENDI: The lawyers will fight
25 it out.

1 (Laughter.)

2 CHAIRPERSON CHIANG: We have Robert Raburn,
3 followed by Assemblymember Nancy Skinner and Derek Liecny.

4 MR. RABURN: Good morning, Chairman Chiang,
5 Commissioners. My name is Robert Raburn. I'm the
6 Executive Director of the East Bay Bicycle Coalition.
7 Since 1972 we've represented the interests of bicyclists
8 throughout Alameda and Contra Costa counties. We count
9 some 2,000 members, plus 6,000 members of our affiliated
10 organizations.

11 We've been involved in this for a considerable
12 length of time, beginning really in 1988 and 1987 with
13 then Senator Lockyer to pass Senate Bill 100 establishing
14 the Bay Trail. That is an adopted plan that is protected
15 by the State Bay Conservation Development Commission.

16 And we respectfully ask that you condition the
17 lease to, at a minimum, include \$5 million to construct
18 the Bay Trail segment through this area. And the Bay
19 Trail will serve more than simply recreational needs. I
20 think everybody's aware that there are considerable
21 development proposals that will require public access to
22 the Point Molate area.

23 I wish to make three points: One, nexus; two,
24 the feasibility of the path; and, finally, comment on the
25 community development agreement.

1 Nexus. A simple test for nexus is if the
2 facility were not approved, would there be a problem? In
3 this case, the impact is considerable on account of the
4 lease agreement.

5 Furthermore, the leaser will not allow the path
6 to occur in the lowest cost position adjacent to the
7 shoreline. So the cost, the burden of the additional
8 environmental -- or construction of retaining walls is
9 borne by the path users. And we feel that it's eminently
10 justifiable to request that this be included in the list
11 of mitigations.

12 Secondly, in 2001, the Quest Study showed Option
13 2 was the most feasible proposal to design. You've seen
14 the plan. Chevron has endorsed this as the preferred
15 option. So we have an option on the table to establish.

16 And, finally, the community benefits agreement is
17 woefully inadequate. Not one dollar will be spent on the
18 Bay Trail from this community benefits agreement, because
19 without constructing one inch of the path, there will be
20 no right of way or security contributions.

21 So Chevron's getting off incredibly lightly here.
22 Anybody else would ask that the mitigations be included in
23 this agreement.

24 Thank you.

25 CHAIRPERSON CHIANG: Thank you.

1 Assemblymember.

2 Welcome.

3 ASSEMBLYMEMBER SKINNER: Chairman, Lieutenant
4 Governor, Commissioners. Thank you very much. Nancy
5 Skinner, formerly Director of Region 1 for the East Bay
6 Regional Park District and now Assemblymember for AD 14.

7 Both areas --

8 COMMISSIONER GARAMENDI: Excuse me.

9 ASSEMBLYMEMBER SKINNER: Yes.

10 COMMISSIONER GARAMENDI: Is this the first time
11 you've spoken as an Assemblymember in this chamber?

12 ASSEMBLYMEMBER SKINNER: Yes, it is.

13 COMMISSIONER GARAMENDI: Well, you're going to
14 get hassled --

15 (Laughter.)

16 COMMISSIONER GARAMENDI: -- as the tradition
17 requires.

18 (Laughter.)

19 ASSEMBLYMEMBER SKINNER: Okay. I'm ready.

20 COMMISSIONER GARAMENDI: Prepare yourself.

21 (Laughter.)

22 ASSEMBLYMEMBER SKINNER: The jurisdiction of both
23 Ward 1 of the East Bay Regional Park District and of AD 14
24 includes the area that we're discussing, includes City of
25 Richmond and the Point Molate and Long Wharf area.

1 I come before you because I have been following
2 this issue for some time. The Park District has
3 communicated letters to the Commission on the question
4 before you. And I've also obviously been interacting with
5 the City of Richmond.

6 And I'm not speaking today for the Park District
7 because I'm no longer in that hat. But I will relay to
8 you some of the things that I know that the agency, the
9 Park District, that the City of Richmond, and the
10 constituents within AD 14 are concerned about.

11 First, Park District has a great relationship
12 with Chevron and has a very good relationship with the
13 advocates who are looking to get public access to extend
14 the Bay Trail. The Bay Trail is a very loved and valued
15 trail that gives people throughout California access to
16 our bay. And there are portions of it that are very
17 significant that are basically not connected, which cut
18 people, whether you're walking or on your bicycle or
19 whatever, from being able to really enjoy the shoreline.

20 And this -- the area in question is one of the
21 key links to really making the Bay Trail a very workable
22 trail.

23 Now, I understand that your counsel has -- in
24 looking -- both your EIR document and your counsel feels
25 that it is not really your jurisdiction to require within

1 the lease that Chevron give this public access. Now, the
2 East Bay Regional Park District counsel in the letter that
3 was sent to you in the 1st of March 2006 and then again a
4 second letter in June 2007 -- and I have a copy if you'd
5 like me to provide it -- they have a different legal
6 opinion. Now, I'm not going to venture to say which legal
7 opinion is correct. And I will say that I am not a
8 lawyer.

9 But I would say that my understanding of CEQA is
10 that CEQA does not require that the agency have
11 jurisdiction over the particular land for which it acts
12 for a mitigation. If you think about mitigations,
13 mitigations are really to respond to if there's a
14 circumstance we cannot fix within the area that we are
15 directly controlling. And in this case what we're doing
16 with the -- with the renewal of the lease is that we are
17 basically restricting public access to these tidelands.

18 Now, while the Bay Trail segment is not in the
19 tidelands area, it is a way to compensate for the fact
20 that we are restricting for another 30 years any public
21 access to this tideland area, and in effect compensating
22 by providing the public access on the trail segment.

23 Now, given that Chevron themselves have agreed
24 to, on a preferred alternative for this trail access,
25 there's not real opposition here. So you may wonder,

1 well, then what's the issue?

2 Now, while Chevron has now provided an easement
3 in an agreement with the City of Richmond, that easement
4 is basically a voluntary agreement, and it's an agreement
5 that's tied to a project that certainly Chevron is very
6 sincere about wanting to construct. And the City of
7 Richmond is now -- you know, they've come to an agreement,
8 but it's still not a guaranty. There's -- it's possible
9 that that project is never constructed, is never seen
10 through to fruition. So then what happens to this
11 easement, right?

12 The State Lands Commission now has the ability in
13 the renewal of this lease to ensure that there is public
14 access and to ensure that we are not in a situation where
15 another 30 years goes by where we have no access to both
16 the trail and also, since we are restricted, in terms of
17 the public access to the tidelands.

18 And it is certainly the legal counsel of the Park
19 District's interpretation that under CEQA -- and they cite
20 a number of cases, which are in the letters, so I won't
21 repeat them to you now -- that this is a reasonable
22 requirement. It is legitimate under CEQA, and there's
23 case law that substantiates that.

24 Now, the City of Richmond and other advocates
25 have also mentioned -- my primary issue is to require the

1 public access.

2 COMMISSIONER GARAMENDI: Excuse me, Mr. Chairman.

3 CHAIRPERSON CHIANG: I know I've been generous --

4 COMMISSIONER GARAMENDI: How many seconds are
5 there in three minutes.

6 CHAIRPERSON CHIANG: Four minutes.

7 ASSEMBLYMEMBER SKINNER: Oh, I'm sorry. Now, I'm
8 going to get razzed more.

9 CHAIRPERSON CHIANG: Would you like to engage
10 now?

11 COMMISSIONER GARAMENDI: Well, there a few things
12 you're going to have to learn if you're going to work in
13 this --

14 (Laughter.)

15 ASSEMBLYMEMBER SKINNER: Apologies that I did not
16 realize that I had a three-minute limitation. I will wrap
17 up --

18 COMMISSIONER GARAMENDI: That box there in front
19 of you, there's three little bulbs on it --

20 (Laughter.)

21 ASSEMBLYMEMBER SKINNER: Did my red light go on?

22 COMMISSIONER GARAMENDI: -- green, yellow, and
23 red.

24 COMMISSIONER GARAMENDI: I asked the question. I
25 don't have an answer.

1 (Laughter.)

