

MEETING
STATE OF CALIFORNIA
LANDS COMMISSION

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TUESDAY, FEBRUARY 8, 2011
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JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
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APPEARANCES

BOARD MEMBERS

Mr. Gavin Newsom, Lieutenant Governor, Chairperson

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

Ms. Ana J. Matosantos, Director of Finance, represented by Mr. Fred Klass

STAFF

Mr. Curtis Fossum, Executive Officer

Ms. Jennifer Lucchesi, Chief Counsel

Mr. David Brown, Chief, Administrative Services Division

Mr. Brian Bugsch, Chief, Land Management Division

Mr. Mario De Bernardo, Legislative Liaison

Mr. Martin Eskijian, Chief Engineer

Ms. Maurya Falkner, Environmental Program Manager I

Mr. Kevin Mercier, Acting Chief, Marine Facilities Division

Mr. Cy Oggins, Chief, Environmental Planning Division

Mr. Gregory Scott, Chief, Mineral Resources Division

ALSO PRESENT

Ms. Jan Brisco, Tahoe Lakefront Owners Association

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PROCEEDINGS

1
2 CHAIRPERSON NEWSOM: I'll call the formalized
3 meeting of the State Lands Commission to order.

4 A few of the representatives of the Commission
5 are here, and I'm grateful you took time to be here. And
6 introduce yourselves so everyone knows who you are.

7 ACTING COMMISSIONER ARONBERG: Cindy Aronberg, a
8 Deputy for State Controller, John Chiang. Thank you.

9 CHAIRPERSON NEWSOM: Great.

10 And I am -- as is the case, Lieutenant Governor
11 rotates into the position of Chair as the State Lands
12 Commission Chair. And so I'm honored to be here. And
13 we'll expect the Controller shortly.

14 And for those that are completely unfamiliar with
15 the proceedings of the State Lands Commission, we
16 administer certain property interest owned by the State,
17 including mineral interests. It's interesting, that's
18 what they told me to say.

19 (Laughter.)

20 CHAIRPERSON NEWSOM: The mineral interests lobby
21 is clearly alive and well.

22 And today we'll hear proposals concerning the
23 leasing and management of these public property interests.

24 The first item on the agenda today is the
25 adoption of the amended minutes from the Commission's

1 October meeting.

2 And, Mr. Fossum, you've got I think those
3 amendments in your presence.

4 And we're joined by our Controller, John Chiang.

5 EXECUTIVE OFFICER FOSSUM: Yes, thank you, Mr.
6 Chair.

7 Good afternoon, Commissioners, and welcome
8 Chairman Newsom and welcome back Commissioner Chiang.

9 The first item is an amendment to the
10 Commission's minutes from the October meeting. At that
11 meeting, the Commission adopted Item 64 submitted by the
12 staff. However, during the oral presentation of that
13 item, there was a modification made by the staff from a
14 60-day provision for execution of a lease to six months.
15 That was not picked up in the minutes when they were
16 approved in December, so they are being amended at this
17 time for -- or being provided to you for your
18 consideration at this time.

19 CHAIRPERSON NEWSOM: Any discussion about that
20 amendment?

21 May I have a motion to approve the minutes
22 amended?

23 COMMISSIONER CHIANG: So moved.

24 CHAIRPERSON NEWSOM: And seconded?

25 I guess I'll second.

1 Unanimous.

2 EXECUTIVE OFFICER FOSSUM: Thank you.

3 CHAIRPERSON NEWSOM: We'll move the amended item
4 on.

5 And the second item for business, the adoption of
6 minutes of the December meeting.

7 Any discussion?

8 COMMISSIONER CHIANG: Move approval.

9 CHAIRPERSON NEWSOM: Moved and seconded.

10 And the minutes are moved forward unanimously.

11 And the next order of business, Executive
12 Director's report.

13 Mr. Executive Director.

14 EXECUTIVE OFFICER FOSSUM: Thank you. I have a
15 number of items to report to you today.

16 As a cleanup matter from the last meeting, I
17 should report for the record that in the closed session of
18 the Commission on December 10th, the Commissioners did
19 appoint me as the Executive Officer by a three to zero
20 vote.

21 On today's calendar we have a rather short
22 agenda, with only 38 items and only one that's not on the
23 consent calendar. Typically, the agenda would have 50 or
24 more items with as many as eight being discussed and not
25 being on a consent. For example, last June we had 93

1 agenda items.

2 And because we only have one regular item on the
3 agenda today, we're going to take the opportunity to
4 provide the Commission and the public with some
5 information on activities the Commission staff is involved
6 with.

7 I've asked the chiefs of each of the divisions --
8 Commission's six divisions to present a short
9 informational PowerPoint presentation following the
10 regular agenda. This should only take about 45 minutes.

11 Secondly, I'm pleased to announce today that your
12 staff is meeting with contractors in Santa Barbara to
13 implement the Commission's Santa Barbara Channel Hazard
14 Removal Program. The program's objective is to eliminate
15 risk to public health and safety along the beach in Santa
16 Barbara and Ventura counties. The program was first
17 approved by the Commission on October 1st, 2002. However,
18 before all the permits and contracts could be let, the
19 \$600,000 the Legislature had budgeted for removal of those
20 hazards was swept back into the general fund due to a,
21 then existing, State fiscal crisis.

22 After receiving \$700,000 from the federal
23 government, we are now proceeding with removal of 19
24 hazards. Staff was able to remove three of the initial 22
25 hazards identified by our investigation with the

1 assistance of adjacent property owners.

2 Those sites include 120 metal H piles, two steel
3 groins, and approximately 500 railroad metal rails on the
4 beach. Many of these hazards are from early oil
5 exploration in the 1920s and 30s.

6 I also would like to report that the audit of the
7 Commission by the Bureau of State Audits, that was in
8 response to former Senator Cogdill's request last summer,
9 is proceeding. Bureau staff came to the Commission in
10 November. And since then, our staff has been cooperating
11 with the audit staff to answer questions they have and
12 provide them with all the information they're seeking.

13 The process has been a positive one in that their
14 inquiries have already raised a number of issues that have
15 allowed our staff to reassess certain practices to improve
16 the timeliness of reviewing our leases.

17 We anticipate that the final report will
18 ultimately provide additional recommendations that will
19 help enable the Commission to keep up with the ongoing
20 workload involving the thousands of leases the
21 Commission's approved and administers.

22 On oil spill prevention. Following the
23 Commission's action in December, staff has sent notices to
24 the oil companies operating on State-submerged lands
25 informing them of interim guidelines for having

1 third-party certification of blowout preventers as part of
2 their well drilling operations. Staff will be returning
3 to the Commission later this year with proposed
4 regulations for formally implementing third-party
5 certification. Your staff is meeting today in Ventura
6 with a private company involved in third-party
7 certification for federal offshore leases to discuss the
8 Commission's program.

9 Item 38 today will be discussing the revenue
10 shortfall facing our oil spill prevention fund. We are
11 also attempting to resolve the serious issue of staff
12 shortages in the Oil Spill Prevention Program.

13 On a final and sad note, it's with deep regret
14 that I have to announce to you that our Legislative
15 Liaison and Staff Counsel, Mario De Bernardo, will be
16 moving on to a new job on Monday as a senior consultant
17 with the Assembly Natural Resources Committee. With all
18 the limitations on hiring and promotions, we were not able
19 to compete with the Legislature. Our loss will be their
20 gain.

21 When I first met Mario nearly three and a half
22 years ago, I thought there was something special about
23 him. Only later did I realize the reality of that first
24 impression. Before interviewing for a job with the
25 Commission, Mario had the foresight to go to the Capitol

1 and watch the Commission in action.

2 Mario's resumé was also impressive, a BA in
3 Political Science from Berkeley where he served as
4 Attorney General of the State Student Body. He followed
5 that up with work for a law firm for nearly two years
6 prior to entering law school.

7 During law school, Mario worked with the San
8 Mateo District Attorney's Office and clerked with the
9 Office of Administrative Hearings. He also did an
10 internship with Congressman Sam Farr in Washington during
11 his college years.

12 While working with the Commission, Mario has
13 accomplished things, not the least of which were getting
14 married to Jenny and becoming a father to Lulu.

15 All those who had the privilege of working with
16 Mario know of his ability to grasp many complicated issues
17 and thoroughly understand and explain them to diverse
18 audiences. As an attorney, Mario has brought the
19 Commission an added bonus of both understanding the law as
20 well as the process in creating it. Mario is genial,
21 quick witted, and hard working.

22 One of my fondest memories of Mario took place at
23 his first Commission meeting as Legislative Liaison. The
24 Commission Chair asked Executive Officer Paul Thayer to
25 provide the Commissioners with some information. The

1 issue involved legislation. And Mario jumped from his
2 chair, nearly pushing Paul aside, responding, "I got
3 it" --

4 (Laughter.)

5 EXECUTIVE OFFICER FOSSUM: -- as he rushed to the
6 microphone. That exemplifies Mario's initiative,
7 confidence, and dedication. Mario, you got it.

8 (Laughter.)

9 EXECUTIVE OFFICER FOSSUM: Thanks for being you.
10 You'll be missed.

11 That concludes my report until the division
12 chiefs' PowerPoint presentation after the regular
13 calendar.

14 Thank you.

15 CHAIRPERSON NEWSOM: All right.

16 COMMISSIONER CHIANG: Mr. Chairman?

17 First, Curtis, I just wanted to say thank you for
18 staying on. I'm very pleased to have you at the helm.
19 And you will continue to do excellent work.

