

MEETING
STATE OF CALIFORNIA
LANDS COMMISSION

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SACRAMENTO, CALIFORNIA

TUESDAY, APRIL 6, 2010
9:30 A.M.

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

BOARD MEMBERS

Mr. John Chiang, State Controller, Chairperson,
represented by Ms. Cindy Aronberg

Ms. Mona Pasquil, Acting Lieutenant Governor

Ms. Ana J. Matosantos, Director of Finance, represented by
Ms. Cynthia Bryant

STAFF

Mr. Paul Thayer, Executive Officer

Mr. Curtis Fossum, Chief Counsel

Mr. Colin Connor, Assistant Chief, Land Management
Division

Mr. Mario De Bernardo, Legislative Liaison

Ms. Mary Hays, Public Land Manager

Ms. Kimberly Lunetta, Executive Assistant

ATTORNEY GENERAL'S OFFICE

Mr. Joe Rusconi, Deputy Attorney General

ALSO PRESENT

Mr. Martin Adams, Los Angeles Department of Water and
Power

Mr. Cruz Bustamante, National City

Mr. Gary Baker, TAIT Environmental

Mr. John Osborn, River Landing Home Owners Association

Mr. Kip Skidmore, Riverbank Marina

Mr. Dave Walker,

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PROCEEDINGS

ACTING CHAIRPERSON ARONBERG: Good morning. I call this meeting of the State Lands Commission to order. All of the representatives of the Commission are present. I'm Cindy Aronberg, Deputy to State Controller John Chiang. And I'm joined today by Mona Pasquil, the Acting Lieutenant Governor, and Cynthia Bryant, who represents the Department of Finance.

For the benefit of those in the audience, the State Lands Commission administers properties owned by the State, as well as its mineral interests. Today, we will hear proposals concerning the leasing and management of these public properties. The first item of business will be the adoption of the minutes from the Commission's last meeting.

May I have a motion.

COMMISSIONER PASQUIL: So moved.

ACTING COMMISSIONER BRYANT: Second.

ACTING CHAIRPERSON ARONBERG: All in favor?

(Ayes.)

ACTING CHAIRPERSON ARONBERG: The motion passes.

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

Mr. Thayer, may we have your report.

EXECUTIVE OFFICER THAYER: Good morning, Madam

1 Chair and members of the Commission. I just have two
2 things that I wanted to cover. The first is the usual
3 reiteration of where we are on some of the enforcement
4 actions that the Commission has authorized.

5 With respect to the Blue Whale Sailing School,
6 which is led by John Asuncion, the court has found that
7 the school is in default, and has not yet entered a
8 judgment though. And once that happens, we'll be able to
9 move to taking corrective action.

10 The Spirit of Sacramento, this has to do with a
11 boat that is anchored, now sunk, on the Sacramento River
12 just south of town here in Sacramento. We've been unable
13 to reach or unable to get the defendant, Mr. Barker's
14 attorney, to enter into discussions for resolution. And
15 so, at this point, we've served the defendants with
16 interrogatories and the Attorney General's office is
17 preparing further discovery. And staff is preparing
18 papers for a motion for partial summary judgment.

19 With respect to Lance Bishop and John Soto, this
20 is the fallout from the Jeanne Taylor incident, where she
21 had the floating home and sold it to Lance Bishop, who
22 parked it next to John Soto's property in one of the
23 sloughs in the Delta.

24 He informed staff that he would move the vessel
25 last week from its present location to a marina, and

1 presumably hopefully a marina that's not on Public Trust
2 Lands, because again it would not be an authorized use of
3 Public Trust property.

4 However, he didn't tell us which marina he was
5 going to. And he said the same thing to the Army Corps.
6 And, as of last week, the vessel had not been moved. If
7 it hasn't been moved by Friday, then the Attorney
8 General's office will be filing trespass litigation.
9 We'll see.

10 On the fence situation at Lake Tahoe, I'm not
11 sure if we've discussed this with you before. This has to
12 do with some of the harassment that some of the property
13 owners clear on the north side of Lake Tahoe right next to
14 the Nevada boundary had been inflicting on the public who
15 were lawfully using the beach along Lake Tahoe there and
16 in front of these properties.

17 The Commission authorized staff to seek a
18 restraining order or some such thing to stop that
19 activity. The staff has been working to obtain an
20 enforceable settlement from the property owners, and has
21 been successful with the DeSautels. And, in fact, the
22 fence, which had been one of the issues -- a fence had
23 gone up there without appropriate permits. It's now
24 been -- staff arranged for the contractor to have that
25 taken down.

1 And the DeSautels have entered into one of these
2 agreements, which we think gives the Commission much
3 better legal basis, should more harassment occur, to stop
4 that. And we're now entering into negotiations with the
5 other property owner that's similarly situated. So
6 there's definitely good progress there.

7 And finally, another derelict vessel, the San
8 Diego, which I believe is currently at Horseshoe Bend at
9 Decker Island in the Delta. We're working with a number
10 of different parties to get rid of that vessel. And the
11 City of Antioch is a partner in this. And currently,
12 we're exploring options to have that vessel salvaged.

13 And hopefully, the result will be the owner, who
14 doesn't have any real use of it anymore, will be
15 interested in doing this, because, if we can make the
16 right arrangements, the salvager will take the value of
17 the material that's taken off that in payment for doing
18 the work. And again, we'll report back to you on whether
19 that's successful or not.

20 So unless there are any questions, that's this
21 meeting's enforcement discussion.

22 And then the only other item is to affirm that
23 our intention is to have -- to schedule another hearing in
24 June. The usual program of every two months having a
25 meeting, and that Kim will be talking to your offices

1 starting tomorrow to try and set up something. And that
2 concludes the Executive Officer's report, unless you have
3 any questions.

4 ACTING CHAIRPERSON ARONBERG: Any questions?

5 Thank you so much, Paul.

6 The next item of business is the consent
7 calendar. Paul, can you tell us what items have been
8 removed from the consent calendar.

9 EXECUTIVE OFFICER THAYER. There are three items
10 that will be removed. Number 15, which has to do with a
11 rec pier, and we'll probably be bringing that back at the
12 June meeting.

13 Number 28, this involves remediation of a former
14 military site in Marin. The CEQA documentation hasn't
15 been adopted yet by the Department of Toxic Substances
16 Control, so we couldn't hear it yet. Once they take that
17 action, we'll be able to hear it. And again, we hope to
18 do that in June.

19 And finally, there's a boundary line agreement
20 involving a property on Gallinas Creek in Marin, and
21 there's some continuing discussions with some of the
22 neighbors there that we want to resolve. We're also
23 interested in having the county move forward with its
24 approval of the agreement to settle some litigation,
25 respecting which this boundary line agreement is one of

1 the elements of the settlement.

2 So those three items have been taken off.

3 ACTING CHAIRPERSON ARONBERG: Thank you. So 15,
4 28, and 43 have been removed.

5 EXECUTIVE OFFICER THAYER: Yes.

6 CHAIRPERSON ARONBERG: Is there anyone in the
7 audience who wishes to speak on a consent calendar item
8 that still remains on that calendar?

9 Okay, seeing none. I actually have -- please.
10 Cynthia is looking like she has a question.

11 ACTING COMMISSIONER BRYANT: No.

12 ACTING CHAIRPERSON ARONBERG: Okay. I actually
13 have a question on one of the consent items, about Item
14 C49. I'd like to ask the representative from the Attorney
15 General's office about it.

16 My only question is, do we have any discretion or
17 are we required to approve this item?

18 DEPUTY ATTORNEY GENERAL RUSCONI: The way the
19 statutory scheme is set up, you're required to approve it.
20 You have no discretion in this area.

21 ACTING CHAIRPERSON ARONBERG: Thank you so much.
22 No questions?

23 The remaining group of consent items will be
24 taken up for a single vote. Let's proceed with the vote.

25 May I have a motion?

1 ACTING COMMISSIONER BRYANT: I'll move approval
2 of the consent calendar.

3 COMMISSIONER PASQUIL: Second.

4 ACTING CHAIRPERSON ARONBERG: All in favor?

5 (Ayes.)