2 ASSEMBLYMEMBER SKINNER: Oh, how many seconds
3 there --

4 COMMISSIONER GARAMENDI: How many seconds are
5 there in three minutes?

6 ASSEMBLYMEMBER SKINNER: Three times 60 is 180.

7 COMMISSIONER GARAMENDI: How many have you taken?

8 ASSEMBLYMEMBER SKINNER: I'm not sure.

9 COMMISSIONER GARAMENDI: Many more.
10 Making a legal argument and yet you're not a
11 lawyer.

12 ASSEMBLYMEMBER SKINNER: But I do have the
13 documentation of a lawyer right here before you.

14 COMMISSIONER GARAMENDI: She can do okay in this
15 building. Keep going.

16 (Laughter.)

17 ACTING COMMISSIONER SHEEHY: Assemblymember
18 Skinner, please don't feel picked on. When I did my first
19 meeting with the Lieutenant Governor, he gave it to me
20 pretty good too.

21 COMMISSIONER GARAMENDI: I'm not finished.

22 ASSEMBLYMEMBER SKINNER: I'm willing to take
23 more.

24 (Laughter.)

25 ASSEMBLYMEMBER SKINNER: I'm willing to take

1 more. And then we'll get public access to the Bay Trail.

2 So what I would wrap up with is that in addition
3 to the legal arguments that our counsel -- the Park
4 District counsel raised, that the City of Richmond has
5 also requested -- well, I want to step back. My primary
6 issue is to be able to get that public access. But the
7 secondary issue is the construction of the trail. And the
8 City of Richmond and the other advocates have, I believe,
9 legitimately raised the issue of the funding for the
10 construction of that trail.

11 Now, it is absolutely true that the Park
12 District, who has constructed much of the Bay Trail and
13 who manages much of it, was recently very successful --
14 and thank you very much to the voters of Alameda County
15 and Contra Costa County for supporting the bond measure.
16 Now, there is some money in that bond measure for Bay
17 Trail construction. Bay Trail, as you know, runs from
18 Antioch all the way down to Fremont. So certainly that
19 funding is not adequate to do all that is needed. And it
20 would be very legitimate to request and to have as part of
21 this agreement that Chevron would share in the cost of
22 that construction. Now, what dollar amount that is, I
23 would not specify or -- but I think that it would be
24 reasonable to request a share in the cost of that
25 construction.

1 And certainly since they've chosen a preferred
2 alternative, their sharing in it will also help ensure
3 that it's constructed to meet their needs as well as the
4 public's needs.

5 So that is what I would ask. And I will turn
6 this letter back over in case you don't have a copy of it
7 before you.

8 And I'm happy to answer any questions and also to
9 take further razzing from the Lieutenant Governor.

10 COMMISSIONER GARAMENDI: I have a question for
11 the staff actually.

12 Paul, does the current lease, in any way, tie
13 Chevron to the easement that has been discussed as a
14 community -- with the hydrogen project, is there any way
15 that we've tied that in to this lease?

16 EXECUTIVE OFFICER THAYER: We've done it, but not
17 on the lease. There's an authorization in the
18 Commission's action today for staff to enter into an
19 agreement with Chevron which would commit them --
20 contractually commit them to the same easement that's in
21 the City's community benefit agreement. And the purpose
22 of that, even though it's a reiteration of the City's
23 agreement, was to give the Commission independent
24 authority to enforce that requirement.

25 COMMISSIONER GARAMENDI: I thought that was the

1 case. And I would suggest the Assemblywoman next time she
2 appears before this body look at every page of the --

3 (Laughter.)

4 ASSEMBLYMEMBER SKINNER: Is there a time period?

5 COMMISSIONER GARAMENDI: And thence would not
6 waste our time with something that we've already taken
7 care of.

8 (Laughter.)

9 ASSEMBLYMEMBER SKINNER: I would ask staff and
10 the Commissioners, is there a time period associated with
11 that condition?

12 COMMISSIONER GARAMENDI: You may have a future
13 here.

14 CHAIRPERSON CHIANG: We ask the questions.

15 (Laughter.)

16 CHAIRPERSON CHIANG: Go ahead.

17 EXECUTIVE OFFICER THAYER: I should say
18 parenthetically that you're lucky, because you'll get a
19 hard time from the Lieutenant Governor today and it will
20 stop. But for some of us it continues.

21 (Laughter.)

22 EXECUTIVE OFFICER THAYER: But in answer to that
23 question --

24 ASSEMBLYMEMBER SKINNER: I did welcome the
25 further razzing.

1 EXECUTIVE OFFICER THAYER: In answer to that
2 question, there is not a firm deadline. But it recognizes
3 that there's a process in place that, you know, staff has
4 participated in, which is working on getting this thing
5 built.

6 And so part of that process is that the alignment
7 has to be determined. And the City is going to be the
8 lead for a study that's going to determine where the
9 alignment is. And so until that is done, we can't have
10 them record the easement because that will -- the study
11 will determine the location. But I think the wording
12 generally provides, without having it right in front of
13 me, that at the conclusion of the alignment specification
14 phase, then they're to record it. And, you know, we'll be
15 monitoring that process. And if it takes too long, then
16 we'll go after it.

17 I should also say that we did receive copies of
18 these, and they were forwarded onto the Commissioners.

19 ASSEMBLYMEMBER SKINNER: Wonderful.

20 Just in final wrap-up. The time period's
21 important to the public, because I know that Chevron has
22 been sincere about wanting to provide this public access.
23 But there have been over the years many, many discussions
24 and different preferred alternatives and then always a
25 delay. So we've been in a situation where there's over 20

1 years now of history around waiting for this trail. So I
2 think it's always good to have some kind of time period
3 specified.

4 CHAIRPERSON CHIANG: Thank you.

5 ASSEMBLYMEMBER SKINNER: Thank you very much.

6 COMMISSIONER GARAMENDI: I'm not finished.

7 ASSEMBLYMEMBER SKINNER: Okay.

8 COMMISSIONER GARAMENDI: I have a couple more
9 comments.

10 First of all, I want to congratulate you on your
11 election and commend the citizens in your district for
12 their wise choice.

13 ASSEMBLYMEMBER SKINNER: Thank you very much,
14 Lieutenant Governor.

15 COMMISSIONER GARAMENDI: Thank you.

16 ASSEMBLYMEMBER SKINNER: Thank you.

17 CHAIRPERSON CHIANG: Derek Liecty, followed by
18 Christopher Dolan and James McGrath.

19 MR. LIECTY: Mr. Chairman and members of the
20 Commission, first of all, I'm Derek Liecty from Oakland,
21 California.

22 And thank God I'm not an Assembly person.

23 (Laughter.)

24 MR. LIECTY: I come to you today as a citizen
25 using the Bay Trail. I come to you as a volunteer member

1 of the East Bay Regional Park District bike patrol,
2 although I do not speak for that district.

3 I'd like to just address three particular issues
4 regarding this situation.

5 The first one has to do with access. The
6 citizens without a car are not -- are totally cut off from
7 access to the Point Molate recreation areas. And this
8 path will provide that.

9 Safety. Today you can get to Point Molate on a
10 bicycle by riding on I-80 Freeway, from Chevron Way over
11 to the toll plaza. A gentleman was killed there two years
12 ago, another one injured for life.

13 We need to provide some kind of easy access for
14 people to get to Point Molate. And I speak only from a
15 citizen's standpoint.

16 From a legal standpoint, obviously I can't get
17 into this. But it seems to me that you don't even have a
18 lease right now. It was ended in 2006. And it's been two
19 years, if I'm not mistaken, that we're going through this
20 process to get a new lease.

21 And so I would ask that under the arguments that
22 have been put forth regarding CEQA that you put this off
23 today until you can find more information about whether or
24 not the CEQA regulation might accommodate this path and
25 having Chevron provide mitigation.

1 Lastly, Chevron purports to be a good citizen and
2 improving and striving for improving the environment. But
3 with your urging, by requiring mitigation on this, they
4 can actually accomplish that goal. And I would ask that
5 you move forward on that.

6 Thank you very much.

7 CHAIRPERSON CHIANG: Thank you, Derek.

8 Christopher Dolan.

9 MR. DOLAN: Good morning, Chairman Chiang,
10 Lieutenant Governor. Thank you for your time today.

11 And may I ask a special request that we take a
12 witness out of order, who's Mr. Dan Doellstedt, who is
13 here today who has some ambulatory difficulties, after
14 myself please.