20 And then, Mario, I just wanted to highlight my
21 thanks to your incredible dedication and service. You are
22 truly a star. We actually had bigger plans for you here.
23 So we hope your State Lands Commission service has not
24 ended, at least from my personal perspective.

25 LEGISLATIVE LIAISON DE BERNARDO: Thank you.

1 COMMISSIONER CHIANG: Thank you, Mr. Chairman.

2 CHAIRPERSON NEWSOM: You want to make public what
3 your plans were? Maybe Mario --

4 (Laughter.)

5 CHAIRPERSON NEWSOM: -- will change his mind.

6 (Laughter.)

7 COMMISSIONER CHIANG: Curtis isn't so young.

8 (Laughter.)

9 EXECUTIVE OFFICER FOSSUM: I'll stipulate to
10 that.

11 (Laughter.)

12 CHAIRPERSON NEWSOM: Very good. Thank you.

13 And the next order of business, the adoption of
14 the consent calendar.

15 Are there any items that are being pulled from
16 the consent calendar?

17 EXECUTIVE OFFICER FOSSUM: Yes, Mr. Chair. Item
18 39, dealing with the Sacramento rail yards, will be pulled
19 from this agenda and hopefully come on an agenda in the
20 not too distant future.

21 CHAIRPERSON NEWSOM: Okay. Great.

22 COMMISSIONER CHIANG: Mr. Chairman, I'd like to
23 pull C12, please.

24 CHAIRPERSON NEWSOM: C12.

25 All right. Just in terms of C12, you want any

1 discussion on that, or we're just pulling that for the
2 next -- for another time?

3 COMMISSIONER CHIANG: Do we -- can we discuss
4 that later today when it comes up since it's been pulled,
5 or does it have to be scheduled for the next meeting?

6 EXECUTIVE OFFICER FOSSUM: As long as you're not
7 making any decisions on it once it's pulled, you can
8 discuss it at your pleasure.

9 COMMISSIONER CHIANG: Sure. I think this is an
10 important issue. We need to get a handle on the finances
11 of those who have our tidelands money -- or trust money,
12 to make sure that it is being spent as designed. My
13 concern is the fact that we don't have sufficient
14 resources with this agency to do a robust review of those
15 public dollars.

16 For instance, the Harbor Department in Redondo
17 Beach - and I'm not singling out Redondo Beach, but
18 obviously they have been reviewed previously - there were
19 a few years ago \$15 million in reserves. I'm not sure
20 where that is today and I'm not sure if any of it is
21 within our jurisdiction.

22 I want to know how charges are made in terms of
23 the internal service fund. And I want to make sure that
24 there's no duplication, so that we're not being billed
25 twice or multiple times or not at all. So I think this is

1 an area that we're going to have to pursue with a more
2 vigorous -- it has to be shared with the Legislature,
3 Mario --

4 (Laughter.)

5 COMMISSIONER CHIANG: -- to make sure that people
6 have a better sense of what our obligations are. And in
7 view of what's taking place throughout municipal
8 government and the problems with finances, I want to make
9 sure that we don't have a growing problem with any of the
10 areas that we have jurisdiction over.

11 EXECUTIVE OFFICER FOSSUM: We certainly
12 appreciate that, Controller Chiang. The staff is
13 concerned with the inability to keep track of the local
14 grantees and the funds that they expend. We did
15 investigate Redondo Beach some years ago and found some
16 irregularities. And since that time, we've even lost more
17 of our accounting and auditing staff, so it's been
18 difficult to do that.

19 So we appreciate your support on that.

20 CHAIRPERSON NEWSOM: All right. Well, at
21 least -- and so we'll take up all the other items that
22 haven't been pulled from the consent calendar.

23 Are there any public comment? Anyone wish to
24 speak to the items that remain on the consent calendar?

25 Seeing none, we'll close public comment.

1 We have a motion to approve the remaining items
2 on the consent calendar?

3 ACTING COMMISSIONER KLASS: So moved.

4 COMMISSIONER CHIANG: Second.

5 CHAIRPERSON NEWSOM: Without objection.

6 And on those two remaining items, again the
7 Sacramento Rail, we'll bring that up to another regular
8 scheduled meeting, and C 12 we'll continue to, I guess,
9 the call of the Chair --

10 EXECUTIVE OFFICER FOSSUM: Okay.

11 CHAIRPERSON NEWSOM: -- and work through some of
12 those issues.

13 What's next here? We've got Item 38. That's to
14 consider sponsorship to the legislation. And we've got
15 Mario at the helm. And we'll have Jan Brisco speak
16 momentarily.

17 Mario, I guess this is your last hurrah.

18 LEGISLATIVE LIAISON DE BERNARDO: Well, good
19 afternoon, Mr. Chair and commissioners. Thank you for the
20 kind words. I'm glad that you decided to do that before
21 my presentation --

22 (Laughter.)

23 LEGISLATIVE LIAISON DE BERNARDO: -- before I
24 dump eight legislative proposals on you and then bolt.

25 (Laughter.)

1 (Thereupon an overhead presentation was
2 presented as follows.)

3 LEGISLATIVE LIAISON DE BERNARDO: So today I'll
4 be presenting eight legislative proposals to you. After
5 each proposal I'll provide you with staff's recommendation
6 on each item.

7 Feel free to ask any questions during my
8 presentation. Traditionally, what's been done is I've
9 given the whole presentation. And then at the end, the
10 commissioners take action on each item.

11 And so I suggest doing the same, but I'll leave
12 that up to your discretion.

13 --o0o--

14 LEGISLATIVE LIAISON DE BERNARDO: The first
15 legislative item has to do with our rent-free piers.
16 According to statute, Public Resources Code 6503.5, the
17 State Lands Commission shall not charge rent for
18 recreational piers on State lands for private recreational
19 use when the owner is the littoral landowner.

20 Here you'll see a picture of -- a snapshot of
21 Huntington Harbor where there are several homes here with
22 recreational piers that are rent free. This is a small
23 snapshot of Huntington Harbor, which has several more.
24 This is the channel here that is subject to the Public
25 Trust. There was a boundary line determination in the

1 sixties, so it's pretty clear-cut where the boundary line
2 is and that these recreational piers are on State lands.

3 I should say that staff is going through its
4 records right now, and we believe that there are well over
5 1,000 recreational piers and buoys under the State Lands
6 Commission's direct jurisdiction that are rent free.

7 --o0o--

8 LEGISLATIVE LIAISON DE BERNARDO: I'll explain
9 why President Reagan's picture is up there in a moment.

10 (Laughter.)

11 LEGISLATIVE LIAISON DE BERNARDO: The problems
12 associated with the rent-free rec piers is that it
13 deprives the State of millions of dollars of revenue. We
14 determined that a few years ago the average for each pier
15 and buoy is about \$1,600 a year.

16 There's also a problem with unequal treatment.
17 As you're aware, we have legislative grantees. And
18 they -- the local governments with these grants manage
19 their Public Trust Lands pursuant to the legislative
20 statute that granted the lands. So in, for example, Lake
21 County, Clear Lake has several recreational piers. They
22 are administered under the 1973 legislative grant of trust
23 lands to the County of Lake. And they're required to
24 charge rent for structures on State lands. As such, a
25 Clear Lake property owner with a recreational pier pays

1 rent to the local government. It needs to be used for
2 Public Trust purposes of course.

3 This is not the situation in areas like Lake
4 Tahoe and Huntington Harbor, where you have ungranted
5 lands, and these lands are subject to the Public Resources
6 Code that I just referred to.

7 Another issue is that there's been this notion
8 that these piers serve a substantial public benefit. And
9 actually in 1977 - you can see here I cited the statute -
10 the Legislature made this finding that there was a
11 substantial benefit to the public, because these piers
12 acted as safe havens in cases of emergencies. But the
13 reality is that these piers are for private exclusive use,
14 and that if you were to tie your boat up to one of these
15 piers or enter the pier, you could be charged with
16 trespassing. It's only out of necessity or in the case of
17 emergency that you can actually use these piers as a
18 member of the public.

19 I put Ronald Reagan's picture up there because in
20 1968 one of the -- the first attempt that we know of of
21 the Commission or of the State trying to repeal this
22 statute was under the administration -- under Ronald
23 Reagan's administration as Governor. And the Commission,
24 at that point, was made up of all republicans, including
25 the director -- Ronald Reagan's director of finance. And

1 they agreed to sponsor legislation. And they cited, among
2 other reasons, that it's very difficult to determine when
3 a pier is used for recreational use or commercial use.
4 And we've had -- we've noticed that problem recently, that
5 you have these rent-free recreational piers, but the
6 upland owner is renting them out -- they're renting a
7 property out for vacation purposes and the pier is part of
8 it or they're renting the pier itself.

9 So our recommendation is to -- is for the
10 Commission to sponsor legislation to repeal this Public
11 Resources Code as well as the statute in 1977, Chapter
12 431. That's actually in addition to the staff report. I
13 didn't include that statute as a recommended item, and I
14 would suggest -- or I'd recommend including that if you
15 decide to take action on this item.

16 There's actually a bill already introduced by
17 Senator Pavley on this item. And so our sponsorship would
18 be very helpful in terms of making this bill move through
19 the process.

20 --oOo--

21 LEGISLATIVE LIAISON DE BERNARDO: The second
22 legislative proposal is a fairly clean-cut proposal. It
23 involves Chula Vista. On December 10th, 2010, the
24 Commission approved a land exchange agreement. The State
25 received 97 acres of land, leased this over to the Port of

1 San Diego. Port of San Diego will use this land for low
2 density development to improve and enhance the -- or I
3 should say preserve and enhance the wetland area over
4 there, parks, open space, bike trails. As part of that
5 agreement, the State Lands Commission agreed to pursue
6 legislation to grant those lands to the Port of San Diego
7 pursuant to the Port Act.