6 ACTING CHAIRPERSON ARONBERG: The motion carries.

7 Moving on to the regular calendar. Under Item
8 52, we'll consider a lease adjacent to the Garden Highway
9 for a planned vessel fueling facility. May we have the
10 staff presentation, please?

11 EXECUTIVE OFFICER THAYER: Thank you, Madam
12 Chair. Mary Hays who is a Public Land Manager with our
13 Land Management Division will give the staff presentation

14 PUBLIC LAND MANAGER HAYS: Good morning. I'm not
15 sure if this is on.

16 Is it on?

17 Okay. Good morning, members of the Commission.
18 My name is Mary Hays, and I'm with the Land Management
19 Division. I'll be presenting the information on Calendar
20 Item 52.

21 (Thereupon an overhead presentation was
22 Presented as follows.)

23 PUBLIC LAND MANAGER HAYS: You have before you an
24 application to amend a 25-year general lease, commercial
25 use, issued to Riverbank Holding Company, LLC for the

1 Riverbank Marina. The lease was approved by the
2 Commission in 2002 and expires in 2027. The marina is
3 located on the Sacramento River just north of downtown
4 Sacramento.

5 The lease premises includes covered and uncovered
6 dock sections, with 159 berths, side-tie berthing for
7 approximately 40 to 50 boats, a restaurant with an
8 accommodation dock, two floating office units, a sewage
9 pump-out dock, two speed signs, and a debris deflector.

10 And you'll see on the screen, this is an overhead
11 of the Riverbank Marina.

12 Riverbank is now proposing to construct a marine
13 fueling facility with the fuel dock portion of the project
14 on the lease premises. The upland portion of the project
15 includes the installation of a double walled 6,000 gallon,
16 above-ground fuel storage tank, which is comprised of a
17 4,000-gallon gasoline compartment and a 2,000-gallon
18 diesel compartment.

19 The storage tank facility will be located on the
20 top of the Riverbank parking structure at grade with the
21 top of the levee.

22 --o0o--

23 PUBLIC LAND MANAGER HAYS: A fuel dispenser with
24 two fuel dispensing lines, one diesel and one gas are
25 proposed to be constructed on an existing floating dock on

1 the leased premises.

2 Two-inch welded steel fuel pipes will run under
3 an existing walkway platform from the storage tank
4 enclosure on the upland to the fuel dispenser on the
5 floating dock.

6 --o0o--

7 PUBLIC LAND MANAGER HAYS: This is a photo of the
8 walkway itself where the pipelines will come down. Both
9 the fuel storage tank on the upland and the fuel dispenser
10 are designed with several safety features.

11 --o0o--

12 PUBLIC LAND MANAGER HAYS: The store tank is
13 built with an inner-steel tank and a secondary outer-steel
14 tank, leak detection sensors, over-fill containment
15 chamber, and an automatic shut off if problems are
16 detected.

17 The tank will be installed in a six-foot high
18 concrete structure that will in turn be surrounded by up
19 to 16 four-inch concrete-filled steel crash posts.

20 --o0o--

21 PUBLIC LAND MANAGER HAYS: The storage tank will
22 include a monitoring system located in the harbor master's
23 office building. An OSHA approved safety protection
24 system will be used to mount the fuel piping and
25 electrical conduits to the underside of the walkway. The

1 fuel dispenser on the dock includes a containment sump at
2 the dispenser base and hose reels.

3 The dispenser, dispensing hardware, and
4 containment pedestal on the dock will be engineered and
5 constructed to be able to withstand the conditions of dock
6 movement, harsh rain -- harsh sun, rain, and wind.

7 The dispenser nozzle will have an automatic
8 closing device, and the fire department approved safety
9 signs will be posted at the dispenser area warning of no
10 smoking, shut your engine off, and electrical devices
11 before fueling.

12 Portable fire extinguishers on the docks are also
13 required by the fire department.

14 --o0o--

15 PUBLIC LAND MANAGER HAYS: The spill prevention
16 control and containment plans submitted with the
17 application provides for trained Riverbank personnel to
18 supervise the transfer of fuel to the storage tank on the
19 upland, in accordance with federal regulations. They are
20 to report any spills or releases to the appropriate
21 authorities, maintain sufficient absorbent booms and pads
22 for spills, and provide for spill response efforts by
23 trained personnel.

24 Riverbank began discussions with staff regarding
25 the installation of the fueling facility in 2007. And a

1 final amended application was received in November of
2 2009.

3 By that time, Riverbank had already obtained its
4 required permits for the facilities. Those included the
5 Central Valley Flood Protection Board, Reclamation
6 District 1000, the City of Sacramento, the Sacramento Fire
7 Department, the Corps, and the Sacramento Metropolitan Air
8 Quality Management District.

9 During this timeframe, staff was contacted by
10 residents of the River Landing Condominium Development,
11 located next door, and City Council Member Ray Tretheway's
12 office has some concerns about the safety aspects of the
13 above-ground storage tank, which would be located
14 approximately 90 feet from their homes.

15 --o0o--

16 PUBLIC LAND MANAGER HAYS: This is a photo of the
17 homes. The residents reported that it was their
18 understanding, based on prior communications with
19 Riverbank and their consultant, that the storage tank
20 would be relocated further from their homes than is now
21 proposed.

22 Although the upland portion of the project is not
23 part of the amendment application before you today, staff
24 took steps to contact the agencies who permitted the
25 project to determine if the location of the storage tank

1 was addressed in their review, and what, if any, safety
2 concerns were addressed during their approval process.

3 Staff contacted Reclamation District 1000 and the
4 Central Valley Flood Protection Board, the Corps, the
5 City, and the air quality district as well as the fire
6 department. It was reported to staff that the agencies
7 reviewed the plans with the upland storage tank in its
8 current proposed location, and approved the overall
9 project.

10 RD 1000, Central Valley Flood Protection Board,
11 and the Corps' concerns were centered primarily on the
12 potential damage to the levee should the tank explode;
13 water quality, if the tank failure occurred; constraints
14 to future levee maintenance projects; and any impacts to
15 flood fighting measures; and proper anchoring of the tank
16 in high water periods.

17 The air quality management district dealt
18 primarily with vapor recovery system and air emission
19 requirements, maintenance, and monitoring.

20 The Sacramento Fire Department reported that the
21 fuel storage tank, with secondary containment, complies
22 with California Fire Code, and that the location has
23 adequate access for the transfer vehicle to unload the
24 fuel, and the fire department's access in case of a spill.

25 It was also reported that the tank had been

1 ballistic tested, and the main source of a spill would be
2 operator error while refilling the tank.

3 The inner-tank is protected from heat and fire by
4 a porous insulation between the inner and outer tank. The
5 secondary containment would contain any spill from
6 spreading and the walled containment building would add
7 additional protection for a spreading spill.

8 Fire department approval is subject to an
9 inspection and installation -- inspection of the
10 installation and the operation of the storage tank and the
11 dispensing system upon their completion.

12 --o0o--

13 PUBLIC LAND MANAGER HAYS: In conclusion, staff
14 is recommending the Commission authorize the amendment of
15 lease PRC 6427.1 for the construction of a marine fuel
16 dispenser with one diesel fuel pipe and one gas pipe, a
17 containment sump at the dispenser base and hose reel, and
18 additional provisions, which include rent based on fuel
19 sales, revisions to the annual income report,
20 construction, spill prevention control and regulatory
21 compliance requirements, inclusion of marine best
22 management practices, and to revise the map to include the
23 location of the dispensing facilities.

24 Staff is available to answer any of your
25 questions. And I believe we may have representatives from

1 Riverbank as well as their consultant here.

2 Thank you.

3 ACTING CHAIRPERSON ARONBERG: Thank you so much
4 for the report. I see that we have three speaker cards
5 here, which is reminding me to let everyone in the
6 audience know that if you'd like to speak on any item
7 today, you may find this card that looks like this outside
8 the front door there. If you fill it out and return it to
9 Kim, who's sitting at the far right of the staff table
10 here, then we'll know that you want to speak and we'll
11 call on you.