15 Thank you very much.

16 I'm here to speak to request that you do
17 everything in your power to make sure that no one else
18 gets hurt out on Highway 580.

19 I have a photograph with me that I'm trying to
20 get brought up here in a moment, if I could.

21 The current bike path is Highway 580. It is the
22 side of the road. If we're going to talk about
23 environmental impacts, you're going to meet a gentleman
24 who can be the most immediate environmental impact that
25 you can hear, because he was hurt on that roadway and his

1 friend died there, because the bike path that was
2 requested as far back as an Environmental Impact Study in
3 2001 still has not been built.

4 There was a letter sent to this Commission in
5 April 2006 - April, five months before my client's life
6 was irreparably changed - and it asked this Commission to
7 please, please do everything in its power to make sure
8 that a bike path was created so that no one would be
9 injured or killed. It was sent to you by a gentleman from
10 TRAC who just came up here again and said, "Please,
11 please, do everything to make sure that no one is injured
12 or killed."

13 I ask you to please not let another day go by.
14 There has been an engineering study. There have been many
15 comments on the Environmental Impact Report, the issues
16 regarding mitigation to recreation, timing with bike
17 plans. There is some money that is available, but not
18 enough to get this funded. But we need to get it put into
19 an agreement that it be done.

20 You asked a question about is there money from
21 CalTrans? I will tell you, not because I'm proud of it,
22 but because no action was taken earlier, there's a lawsuit
23 pending against CalTrans that will cost this state more
24 than it would have cost to build that bike path. And if
25 someone else gets hurt on that Highway 580 and this day

1 goes by where we did not take action, that it will be upon
2 all of us and it will be upon the State, where right now
3 the State can work with its partner to say, "Chevron,
4 you've had your largest profitable quarter of any
5 corporation in the history of the United States last
6 quarter. Step up. Care for your community."

7 Please, get people off from Highway 580 before
8 something else happens and we're all here again saying we
9 could have done something.

10 I'd like to introduce Mr. Dan Doellstedt, who is
11 a living reminder of what we didn't do earlier and
12 hopefully will never happen again.

13 MR. DOELLSTEDT: Hello. My name is Dan
14 Doellstedt and I grew up in Point Richmond and lived there
15 most of my life.

16 In addition to the environmental impacts, there
17 are real human impacts to this lease. I went for a bike
18 ride on September 2006 to Point Molate. And because
19 Chevron had refused requests to create a bike trail, no
20 bike trail had been completed. I was directed to a bike
21 trail on 580 along the freeway. I was hit by a car. My
22 friend, Dan Weinstein, a father and husband, was killed.
23 An insurance study was completed in 2001, which outlines
24 the safe bike route alternative. None was created.

25 You were asked numerous times before 2006, before

1 my accident, to require a bike route. No action was
2 taken.

3 My friend Dan Weinstein died next to me on the
4 roadway trying to get back home. My life was irreparably
5 changed.

6 Please require as a condition of this lease that
7 the Bay Trail be fully funded and completed by Chevron
8 within five years basically from Point Molate to the
9 Tewksbury Avenue in Point Richmond. This is needed to
10 complete the bike trail and prevent anyone else from being
11 killed or injured.

12 MR. DOLAN: Thank you to the Commission for
13 taking this matter up and taking it so seriously. There
14 is more than just an impact to birds, water, and wildlife.
15 There's an impact to our citizens and to our Public Trust.

16 Thank you.

17 CHAIRPERSON CHIANG: Thank you. Thank you,
18 both.

19 COMMISSIONER GARAMENDI: If I might, Mr.
20 Chairman.

21 CHAIRPERSON CHIANG: Yes.

22 COMMISSIONER GARAMENDI: I mentioned earlier that
23 in looking at this project a hike was taken. And one part
24 of the hike that I refused to travel was the 580 portion
25 of the trail. In my view, it was not a safe place for me

1 to be. And why bikers who are on that particular part of
2 that freeway is not something I understand.

3 CHAIRPERSON CHIANG: Thank you.

4 Mr. McGrath, followed by Zelda Holland and
5 Patricia Jones.

6 MR. McGRATH: My name is James McGrath. I
7 represent the trust users. Our future is on your cover.
8 I would much rather be in a wetsuit on the bay than here.

9 They're the users that are directly impacted by
10 that and they're the users that are asking you -- they've
11 been excluded. They will continue to be excluded. Do
12 something to mitigate that impact and better balance it
13 and make it safer.

14 As background, I also worked for 14 years for the
15 Coastal Commission and 16 years running the Environmental
16 Department for the Port of Oakland. So I've worked as a
17 trustee and I think I'm familiar with it.

18 Now, to the issues. I don't think you have
19 enough information before you about recreational impact to
20 make the best and reasoned decision, particularly that
21 access is impossible.

22 I looked through this document, a hundred pages,
23 downloaded it, kind of in vain, for any mention of my
24 users. They have been excluded from this area for 102
25 years and 106 years, and are proposed to be excluded for

1 another 30 years, or whether or not it's possible to
2 better balance those.

3 Now, I'm not telling you to open it up to
4 kayakers because I don't know that that's reasonable. I'm
5 saying that that is a reason to look at better ways to
6 balance and to provide alternative public facilities that
7 is the Bay Trail. So I'm supporting the City of Richmond
8 here.

9 I do understand from your staff that there are
10 CEQA concerns that they had. But it kind of confuses me.
11 You're arguing in one case that the pier exists as part of
12 the built environment and its impacts don't need to be
13 reviewed. But the CEQA document addresses use conflict
14 with fishing from that pier. Not my group. It also
15 addresses a footprint and those conflicts with fishing,
16 and it addresses noise. All established.

17 But more fundamentally in public policy, that
18 pier exists on a lease established in 1947 that said you
19 have to take it out when you're done. Maybe, not for
20 sure. But there's no expectation automatically to
21 continue that lease. And so what we're saying at this
22 time after 106 years of exclusive use by one, is it
23 possible to provide a better balance?

24 Now, for my users, you could take the pier out,
25 put an off-shore terminal, put the pipeline underneath the

1 local roads, the City could build the Bay Trail, and we
2 would be able to go on with that. I don't know if that's
3 a reasonable alternative.

4 The approach taken in the EIR is this is part of
5 the built environment and therefore it's no impact. Well,
6 of course it's an impact. There's a 30-year extension to
7 the term in which people are excluded. That footprint's
8 far larger than 68 acres, far larger.

9 So let's go to, is it reasonable?

10 I understand the constraints of the Public
11 Resources Code and the fair market rent, but I would put
12 in an analogy. It's kind of like putting the new roof on
13 the house before you re-rent it. So what we're asking for
14 represents for Chevron in this massive amount of world
15 going by 5 cents per barrel for a year on a commodity
16 selling for over \$50. I think it's inherently reasonable.

17 Thank you.

18 CHAIRPERSON CHIANG: Thank you.

19 Zelda Holland followed by Patricia Jones and
20 Nancy Strauch.

21 Is Zelda here?

22 MS. HOLLAND: I guess it's still morning.

23 Good morning, Commissioners. I'm with Dan
24 Doellstedt. I was a friend of the late Daniel Weinstein.
25 And I want to prevent this from happening again.

1 Thank you.

2 CHAIRPERSON CHIANG: Thank you.

3 MS. JONES: Hi. Good morning, Commission. Thank
4 you for allowing me to speak. My name is Patricia Jones.
5 I'm a bicyclist and I'm also the Executive Director of
6 Citizens for East Shore Parks, who represent community
7 members and civic leaders who worked for 20 years to
8 create regional open space shoreline access in the form of
9 the East Shore State Park, which runs from the tippy tip
10 north of Oakland into southern Richmond.

11 By the way, the land for that park was created
12 from land that was held in private hands by the railroad
13 and its development arms for many, many years.

14 You have CESP written comments already regarding
15 the Chevron new lease. And there are many others here who
16 can speak as eloquently about the flawed EIR and the legal
17 reasons why conditions can be placed on this lease.