8 And so the recommendation is that the Commission,
9 in fact, sponsor this legislation.

10 --o0o--

11 LEGISLATIVE LIAISON DE BERNARDO: The third
12 legislative proposal has to do with vessels and ground
13 tackle. You may recall a few years ago the Commission
14 endeavored to accomplish the same -- or address this same
15 issue through legislation. It was ultimately vetoed for
16 what we think are erroneous reasons, but I'll get into
17 that in a second.

18 The problem with vessels and ground tackle is
19 that we're seeing in growing numbers that there are
20 derelict vessels being abandoned or permanently moored on
21 State lands without any sort of approval. This creates
22 blight. It is an attractive nuisance. People can get
23 injured on them. There's hazardous material on some of
24 these boats. And we have to -- if we want to address this
25 problem -- and we've had a retired annuitant, Peter

1 Pelkofer, who's been pretty diligent and ambitious in
2 terms of addressing this issue.

3 We filed a lawsuit against, for example, there's
4 the Spirit of Sacramento here, which I think will be
5 mentioned in one of the land management discussions. We
6 entered into a lawsuit against the owner of this boat. It
7 took about three years I think of litigation. I want to
8 say about a thousand hours of Attorney General's time.
9 That comes to about over a thousand dollars in legal
10 services, and that doesn't even -- a hundred thousand
11 dollars in legal services. It doesn't even include State
12 Land staff's time in the matter. And the reason why we
13 have to go to court is because we can't order disposal
14 administratively of these vessels because of property
15 rights that the owner has in these type of vessels.

16 And so what staff is suggesting -- let's see if I
17 can get to the next slide here -- no, that's not doing it.

18 --o0o--

19 LEGISLATIVE LIAISON DE BERNARDO: Okay. Well, I
20 handed out the PowerPoint slides there.

21 Thank you.

22 Staff is suggesting creating an administrative
23 authority within the Commission to order removal and
24 disposal of these vessels. Now, the -- we don't
25 contemplate using any General Fund money. This is a

1 discretionary act and the Commission may do this if there
2 are available opportunities there to dispose of the
3 vessels. If we have a ship recycler; if we have
4 third-party funding; if we have a willing federal, State,
5 or local agency wanting to get rid of this vessel, we
6 would utilize those resources to dispose of these vessels.
7 So the Commission would get this item, would decide that
8 this boat is derelict and trespassing or abandoned and
9 should not be on State lands, and order removal and
10 disposal. And that would give staff the legal authority
11 to remove these vessels. So the staff's recommendation is
12 to sponsor this bill.

13 I mentioned before that it was vetoed. The
14 Governor stated that there were hidden costs to this
15 program and that Boating and Waterways had an abandoned
16 boat program. And we asserted time and time again that
17 there were no hidden costs that we intended. We had
18 identified ship recyclers that were willing to take these
19 vessels. And we were working with other agencies.

20 --o0o--

21 LEGISLATIVE LIAISON DE BERNARDO: And then as far
22 as Boating and Waterways program goes, their program --
23 they have a grant program where they give money to local
24 governments to remove abandoned recreational vessels. And
25 as you can see from the picture that I showed before, a

1 lot of these vessels are commercial vessels, and so the
2 Boating and Waterways program does not apply.

3 CHAIRPERSON NEWSOM: Who sponsored that bill?

4 LEGISLATIVE LIAISON DE BERNARDO: We sponsored
5 that bill in '09. It was introduced by Senator Wolk. It
6 received only one "no" vote throughout the whole process.

7 CHAIRPERSON NEWSOM: It was still vetoed?

8 LEGISLATIVE LIAISON DE BERNARDO: It was still
9 vetoed.

10 CHAIRPERSON NEWSOM: And would you be looking to
11 go right back to Wolk or -- and sort of brought the same
12 process back?

13 LEGISLATIVE LIAISON DE BERNARDO: Senator Wolk
14 has indicated that she's interested in this bill.

15 CHAIRPERSON NEWSOM: Okay.

16 LEGISLATIVE LIAISON DE BERNARDO: The fourth
17 proposal is also a proposal that you've seen in the past
18 in 2000 --

19 CHAIRPERSON NEWSOM: Excuse me.

20 LEGISLATIVE LIAISON DE BERNARDO: Yes, go ahead.

21 COMMISSION CHIANG: Have we contemplated imposing
22 financial liability on people who've disposed of these
23 boats?

24 LEGISLATIVE LIAISON DE BERNARDO: I would say
25 it's been contemplated. It's not part of this proposal.

1 There's no reason why we can't consider it, or if you'd
2 like to make it part of that -- part of your motion to
3 incorporate administrative fines.

4 COMMISSIONER CHIANG: Well, I'd like to get
5 additional thinking by staff, because the -- not only are
6 we doing a cleanup, but I want to discourage that type of
7 irresponsible practice.

8 EXECUTIVE OFFICER FOSSUM: Yes, Commissioner
9 Chiang. Item 7 that Mario will be getting to is actually
10 a similar bill dealing with trespasses. And in that
11 instance, there is a revision for fining people. And so
12 that -- depending on the circumstances, it may be
13 something that we want to fine people to incentivize them
14 to remove it themselves. But if they're judgment proof or
15 whatever, then we still need the authority be able to go
16 in there and remove that. We've had that kind of
17 circumstance where it wouldn't do any good to even fine
18 somebody, because they have no assets or they left the
19 state, but the Commission still would have to go into
20 court under current conditions. And so we want to clarify
21 that as to that Item No. 3.

22 COMMISSIONER CHIANG: If you could -- I don't
23 know if any other state has engaged in this type of
24 practice. And I don't want you to have to do research if
25 we don't have the resources, but if somebody has a quick

1 sense, you know, obviously I'd like to get additional
2 information and I'm sure the other commissioners would.

3 EXECUTIVE OFFICER FOSSUM: Well, currently there
4 is a fund for recreational vessels that the Department of
5 Boating and Waterways handles. The problem with that is
6 it's not available to State agencies. And so unless the
7 local government, the city or county, wants to take that
8 responsibility -- we're talking about lands under the
9 Commission's jurisdiction that we can't get anybody to
10 take responsibility for in many instances. Certain
11 counties are very proactive, others are not. So this
12 would give the Commission the authority to take those
13 actions.

14 LEGISLATIVE LIAISON DE BERNARDO: And the
15 trespass bill that I'll be talking about does not deal
16 with vessels. And when we developed this bill in '09, we
17 weren't -- as Curtis was saying, these are, for the most
18 part, insolvent people that are -- that have these vessels
19 or abandon them. And there is a provision in the Wolk
20 bill that allows us to go after the individual for costs,
21 but that involves a court action. And we can look into
22 perhaps turning that into an administrative process to
23 impose fines.

24 COMMISSIONER CHIANG: I'd be interested in that.
25 I'm not sure everybody's judgment proof. But to the

1 extent that they're not, that may be an additional tool in
2 our tool kit.

3 CHAIRPERSON NEWSOM: Let me reinforce that. I
4 mean, if I threw a garbage can's worth of things, I should
5 be fined, let alone a vessel on State property, and we're
6 picking up the cost. It seems to be -- you know, I hate
7 the phrase "no-brainer" because it's not particularly
8 eloquent or thoughtful, but this is a no-brainer.

9 And I think administratively there's hardship
10 waivers, there's all kind -- I mean, I understand, you
11 know, people's difficulty. But, my gosh, looking at least
12 at the slides you showed, these are hardly modest little
13 vessels that people are dumping. So I think there's
14 absolute wisdom in looking at that; and looking at best
15 practices to the extent that there are, you know, other
16 agencies that are doing the same.

17 EXECUTIVE OFFICER FOSSUM: And that is part of
18 the problem with the Boating and Waterways program, it
19 only involves recreational vessels. And as you pointed
20 out, a number of these vessels we're dealing with have --
21 had been commercial in the past and somebody buys them for
22 a dollar and then they go out there and sink or just
23 abandon them and nobody takes responsibility of their own
24 on Commission's property.

25 CHAIRPERSON NEWSOM: Good. Well, let's -- yeah,

1 I look forward to you coming back with some
2 recommendations.

3 --o0o--

4 LEGISLATIVE LIAISON DE BERNARDO: The fourth
5 legislative proposal is a proposal that was sponsored by
6 the Commission in '09. And it has to do with mining
7 leases and quitclaims. And it was vetoed because the
8 Governor said that it was a solution looking for a
9 problem, which is not the case.

10 What happens is that the Commission issues leases
11 to mining companies, who then mine the lands. And then
12 once they're done mining the lands, they go into
13 reclamation. Well, the law allows a mining lessee to
14 quitclaim their lease to the State Lands Commission before
15 they go into reclamation.

16 What happens then is that the mining company
17 occupies the land during reclamation, can use it in some
18 cases to store equipment, and does not pay rent to the
19 State nor is obligated to comply with the insurance or
20 bond requirements of the lease. There's no incentive for
21 them to hurry up the reclamation process.

22 Meanwhile, we're stuck with a piece of land that
23 we can't lease out and that we're not generating any
24 revenue from.

25 There's one example in Lake County where there's

1 a mining company, a gold mining company, that quitclaimed
2 their lease ten years ago and is still in the reclamation
3 process. And there are a few other cases, and we cited
4 these to the Governor, but still he classified it as a
5 solution in search of a problem.

6 And so I would like -- I recommend that the
7 Commission take another shot at this and sponsor
8 legislation that will require the State Lands Commission's
9 approval of a quitclaim of a lease before it actually
10 takes effect.