12 In this order, I'm going to call these three
13 speakers. This is just the order that the cards were
14 given to me. John Osborn, Dave Walker, and Kip Skidmore.

15 So, Mr. Osborn, would you please come to the
16 podium and Dave Walker, you're on deck.

17 MR. OSBORN: Thank you. My name is John Osborn.
18 I live in 1405 Garden Highway, which is the unit that will
19 be the closest to where this field tank will be located.
20 I paced it off as best I could, given that there's a fence
21 and some shrubbery in the way, but it's about 20 paces
22 from my front door, which is more on the order of 60 feet.
23 I think I heard the number 90, but 60 feet give or take.

24 The unit that you saw pictured up there
25 previously is mine, the one that's on the very -- the very

1 left end. And that there's that little drive, and then
2 immediately to the left, you can't see it, but the very
3 next thing you would see is where that facility is going
4 to be located.

5 Obviously, my big concern is safety. I know that
6 6,000 gallons, I know from my days as an airline pilot, is
7 roughly 40,000 pounds of fuel. And you can fly a fully
8 loaded 737 from the west coast to the east coast and
9 probably half way back again on that amount of fuel, and
10 it's going to be sitting 60 feet away from my front door.
11 I don't know enough about what this fuel would do in this
12 facility if it were ignited, but obviously, I'd be very
13 concerned.

14 I also know from my airline experience that you
15 never see fuel tank facilities at an airport located next
16 to the terminal. So if this is so safe, why do they
17 always put those facilities as far away from people as
18 they possibly can.

19 Also, this is going to have a big impact, I would
20 think, on our property values, if somebody coming to look
21 at my house would see that facility sitting directly
22 across the street.

23 The only other thing I would argue for is if
24 we're going to be stuck with it, can we at least make it
25 pleasingly appearance -- appearing or bury it, so that we

1 don't have it sitting there, this big monstrosity right
2 next to our house.

3 And I guess the only other question I would ask
4 is would you personally want to live next door to this
5 thing. So those are my comments.

6 Thank you very much.

7 ACTING CHAIRPERSON ARONBERG: Thank you for your
8 comments.

9 I think we'll raise those questions that you ask
10 once we get to the end of the speakers.

11 MR. WALKER: Hi. Good morning to you.

12 ACTING CHAIRPERSON ARONBERG: Hi. Will you
13 please --

14 MR. WALKER: I'm Dave Walker, and I'm also a
15 resident of roughly the middle unit in this townhome
16 project, so we can eyeball this proposed fuel tank storage
17 facility as well. We're not opposed to the dispersal
18 site, but we are opposed to the location of this, what we
19 think is a, fairly sizable fuel tank.

20 And in spite of reassurances that it is safe and
21 that it is ballistic proof and has containment walls
22 should there be a spill, should that not work -- and the
23 best laid plans, as we know, can go awry at times -- but
24 should that occur, much of that fuel would flow underneath
25 those townhomes to a parking facility that is beneath the

1 townhomes, and should that catch fire, you can see the
2 possible disastrous consequences of that.

3 Well, you talk with the marina, and there was a
4 suggestion, nothing ever formally written to move this
5 facility to the east, to nearer some of the office
6 buildings, which are east of those townhomes, and not so
7 close to residential properties. There was sort of tacit
8 agreement, but I think that was later abrogated when it
9 was concluded that it would be too expensive, for some
10 reason, to locate this fuel tank facility further to the
11 east because of the fuel lines themselves, or whatever
12 reasons there were.

13 And the other question I may have, if that's not
14 possible, is to, if you could possibly, bury this somehow
15 underneath -- so it weren't so ungainly looking. And we
16 also have objections to if this were built, you have
17 concrete walls surrounding it, something that would
18 perhaps disguise it a little more so it would have a
19 somewhat better appearance.

20 But our main objection is, of course, 90 feet
21 away having a 6,000-gallon fuel tank, we're concerned
22 about that, and we would like to, at optimal, see that
23 located further east near some of the office buildings
24 that are about 200 to 300 feet to the east of these
25 properties here. They have the same consequences

1 providing fuel for the marina and all that, but it
2 wouldn't be so close to our units.

3 Thank you very much.

4 ACTING CHAIRPERSON ARONBERG: Thank you.

5 Mr. Skidmore, please.

6 EXECUTIVE OFFICER THAYER: Mr. Skidmore is one of
7 the owners of the facility where the fueling facility
8 would be installed and perhaps he could respond to some of
9 the points that earlier witnesses talked about.

10 MR. SKIDMORE: I can't respond to the technical
11 points. Good morning. My name is Kip Skidmore. I'm the
12 managing partner at Riverbank. This facility has actually
13 been before you in 2007. We've had requests to have a
14 fueling facility in the marina ever since we actually
15 purchased -- or built the marina in 1986.

16 Because, as you well know, the boaters need to go
17 three hours -- or three miles downstream or two miles
18 upstream to fuel their boats in less than state-of-the-art
19 facilities. So during this last three years and working
20 with TAIT Environmental, our concerns were to be able to
21 service the public, so they don't have to motor three
22 miles down or upstream to get the fuel and waste the
23 amount of fuel that's necessary to do that.

24 But more importantly, it was the safety concerns
25 that we have that we all share. This facility is an

1 absolute state-of-the-art facility. It's been reviewed by
2 every control agency that has a finger in the pie here and
3 has been deemed to be safe.

4 I do sympathize with the residents next door in
5 the sense that the location of the fuel tank is dictated
6 by the engineering aspects of it and not by our desire to
7 have it located there. I'm not sure exactly. It's not
8 exactly unsightly. It's a double-walled fuel tank that's
9 rather benign, surrounded by a concrete block wall that's
10 surrounded by bollards. So it's not pretty, but I don't
11 think it's actually ugly. Actually, 20 feet going the
12 other way is the garbage facility, next to the road, which
13 is a little more unsightly.

14 But I think this Commission probably is mostly
15 concerned about the safety aspects of both the dispensing
16 facility on the water, which is within your jurisdiction,
17 and concern too about the safety of the tank itself.

18 We have Gary Baker from TAIT Environmental here
19 that can address questions, technical questions, if you
20 would like.

21 I commend the staff that has done a very
22 exhaustive study and research and put together a very
23 strong staff report on this, that I think answers most of
24 the questions. But if you have questions concerning the
25 technical aspects of it, we have Gary Baker from TAIT

1 Environmental, or you could ask me and I could defer to
2 him.

3 Any questions?

4 COMMISSIONER PASQUIL: I have a question. Thank
5 you, Madam Chair.

6 So you have been in discussions and you've
7 exhausted all other possible locations for this facility?

8 MR. SKIDMORE: Yes. This is --

9 COMMISSIONER PASQUIL: This is the only place?

10 MR. SKIDMORE: Technically, yes. The issue here
11 we have -- and we've been through this on levee -- working
12 on the levee since 1986.

13 COMMISSIONER PASQUIL: I'm sorry. I wasn't here.
14 I just want to be --

15 MR. SKIDMORE: Working on the levee is a very
16 difficult issue. You have the RD 1000 and the other
17 agencies that are concerned with anything that goes on the
18 levee that will impact its ability to either, one,
19 maintain the levee, or, in a situation like this case, if
20 the tank blew up what it would do to the levee. So we
21 have those constraints.

22 We also have the physical constraint of trying to
23 move -- excuse me. What we're taking about is that this
24 is the office building. To move this anywhere along here
25 has the issues that are engineering issues to move the

1 fuel down there and to move the fuel across the -- that's
2 a dot -- a raised parking lot all the way down there.

3 If we could do it, we would do it. It's simply
4 not a situation -- and I'm not going to say if you didn't
5 throw hundreds of thousands of dollars at it, you couldn't
6 solve the problem, but this is already the most expensive
7 fueling facility in California for the size it is, because
8 it is absolutely state-of-the-art equipment. And we're
9 willing to spend the money on that.