18 In short, Citizens for East Shore Parks supports
19 the City of Richmond's position and CESP believes that the
20 Commission not only has the authority but the
21 responsibility to put the conditions for the public good
22 into the lease.

23 Yesterday, during conference calls, I heard many
24 reasons from cautious staff and attorneys about why the
25 Commission cannot do this. I'd just like to point out

1 that during the 100 years that Chevron has had the private
2 use of these tidelands many things in our world have
3 changed. We've had telephones, we've had televisions,
4 computers, and we no longer dump our garbage in the bay.

5 So now is the perfect opportunity for the state
6 to change its approach to this tidelands and shoreline to
7 be enjoyed by the whole community, taxpayers and voters of
8 the Bay Area who look to the shoreline as a place to
9 recreate, meditate, and experience nature as a natural
10 escape from the stress of everyday life.

11 In conclusion, CESP asks the State Lands
12 Commission to look forward instead of backwards in putting
13 conditions on this new lease and balance the needs of
14 Chevron with the public interest.

15 Thank you very much.

16 CHAIRPERSON CHIANG: Thank you very much.

17 COMMISSIONER GARAMENDI: Mr. Chairman, may I ask
18 a question of Mr. Thayer?

19 CHAIRPERSON CHIANG: Yes.

20 COMMISSIONER GARAMENDI: I'm a little confused as
21 to exactly what Chevron is doing with regard to this
22 trail. I understand there's a lease. And now that we
23 know that that lease is going to be somehow -- excuse me,
24 easement -- there's an easement and somehow that
25 easement's going to be nailed down with a side agreement,

1 if that's a fair word, what else is Chevron doing? There
2 was some talk about maintaining a safety or security
3 fence.

4 Can we get some clarification on that.

5 EXECUTIVE OFFICER THAYER: The two major elements
6 were -- the one, the easement, to provide the land that's
7 necessary for the trail wherever it ends up being sited as
8 a result of the --

9 COMMISSIONER GARAMENDI: Let's be specific here.
10 There's a specific location that's the preferred
11 alternative and Chevron's going to provide an easement to
12 accommodate that preferred alternative?

13 EXECUTIVE OFFICER THAYER: That's correct.
14 Although, the exact siting of that has not yet been
15 identified. It's approximately where that yellow line is
16 along the highway there.

17 COMMISSIONER GARAMENDI: So it hasn't been
18 surveyed and --

19 EXECUTIVE OFFICER THAYER: Yeah. And there's
20 discussion, competing concerns about CalTrans not wanting
21 that bike path too close to 580 and having it interfere
22 with future expansion plans and security concerns that if
23 you back it off --

24 COMMISSIONER GARAMENDI: It seems to me CalTrans'
25 position in this is a weak position.

1 EXECUTIVE OFFICER THAYER: Certainly. And I'm
2 not --

3 COMMISSIONER GARAMENDI: You can't speak for
4 them?

5 EXECUTIVE OFFICER THAYER: I'm not speaking for
6 them. I'm not necessarily supporting them.

7 COMMISSIONER GARAMENDI: Do they have a
8 representative here today?

9 I guess not.

10 Okay. Please continue.

11 EXECUTIVE OFFICER THAYER: Anyway, there are
12 different factors that are now being looked at to
13 determine the final alignment.

14 The second major element is that Chevron, as part
15 of the community benefits agreement entered into with
16 Richmond, agreed to provide up to \$2 million for security
17 improvements. In one of the meetings that I was at, they
18 indicated -- the point was that they didn't want -- or
19 that they thought the requirements from the Coast Guard
20 and other federal agencies were such that they were going
21 to have to assure that nobody on that bike path could have
22 contact -- could get off of that bike path and get into
23 the refinery area.

24 So there's some sort of super fence. It's more
25 than just a chain-link fence that has to go up to

1 accomplish that. But again more study is necessary before
2 knowing what that is.

3 COMMISSIONER GARAMENDI: And that's up to --

4 EXECUTIVE OFFICER THAYER: \$2 million.

5 COMMISSIONER GARAMENDI: -- is it \$2 million?

6 EXECUTIVE OFFICER THAYER: Yes.

7 COMMISSIONER GARAMENDI: Is it 2 million?

8 EXECUTIVE OFFICER THAYER: Up to 2 million.

9 COMMISSIONER GARAMENDI: Up to 2 million.

10 And that's the extent of the commitment with
11 regard to the trail?

12 EXECUTIVE OFFICER THAYER: I believe that there's
13 also a commitment to continue to work on this in the same
14 way that CalTrans and we and other entities are working on
15 it, so that they would continue to have the discussions
16 about how to best do this.

17 COMMISSIONER GARAMENDI: Thank you.

18 CHAIRPERSON CHIANG: Thank you.

19 Nancy, followed by Craig Murray and Bill Pinkham.

20 MS. STRAUCH: Mr. Chairman and Commissioners.

21 I'm Nancy Strauch and I'm from TRAC, the Trails for
22 Richmond Action Committee.

23 We have been working with the City of Richmond to
24 try to get trails all around Richmond's shoreline. They
25 have 32 miles of shoreline, some of the most in the Bay

1 Area. And we've been successful in getting 24 miles. So
2 this is a little length that we don't have yet. And we
3 would -- therefore we do support the City of Richmond's
4 request to have the Bay Trail constructed here.

5 I'd like to say that I'm very pleased normally
6 with the State Lands Commission. It has done a fabulous
7 job. San Francisco Bay looks so beautiful because of the
8 work that you do. So I'd like to compliment you there.

9 On the other hand, for this particular project, I
10 think that your attorneys have been particularly timid.
11 They've found a lot of reasons -- legal reasons why they
12 can't move forward with this. And I don't necessarily
13 agree with those opinions. I sort of look at it a
14 different way, and I think TRAC does. This is my land.
15 This is TRAC's land. It belongs to us. And you could
16 give Chevron the rights to use it. But when you give
17 Chevron the right to use it, I can't use it. I can't get
18 by -- I sail. I can't use it for sailing. I can't walk
19 along that shoreline. I can't use it at all.

20 So I think that your attorneys should be
21 representing me. I'm the client here. And they should be
22 looking for ways for you to find to be able to have this
23 access provided.

24 Now, this lease expired. Chevron has no rights
25 here at all, and they haven't had for some time. In the

1 meantime, they've been upgrading their facility, they've
2 been adding to their facility. They haven't been paying
3 any rent to me and you and this state. They owe \$5
4 million and they have an illegal use.

5 State Lands can decide to approve this project or
6 it can decide that they have to take their pier out. So
7 you have the ultimate authority. You can say we're
8 putting this condition in the lease. The condition is
9 that in lieu of you providing fees because of this illegal
10 use, you need to construct this trail. So you can accept
11 this lease with the conditions of the fines that you would
12 have to pay for having use of the tidelands without
13 getting rights or without paying your lease. And you can
14 accept that or you can take out your pier.

15 So you do have the authority. If you don't have
16 it under CEQA, you have it under your own law and you have
17 it as, you know, the ability to either approve, disapprove
18 and have this removed.

19 ACTING COMMISSIONER SHEEHY: Mr. Chiang, question
20 of staff.

21 CHAIRPERSON CHIANG: Sure.

22 And, Nancy, if you want to hang on.

23 ACTING COMMISSIONER SHEEHY: Thank you.

24 Mr. Thayer or Mr. Fossum, could you please
25 clarify for my benefit whether or not Chevron has been

1 operating the Long Wharf illegally and what the status of
2 the \$5 million is and our ability to get that money into
3 the State General Fund.

4 EXECUTIVE OFFICER THAYER: I'll let Curtis talk
5 about the legality of it.

6 But Chevron has continued to pay rent, but it was
7 at the old lower rate. And we've taken a position when
8 the prior lease expired, that they would owe rent when
9 that was eventually determined by the Commission what that
10 rent should be. And so the back payment that's occurring
11 is not of all rent, but just the increment that the
12 Commission is now approving on a partly-go-forward basis.
13 We've done an additional appraisal when the rent -- when
14 the lease expired, and the back rent is to reflect the
15 difference between what they've been paying year in and
16 year out since the lease expired and the higher rate that
17 that appraisal indicated.