11 CHAIRPERSON NEWSOM: And again, this was vetoed
12 last year?

13 LEGISLATIVE LIAISON DE BERNARDO: In '09.

14 CHAIRPERSON NEWSOM: '09? And the veto message
15 was solution in search of a problem?

16 LEGISLATIVE LIAISON DE BERNARDO: Correct.

17 CHAIRPERSON NEWSOM: Even though you identified
18 that one specific example, and I imagine you may have
19 others?

20 LEGISLATIVE LIAISON DE BERNARDO: Several
21 examples were cited in our bill --

22 CHAIRPERSON NEWSOM: And the sponsor of that? I
23 mean, I know obvious it came out of this Commission.

24 LEGISLATIVE LIAISON DE BERNARDO: Was
25 Assemblywoman Nancy Skinner, who, at the time, was the

1 Chair of the Natural Resources --

2 CHAIRPERSON NEWSOM: And is interested in
3 carrying this again?

4 LEGISLATIVE LIAISON DE BERNARDO: She's being
5 approached.

6 CHAIRPERSON NEWSOM: Okay.

7 --o0o--

8 LEGISLATIVE LIAISON DE BERNARDO: The fifth
9 legislative item deals with our Marine Invasive Species
10 program.

11 I divided the amendments into -- or the bill
12 proposal into three categories:

13 One is a set of technical changes, changing
14 terminology referring to -- for our whole fouling statutes
15 referring to the wetted parts of the vessel instead of the
16 submerged parts of the vessel, because you still have
17 fouling occurring on areas that are not necessarily
18 submerged.

19 There is an extension of a grandfathering date,
20 which was originally 2008, for experimental systems
21 approved by the federal government. Experimental ballast
22 water systems, I should say. And staff feels that the
23 grandfathering clause should be extended to 2016 to allow
24 these federally approved experimental ballast water
25 treatment systems to be operated in State waters for

1 research and development purposes.

2 And then the third category is aimed at
3 protecting the Marine Invasive Species Act. There is a
4 provision in the Marine Invasive Species Act when it
5 was -- around the time when it was first enacted that says
6 not until -- or until 2010 no agency can impose
7 requirements pertaining to marine invasive species from a
8 vessel that is different from those standards in the
9 Marine Invasive Species Act. Well, 2010 has come and
10 gone, and we've seen potential conflicts in other State
11 agencies' requirements that have little or no resources
12 dedicated to marine invasive species.

13 We've seen them consider requirements that
14 conflict with our -- with the Marine Invasive Species Act
15 and could actually negate huge portions of our program.

16 So we suggest extending this 2010 date to either
17 2020 or make it indefinite. The recommendation is to
18 sponsor this legislation.

19 --o0o--

20 LEGISLATIVE LIAISON DE BERNARDO: The sixth
21 legislative proposal deals with sea level rise. It is
22 sponsored by the Commissioner -- or the Controller. And
23 last year the Commission supported this bill. It was
24 authored at that time -- introduced by Assemblywoman
25 Brownley. And I think because of miscommunication or

1 because of the budget situation or it being last minute,
2 it was held on the suspense calendar in the last house,
3 which was the Senate, in the Appropriations Committee.

4 This bill would have -- would require planning --
5 or would require local trustees or grantees of Public
6 Trust Lands to plan and prepare for sea level rise. Some
7 of the requirements include assessments of sea level rise,
8 maps, determination of the costs of sea level rise,
9 measures and time tables. We're not actually requesting
10 that these be implemented, but we're requesting a plan.
11 We did a survey, as you recall, a few years ago where we
12 found -- where we surveyed over 100 trustees and lessees
13 and only 40 responded. And of those 40, very few were
14 ready for sea level rise or planning for sea level rise at
15 all.

16 This bill provides exemptions for trustees that
17 either will not be affected by sea level rise, that the
18 revenue -- or the expense of preparing the plan
19 substantially outweighs the benefit of preparing for sea
20 level rise. And the third exception is if a trustee does
21 not have significant -- or sufficient trust revenues to
22 pay for the plan.

23 Staff recommends that the Commission support this
24 legislation this year.

25 I should say that last year I believe the Port of

1 San Diego supported this as well as San Francisco -- Port
2 of San Francisco. They are both preparing their sea level
3 rise plan, so they're ahead of the game.

4 --o0o--

5 LEGISLATIVE LIAISON DE BERNARDO: The seventh
6 proposal involves trespass. This was also a bill that
7 Commission sponsored last year and was authored by
8 Assemblyman Chesbro.

9 I have to say that when I first started working
10 for the State Lands Commission I had a conversation with
11 our -- I had a meeting with our chief counsel at that
12 time, Jack Rump, and I asked him what is one of the
13 biggest legislative issues that we should address -- or
14 what is the biggest issue that we should address
15 legislatively. And he said trespass. He explained to
16 me - and I confirmed by looking through our records - that
17 we are regularly dealing with trespassing structures and
18 facilities on State lands. Our only remedy is to take
19 these structures and facilities to court for removal or to
20 get them under a lease. This involves, as in the
21 abandoned vessel case, significant Attorney General time
22 and money, significant staff time and money. And there's
23 really no deterrent for a trespasser when they're making
24 that initial decision whether or not they are going to
25 construct something on a navigable waterway. They will

1 either have to remove it later on or pay back rent or come
2 under a lease. And so there's really nothing to prevent
3 them from moving forward on their trespass.

4 We've seen this problem with fences. We've seen
5 this problem with -- fences to keep out the public from
6 certain rivers and lakes. We've seen this with piers and
7 docks. This picture here is a dock in the Delta that --
8 it's a boathouse. I believe Lieutenant Governor Garamendi
9 referred to it as a frat house.

10 (Laughter.)

11 LEGISLATIVE LIAISON DE BERNARDO: It has a full
12 kitchen upstairs. It has a shower. It has a toilet, and
13 a gigantic area for a boat, but I don't believe was parked
14 there.

15 The Commission spent about three years litigating
16 this issue, when all it wanted the owner to do was conform
17 the structure to a structure that would be suitable for --
18 or that was approved by the Commission.

19 We've also dealt with private bridges, believe it
20 or not. A mining company built three private bridges over
21 the San Joaquin River without authorization.

22 --o0o--

23 LEGISLATIVE LIAISON DE BERNARDO: So after having
24 this conversation with our chief counsel at the time, I
25 went to a conference with our counterparts from the

1 western states, and I asked them, "What exactly do you do
2 to deal with these trespassing issues?" And
3 representatives from Texas and Oregon -- I don't think
4 there was a representative from Washington -- told me that
5 they have statutes and regulations that impose
6 administrative fines and allow administrative orders to
7 remove these structures.

8 And so I looked at their statutes and their
9 regulations, and I discovered that Washington has similar
10 statutes and regulations, and modeled the bill off of
11 this. It was AB 2664 last year.

12 There are other agencies in the State that have
13 similar administrative finding authority, BCDC. One of
14 the complaints that we got at the end of last year's
15 session was that there would be -- there are due process
16 concerns. And my response to that is, well, first of all,
17 there are other states that have virtually the identical
18 program as being proposed here without due process issues;
19 that there are other State agencies that do the same
20 without due process issues; and the Civil Code and the
21 Government Code are filled with statutes to protect due
22 process in administrative actions. There's actually an
23 administrative adjudication bill of rights. There's a
24 whole mechanism to appeal an administrative decision to
25 the trial court. And so I feel that there are significant

1 due process protections in place.

2 Ultimately, I think those arguments led to the
3 veto message -- well, the Governor cited these due process
4 concerns in his veto message, and that's what ultimately
5 ended up killing the bill.

6 So I think with a new governor this year, I'd
7 recommend that the Commission sponsor a similar bill this
8 year.

9 EXECUTIVE OFFICER FOSSUM: And, Mario, what was
10 the result in the Legislature on the bill as far as how it
11 passed?

12 LEGISLATIVE LIAISON DE BERNARDO: Well, at first
13 it passed unanimously through the Assembly. But then once
14 I think some of the special interest groups came out
15 against it, the vote was along party lines, but it still
16 passed both houses.

17 --o0o--

18 LEGISLATIVE LIAISON DE BERNARDO: And then the
19 last legislative proposal, probably one of the -- the most
20 if not -- it's probably the most important legislative
21 proposal on this list. It's dealing with our Oil Spill
22 Prevention program. The Lempert-Keene-Seastrand Act in
23 1990 created the State's current oil spill prevention
24 programs, and mostly administered by Fish and Game's
25 Office of Spill Prevention and Response and the State

1 Lands Commission.

2 This program is funded by a fee imposed on oil
3 that goes over the docks at marine terminals, a
4 4-cent-per-barrel fee, as well as a \$2,500 fee on non-tank
5 vessels, which a non-tank vessel is charged once every two
6 years.

7 The program standards are best achievable
8 protection, and so the program is constantly growing and
9 improving. And we've seen that here with the creation of
10 our MOTEMS program, our Marine Oil Terminal Engineering
11 Standards, and other measures that we've taken to prevent
12 oil spill prevention -- or to prevent oil spills. And
13 we've had a huge success rate. I think Kevin will explain
14 later on what the success rate is. But it's pretty
15 remarkable over the last few years the lack of oil spills
16 at marine terminals.

17 The fees that are currently being -- that are
18 funding these programs go into the OSPAF, Oil Spill
19 Prevention Administration Fund. The revenues generated
20 are significantly less than the cost of these programs.
21 We're already operating at -- well, next year we're
22 projected to operate at a deficit that -- projections show
23 about 2.3 million next year in a deficit. Although
24 there's some creative budgeting and accounting that may
25 temporarily prevent any cuts to the programs next year.