10 From our -- if you talk to Mr. Baker, we've
11 looked at those and tried to move those down and tried to
12 take into consideration of the RD 1000 and the Corps of
13 Engineers everything else, it's not technically feasible
14 to do it.

15 COMMISSIONER PASQUIL: Can it be buried?

16 MR. SKIDMORE: It's in the levee, I don't think
17 you could bury anything.

18 MR. BAKER: I can answer that.

19 MR. SKIDMORE: What?

20 MR. BAKER: I can answer that.

21 MR. SKIDMORE: Okay.

22 COMMISSIONER PASQUIL: I ask because the
23 people -- it's been mentioned twice, so I would have
24 assumed you'd be able to answer that question.

25 MR. SKIDMORE: Mr. Baker could answer that. But

1 I think my answer is no, because we would have done that.

2 ACTING CHAIRPERSON ARONBERG: Can Mr. Baker come
3 to the podium?

4 MR. SKIDMORE: Sure.

5 ACTING CHAIRPERSON ARONBERG: Because the burying
6 and disguising have been two possible options, and we'd
7 like to know about that.

8 MR. SKIDMORE: That's not a Bazooka he has
9 either.

10 (Laughter.)

11 MR. BAKER: That's the piping that we're using.

12 Hi. My name is Gary Baker. I'm the national
13 manager for TAIT & Associates and TAIT Environmental. We
14 are a national-license-in-all-50-states engineering firm,
15 architectural design firm. We're also an environmental
16 management firm and a construction firm of fuel systems.

17 I'm currently building the Emeryville marina fuel
18 system right now, and also Fort Gordon in Georgia, and
19 another little spot we just designed up at Lake Berryessa,
20 which has a lot of issues as well.

21 This system here, going to the RD 1000 meeting,
22 the main concern was that crown of the levee. There isn't
23 any other location in this area, based on the RD 1000's
24 findings. It's not Riverbank. It's not TAIT. It is RD
25 1000 and the levee. And this was brought up at the

1 meeting that everybody was able and public to attend.

2 They went through a very rigorous question and
3 answering period before they approved it. And I had to
4 prove documents of the tank itself and what it would do in
5 an explosive manner. And this tank goes up. It doesn't
6 go out, left, right, or down.

7 This tank is also being installed with block
8 footings with a block wall enclosure around it. So you
9 not only have double protections, you have triple
10 protection.

11 Then you have a containment pad, an eight-inch
12 containment pad, that goes underneath the tank as well for
13 spills. Then you have an automatic shutoff system, where
14 if there is a leak, it automatically detects it in the
15 secondary system, and that is with a Veeder-Root sensor.
16 Any liquid at all automatically shuts the system down
17 completely. And a technician will have to go to the
18 Veeder-Root to reinstall the sensing equipment to re --
19 fix the problem, find out what the problem is, and turn it
20 back on.

21 But it can't be turned back on until that
22 happens. The TLS-300 or the TLS-350 monitoring system
23 will control the annular space. There will be an annular
24 space sensor, so you'll have an electronic sensor between
25 the primary and the secondary. So no spills, unless

1 humans, you know, doing something malicious. But this is
2 going to be a locked, enclosed, block iron gated, wrought
3 iron, decorative on top, complete enclosure enclosing the
4 tank.

5 Fuel systems throughout California are above
6 ground, below ground, next to buildings, next to
7 businesses, and they all have those types of safety -- you
8 know, engineering aspects to them.

9 Kip Skidmore and Riverbank has gone way and
10 beyond the existing State codes, and so is the other
11 marina that I'm building in Emeryville. And the owners
12 have decided we want the safest thing out there.

13 I've spent over a year and a half collecting
14 eight permits. That is the largest permitting adventure
15 I've ever been on. And I've been doing this for about a
16 year and a half, and now we're here at State Lands. I've
17 done everything possible to engineer this thing to the T.

18 There is every safety feature that's above and
19 beyond the existing codes. And I can't do anything safer
20 than what is existing right now in front of you.

21 ACTING CHAIRPERSON ARONBERG: I have a question.
22 Mr. Osborn, the first nearby resident that spoke,
23 mentioned that he's a pilot and it sounds like the amount
24 of fuel in here is large --

25 MR. BAKER: The difference between the pilot's

1 recollection of the fuel system --

2 ACTING CHAIRPERSON ARONBERG: Excuse me, can I
3 just finish my question.

4 So my question is, has there been any
5 consideration given to having a smaller capacity tank?

6 MR. BAKER: That's not what was on my scope of
7 work to engineer to begin with, but there's no difference
8 between 4,000 and 2,000 and 2,500 or 5,000 gallons of fuel
9 in a fire-guard fuel system. There's no difference. And
10 there is a big difference between the thin layers of an
11 airplane versus a triple-wall system. You couldn't get
12 the plane off the ground with the amount of weight that
13 this thing has, plus the block-wall enclosure as well.

14 ACTING CHAIRPERSON ARONBERG: Okay, so which
15 leads me to another question. Both of the residents who
16 spoke asked about possible disguise or at least making
17 this esthetically more pleasing. Can you tell us about
18 that?

19 MR. BAKER: When I met with the owners several
20 months ago, as a courtesy, one of the owners asked me if
21 it would be possible for me to meet with them to speak
22 technical issues, only technical, where it turned a little
23 bit more than technical, but I gave them the option of
24 installing ivy on the backside of the wall. And that's
25 what other owners have done as well with the latest

1 enhanced vapor recovery installations of these large Healy
2 tanks that were an eyesore in a lot of the counties within
3 California. So what people have done is they've put
4 block-wall enclosures up, but then the regulators also
5 stipulated that they install screening, so a type of
6 landscape screening.

7 TAIT has agreed to that as well, which is
8 another additional cost to Riverbank, because there's
9 actual dirt area in the back once we build the containment
10 pad, where we could leave that open to build ivy, so it
11 would grow and mature around the block wall and then be
12 maintained, so that -- everybody's seen block wall with
13 ivy around it. It looks pretty nice. I mean, it's better
14 than just a block wall. But, yes, we did discuss that.

15 ACTING CHAIRPERSON ARONBERG: Mr. Skidmore, did
16 your company commit to this disguise -- this ivy disguise
17 mechanism?

18 MR. SKIDMORE: I have no problem with that at
19 all. I assumed we were going to do that.

20 EXECUTIVE OFFICER THAYER: It's not a requirement
21 of the lease, but we could add it.

22 MR. BAKER: I can say one thing about RD 1000,
23 they don't like you growing things on their levee.

24 MR. SKIDMORE: I guess it would be subject to
25 that. I don't think it will be a problem.

1 MR. BAKER: It's not a tree.

2 MR. SKIDMORE: It's not the tree issue. You know
3 how we all have the tree issues with the Corps of
4 Engineers these days and any other kind of thing, but I
5 don't think they're going to bother with ivy.

6 EXECUTIVE OFFICER THAYER: We could certainly
7 design the condition so that it could be over-ridden if
8 the RD 1000 had an issue. I would say though that the
9 reason that RD 1000, or more properly the Corps, is
10 concerned about vegetation is to make sure they can
11 inspect the levee. And the levee is not visible here
12 anyway, because it's covered with this parking structure,
13 so I don't think they'll have an issue with it.

14 MR. BAKER: I would like to say one more thing on
15 the record, this piping is Franklin Fueling APT Triple
16 Walled Monitored Piping. This piping is not required
17 right now by the State Fire. And Kip has asked for the
18 best that's out there. It also has a metallic UV
19 protectant for above ground. So that's also a requirement
20 from the State Fire Marshal.

21 Then it gets monitored right here on the
22 secondary space. This is what's required in gas stations
23 throughout California right now, but not marinas. And I
24 don't know why when the impact is greater on water than it
25 is in the ground, the ground can be contained. So Kip has

1 asked me for the best that's out there that can be
2 monitored and whatever is going to come up in the future.
3 And Riverbank Marina has stepped up and they are going to
4 have the most state-of-the-art marina fuel system in the
5 State of California when this is completed.