18 Now, in terms of the legality of it.

19 CHIEF COUNSEL FOSSUM: Basically, since the lease
20 expired they've been in a holdover status and paying rent
21 based on -- as Paul said, based on the old rent rate.
22 Staff has negotiated the higher rent rate for the interim
23 period, and that's where the 5 actually -- if you go to
24 the current date, it would be almost \$7.5 million in
25 additional rent that the State will be obtaining to this

1 point in time.

2 As to the legality of it, we have a number of
3 leases that are in holdover status while we're negotiating
4 with those parties. And that is a considered way of doing
5 business amongst real estate professionals. It's not what
6 we prefer. But when it's taken that long to actually
7 negotiate the terms of this holdover status, they're still
8 under the terms of the old lease as far as we're
9 concerned.

10 ACTING COMMISSIONER SHEEHY: Mr. Fossum, it's
11 been a number of years since the old lease expired. Has
12 Chevron been dilatory in their negotiations with the
13 State? Why has it taken so long?

14 CHIEF COUNSEL FOSSUM: I think there's been a
15 number of factors. I haven't been personally involved in
16 those negotiations. But from what I understand,
17 conducting the EIR took some time. Some of these issues
18 in negotiating with Chevron has taken time. And if you
19 want details on it, other members of the staff are more
20 familiar with it than I.

21 ACTING COMMISSIONER SHEEHY: And with respect to
22 the background, are they going to be paying interest?
23 From the calculation of what they owe us, does it include
24 the rent at the higher rate? Plus, are they paying
25 interest for those years where we would have had the

1 money?

2 EXECUTIVE OFFICER THAYER: No, it does not
3 include interest.

4 ACTING COMMISSIONER SHEEHY: Well, it seems like
5 a detail that, you know, it was overlooked. It could have
6 been in the benefit to the general public and the State of
7 California. I mean if they had been paying rent, we would
8 have had those funds. We would have been earning interest
9 in the pooled money investment account.

10 EXECUTIVE OFFICER THAYER: That's correct. And
11 we can certainly look to that in the future.

12 I would say that some of the delay, as I
13 indicated earlier, over at least the last year has been
14 staff's attempt to deal with the trail issue. So that it
15 was not the responsibility of Chevron. At that point, we
16 were looking for some way to resolve that issue.

17 So there's different -- there are a variety of
18 reasons why it's taken this long to get to today and
19 bringing it back to the Commission, some of which we could
20 say was Chevron's, but some of it was staff in terms of
21 trying to work on some of these issues.

22 ACTING COMMISSIONER SHEEHY: Thank you, Mr.
23 Thayer.

24 CHAIRPERSON CHIANG: Okay. Craig.

25 MR. MURRAY: Hello, Chair, Commissioners. I'm

1 Craig Murray, fourth generation Californian. Also
2 immediate past president of Local 21, about 7,000 members
3 in the Bay Area. And currently director of Las Gallinas
4 Valley Sanitary District. I took the day off today to
5 speak for folks that couldn't attend, and know this is
6 important for people.

7 I did submit a letter of support of the
8 mitigations. You should have that.

9 I just wanted to make a few points. In April 3rd
10 of 2008, BCDC did consider this item of a Bay Trail
11 connection on the Richmond-San Rafael Bridge. And one of
12 the items they sent back to CalTrans was this issue of the
13 eastern approach and approach from San Rafael. So this is
14 important for the State of California as well as Bay Area.

15 My professional work, I work in redevelopment.
16 And the State should feel that this is important, not just
17 in the Chevron location. But for the San Pablo Bay and
18 San Francisco Bay there are industrial areas that aren't
19 determined to being used as the highest and best use are
20 being put into redevelopment. There's new project areas
21 that the State has approved on the peninsula that had not
22 included just Point Molate but a terminal and a private
23 marina. So there's some redevelopment issues in making
24 sure that these properties are used in the highest and
25 best interests of the State of California and the people.

1 Again, I support the mitigations. And if you
2 have any questions, I'm available.

3 Thank you.

4 CHAIRPERSON CHIANG: Thank you very much.

5 Bill, welcome.

6 Then we have Bill, followed by Tony Suslak,
7 Stephen Clark, and Wende Heath.

8 MR. PINKHAM: Good morning, Chairman Chiang,
9 Commissioners. My name is Bill Pinkham and I've been a
10 Richmond resident for over 20 years. I'm on the Board of
11 Directors of the East Bay Bicycle Coalition and a member
12 of the Contra Costa County Bicycle Advisory Committee; the
13 Richmond Bicycle and Pedestrian Advisory Committee, which
14 is developing a citywide plan; and the Friends of the
15 Richmond Greenway. This is a group that is overseeing the
16 building of the Richmond Greenway, which is a new Class I
17 multi-use trail that goes through the center of Richmond.
18 It's about half finished. And the second stage will start
19 soon now that the bids are in. I'm happy to say they're
20 under budget.

21 The Richmond Greenway connects several important
22 regional trails. The western end starts at Garrard
23 Boulevard, which is part of the Bay Trail, and the eastern
24 terminus is at the junction of the end of the Ohlone
25 Greenway, which is a Class I trail that goes from El

1 Cerrito through Albany and Berkeley.

2 This spot is also the southern end of the I-80
3 bikeway, which is a Class II and sometimes III route that
4 goes all the way to the Rodeo Transit Center, which is an
5 important commuting nexus.

6 There are significant regional connections. But
7 unfortunately the Bay Trail ends before Chevron's Long
8 Wharf and does not connect with Garrard Boulevard except
9 by that travel on the I-80 freeway shoulder that you heard
10 a lot about today. Of course that kind a travel is legal
11 but highly undesirable.

12 I myself have ridden that stretch in order to get
13 to Point Molate. The very first time I went that way, I
14 didn't know about there's -- there is a path under the
15 freeway, which does not connect to the Bay Trail, but gets
16 you from one side of the freeway to the other. I didn't
17 know about it. And when I returned from Point Molate, I
18 emerged -- on Point Molate Road, I emerged in the middle
19 of the freeway with traffic going in both directions. I
20 hope nobody else makes that mistake.

21 Chevron has claimed in the past and has delayed
22 any action in the past because of security concerns or
23 going by the Long Wharf. This argument is specious. The
24 real danger is from the sea. Speaking as a sea kayaker
25 who's paddled in that area, I know anybody could sneak up

1 to the wharf or any ship moored there and surreptitiously
2 wreak havoc. A fast motor boat would be even more
3 effective. The damage would be done before anybody could
4 stop it.

5 However, a trail could be monitored by camera,
6 fenced in as you've heard, and patrolled by security. In
7 fact, users of the trail would put more eyes on anyone
8 attempting to do any sabotage. In other words the trail
9 would enhance security.

10 Please, make Chevron pay for this mitigation.

11 Thank you.

12 CHAIRPERSON CHIANG: Thank you, Bill.

13 COMMISSIONER GARAMENDI: Mr. Chairman, may I?

14 CHAIRPERSON CHIANG: Yes.

15 COMMISSIONER GARAMENDI: We've heard a lot of
16 testimony here and a lot of passing responsibility back
17 and forth among multiple parties. There is a solution to
18 this problem.

19 The location of the trail was really the more
20 difficult problem. That's been resolved, if not in its
21 precise location, at least in its approximate location.
22 The issues of security are very real. I think that they
23 need to be addressed. And as to whether it's a kayak or a
24 speed boat or it's a car that stops on the freeway and
25 lobs something over a railing, not even a fence, but over

1 a railing onto the pipes is another question. But, yes,
2 there are security issues here.

3 Clearly, in my view, CalTrans needs a very swift
4 kick to get in gear. They have vast sums of money. They
5 should be participating in a serious way in solving the
6 problem that is very real and very much theirs.

7 The regional park district has responsibility.
8 They have money. The community has money. There was some
9 \$60 million in the community fund that is available to the
10 community.

11 Now, why all these parties can't get together and
12 do a little, what is known as, a stone soup solution here,
13 that is, everybody participating and adding a little bit
14 to the kettle and get the soup done, I don't know. Other
15 than perhaps not having sufficient motivation. Another
16 lawsuit ought to be a motivation to CalTrans. And
17 certainly the community pressure, which we're seeing here
18 today, ought to be a motivation to both Richmond and to
19 the Park District. And the new Assemblywoman, who I don't
20 know if she's still here or not, but she's certainly
21 capable of motivating people, and so are we.