1 But those creative accounting measures will likely not
2 take effect -- or not last any longer than that one fiscal
3 year. And so if you look at 2012 to 2013's projected
4 deficit, we're looking over \$8 million in the program,
5 which will ultimately lead to cuts, which we've yet to
6 determine how those cuts would take place and hoping that
7 they don't have to.

8 So our recommendation is to support an increase
9 in the fee. And I should say that the
10 Lempert-Keene-Seastrand Act in 1990 imposed a
11 4-cent-per-barrel fee over oil coming over the docks.
12 It's only been increased once since then to 5 cents in
13 2002 or 2003. And so in our 20-year program we've only
14 had a 1-cent increase, and which has not really -- it
15 doesn't match the increase in -- if you ask profits made
16 off of gas, the increased expenses that our programs are
17 incurring.

18 So we're looking for an increase in the fee that
19 will meet our program's needs today. But we're also
20 interested in possibly pursuing an adjuster, like a CPI
21 adjuster, that will allow the program to continue its
22 success and ensure funding so that every five to six years
23 we're not having to go to the Commission and the
24 Legislature to ask for more money.

25 And that concludes my presentation.

1 CHAIRPERSON NEWSOM: How large is the staff that
2 currently is funded with this fee? And has it grown
3 substantially over the years?

4 LEGISLATIVE LIAISON DE BERNARDO: The State Lands
5 staff is 90. That does not account for oil spill -- the
6 OSPR's staff, that is funded from the same pot.

7 CHAIRPERSON NEWSOM: All right. And excuse my
8 ignorance. I mean, this fee supports how many staff
9 members?

10 ADMINISTRATIVE SERVICES CHIEF BROWN:
11 Ninety of State Lands.

12 CHAIRPERSON NEWSOM: So the fee supports 98 FTs.

13 ADMINISTRATIVE SERVICES CHIEF BROWN: Over 200,
14 Fish and Game.

15 CHAIRPERSON NEWSOM: And 200 at Fish and Game?

16 ADMINISTRATIVE SERVICES CHIEF BROWN: Yes.

17 CHAIRPERSON NEWSOM: And have those numbers grown
18 substantially over the years, meaning the number of staff?

19 ADMINISTRATIVE SERVICES CHIEF BROWN: The initial
20 program at State Lands Commission had 60 positions.

21 CHAIRPERSON NEWSOM: Initial, going back to the
22 origins of the original fee?

23 ADMINISTRATIVE SERVICES CHIEF BROWN: Yes.

24 CHAIRPERSON NEWSOM: Sixty positions and now 98?

25 ADMINISTRATIVE SERVICES CHIEF BROWN: Ninety.

1 CHAIRPERSON NEWSOM: Ninety. Okay. Excuse me,
2 90.

3 All right. And what, have the duties been
4 commensurate with the staff increase? Or what's -- I
5 mean, have we done an analysis? Are we overstaffed,
6 understaffed? I know the concern -- I mean, obviously
7 I've never heard anyone in a department say we're
8 understaffed. Which it means if you don't like the
9 answer, ask a better question -- let me come up with a
10 better question.

11 LEGISLATIVE LIAISON DE BERNARDO: This is Kevin
12 Mercier. He's our Acting Chief of our Marine Facilities
13 Division.

14 MARINE FACILITIES DIVISION ACTING CHIEF MERCIER:

15 Yes, sir. You're right, nobody's going to say
16 that we're understaffed -- we're overstaffed. I'm sorry.

17 The program has grown because as we've -- since
18 we started in '91, we've got smarter on how to prevent oil
19 spills at marine facilities. You'll see later what we've
20 been doing in the engineering side of things. You know,
21 we are now the first state, nationality, or anyplace else
22 that's requiring marine terminals to actually rehabilitate
23 themselves. These structures were built -- you know, the
24 newest one in California that's not DOD was built in the
25 seventies. Before that most of these things were built in

1 the thirties and the forties.

2 There's never been a requirement for them to be
3 looked at, inspected, rehabbed or anything else. And
4 we're doing that now. Staff has grown to accommodate
5 that.

6 We took on some additional responsibilities over
7 the years. We've included security. After 911, we were
8 the first State agency and the first agency in the United
9 States really that applied security responsibilities at
10 oil terminals. Our premise is always prevention of oil
11 spills. But obviously if somebody blows up a marine
12 terminal, there's likely to be a spill, so we put in
13 security measures.

14 So our program has grown by adding enhancements
15 to the program to be better prepared and prevent oil
16 spills.

17 CHAIRPERSON NEWSOM: All right. And those
18 enhancements -- security enhancements were not aided by
19 federal resources or --

20 MARINE FACILITIES DIVISION ACTING CHIEF MERCIER:
21 No, sir.

22 CHAIRPERSON NEWSOM: -- or grants? Those all
23 come from State sources?

24 MARINE FACILITIES DIVISION ACTING CHIEF MERCIER:
25 They were all from this barrel tax, yes, sir --

1 barrel fee.

2 CHAIRPERSON NEWSOM: Fee, right.

3 MARINE FACILITIES DIVISION ACTING CHIEF MERCIER:

4 And we added some staff awhile back to look more
5 closely at marine facilities, and I'll explain quickly
6 later. But facilities are more than just the oil
7 terminals. Facilities also include, you know, tank farms
8 that might just take care of small boats. There are size
9 restrictions, but they're spelled out in the act
10 themselves. But we have staff that goes out and inspects
11 these marine facilities because, frankly, nobody else was
12 doing it. So we've added -- we've taken on those
13 responsibilities, because it's in the mandate of something
14 we should do and so we did it.

15 So the program has grown from 60 to 90. Not all
16 of those are in my division. We've also added -- some of
17 the responsibilities in the Mineral Resources Management
18 Division was shifted to the Oil Spill Act over the years
19 because, frankly, that's where it belonged. The
20 inspection of the offshore terminals is also geared to
21 preventing oil spills, and so some of those
22 responsibilities were absorbed in the OSPAF.

23 CHAIRPERSON NEWSOM: I appreciate that.

24 And I apologize if I just zoned out on the fee.
25 What are we recommending in terms of fee increase?

1 MARINE FACILITIES DIVISION ACTING CHIEF MERCIER:

2 Well, I don't think we've come up with the number
3 yet, sir.

4 CHAIRPERSON NEWSOM: All right. At least there's
5 a reason I didn't hear it then.

6 (Laughter.)

7 MARINE FACILITIES DIVISION ACTING CHIEF MERCIER:

8 Well, yes, sir.

9 CHAIRPERSON NEWSOM: And so the next obvious
10 question, are we talking 1 cent, are we talking 10 cents?
11 What is the estimate, and how does that work vis-a-vis
12 your staffing levels, et cetera? Could we look at what
13 that could be?

14 MARINE FACILITIES DIVISION ACTING CHIEF MERCIER:

15 Can I stick it in and then call it an estimate?
16 Do you want to do that?

17 LEGISLATIVE LIAISON DE BERNARDO: Well, I'd say
18 that we want to work cooperatively with Department of Fish
19 and Game's Oil Spill Prevention Response Office, OSPR.
20 And they are putting together a formula or a suggested
21 increase. And so I don't think that they've shared that
22 with us yet. They need to get approval from the
23 Governor's office, and I'm not sure if they've received
24 that, to go out and promote their increase.

25 And so we wanted to work with them to come up

1 with that number, that fee increase. And it just hasn't
2 happened yet.

3 CHAIRPERSON NEWSOM: Okay. Just so I
4 understand - and to the Executive Officer - you want us to
5 support a fee increase, but we don't know what that
6 increase is? Or do you want to support legislation that
7 would be the vehicle where we'd subsequently come back and
8 make a determination on whether or not that vehicle, as
9 drafted, is appropriate?

10 EXECUTIVE OFFICER FOSSUM: Yeah, I believe at
11 this time, Mr. Chair, that the staff would like to have
12 the support of the Commission for the concept of raising
13 the fee without knowing what that is.

14 We certainly can bring it back to you when we
15 hear from Fish and Game. Fish and Game actually manages
16 the funds for the State. And the Commission gets a
17 percentage of that to sponsor its program.

18 We anticipate it could be something like a cent,
19 it could be less. We don't know. There's a long-term
20 shortage that's showing up the trends. There was a
21 surplus, and that's being drawn down very quickly.

22 We have met with WSPA, who are the organization
23 that represents the shippers on this. They spoke at our
24 meeting in Culver City in October. And while they have
25 concerns about increasing the fund, because they want to

1 make sure the funds are being properly used - we've been
2 meeting with them and going over the issues with them - we
3 think their primary concern has been with the Department
4 of Fish and Game's expense rather than the Commission's.
5 But we're kind of tied together with Fish and Game on
6 this, and so we have to -- we're cooperating with them.
7 And depending on how the Governor's office is going to be
8 handling that, we'll be proceeding.

9 But we can certainly keep all the Commissioners
10 involved in that issue, and communicate back to us. And
11 we will take it -- we'll bring it back to the next
12 Commission meeting to tell you what the status of any
13 progress on the bill would be.

14 MARINE FACILITIES DIVISION ACTING CHIEF MERCIER:

15 If I may. OSPR has publicly stated that they
16 were looking at a penny and a half increase.

17 EXECUTIVE OFFICER FOSSUM: Okay.

18 MARINE FACILITIES DIVISION ACTING CHIEF MERCIER:

19 We've told them we're convinced that's not
20 enough, you know. Now, whether it's 2 cents more or --
21 but there's some other variables on the non-tank vessel
22 side which comes into how much money they can charge the
23 non-tank vessels --

24 CHAIRPERSON NEWSOM: And that's been that \$2,500
25 for a vessel --

1 MARINE FACILITIES DIVISION ACTING CHIEF MERCIER:
2 Right. And they're looking at going up to 3,200
3 perhaps.

4 So there are some numbers. But we've been
5 talking to OSPR and we're kind of negotiating -- first of
6 all, getting -- both of us getting the approval to proceed
7 to look at these things closer. And then I think we can
8 come together on a real number that not only takes care of
9 the status quo, but it will take care of us in the future
10 as well.