6 ACTING CHAIRPERSON ARONBERG: Are there any other
7 comments from Commissioners?

8 ACTING COMMISSIONER BRYANT: I just wanted to ask
9 staff, the assertion here is that they explored the other
10 locations, but this was the most solid spot on the levee
11 in this general vicinity. Did you double check that?

12 EXECUTIVE OFFICER THAYER: We spoke with the
13 other agencies that reviewed this project, and --
14 especially over the fire issue, because we don't have any
15 expertise in that, and we were relying on the Fire
16 Department and Sacramento County to look at -- or the City
17 of Sacramento to look at this.

18 We don't know whether this is the only spot. And
19 in our discussions with RD 1000, we didn't get clear
20 answers about that.

21 ACTING CHAIRPERSON ARONBERG: Paul, do you have
22 any suggestions in light of the unclear answers and any
23 other open issues?

24 EXECUTIVE OFFICER THAYER: I would say that
25 again, there's not -- there's different ways that

1 applicants can be required to construct with certain
2 features that are of importance to the Commission. The
3 kinds of things, in terms of the presentation today, where
4 they were indicating that their project would include
5 certain features are part of the project description, and
6 as such, when the Commission approves the lease, it's
7 doing it for a particular project. And he would be -- Mr.
8 Skidmore would be required to implement everything that
9 he's presented as safety features today.

10 I don't think the project description includes
11 the screening, so that would be something to add. The
12 final point would be that the only part of this project,
13 which is on State Lands, are the pipes leading from -- or
14 down the bank and out to the dock, and the fuel dispensing
15 pumps on the docks themselves.

16 The tank is not on property that's subject to
17 State Lands Commission review. However, as you know, the
18 Commission must find that any of the leases or all leases
19 that it approves are in the best interests of the State.
20 And from that perspective, we think it's appropriate for
21 the Commission to at least consider the impacts of the
22 tank as part of this project.

23 ACTING CHAIRPERSON ARONBERG: Okay.
24 Commissioners, what's your pleasure?

25 ACTING COMMISSIONER BRYANT: I'll move approval

1 of the staff recommendation with the amendment on the
2 aesthetics that Paul just described.

3 COMMISSIONER PASQUIL: Second.

4 ACTING CHAIRPERSON ARONBERG: All in favor?

5 (Ayes.)

6 ACTING CHAIRPERSON ARONBERG: The motion carries.

7 MR. SKIDMORE: Thank you.

8 ACTING CHAIRPERSON ARONBERG: So that would be a
9 unanimous vote, I'm sorry?

10 ACTING CHAIRPERSON ARONBERG: (Nods head.)

11 EXECUTIVE OFFICER THAYER: Thank you.

12 ACTING CHAIRPERSON ARONBERG: The next item is
13 Item 53. We will consider the L.A. Department of Water
14 and Power's request regarding the former Owens Lake bed.

15 May we have the staff presentation, please.

16 EXECUTIVE OFFICER THAYER: The staff presentation
17 will be made by Colin Connor, who's the Assistant Chief of
18 our Land Management Division.

19 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

20 Good morning, Commissioners. As Paul said, my
21 name is Colin Connor. I'm the Assistant Chief of the Land
22 Management Division.

23 (Thereupon an overhead presentation was
24 Presented as follows.)

25 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

1 Calendar Item 53 is a request by the City of Los
2 Angeles, Department of Water and Power for a lease
3 amendment to authorize the use of modified moat and row
4 design in the Phase 7 dust control project on the dry bed
5 of Owens Lake.

6 As you'll recall at the December 17th, 2009
7 meeting, the Commission authorized a lease amendment to
8 allow the city to construct sand fences and some other
9 minor improvements in one cell of the Phase 7 project, but
10 not moat and row.

11 This authorization allowed the city to commence
12 construction by January 1st, 2010, and thereby avoid being
13 fined by the Great Basin Unified Air Pollution Control
14 District for not being in compliance.

15 --o0o--

16 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

17 At the February 1st Commission meeting, staff
18 presented an informational calendar item to update the
19 Commission on the status of the Phase 7 dust control
20 project, and the proposed solar demonstration project.

21 Subsequently, on February 11th, staff met with
22 city staff to discuss other dust control options for the
23 remaining six cells in Phase 7. At this meeting, city
24 staff presented a moat and row options analysis, which
25 unveiled modified versions of the previous moat and row

1 design, as well as some other options, including shallow
2 brine flooding, a seeps-and-springs-type vegetation
3 habitat, a rock garden variation of gravel cover, and
4 solar arrays.

5 There are limitations to each of these other
6 options that would likely prevent them from being
7 constructed prior to the current October 2010 compliance
8 deadline set by Great Basin.

9 However, additional time -- with additional time,
10 it may be possible to develop a well thought out dust
11 control project that is acceptable to all parties. The
12 modified moat and row design now proposed by the city, is
13 similar to the moat and row project proposed last year,
14 but incorporates a wider and shallower moat that is
15 intended to reduce biological impacts caused by the
16 previous design's deeper moats.

17 The wider shallower moat replaces the access road
18 that was to be situated between the base of the row and
19 the moat. One variation of the modified moat and row
20 design does, however, include a narrow all-terrain vehicle
21 track, again, situated between the base of the row and the
22 moat. As with the previous design, sand fences would be
23 placed on top of the rows in some areas.

24 While the modified moat and row design might
25 lessen the impact for entrapment and mortality of birds

1 and animals, it would still impede the movement of
2 wildlife. Additionally, the modified moat and row design
3 would be constructed in an extensive grid pattern, much
4 like the previous design, that would have an industrial
5 appearance out of character with the surrounding natural
6 environment.

7 It would also be aesthetically offensive as
8 viewed from the lake bed and would further obstruct and
9 degrade the public's view of the scenic Owens Valley due
10 to the density, height, and length of the structures.
11 Public access to and use of the 3.12 square miles of the
12 lake bed covered by this design would also be lost.

13 For these reasons, and because alternatives with
14 less impacts are also being explored, staff believes that
15 the modified moat and row design, as proposed, is
16 inconsistent with the Public Trust needs, resources, and
17 values of Owens Lake, is not in the State's best
18 interests, and therefore recommends denial of the
19 amendment.

20 This concludes my presentation. Staff is
21 available to answer your questions.

22 ACTING CHAIRPERSON ARONBERG: Thank you.

23 EXECUTIVE OFFICER THAYER: If I could just add a
24 couple comments to those made by Colin Connor.

25 I wanted to make sure that the Commission and the

1 public was aware that the Commission staff has been
2 following the direction that the Commission has expressed
3 at the last two meetings to work closely with LADWP to try
4 and come up with alternatives to the moat and row proposal
5 that the Commission is considering today.

6 And I think there's been a lot of progress made
7 on that. The most visible sign of that will be when the
8 Commission has an opportunity to review a proposed
9 amendment to their existing lease to authorize an 80-acre
10 solar demonstration project to see if solar is feasible
11 there, not only in terms of controlling the dust, but also
12 in terms of generating electricity and being economically
13 feasible.

14 Staff also believes that some of the other
15 proposals that L.A. mentions in its recent options
16 analysis may be another mechanism of controlling dust and
17 avoiding the impacts from moat and row. And certainly
18 we'll continue working with LADWP on those proposals.

19 And finally, I would note that -- and I think all
20 the Commissioners are aware of this, but just to publicly
21 state that both Mr. Freeman, who has been the acting or
22 interim general manager for LADWP, and I went up to the
23 last Great Basin Air District meeting. We understand that
24 while the two actors in this room are the State Lands
25 Commission and LADWP, that the air basin -- or the Great

1 Basin Air District is vitally concerned with the results
2 of what we're doing here today, and with what's happening
3 out in the lake. And we look at this as -- that there is
4 a required partnership and cooperation between all three
5 agencies to eventually resolve the dust issues up there,
6 that those are very, very important.

7 And it's staff's intent to continue those
8 discussions and to continue working with those two
9 entities to try and make sure that dust issues are
10 resolved as quickly as possible, but in a way that's
11 consistent with the mission of this Commission.