22 Now, let's get this lease done. I think Chevron
23 ought to be very clear about what their participation is.
24 And I think they're pondering, at this moment, what their
25 participation should be.

1 I think there's also another issue that really
2 hasn't been discussed, and that's access on the public
3 lands. It was discussed with regard to kayaking. But it
4 really hasn't been discussed with regard to the area
5 between the high tide and the low tide. As near as I can
6 tell, that access is severely restricted. In fact, it's
7 nonexistent.

8 It hasn't been discussed, but it certainly is in
9 Malibu, day after day after day in Malibu. It seems to me
10 to be applicable here also.

11 So there are a lot of reasons to get this done.
12 We're not talking about a great sum of money - 10 million,
13 maybe a few million more, to complete this trail. Perhaps
14 this can be resolved today, perhaps it can't. But it
15 surely ought to be resolved in a big hurry.

16 Tom, you have some influence on this from your
17 perspective in the Department of Finance. I'd ask you to
18 do your magic there. We're going to do our magic here.
19 And if this lease is going to be resolved, then Chevron's
20 going to have to make some very serious and firm
21 commitments, and money's part of it.

22 John, I don't know how much more time we're going
23 to take in this hearing, but at least one party is at
24 play, that is, Chevron. And maybe they can find a number
25 that solves their problem.

1 And we have a few more witnesses.

2 CHAIRPERSON CHIANG: Four.

3 COMMISSIONER GARAMENDI: Four?

4 And this is our last item on the agenda?

5 EXECUTIVE OFFICER THAYER: It is. But we still
6 have a closed session that would probably take somewhere
7 between 10 minutes and 30 minutes.

8 COMMISSIONER GARAMENDI: Why don't we hear from
9 the witnesses and let Chevron do its work. And maybe -- I
10 don't know. CalTrans isn't here unfortunately. But I
11 understand they're having meetings at this moment.

12 There's a four-party meeting going on at this
13 time to see if there's some resolution. I'd sure like to
14 know what they're up to.

15 So, Brian, why don't you find out what they're up
16 to, wherever they happen to be.

17 Excuse me for interrupting, but I'd like to get
18 this one resolved.

19 CHAIRPERSON CHIANG: Well, very good. I
20 appreciate it.

21 Tony.

22 MR. SUSLAK: Hello, Mr. Chairman. Hello,
23 Commissioners. Tony Suslak of Richmond.

24 Most of what I would have hoped for has already
25 been said. And of course we obviously agree with the City

1 of Richmond's position. And what Lieutenant Governor
2 Garamendi just said, that covers a whole swath. Because I
3 think the most important thing that we could ask you to do
4 today is to use your powers of moral suasion and the fact
5 that you do hold positions of influence and power in the
6 State of California. And that might carry a little bit of
7 sway. And as Mr. Garamendi just pointed out, we're not
8 that far away perhaps from coming to this. And
9 particularly the thing, as you've just now discussed, that
10 other people have is the safety issue. And it's pretty
11 clear that perhaps even having some more eyes, I don't
12 think anybody's going to be rolling a bomb up that pathway
13 in a wheelbarrow. They're going to use some other
14 strategy than that.

15 People are crazy enough, for sure. But certainly
16 the main thrust is not going to be in that direction.

17 And of course, Lieutenant Governor Garamendi, it
18 was the last time -- I was at one meeting where, talking
19 about people being harassed, there was somebody walking
20 around with crutches after having some close encounter on
21 some ski slopes or something.

22 (Laughter.)

23 MS. SUSLAK: Well, have a good afternoon.

24 Bye-bye.

25 CHAIRPERSON CHIANG: Thank you, Tony.

1 We have Stephen Clark, Wende Heath, and Fraser
2 Felter.

3 MR. CLARK: Good morning. My name is Stephen
4 Clark, and I live right here --

5 (Laughter.)

6 MR. CLARK: -- which is past Point Molate. It's
7 called Point San Pablo Yacht Harbor. And we are
8 surrounded -- completely surrounded by Chevron.

9 I actually have a little map here. I don't know
10 if you can see it. The pink is Chevron.

11 Here, there's one for each one.

12 CHAIRPERSON CHIANG: And you're from --

13 MR. CLARK: It shows that we are this little tiny
14 pink area -- or green area surrounded by Chevron.

15 So we've formed -- which this brochure states, we
16 formed what's called the Point San Pablo Preservation
17 Society. And all of us there are directly affected by
18 this Highway 580, where we have to go over to Point
19 Richmond to do grocery shopping. We can't get there other
20 than going on 580.

21 And we would like to support both the City of
22 Richmond and TRAC's efforts to require Chevron to, you
23 know, help build this so that we, as residents of that
24 particular area, can get to and from Port Richmond.

25 The second thing I'd like to say is, if you can

1 see on that map, the Bay Trail proposal is to come out
2 through Terminal 4. We're also going to be supporting the
3 efforts for the Bay Trail to go past Terminal 4 through
4 Chevron and over to Point San Pablo Yacht Harbor, and then
5 provide a ferry service, which we'll probably provide to
6 go over to Point Pinole National Park, which would be a
7 great extension. That'd be a terrific increase in the Bay
8 Trails.

9 So I hope you take our little brochure and read
10 it. And we would just like to let you know that we
11 totally support the City of Richmond and TRAC's efforts.

12 CHAIRPERSON CHIANG: Thanks for being here.

13 Wende.

14 MS. HEATH: Hi. My name is Wende Heath. I'm an
15 arts commissioner for the City of Richmond. And I also
16 live in that little teeny-weeny village of Point San Pablo
17 Yacht Harbor.

18 And I've been there 17 years, and I have to say
19 that nobody's treated that land very well, not Chevron;
20 not the Navy; and not really even the City of Richmond,
21 who's closed some parks there.

22 But it's a new day. And we have a new president
23 who thinks more broadly about these things. We have a new
24 green mayor. And as you can see, we've just become a
25 little tiny nonprofit in order to help support that area.

1 I too went on that freeway in one horrifying ride
2 on my bicycle and will never do it again.

3 What I'm concerned about as an art commissioner
4 is the beauty of the City of Richmond. It's probably not
5 nationally known as the most beautiful city in the world.
6 But it does have one of the most beautiful coastlines,
7 that we see daily - I see daily. I can walk -- you know,
8 when I go to work, I get to see Mt. Tam, I get to see the
9 coastline. I know how to sneak into the park, because we
10 know every inch of it.

11 What I would like is for you to help us get the
12 City of Richmond and the people of Richmond, who don't
13 even know about this area, because they can't get there.
14 There is really no place for them to be, because most
15 everything is locked up unless you know the secret ways.
16 And Chevron has been very careful, because of all the
17 threats, to keep us out.

18 So I would just like us all to think of ourselves
19 as the stewards of the land. I feel like a steward every
20 time I go by. But you are the big stewards. And what we
21 really want to do with all of this, bicycle, whatever,
22 whatever, is to get the people back to the land where they
23 could actually use all the areas there, because it's truly
24 a gorgeous place.

25 So thank you. And I hope that you will support

1 the mitigation.

2 CHAIRPERSON CHIANG: Thank you, Wende.

3 Fraser.

4 MR. FELTER: Good afternoon. My name is Fraser
5 Felter and I'm a resident of west Contra Costa.

6 I came with prepared statements. But at this
7 point, I would like to commend Lieutenant Governor
8 Garamendi for his statements. As they say, out of the mud
9 grows the lily. And anything I had to say here would just
10 guild the lily.

11 Thank you very much again. I look forward to
12 progress on this one.

13 (Laughter.)

14 CHAIRPERSON CHIANG: Very good. Thank you.

15 Do you have a comment?

16 ACTING COMMISSIONER SHEEHY: I'm just glad the
17 witness wasn't slinging any mud, Mr. Chairman.

18 (Laughter.)

19 COMMISSIONER GARAMENDI: If I might, Mr.
20 Chairman. We have -- I've got some issues that are in
21 play. And it just seems to me that we've got about a 10
22 to, I don't know, maybe \$12 million project here. And
23 normally none of us would waste a whole lot of our time on
24 a project that's this because there's not enough zeros.
25 But this is an important one for a variety of reasons.