11 CHAIRPERSON NEWSOM: I see.

12 Well, I appreciate this dialogue. And to the
13 extent that there is a fee increase, obviously I
14 appreciate the Executive Officer could come back for
15 consideration. I don't want to necessarily just sign a
16 blank check. That being said -- without justification and
17 being able to reach out to the impacted parties, et
18 cetera, and make sure we do the due diligence. And
19 there's always efficiencies. And it sounds like there's a
20 lot of opportunity here with Fish and game and the
21 Commission to start coordinating and organizing some of
22 those long-standing issues differently around potentially
23 this fee increase.

24 So I certainly have no problem - and I'm speaking
25 for myself, obviously not my colleagues - supporting the

1 discussion. And I guess that's it. The way this reads is
2 we're supporting legislation as an action item. And
3 that's where I get a little bit -- these questions are
4 coming from basically.

5 EXECUTIVE OFFICER FOSSUM: Understood. And to
6 some degree, I may be regretting that we didn't do the
7 division chiefs' PowerPoint presentation earlier so that
8 you'd have a better sense of what some of the activities
9 that we've been involved in in the success of the
10 programs. And if it's the commissioners' desire, we could
11 certainly postpone a vote on this until after that, if
12 that's helpful. Otherwise, we could proceed.

13 CHAIRPERSON NEWSOM: Well, I think -- look, any
14 fee going back this many years and the work that we're
15 doing -- and the fact is you're doing outstanding work.
16 And I have intimate appreciation of that being my old job
17 that I had a few weeks ago.

18 That being said, I have no problem -- I want you
19 to move along. Nothing worse than folks slowing
20 everything down, especially with these meetings that
21 happen every so darn often. It gets a little frustrating,
22 I imagine.

23 But in terms of just specific recommendations, I
24 hope that we can caution some consideration back to the
25 Commission to support or defend or oppose or amend those

1 specific recommendations. But that's my own feeling. I
2 don't know, colleagues, if you have any thoughts on it.

3 COMMISSIONER CHIANG: Mr. Chairman?

4 CHAIRPERSON NEWSOM: Please.

5 COMMISSIONER CHIANG: First question -- whatever
6 the fee is, it's probably de minimis. But can we get
7 something from WSPA if they have elasticity of demand,
8 increasing of -- where it goes down the channels and down
9 the chains and what its impact is going to be?

10 And then, second, if staff can explain, with the
11 recent law changes, all the expenditures from this fee, is
12 it still a majority vote?

13 LEGISLATIVE LIAISON DE BERNARDO: Assemblyman
14 Huffman is introducing legislation, or at least is
15 seriously considering introducing legislation on this, and
16 submitted language to legislative counsel. And from what
17 I understand, legislative counsel sent the language back
18 marking it with the majority vote requirement.

19 And so at this point, I think -- and reviewing
20 Proposition 26, I think that an increase in the fee meets
21 the exception in Proposition 26 regarding inspections,
22 investigations, and audits. And we have made an inquiry
23 to the Attorney General's office and we're waiting for an
24 opinion from them. But at this time, we're under the
25 impression that a majority vote is all that's required.

1 COMMISSIONER CHIANG: Yeah, if you could let us
2 know if there's any pressure points with any of the
3 expenditures that would perhaps elevate it to the level
4 where it would require a two-thirds vote --

5 LEGISLATIVE LIAISON DE BERNARDO: Okay.

6 COMMISSIONER CHIANG: -- so that we can review
7 that and determine what would need to be done as a next
8 step.

9 LEGISLATIVE LIAISON DE BERNARDO: Okay.

10 CHAIRPERSON NEWSOM: All right. Does that
11 conclude the presentation of the --

12 LEGISLATIVE LIAISON DE BERNARDO: That concludes
13 it.

14 CHAIRPERSON NEWSOM: -- you're proposing?

15 LEGISLATIVE LIAISON DE BERNARDO: I'd like to
16 thank all of you for the opportunity you've given me to
17 represent the Commission at the Legislature and at the
18 federal government level. It's been a pleasure. We have
19 great leadership. We had great leadership with Paul
20 Thayer and Jack Rump. And you guys have left -- Curtis
21 always jokes because I often refer to you as you guys.

22 (Laughter.)

23 LEGISLATIVE LIAISON DE BERNARDO: Anyway, thank
24 you again, and you've made a lasting impression on me and
25 I hope to carry the values that you've instilled in me and

1 in the rest of the State forward.

2 Thank you.

3 COMMISSIONER CHIANG: If you want to make sure
4 there's a lasting impression, make sure our bills pass.

5 (Laughter.)

6 CHAIRPERSON NEWSOM: Any other comments from the
7 Commission?

8 I think there's public comment on this item. I
9 received one request to speak. But those that haven't
10 filled out a form, just raise your hand and please speak.

11 But Ms. Jan Brisco.

12 There's Jan.

13 Come on up.

14 MS. BRISCO: Good afternoon, Chairman Newsom and
15 commissioners.

16 I think your form needs to be amended, because
17 I'm not necessarily speaking in opposition today, but
18 wanted to share with you some concerns.

19 I am representing the Tahoe Lakefront Owners'
20 Association. And we were very concerned about the last
21 time Item No. 7 came before the Legislature, and in terms
22 of the ability for the State Lands to go in and
23 administratively make some removals. So we are hopeful
24 that in the event that this legislation isn't going to
25 move forward, that our comments about due process are

1 seriously considered. And I know staff has been in touch
2 with us on that. And we are looking forward to working
3 with them again on the -- in terms of remedies and that
4 kind of thing.

5 One issue that's come up -- and I'm only speaking
6 to Lake Tahoe. I know this is a statewide proposition.
7 One issue that's come up for us at Lake Tahoe are the
8 number of boathouses that have sun decks on top where you
9 take -- you know, it houses a boat, but it also allows
10 some sunning on top of the deck. In some cases, these
11 structures have not been previously authorized
12 specifically, although it is very clear that they've been
13 there since the forties, fifties, and sixties. And so
14 we're concerned about the staff's interpretation that
15 those then need to be removed. And many of our lakefront
16 owners have already complied with those removals. But we
17 are concerned about what that might mean in the future in
18 terms of administrative remedy and if there is, in fact,
19 some concern about that.

20 Also, at Lake Tahoe we are very, very well
21 regulated by other agencies having jurisdiction. The U.S.
22 Army Corps of Engineers, of course, can come in and make
23 removal requests and modification requests, as well as the
24 Tahoe Regional Planning Agency.

25 Another concern that we have in terms of Item No.

1 1 for legislation on the rent-free provision, we are
2 hoping, because this of course is a very significant
3 dollar amount that could come back to the State, that we
4 take a very careful look and analyze very carefully this
5 provision. There are -- I don't know. We heard about the
6 number of piers and structures that enjoy the rent-free
7 status, but we don't know about the ones and the number -
8 and I'd be interested to know, maybe staff can let me
9 know - the numbers who are already paying annual rent.

10 We at Lake Tahoe need a recognition for seasonal
11 use. We are paying not only for the structure itself, but
12 also a setback area as well, 10 feet to piers and a
13 40-foot radius for buoys. So that's a considerable amount
14 of area that we're already paying -- would be paying for
15 and already are paying.

16 The number of cases that might exhibit
17 hardship -- although everyone thinks that if you have a
18 pier, somehow it's an open checkbook here. But we want
19 you to know we have a lot of families with inherited
20 properties and that kind of thing who this will be
21 considered a hardship for. So we want the staff and the
22 Legislature to consider that.

23 And, lastly, that the percentage of any of these
24 fees that might go back to Lake Tahoe in the form of
25 environmental improvement and some of the goals that we're

1 trying to achieve at Lake Tahoe would be -- if there's a
2 consideration for that as well, we'd like that to be
3 something -- we'd like the Legislature to consider as
4 well.

5 Thank you very much.

6 CHAIRPERSON NEWSOM: Thank you, Ms. Brisco.

7 Any other public comment?

8 Again, I just have this one card. But just in
9 case, to be fair.

10 Seeing none, we'll close public comment.

11 Mr. Executive Officer, any final comments before
12 we ask Commission members their thoughts?

13 EXECUTIVE OFFICER FOSSUM: Only in response to
14 Ms. Brisco's comments.

15 I think staff certainly tries to work with all
16 the property owners and the public up there as well. And
17 the decks issue has become one of -- somewhat of concern.
18 What we have found that is -- while the Commission has in
19 the past approved docks, they didn't always approve decks.
20 If we find that either the Commission was aware or that
21 the staff was aware that these decks existed, we have not
22 been asking that they be removed, at least unless the
23 entire pier or 50 percent of it needs to be rehabilitated.
24 But we do charge rent for that, because that is not part
25 of the rent-free pier lease. The deck would be for their

1 private recreational use, not associated with the boats.

2 So we have a number of leases the Commission has
3 approved even recently that did include decks. What we do
4 is not recommend any new decks be created in those areas.

5 As to the paying the rent and seasonal use,
6 that's something that we've certainly looked at for those
7 people who are paying rent. We don't have the number
8 right now of the percentage. I would think that the
9 percentage of upland owners who are paying rent is
10 relatively small, probably less than 10 percent. But we
11 do have many commercial marinas at Tahoe and other places.