12 Thank you.

13 ACTING CHAIRPERSON ARONBERG: All right, okay.
14 We have one speaker card from Martin Adams from the DWP.

15 MR. ADAMS: Good morning. My name is Marty Adams
16 with L.A. Department of Water and Power. And I appreciate
17 the opportunity to address the Commission this morning.
18 You see me again here to talk about moat and row and dust
19 control at Owens Lake. You're hopefully not too tired of
20 hearing about this every other month.

21 Again, I'd also like to thank Colin and Paul for
22 both their comments today and also the work that they've
23 done. We've been working quite closely the last two
24 months since the last Commission meeting, and I think
25 we're making a lot of progress.

1 I am here today because of our variance agreement
2 and our compliance requirements and commitments to Great
3 Basin that I'm here to ask for the moat and row lease, as
4 it's listed on the agenda, the lease amendment with, what
5 we call, the moatless row now, so that we can continue.

6 I'd like the Commission to understand that this
7 is probably the last meeting opportunity we would have in
8 order to construct the moat and row that would be done in
9 time by October 1st, done according to the variance
10 deadline. So a decision, at this point, either
11 affirmative decision would let us be in compliance or
12 decline, at this point, will tell us that we'll, you know,
13 definitely have to do something different, but we won't be
14 in compliance with our variance request.

15 I would like to let you know the progress that's
16 been made. The first area that you had granted back in
17 December, T1A-1 down in the corner at the sand fences, and
18 a little bit of pipeline to get some native natural growth
19 of plant material in the basin there, that's under
20 construction and going very well.

21 We have completed other parts of Phase 7, which
22 was a previous lease a couple years ago, and that's for
23 the nine and a half square miles of shallow flooding.
24 That is flooded at this time. Presently on the lake, we
25 have about 35 to 36 square miles of lake bed flooded with

1 annual drinking water equivalent of the cities of Long
2 Beach and Burbank. So that's what we have going on in the
3 lake right now.

4 We did have the first meeting of the master plan
5 committee. About 35 representatives were there from about
6 12 plus agencies and environmental groups. It was a very
7 good start. And we have another meeting coming up in
8 about three weeks, actually, in Keeler at the edge of the
9 lake. And so we do see a lot of hope for the master plan
10 for the lake, that will allow us to address water
11 conservation, dust control technologies, and a plan that's
12 acceptable to hopefully all of the interests out there.

13 Lastly, if we are not granted the lease today, I
14 would like to express that it's very important for us, at
15 this point, that we have some methods to control dust in
16 the lake that don't involve the use of water. Solar is
17 one of them, but maybe there's some other methods that
18 would be acceptable to the State. But we need some
19 methods of control that the State would find able to be
20 approved for another lease.

21 Last week, the Department of Water Resources came
22 out with a report talking about the dire state of the
23 State's water system, because of the change in climate,
24 and the impacts on snow as a means of storing water versus
25 rain. And so it's not just the amount of water that comes

1 down but what the form it takes and how it's stored and
2 the dire situation that it expects to see the State in in
3 the years ahead, in terms of water supply. And we think
4 that the moat and row or the moat and row idea or at least
5 waterless idea for dust control is critical to the State's
6 future, and that what we do at Owens Lake is not detached
7 from, you know, other problems in the State.

8 So thank you very much. If you have any
9 questions, I'll be glad to answer them.

10 ACTING CHAIRPERSON ARONBERG: Thank you. Are
11 there any other public commenters on this?

12 Comments from Commissioners?

13 COMMISSIONER PASQUIL: Mr. Thayer, I just wanted
14 to make sure that when Marty talked about, you know,
15 everyone is at the table and we're looking at options,
16 that we're already talking about other possible waterless
17 options, right?

18 So that's something that's on the table, because
19 I believe we talked about this at the last meeting, but I
20 just want to make it clear, that is something that's going
21 on. We've heard from a lot of constituents, particularly
22 our cattlemen and our farmers, who are really concerned.
23 But I just want to make sure that --

24 EXECUTIVE OFFICER THAYER: Sure, and that's a
25 good question, a good point. I think that obviously the

1 brass ring that we kind of hope to grab here will be the
2 solar, which requires a very minimal amount of water to
3 clean the dust off, and that would have some benefits with
4 respects to the State's renewable energy -- or renewable
5 energy portfolio requirements.

6 If that doesn't work, for whatever reason, then
7 there are still other options, such as using some of the
8 existing brine, things like that. And it may also be the
9 case that the existing -- that L.A. may be able to work
10 out more efficient ways to maintain their existing shallow
11 flooding and managed vegetation aspects of the dust
12 control that are already out there. And in doing so, may
13 free up water that's presently being used there for
14 other -- for similar sorts of mitigation projects.

15 So we're certainly looking at -- we understand
16 the water limitations in California and in the Owens
17 Valley, and that's driving a lot of the discussion.

18 COMMISSIONER PASQUIL: Okay. One more follow-up.

19 I'm trying to help L.A. How do we -- what kind
20 of -- what can we do to help them or to help us to help
21 everybody with Great Basin, because we're all trying to do
22 the right thing here. We are all trying to make sure that
23 they're able to be in compliance, but that, you know, we
24 are doing our work for the Public Trust. So what can we
25 do? What kind of message can we send to Great Basin that,

1 you know, we're not just bringing this up, because it's,
2 you know -- you can't have a meeting without it, right?
3 We're serious about this. But obviously we need to do
4 something to help our friends out over here, and I'm just
5 concerned. Do you have any suggestions?

6 EXECUTIVE OFFICER THAYER: Well, I think that we
7 do have to keep the communications open. There's not
8 going to be a silver bullet on this. What we're all
9 struggling with, at this precise second, is actually not
10 the need to control dust, but it's this deadline October
11 1. And both the LADWP representatives, Mr. Freeman and I,
12 made this point to the Board meeting that we went up to
13 attend there, which was that that deadline is forcing
14 consideration of methods, such as moat and row or moatless
15 moat and row, that create problems for other entities,
16 such as us, and therefore aren't practical.

17 Some of the Board members understood that. And
18 there was no action taken at that time. It wasn't an
19 action item on the agenda, but a number of them said that
20 they were appreciative of the need to have the best or
21 good project. And if there was a better way to do it than
22 moat and row, then perhaps more time should be given.

23 At the recommendation of the executive officer
24 there, they're not going to take that up at their May
25 meeting, but I think provide direction to take up this

1 question of whether that deadline should be maintained in
2 July.

3 So from our perspective, that technical aspect of
4 the deadline is something that we want to be helpful to
5 L.A. with, not because we don't want to see dust control
6 occur as quickly as possible, but because that deadline is
7 preventing us from getting that brass ring, which is a
8 good project, which controls the dust and yet respects the
9 Public Trust values of the lake.

10 COMMISSIONER PASQUIL: Right. What I hope is, is
11 that we're all public servants. You know, Great Basin has
12 to understand that we are -- we're moving in the direction
13 that we want -- that we need to, and that we have -- we
14 want to, that we voted on. And so I just want to be able
15 to really keep the communication open with them, and do we
16 bring more people to the table, do we -- what do we have
17 to do to tell them -- that's great that, you know, you're
18 in support and you see that we're working really hard.

19 But when we are all public servants and doing the
20 work for the people, we cannot -- we cannot be fighting
21 each other over this. We have to be able to work
22 together. So whatever we need to do to show them, you
23 know, we are moving forward, and our partners over here
24 are, you know, doing the very best that they can. We just
25 need a little bit more time. There are a lot of people

1 involved in this and there are a lot of other issues that
2 are affected by this decision.

3 EXECUTIVE OFFICER THAYER: And I think with
4 respect to the Great Basin Air District, one of the most
5 important things we can do is continue to, as a staff,
6 convey what we think the Commission believes, which is
7 that dust control is very important, and that we do not
8 want to be seen as some sort of unwitting or witting cause
9 of delay, which in the suffering that the people up there
10 have to endure the dust problems that are there. But that
11 our intent is to try and get this wrapped up as soon as
12 possible, but with a good project.