1 By my calculations, Chevron is providing an
2 easement, which is of some value; great or small, we'll
3 let others determine. They're also committed to a \$2
4 million upgrade of an existing -- of a trail that would
5 otherwise not have security.

6 CalTrans has a major role in this thing. I mean
7 they are at serious risk for reasons that we heard earlier
8 today. And every moment from this moment on they're at
9 serious risk. So they have a role in this.

10 They also -- there's also money for bike trails
11 in CalTrans' budgets. And I don't know exactly what it
12 is. I haven't followed it closely. I haven't followed it
13 at all for several years. But there is money in CalTrans'
14 budget for bike trails and there is an appropriations
15 processes for that.

16 The bond money is also available. The park
17 district has a new bond out, WW, which I assume is not the
18 first two letters of some website.

19 And then the City has some money that is
20 available to the City for mitigation on the hydrogen
21 project.

22 It seems to me that from those four sources, and
23 quite possibly there may be others that I'm unaware of,
24 that 12 million can be found for this project. If, for
25 example, Chevron were to increase their amount, perhaps by

1 doubling it, and CalTrans were to come in with a similar
2 amount, and the City and the Park District were to come in
3 with half of what either of the two of those would do,
4 you'd have \$12 million. And you'd have a project that
5 could be constructed, I suppose, in a very quick period of
6 time since a lot of the EIR has already been done, and may
7 not even be required. I suppose it may be necessary.

8 So, perhaps Chevron should consider increasing.
9 I've got a call in to Will Kempton at CalTrans and saying,
10 "Will, do you want this thing solved or do you want to
11 continue on with a headache that I'll give you, and I'm
12 sure others will too."

13 And for the Park District, I'm afraid our
14 Assemblywoman is no longer in a position to commit the
15 Park District directly.

16 And the City is here. So, Mayor, how much are
17 you willing to contribute to this stone soup solution?

18 Two million?

19 Well, somebody was speaking for the whole city
20 council earlier this time around.

21 Let's give it some consideration. In the
22 meantime, while all of you are pondering a solution that
23 might actually get concluded here in this meeting, maybe
24 we ought to take a break and maybe go to our private
25 session, while others are pondering it. And then we'll

1 come back. Maybe it gets resolved and maybe it doesn't
2 get resolved.

3 There are a couple of other issues, however, that
4 I think we ought to really take hold of. And this comes
5 from the City of Richmond's letter, and it has to do with
6 air emissions, which are very real issues, and
7 specifically the issue of cold ironing, which I'm
8 particularly interested in.

9 The cold ironing issue is one that all ports are
10 going to be dealing with in the State of California. I
11 think it's really an issue that the Air Board and the port
12 districts are taking up. It's something that I'm sure
13 Chevron ought to be participating in.

14 So I'd like to have some discussion of whether we
15 can deal with the cold ironing issue or whether that's
16 beyond our jurisdiction.

17 CHAIRPERSON CHIANG: Okay. We'll take a
18 five-minute break.

19 EXECUTIVE OFFICER THAYER: We have one sign-up
20 that I see, perhaps two, for the public comment period at
21 the end. So that's something else that we'd be able to
22 just look into.

23 (Thereupon a recess was taken.)

24 COMMISSIONER GARAMENDI: We're going to go to the
25 public comment portion. We're going to hold in abeyance

1 the current issue. Take up public comment and we'll see
2 where we are at the end of the public comment.

3 So moving onto the public comment period on
4 whatever the public wants to comment on.

5 And we have a couple of folks that have signed up
6 to do so.

7 EXECUTIVE OFFICER THAYER: That might be John
8 Asuncion.

9 ACTING CHAIRPERSON MANDEL: Yes it is.

10 MR. ASUNCION: Good morning.

11 COMMISSIONER GARAMENDI: Very good. This must
12 have something to do with a yacht club.

13 MR. ASUNCION: Yes, morning. I'm John Asuncion,
14 and I'm the President and Founder of the Blue Whale
15 Sailing School. We're a charitable educational
16 corporation here in the state. We're in our 15th year.
17 And we own some property. Myself and I bought some
18 property -- my wife and I, I should say, bought some
19 property in the south bay on the Alviso Slough and donated
20 it to our educational corporation.

21 We have some neighbors -- Paul Thayer brought
22 that up with the South Bay Yacht Club. And I'd like to
23 give these photographs to our Lieutenant Governor and the
24 Commission showing the facility of the South Bay Yacht
25 Club. We know they're trying to clean up the place, and

1 they're not doing a very good job. We just removed a
2 large trawler from the Alviso Slough. And this particular
3 boat was 42 feet long. And I personally paid \$63,000 of
4 my own money to remove it, because none of the agencies
5 would step up.

6 At this time, we've removed approximately close
7 to 70 tons of garbage out of the south bay, this last week
8 with all our volunteers. And we have a whole group of
9 volunteers, from doctors, attorneys, engineers, designers,
10 contractors that support the foundation. And we just had
11 Starbucks jump on board and is going to have 150 of their
12 general managers assist the foundation in picking up an
13 area probably three and a half miles long and 80 feet wide
14 of garbage that you cannot help stepping on when you're
15 walking along the wetlands.

16 I know the criteria right now is what's happening
17 in the north bay and Point Richmond and Richmond with this
18 refinery. But I hope the Commission looks more in detail
19 at what has been taking place in Silicon Valley. I
20 stepped up to the plate, my wife has stepped up to the
21 plate and used our personal money, not the foundation's,
22 and done the right thing as the caretaker of the south
23 bay.

24 And the boats that we removed and the trash that
25 continues to go on -- and I'm hoping the South Bay Yacht

1 Club steps up and does their job. But what we've seen in
2 the last month and a half, it hasn't been going on.
3 They've had some problems with their contractor. And now
4 he's abandoned the job. For the second time we've had to
5 go out and retrieve boats.

6 On another item I think is very important, the
7 public access through State lands that the yacht club sits
8 on. There's been no public access. I, as a private
9 individual, and a taxpayer of this great state, had
10 provided public access to the University of Berkeley,
11 Stanford, Santa Clara University, San Jose State, UC
12 Davis, the Department of Interior, because there's been no
13 public access. And the yacht club under their lease has
14 denied public access. Right now, this coming Monday, I'll
15 be meeting with the City of San Jose because I'm giving
16 public access and giving them a deed to public access
17 across our property.

18 So, again, the general public and the taxpayers
19 have to stand up and do the right thing. We put the
20 Commission -- and I applaud the State Lands' office. I've
21 always respected their staff and everything. But we have
22 to do the right thing. And if the yacht club can't clean
23 it up, I'll pay for the clean-up. I'll step forward. I
24 have the equipment. I have the knowledge. I have the
25 background to do this. As a retired golf course architect

1 and a landscape architect, I have the know-how, and my
2 son, that has our corporation and runs our business now,
3 we have every piece of equipment. I'll provide getting
4 the permits and everything to do this job.

5 Because the most important thing is public access
6 on the Trust that it states in the brochure. It's our
7 lands. It's everybody's property right here.

8 So I haven't attended the last few meetings,
9 because I'm the fella that stepped forward and I was
10 beaten. I was attacked by the yacht club. I was in the
11 hospital. I have brain problems with my skull because of
12 this, okay, because I stood up and blew the whistle and
13 said, "Clean this mess up." And those photographs have
14 been taken some months ago. But the photographs that we
15 have now are appalling for what has been going on.

16 COMMISSIONER GARAMENDI: A question. You said
17 you would clean it up. You would take over the lease if
18 there were to be a new lease?

19 MR. ASUNCION: No, I don't need the lease. I'll
20 clean it up, if one condition -- and I proposed that to
21 them seven years ago. All I want out of it is the public
22 access through the State property, that it should have
23 been taken care of under the years with this lease with
24 the yacht club. And they have not performed. They've
25 intimidated people, myself. Okay? Intimidated my wife,

1 stalked our handicapped students, you know. This isn't
2 the first time that this has gone on over the years. This
3 is a continuing problem as long as you've had the South
4 Bay Yacht Club.

5 So to answer the Lieutenant Governor's question,
6 I don't want the lease. What we need to do is get public
7 access back in there. And I have a group of gentlemen
8 that are tugboat operators, crane operators, that will all
9 donate their time to the foundation. And let's get this
10 place cleaned up.