12 And the buoys, the same thing. They aren't
13 generally used all year long for the most part.

14 The hardships -- the Commission has had several
15 people appear at recent meetings with the issue of
16 hardships. We all know that property owners throughout
17 the State who have lost a lot of value in their property
18 and lost income for various reasons have difficulty making
19 payments on their mortgages and whatnot. We certainly
20 understand that. But at the same time, we also understand
21 the hardship the State's going through with the budget.
22 And when -- I think when we were talking about it earlier,
23 we would expect that the average rent for a pier up there
24 might be something in the neighborhood of \$1,200, \$1,500.
25 We don't know exactly at this point. But that doesn't

1 seem like a substantial amount of money to compensate
2 them, because we believe these piers add hundreds of
3 thousands of dollars, if not millions of dollars, to the
4 value of the upland property.

5 So we're happy to not only meet with
6 representatives of the homeowners' association but work
7 with them on this. And we're pleased that they are
8 looking at what environmental improvements might be able
9 to be had with some of these funds. We certainly are
10 looking at that as well.

11 CHAIRPERSON NEWSOM: Any comments, Commission?

12 So that's the legislative agenda.

13 Is there a motion to approve?

14 COMMISSIONER CHIANG: So moved.

15 CHAIRPERSON NEWSOM: Second?

16 You abstain?

17 ACTING COMMISSIONER KLASS: Yeah.

18 CHAIRPERSON NEWSOM: Conflicts of interest?

19 ACTING COMMISSIONER KLASS: Exactly.

20 CHAIRPERSON NEWSOM: Is that it?

21 All right. Well, we'll move it forward without
22 objection.

23 And, Mr. Executive Officer, is there any other
24 business? Or, Mario, you have something else to add? Or
25 were we --

1 EXECUTIVE OFFICER FOSSUM: Mario was just
2 pointing out that his oral representation as to the repeal
3 of the chapter as well as the code section be made part of
4 the recommendation to the Commission.

5 CHAIRPERSON NEWSOM: Good. I think that's --
6 officially your last act. Why not.

7 (Laughter.)

8 CHAIRPERSON NEWSOM: Yeah, that's good.
9 And the next order of business?

10 EXECUTIVE OFFICER FOSSUM: Thank you, Mr.
11 Chairman.

12 At this time, we'll be happy to present a short
13 introduction to some of the activities the Commission
14 staff is conducting on your behalf. Each of our division
15 chiefs will provide a short PowerPoint discussion of the
16 work the divisions are involved in.

17 The Commission and the people of California are
18 very fortunate to have such a highly experienced and
19 dedicated professional staff serving them. The division
20 chiefs average over 20 years of State service, and some
21 have decades of prior experience. The staffs they manage
22 are likewise made up of many experienced professionals.

23 The last year has seen a lot of transition in the
24 agency's management. Four of the six divisions had chiefs
25 retire or move on last year and one the prior year.

1 That leaves only our Administrative Division
2 Chief, with 20 years in the role and 31 years with the
3 Commission, as being well tenured.

4 The former executive officer, with 11 years in
5 that role, also retired last year.

6 So we have some experienced staff taking over new
7 roles. And I would like to introduce them to you and have
8 them explain the roles their divisions play on your
9 behalf.

10 First off, Jennifer Lucchesi, our Chief Counsel.
11 Jennifer came to the Commission in 1999 and has risen
12 through the ranks. Jennifer's an expert in public trust
13 issues and has been involved in many urban waterfront
14 renewal projects for more than a decade.

15 CHIEF COUNSEL LUCCHESI: Good afternoon.

16 (Thereupon an overhead presentation was
17 Presented as follows.)

18 --o0o--

19 CHIEF COUNSEL LUCCHESI: The Legal Division's
20 primary functions are to provide program-specific legal
21 support to the Commission and its staff and to provide
22 litigation support to the Attorney General's office.

23 --o0o--

24 CHIEF COUNSEL LUCCHESI: The Legal Division's
25 eight attorneys provide legal support to the Commission's

1 five other divisions that you'll hear about shortly.

2 --o0o--

3 CHIEF COUNSEL LUCCHESI: The Legal Division has
4 nine objectives:

5 The first objective is to assist in the
6 identification, location, and protection of title,
7 boundaries and mineral rights of sovereign and State-owned
8 lands.

9 The Legal Division also assists the Commission in
10 the resolution of title disputes through boundary line
11 agreements, land exchanges, title settlements, and, if
12 necessary, litigation.

13 In 2010 the Commission approved title settlements
14 at the Oak to Ninth project site in Oakland, at the Del
15 Mar Fairgrounds in San Diego, and along the Chula Vista
16 bayfront in San Diego County.

17 Looking forward to 2011-2012, staff anticipates
18 that many other title settlements will be brought to the
19 Commission for consideration, including settlements at
20 Candlestick, Hunters Point, and Treasure Island in San
21 Francisco and Marina Park in Newport Beach, along Mission
22 Bay in San Diego, and at the Pike in Long Beach.

23 --o0o--

24 CHIEF COUNSEL LUCCHESI: Legal staff aids in the
25 comprehensive planning of State lands for the appropriate

1 type of development and/or protection of those lands
2 consistent with Public Trust Doctrine. This past year
3 Legal staff, for example, worked closely with the Port of
4 San Francisco to bring the Exploratorium Science Museum to
5 the San Francisco waterfront.

6 --o0o--

7 CHIEF COUNSEL LUCCHESI: Staff provides legal
8 services for the protection of publicly owned lands
9 through lease enforcement, surveillance, and litigation
10 such as trespass actions.

11 --o0o--

12 CHIEF COUNSEL LUCCHESI: Staff provides the
13 Commission and its staff with legal assistance and advice
14 in the management of oil, gas, geothermal and other
15 mineral resources.

16 Commission attorneys are actively involved in
17 questions regarding the development, negotiation, and
18 interpretation of leases, contracts, development
19 proposals, and royalty and rent accounting.

20 Staff also assists in the development of
21 legislation and regulations to protect and develop State
22 lands. Staff provides the Commission with day-to-day
23 advise necessary for the accomplishment of program
24 objectives consistent with constitutional, and statutory,
25 and regulatory compliance.

1 --o0o--

2 CHIEF COUNSEL LUCCHESI: Legal staff provides the
3 Commission and the public with advice on public rights of
4 access and use of California waterways.

5 One example is Speedboat Beach at Lake Tahoe
6 where the Commission last year, in exercising the Public
7 Trust easement, facilitated the removal of a fence
8 installed by private upland homeowners which blocked
9 public access to the lake.

10 --o0o--

11 CHIEF COUNSEL LUCCHESI: Finally, Legal staff
12 assists the Office of the Attorney General in preparation
13 for and prosecution of litigation. Legal staff also
14 represents the Commission at trial and on appeal in those
15 cases where the Attorney General's office has a conflict
16 of interest or otherwise declines to represent the
17 Commission.

18 The Commission attorneys are currently, for
19 example, working with the Attorney General's office in
20 negotiating a settlement agreement where the State is
21 compensated for the impact of the Cosco Busan oil spill
22 and the impacts that had on birds, mammals, habitat, and
23 the human use of its affected lands.

24 That concludes my presentation. Thank you.

25 CHAIRPERSON NEWSOM: Thank you.

1 Please, Commissioner.

2 ACTING COMMISSIONER KLASS: Jennifer, I'm
3 sorry --

4 EXECUTIVE OFFICER FOSSUM: Commissioner Klass.

5 ACTING COMMISSIONER KLASS: Thank you.

6 I'm sorry, Jennifer, if I missed it. Could you
7 give me a couple of sentences on your background. Were
8 you from another State agency or the AG or --

9 CHIEF COUNSEL LUCCHESI: No, actually I started
10 with the Commission in the Land Management Division about
11 11 years ago.

12 ACTING COMMISSIONER KLASS: Oh, okay. Great.
13 Thank you.

14 EXECUTIVE OFFICER FOSSUM: Second up will be Greg
15 Scott. He's our Chief of the Mineral Resources Management
16 Division. Greg has been a petroleum engineer with the
17 Commission for 22 years and had 20 years experience in the
18 oil industry before that.

19 Greg was appointed chief of the division in 2009.

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

22 MINERAL RESOURCES MANAGEMENT DIVISION CHIEF

23 SCOTT: Good afternoon, Mr. Chair and commissioners. My
24 name is Greg Scott. I'm the Division Chief of the
25 Commission's Mineral Resources Management located in Long

1 Beach.

2 This division is responsible for the safe and
3 sound management of all the energy and mineral resources
4 on lands under the jurisdiction of the State Lands
5 Commission. The State's resources include oil, gas,
6 geothermal energy, gold, and other solid minerals.

7 The diversity of those resources and their
8 general areas of development are shown on this map.

9 Oil producing leases are located in the offshore
10 Santa Barbara, Long Beach, and Huntington Beach areas
11 within the State's three-mile tidelands jurisdiction.

12 Gas leases are located on sovereign lands under
13 the beds of rivers and streams in the Sacramento Delta
14 area near Rio Vista and farther north in Colusa and Sutter
15 counties.

16 Significant steam production and electrical
17 generation occurs in the geyser fields in Lake and Sonoma
18 counties of northern California and also in Imperial
19 County near the Salton Sea area in southern California.

20 And solid mineral resources such as trona, gold,
21 and aggregate materials for road construction are being
22 developed primarily in Inyo, San Bernardino, and Riverside
23 counties.