13 ACTING CHAIRPERSON ARONBERG: Okay. Any other
14 comments?

15 Cynthia?

16 ACTING COMMISSIONER BRYANT: Yeah. I would just
17 add just a couple points. I agree with what Ms. Pasquil
18 just said. She sounds like me, what I say privately about
19 all of this, that this is going to take everyone being at
20 the table. And I actually had the opportunity to go back
21 and review the transcript from the December meeting,
22 because, as you know, I wasn't here then, and I was
23 interested in what my predecessor said. And actually I
24 could practically repeat all the exact same words he did,
25 in terms of, you know, it's really important to us, to our

1 administration to have waterless dust control methods out
2 there.

3 Adding more water to this lake bed is not really
4 an option for the State of California. And so I just
5 encourage everyone to keep working on all of these various
6 methods. I think the best way to get everyone to the
7 table and stay at the table right now for today is to
8 reject this lease that's in front of us, which I'm
9 prepared to do.

10 And I keep looking for that stick to make sure
11 that we get a solution. And maybe it's a carrot, but I
12 don't know what the carrot exactly is, other than we just
13 have to do it. And so maybe this master planning
14 project -- I think -- I feel confident that our staff is
15 engaged fully in this process, and is doing everything
16 possible to make this dust control problem work out out
17 there. And I just encourage everyone to keep working on
18 it, and look at short-term leases, look at experiments,
19 look at, you know, various trials by error, and let's get
20 this thing done. But for now, for today, I'm prepared to
21 reject the lease that's in front of us.

22 ACTING CHAIRPERSON ARONBERG: Okay. Like Ms.
23 Bryant, I'm prepared to reject the lease. I understand
24 that that will be one way for the DWP to move ahead with
25 the air district, so that they can explore other

1 alternatives. And I just encourage our staff to work with
2 the DWP staff to find acceptable alternatives that are
3 consistent with the Public Trust. And that sounds like
4 that's all of our goals.

5 In the event -- unless there's anymore
6 discussion, we're ready for a motion.

7 ACTING COMMISSIONER BRYANT: Do we actually need
8 a motion to reject it?

9 ACTING CHAIRPERSON ARONBERG: I think we do. I
10 think they really want to --

11 ACTING COMMISSIONER BRYANT: I'll move to reject
12 the staff recommendation and not to do this lease.

13 EXECUTIVE OFFICER THAYER: That would be to
14 accept the staff recommendation.

15 ACTING COMMISSIONER BRYANT: Oh, accept it. Oh,
16 yeah, that's right. I'm sorry. I forgot we're on the
17 same page. I apologize.

18 Yeah, I am moving to accept the staff
19 recommendation.

20 COMMISSIONER PASQUIL: I second.

21 ACTING CHAIRPERSON ARONBERG: All in favor?

22 (Ayes.)

23 ACTING CHAIRPERSON ARONBERG: The motion carries.

24 Thank you.

25 The next item, Item 54, we will hear about and

1 consider taking positions on several bills now pending in
2 the legislature. Mario, may we have your presentation.

3 EXECUTIVE OFFICER THAYER: Mario De Bernardo, our
4 Legislative Liaison, will make the presentation. I think
5 he's going to present for several different bills. But
6 for Commission consideration, you may want to take them up
7 one by one, because there will be potentially different
8 results or different directions on the different bills.

9 ACTING CHAIRPERSON ARONBERG: Okay. And actually
10 I would like to mention that SB 1039 --

11 EXECUTIVE OFFICER THAYER: Yes.

12 ACTING CHAIRPERSON ARONBERG: -- in discussions
13 with the author's office, we understand that they will be,
14 you know, gutting and -- amending and/or gutting this
15 bill. And so if the other Commissioners don't object, I'd
16 ask that it be removed from consideration today.

17 EXECUTIVE OFFICER THAYER: Sure. If I could just
18 be clear for the record then. My understanding from
19 this -- from discussions with the Commissioners' offices
20 is that the Senator committed to amend the bill so that it
21 would not harm the Public Trust Doctrine, and that the
22 Commission is relying on that representation in taking
23 this approach, because, of course, by not taking a
24 position on the bill, the bill would move through the
25 Legislature without input from us, or at least input

1 concerning our problems with some of the direction that's
2 been in past versions of the bill.

3 ACTING CHAIRPERSON ARONBERG: That is precisely
4 the Controller's and his staff's understanding as well.

5 EXECUTIVE OFFICER THAYER: Great.

6 (Thereupon an overhead presentation was
7 Presented as follows.)

8 LEGISLATIVE LIAISON DE BERNARDO: All right.

9 Well, good morning, Ms. Chair and Commissioners.
10 My name is Mario De Bernardo, Legislative Liaison for the
11 State Lands Commission. And I'm here today on behalf of
12 the staff to recommend that the Commission take positions
13 on eight -- well now, seven legislative items.

14 Out of the interests of time, I will quickly go
15 through each legislative item and respectfully request
16 that you adopt staff's recommendation, either at the end
17 or, if you'd like, after each one.

18 So there are three legislative items that staff
19 recommends the Commission support.

20 They are AB 2598, which is sponsored by the
21 Chair, State Controller's office, and it would require
22 grantees of trust lands to prepare a sea level action plan
23 by July 1st of next year. This is consistent with the
24 goals of the Commission that it adopted at last December's
25 Commission meeting, in response to sea level rise.

1 And I might add that the bill was just amended
2 yesterday to include several things. One of which is to
3 give some comfort to those trustees, such as there's a
4 community college trustee that has filled lands mostly in
5 Oakland, and there would be a great financial burden on
6 them. We, I assume -- versus the benefit that a sea level
7 rise action plan would have on those particular lands.

8 So that would -- the amendment that was
9 proposed -- or adopted and introduced yesterday would
10 allow the Commission to give those type of trustees the
11 ability to be exempted from the sea level rise action
12 plan.

13 AB 1998, which was also amended yesterday
14 significantly from what is included in the staff report,
15 instead of kind of doing this thing where they allow
16 single-use paper bags, there is an all around ban on
17 single-use carry out bags that will be implemented if this
18 bill passes on January 1st, 2012. And there will be
19 no -- so, basically, stores, such as supermarkets, will
20 have to carry, distribute to their customers reusable
21 shopping bags or customers would have to bring in their
22 own reusable shopping bags by that date. And there's
23 also, in this bill, a new report that would have to be
24 submitted to the legislature, I think in 2015, reporting
25 on the success of that program.

1 SB 1034 would allow agencies, like the State
2 Lands Commission, to impose civil penalties on a person
3 who tampers with archeological resources on Public Trust
4 Lands. This was brought to my attention by some of our
5 staff counsel. We've dealt with archeological resources
6 in the State's waterways, including most recently the
7 Brother Jonathan, which was a historical shipwreck from
8 the 1800s.

9 Essentially, this would allow the Commission to
10 administer penalties, through a Commission meeting, on
11 anyone that tampers with these resources.

12 The other five legislative items that are up here
13 are items that staff recommends the Commission oppose. I
14 should say, there are four legislative items, because I
15 won't mention SB 1039, since that was already addressed.

16 AB 2719 is a bill that devises an end run on the
17 State Lands Commission's jurisdiction by creating the
18 Interim Resources Management Board for the purpose of
19 approving leases for the extraction of oil and gas in
20 State waters from offshore and onshore facilities.

21 This bill, I might add, it's unclear whether or
22 not it intends to expand the California Coastal Sanctuary
23 Act -- or not expand it, but allow more oil drilling than
24 is currently allowed in the California Coastal Sanctuary
25 Act. It references offshore facilities in State waters,

1 as well as onshore leases. So it goes beyond the scope of
2 the current exceptions within the California Coastal
3 Sanctuary Act.

4 The third item is a budget proposal dealing with
5 the Department of Justice's budget for legal services to
6 its general fund clients. The intention of this proposal
7 is to curb some abuse that is occurring in the Department
8 of Corrections and Rehabilitation. About 48 million going
9 on last year's figures was allocated to general fund
10 clients in the Department of Justice. We are one of those
11 clients. Department of Corrections and Rehabilitation
12 used \$50 million worth of legal services, which is two
13 million over what was allocated. State Lands only used
14 roughly 1.5 million.