11 This has been going on for eight years and
12 there's a little bit of progress.

13 ACTING COMMISSIONER SHEEHY: Thank you for your
14 testimony.

15 Perhaps you or staff could clarify. Is there a
16 specific action that you're asking the State Lands
17 Commission to take in this matter? Are you saying --
18 you're calling it to our attention. I understand there's
19 a Public Trust Doctrine issue here that you're raising.
20 But beyond that are you looking for some sort of official
21 action by the Commission?

22 MR. ASUNCION: Well, I've asked them some years
23 when Cruz Bustamante was in office, and Steve Westly. And
24 they'd been working diligently. I know Mr. Thayer here
25 and his staff has been working diligently to try to

1 correct it. But there's been nobody to monitor this
2 disaster that what has been going on with the oils and,
3 you know, the beavers and the sea otters being polluted
4 and killed.

5 ACTING COMMISSIONER SHEEHY: I'd like to hear
6 from Mr. Thayer. Could you comment on what, if any,
7 direct role there is for the State Lands Commission to
8 play in this matter.

9 EXECUTIVE OFFICER THAYER: It is the role that
10 I've described in the opening under the Executive
11 Officer's report, which is that we're -- you know, we
12 agree with Mr. Asuncion that the yacht club operation
13 needs to be cleaned up, and steps are being taken. The
14 Commission directed staff to pursue this a year ago, and
15 we're continuing to do this.

16 The permits are difficult to come by, as we've
17 described. And we tried to facilitate, to act as a
18 go-between between the yacht club and BCDC and Department
19 of Fish and Game, both of whom have to provide these
20 permits. And we think they're moving in the right
21 direction at this point.

22 ACTING COMMISSIONER SHEEHY: So we are acting on
23 this matter?

24 EXECUTIVE OFFICER THAYER: Absolutely.

25 ACTING COMMISSIONER SHEEHY: Okay. Was there

1 anything more that you wanted to add?

2 MR. ASUNCION: Yeah, I just wanted to add one
3 more thing, is -- you know, I appreciate Mr. Thayer's
4 comment. But he's not down there. And our volunteers and
5 my staff are there every day, you know, picking up debris
6 with all our volunteers over the years. And, you know,
7 this last week alone with the sunken boats and the
8 discharging of material, it's a hazard -- navigational
9 hazard. And this large trawler, I mean it sat there. You
10 know, it was abandoned by the yacht club commodore, Roger
11 Dillinger. Okay? And I feel that the yacht club cannot
12 be trusted. I've had to take them into State court. I
13 have them in Superior Court. You know, we're looking at
14 hopefully 90 to 120 days, then we'll go to trial on this
15 matter. It's a public nuisance.

16 The Santa Clara Valley Water District, their
17 representative, Beau Goldie, told me last week before the
18 holidays that the Santa Clara Valley Water District has
19 put the yacht club on notice. They're going to -- because
20 they just signed a lease with the yacht club and they've
21 not performed.

22 And so it continues to go on unmonitored, and the
23 pollution constantly going on.

24 You know, thank you for your time.

25 ACTING COMMISSIONER SHEEHY: Well, Mr. Asuncion,

1 thank you so much for coming today and addressing the
2 Commission. I do have confidence, and the State Lands
3 Commission staff is acting on this. And please feel free
4 to come back to our next meeting and you can give us an
5 update from your perspective. We appreciate hearing from
6 you today.

7 MR. ASUNCION: Okay. Thank you very much.

8 ACTING COMMISSIONER SHEEHY: Do we have the next
9 speaker?

10 COMMISSIONER GARAMENDI: It was very clear to me
11 what it is you would like to have, which is public access.

12 MR. ASUNCION: That's right.

13 COMMISSIONER GARAMENDI: And you're willing to
14 put a lot into solving the problem to get that.

15 MR. ASUNCION: Yes.

16 COMMISSIONER GARAMENDI: We'll see if we can make
17 that happen.

18 MR. ASUNCION: Okay. Thank you, sir.

19 COMMISSIONER GARAMENDI: Anybody else on public
20 comment?

21 Then we're going to go to a closed session of
22 this Commission. And we will, following the closed
23 session, return to the Long Wharf issue.

24 COMMISSIONER GARAMENDI: Shall we do it here?

25 EXECUTIVE OFFICER THAYER: I think so.

1 COMMISSIONER GARAMENDI: Okay. We'll do the
2 closed session here. So if you would all like to take --
3 this is going to take us at least a half hour. Okay?

4 So we'll come back at 1 o'clock. Those of you
5 that remain interested in the Long Wharf, we will return
6 at 1 o'clock to that issue.

7 (Thereupon the meeting recessed
8 into closed session.)

9 COMMISSIONER GARAMENDI: The Commission is ready
10 to resume the public session dealing with the Chevron Long
11 Wharf issue.

12 A couple of things. I was looking at the map.
13 And I raised the question earlier about the public access.
14 Somewhere along the line -- it doesn't look like Lake
15 Tahoe, but it kind of reminded me of an issue that we've
16 been dealing with at Tahoe, which is access along the
17 public land that appears in the Tahoe basin in Lake Tahoe
18 have made it impossible for the public to traverse their
19 land.

20 In looking at this Long Wharf, I see a pier that
21 is making it impossible for the public to traverse their
22 land.

23 I don't know what the similarity -- I see a
24 visual similarity, perhaps a physical similarity to Tahoe.
25 And I'm curious as to what it means in the context of this

1 lease and the issues surrounding the lease.

2 Also, there's -- I've discussed this publicly and
3 I want to come back to it. The ability of the public to
4 traverse its land between the high water and the low
5 water, the high tide and the low tide line is compensated
6 by the bike trail or the Bay Trail, whatever we want to
7 call it, and so it is a substitute for that.

8 Now, we got to build it before it exists as a
9 substitute. We had discussions here. I think CalTrans
10 has a significant role to play, and I think they will play
11 a significant role. I think the Park District WW
12 proposition has money that can play a role in building
13 this trail. And Chevron has already indicated a
14 willingness to participate to an extent that I think is
15 insufficient, but has at least some skin in the game. And
16 I think the City of Richmond also has a role to play here.

17 It appears to me, at this moment, that it's not
18 yet firm the level of the roles that are to be played by
19 all of those four players. And maybe there's a fifth one
20 that I haven't yet identified. But if they're out there,
21 I'll find them and let them participate too.

22 I think more time's going to be needed to put
23 this deal together. And I understand commencing soon
24 there's discussions going on somewhere in the Bay Area
25 among at least three of the parties. And I think that's

1 important that they be given an opportunity to fully
2 discuss. They now know my thoughts on this.

3 I'm recommending to my colleague that we take
4 this up at the next hearing for the purposes of hearing if
5 there's a -- learning if there's a resolution to how this
6 trail is going to be financed and having a more complete
7 discussion about the public access between the high
8 water -- the high-tide and the low-tide line along the bay
9 shore. Okay?

10 Our next meeting will be, as I understand it, an
11 informational meeting towards the earliest days of
12 January, and followed by a full board meeting in --
13 presently scheduled January 29th, subject to modification.
14 But that's where we are, January 29th. So we would
15 schedule this for the January 29th meeting, which will
16 take place unfortunately far from the Bay Area. I believe
17 it's currently scheduled in the Santa Barbara area.

18 My apologies for those of you that would like to
19 attend. But there is Highway 1, which is equally
20 dangerous. You can cycle down if you'd like.

21 (Laughter.)

22 COMMISSIONER GARAMENDI: That being the last item
23 of business that we have, this issue is now scheduled for
24 January 29th.

25 ACTING CHAIRPERSON MANDEL: The Controller's fine

1 with that.

2 COMMISSIONER GARAMENDI: Okay. Very good.

3 EXECUTIVE OFFICER THAYER: Thank you.

4 COMMISSIONER GARAMENDI: I believe we've covered
5 all the business, and this meeting's adjourned.

6 Thank you.

7 (Thereupon the State Lands Commission
8 meeting adjourned at 1:33 p.m.)

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1 CERTIFICATE OF REPORTER

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

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

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

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 8th day of December, 2008.

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