15 This proposal would allow the Director of Finance
16 to set caps on each general fund client for legal
17 services, based on previous use of legal services.
18 Essentially, what that would do is show the State that the
19 Commission has, you know, anywhere between 1.5 to two
20 million dollars a year to litigate. We think that that
21 would create less deterrence on violations on Public Trust
22 Lands. Also, discourage settlements as opposing parties
23 could exploit our budget and push for litigation and run
24 us -- and force us to either stop litigating or settle in
25 a way that is less favorable to the State.

1 And the last two items are regarding spending of
2 revenues from an expected approval of the T-Ridge oil
3 lease. The first proposal -- the first of the last two
4 here is a budget proposal from the Governor. It proposes
5 to spend money from the T-Ridge lease, and that money
6 would be used to fund parks.

7 The last item here, AB 2601, the money made from
8 T-Ridge would go to various fire fighting budget items.

9 This wraps up my presentation on State
10 legislation. And, at this time, I respectfully request
11 that you adopt staff's recommendations.

12 Thank you.

13 ACTING CHAIRPERSON ARONBERG: Thank you, Mario.

14 We have one speaker card here. Welcome to the
15 former Lieutenant Governor, former State Lands
16 Commissioner, Mr. Bustamante.

17 Do you want to speak?

18 MR. BUSTAMANTE: Only if the item had come up.

19 ACTING CHAIRPERSON ARONBERG: Okay, thank you
20 very much.

21 Are there any other speakers on this matter?

22 I think we're going to need to take some of these
23 up separately. And I will leave it to the Commissioners'
24 pleasure on how to do that.

25 And any comments from the Commissioners are also

1 welcome.

2 ACTING COMMISSIONER BRYANT: Yeah, obviously, I
3 support -- I'd like to respectfully disagree with you on
4 the two budget proposals that are part of the Governor's
5 budget. And I did just want to say on the legal services
6 thing, I don't think it's to curb abuse at CDCR. It's
7 really about allowing general fund agencies to manage
8 their legal services better.

9 So I just respectfully need to disagree with
10 Commission staff on that, but I'd like to vote no on both
11 of those items, so if we could take those up two
12 separately, I'd appreciate it.

13 ACTING CHAIRPERSON ARONBERG: Ms. Pasquil, are
14 you okay with voting on those two separately and --

15 COMMISSIONER PASQUIL: Yes.

16 ACTING CHAIRPERSON ARONBERG: -- looking at
17 staff's recommendation on the remaining, so that we don't
18 have to have so many votes.

19 COMMISSIONER PASQUIL: Yes.

20 ACTING CHAIRPERSON ARONBERG: So why don't we
21 right now take a vote on AB 2598, 1998, 1034, 2719, and
22 2601, if that's correct, Ms. Bryant?

23 ACTING COMMISSIONER BRYANT: (Nods head.)

24 ACTING CHAIRPERSON ARONBERG: Thank you.

25 Okay. I'm open to a motion on the bills just

1 stated.

2 COMMISSIONER PASQUIL: I move to accept the staff
3 recommendation on these bills.

4 ACTING COMMISSIONER BRYANT: And I'll provide a
5 courtesy second.

6 ACTING CHAIRPERSON ARONBERG: All in favor?

7 (Ayes.)

8 ACTING CHAIRPERSON ARONBERG: The motion carries.

9 ACTING COMMISSIONER BRYANT: I abstained. Just
10 FYI.

11 ACTING CHAIRPERSON ARONBERG: Okay. And now
12 we're looking at the two budget proposals regarding legal
13 services and regarding Tranquillon Ridge on the Parks'
14 budget.

15 May I have a motion on those two.

16 COMMISSIONER PASQUIL: I move to proceed with the
17 staff's recommendation.

18 ACTING CHAIRPERSON ARONBERG: I'll second.

19 All in favor?

20 (Ayes.)

21 ACTING CHAIRPERSON ARONBERG: Opposed?

22 (No.)

23 ACTING CHAIRPERSON ARONBERG: The motion carries
24 two to one.

25 Curtis Fossum wants to speak.

1 CHIEF COUNSEL FOSSUM: Madam Chair, I need to
2 correct something that was taken -- that took place on
3 Item 52. The lease that was signed by the applicant in
4 Riverbank had a date of September 29th, 2011 for
5 completion of the project. The staff report and
6 recommendation for approval by the Commission says 2010,
7 so I think the Commission needs to make a motion to
8 correct that typographical error on page six of Item 52.

9 EXECUTIVE OFFICER THAYER: So the lease itself is
10 correct, but the staff report is in error. Do they need
11 to take a new lease or do we just need to note --

12 CHIEF COUNSEL FOSSUM: No. I think it would
13 behoove the Commission to simply make a motion to correct
14 that in the authorization of that date.

15 EXECUTIVE OFFICER THAYER: Okay. So the motion
16 would be that the Commission recognizes that the
17 construction completion date in the lease amendment that
18 it authorizes 2011 rather than 2010?

19 CHIEF COUNSEL FOSSUM: That's correct.

20 ACTING CHAIRPERSON ARONBERG: Okay. May we have
21 such a motion?

22 ACTING COMMISSIONER BRYANT: I'll move to
23 recognize it's 2011 not 2010.

24 COMMISSIONER PASQUIL: I second.

25 ACTING CHAIRPERSON ARONBERG: All in favor?

1 (Ayes.)

2 ACTING CHAIRPERSON ARONBERG: The motion carries
3 unanimately.

4 EXECUTIVE OFFICER THAYER: Sorry for that
5 confusion.

6 ACTING CHAIRPERSON ARONBERG: No, not all.

7 Okay. So that takes care of Item 54. And we've
8 just got one regular calendar item left, it's the
9 resolution the Controller proposed concerning federal
10 legislation that would help protect and restore Lake
11 Tahoe.

12 May we have a staff presentation.

13 EXECUTIVE OFFICER THAYER: And again, Mario De
14 Bernardo will make that presentation.

15 LEGISLATIVE LIAISON DE BERNARDO: This resolution
16 is in support of the bipartisan federal Lake Tahoe
17 Restoration Act of 2010, which would authorize \$415
18 million over eight years to combat invasive species,
19 improve water quality, protect threatened wildlife, reduce
20 the threat of catastrophic wildfires, and restore the
21 environment in the Lake Tahoe basin.

22 This act would considerably protect and enhance
23 the Public Trust Lands and easements in the Lake Tahoe
24 basin for the benefit of the Public Trust and for the
25 people of California.

1 As such, I respectfully request your support in
2 this resolution.

3 Thank you.

4 ACTING CHAIRPERSON ARONBERG: Thank you.

5 Are there any comments from the public?

6 Any comments from Commissioners?

7 A motion is in order.

8 COMMISSIONER PASQUIL: I would move to approve --
9 support the resolution. And, Mario, thank you for doing
10 such great work.

11 ACTING COMMISSIONER BRYANT: Second it.

12 ACTING CHAIRPERSON ARONBERG: All in favor?

13 (Ayes.)

14 ACTING CHAIRPERSON ARONBERG: The motion carries
15 unanimously. That concludes -- sorry, public comment?
16 This is the time for general public comment. I don't have
17 any speaker slips for general public comment. If someone
18 would like to make public comment, this would be the time.
19 You can raise your hand right now.

20 Seeing none, that concludes the regular calendar.

21 Can we please have the room cleared for closed
22 session.

23 (Thereupon the California State Lands Commission
24 meeting recessed into closed session and
25 adjourned at 10:40 a.m.)

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CERTIFICATE OF REPORTER

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

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

That the said proceedings was taken before me, in shorthand writing, and was thereafter transcribed, under my direction, by computer-assisted transcription.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of April, 2010.

JAMES F. PETERS, CSR, RPR
Certified Shorthand Reporter
License No. 10063