24 --o0o--

25 MINERAL RESOURCES MANAGEMENT DIVISION CHIEF

1 SCOTT: The objectives of the Mineral Resources Division
2 are to protect and manage the development of the State's
3 mineral resources so the State will receive their maximum
4 value through revenue generation, while ensuring public
5 safety and environmental protection.

6 --o0o--

7 MINERAL RESOURCES MANAGEMENT DIVISION CHIEF

8 SCOTT: Presently, there are 150 active mineral leases on
9 the State's sovereign and school lands, accounting for
10 approximately 95,000 acres currently under lease.

11 Oil production from State leases and granted
12 lands is developed from four offshore platforms and five
13 man-made islands and amounts to approximately 40,000
14 barrels of oil per day.

15 Gas leases account for approximately 10 million
16 cubic feet per day.

17 And electrical generation from geothermal steam
18 leases is approximately 186 megawatts, which is enough to
19 supply the electrical demands of nearly 200,000 homes.

20 --o0o--

21 MINERAL RESOURCES MANAGEMENT DIVISION CHIEF

22 SCOTT: Royalty revenue generated from State mineral
23 leases to the benefit of the State's General Fund and the
24 State's Teachers' Retirement Fund during the last fiscal
25 year was about \$321 million.

1 And as you can see, most of that came from oil
2 and gas leases.

3 --o0o--

4 MINERAL RESOURCES MANAGEMENT DIVISION CHIEF

5 SCOTT: The Mineral Resources staff is diverse in
6 expertise, skills, and training, but work closely together
7 as a team comprised of four management sections shown
8 here: Operation and Compliance, Planning and Development,
9 Engineering, and Finance and Economics.

10 --o0o--

11 MINERAL RESOURCES MANAGEMENT DIVISION CHIEF

12 SCOTT: Operations and Compliance deals with on-site
13 surveillance of our lessees' oil and gas production and
14 processing facilities. Field inspectors monitor all
15 safety and pollution prevention components. They
16 determine how reliably they operate, how they comply with
17 State regulations, and whether the resources produced are
18 measured accurately.

19 In addition, comprehensive safety audits
20 requiring several months of intensive investigation are
21 conducted on each offshore and onshore facility every five
22 years to verify the adequacy of their design, their
23 ability to function properly, and the lessee's level of
24 its commitment to safety.

25 And I think I might say, at this time, it would

1 be appropriate to comment on the Chair's interest in the
2 Oil Spill Fund. We have 53 staff in the Division.
3 Approximately 30 are funded by the Oil Spill program. And
4 those 30 positions had been funded by the General Fund
5 prior to the inception of the Oil Spill program in 1990.

6 --o0o--

7 MINERAL RESOURCES MANAGEMENT DIVISION CHIEF

8 SCOTT: All mineral leasing lease terms, royalty
9 negotiations, and lease amendments are performed by staff
10 within the Planning and Development Section. This section
11 provides project management coordination and oversight for
12 oil, gas, and solid mineral lease applications and works
13 closely with both the State Lands Commission's
14 Environmental and Land Management sections in Sacramento.

15 In addition, this section conducts regulatory
16 reviews and updates, prepares royalty revenue forecasts
17 for the Department of Finance, processes prospecting
18 permits, and conducts surveys and closures of the many
19 hazardous abandoned mines on State lands.

20 --o0o--

21 MINERAL RESOURCES MANAGEMENT DIVISION CHIEF

22 SCOTT: Because of the complexity of most lease
23 facilities, we have experienced and highly trained
24 engineers and geologists who perform technical reviews of
25 all lease activities, their facility operating systems,

1 and their overall construction. These responsibilities
2 include geologic analysis of oil reservoirs, well drilling
3 design, offshore platform structural analysis and pipeline
4 inspections, geothermal leasing and engineering, and other
5 alternative energy project support.

6 As a result of lessons learned from the recent
7 blowout in the Gulf of Mexico, we've also expanded our
8 oversight and inspection requirements for blowout
9 preventers on State of California offshore wells.

10 Division staff is also active in coastal
11 protection programs. And as Curtis mentioned earlier,
12 starting today we are beginning a large coastal hazard
13 removal project in the Santa Barbara coastal area, which
14 is funded with federal money. And we anticipate
15 approximately a six-month campaign to remove all of the
16 derelict items similar to those shown in this slide here.

17 --o0o--

18 MINERAL RESOURCES MANAGEMENT DIVISION CHIEF

19 SCOTT: All royalty accounting, financial auditing, and
20 revenue verification is performed by the Finance and
21 Economics Section. These are essential functions to
22 ensure that the proper royalty due the State is actually
23 paid. As a part of this section's responsibilities, the
24 staff verifies that proper oil prices are being applied
25 and that only the allowed operating cost deductions are

1 used when determining the State's royalty payment.

2 Staff also performs detailed economic analysis
3 for evaluating royalty rate when preparing lease terms.
4 And these analyses alone have resulted in the State
5 receiving over \$50 million in additional royalty revenues
6 over the past 15 years.

7 --o0o--

8 MINERAL RESOURCES MANAGEMENT DIVISION CHIEF

9 SCOTT: And this is my last slide.

10 We're currently involved with four oil and gas
11 development projects: Three of them offshore Santa
12 Barbara and Ventura counties; and one offshore Los Angeles
13 County.

14 We expect to present at least three of these
15 projects for Commission consideration this year. We are
16 also updating our oil and gas regulations that will be
17 presented for adoption later in the year.

18 And in addition to oil and gas, we are involved
19 with two solid mineral and two geothermal development
20 projects, which we may bring to the Commission this year
21 as well.

22 And that concludes my presentation of the Mineral
23 Resources Division. Thank you.

24 EXECUTIVE OFFICER FOSSUM: Thank you, Greg.

25 The next presentation will be made by Brian

1 Bugsch, the Land Management Division Chief. We were
2 fortunate to hire Brian last year following his prior role
3 in Lieutenant Governor Garamendi's office as the
4 Commission's contact person. That relationship equipped
5 him well to understand the many issues facing both the
6 Commission and its staff.

7 Brian.

8 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Hi. Good
9 afternoon, Commissioners.

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

12 --o0o--

13 LAND MANAGEMENT DIVISION CHIEF BUGSCH: All
14 right. I'll start with an overview of what we own.

15 Basically, if it's wet and it's navigable when
16 the State -- California became a state in 1850, we
17 probably owned it.

18 Sovereign lands include all State-owned tidal and
19 submerged lands and the beds of navigable waterways,
20 whether they were filled or unfilled. And that also
21 includes the entire California coastline out to three
22 miles.

23 --o0o--

24 LAND MANAGEMENT DIVISION CHIEF BUGSCH: If you
25 haven't -- If Curtis hasn't inundated you with the Public

1 Trust yet, you will be.

2 But all these sovereign lands are impressed with
3 the Public Trust. Some of the Public Trust uses include
4 public access, waterborne commerce, navigation, fisheries,
5 open space, water-related recreation, and other recognized
6 Public Trust uses.

7 --o0o--

8 LAND MANAGEMENT DIVISION CHIEF BUGSCH: On the
9 open coast, our boundaries -- on the open coast and tidal
10 waterways, the State owns to the ordinary high water mark.
11 On navigable non-tidal waterways, like lakes and rivers,
12 the State owns everything below the low water mark. And
13 we have a Public Trust easement between the low and high
14 water mark.

15 And in a natural state, these boundaries are
16 ambulatory, so they continue to move.

17 --o0o--

18 LAND MANAGEMENT DIVISION CHIEF BUGSCH: This just
19 gives you an example of some research our boundary staff
20 looks at to determine those boundaries.

21 --o0o--

22 LAND MANAGEMENT DIVISION CHIEF BUGSCH: This is
23 an overview of our division. LMD is organized into seven
24 working groups. If a potential project application comes
25 in, it would usually start in our Title Unit. And they

1 would conduct research and determine if the State does
2 have an interest in the property.

3 If we have an interest, then the Boundary Unit
4 would determine more definitively where those interests
5 lie and do any mapping to determine lease areas.

6 And then our two negotiating teams, our northern
7 California and Delta team and our southern California and
8 SF Bay team, these negotiators work with the applicants
9 and lessees to develop the lease and the lease terms and
10 work with all our other divisions to ensure compliance
11 with the lease.

12 --o0o--

13 LAND MANAGEMENT DIVISION CHIEF BUGSCH: LMD is
14 responsible for the surface management of all sovereign
15 and school lands in California. And there's just an
16 example of some of the stuff that we work with.

17 These next few slides will give you an idea of
18 the different types of leases that we manage.

19 --o0o--

20 LAND MANAGEMENT DIVISION CHIEF BUGSCH:

21 Recreational pier leases in the bottom corner
22 there, you heard about that already. They're all over the
23 state. Commercial marinas and yacht clubs.

24 Marine oil terminals, which you heard Kevin talk
25 about. Fiber optic cables and other telecommunication and

1 electrical lines that cross over our property.

2 --o0o--

3 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Dredging
4 can range from commercial sand mining leases in the Bay
5 Area to navigational dredging leases.

6 Intake and outfall pipelines.

7 And bank stabilization, rock revetments, sea wall
8 caves and other mechanisms to protect upland property that
9 people put in.

10 --o0o--

11 LAND MANAGEMENT DIVISION CHIEF BUGSCH: And
12 leases to develop and protect wetlands and habitat.

13 That kind of gives you the portfolio of what we
14 deal with.

15 --o0o--

16 LAND MANAGEMENT DIVISION CHIEF BUGSCH:

17 Legislative grants, granted lands come under LMD.
18 Legislative grants are established by statute. We
19 currently oversee 85 grants to cities, counties, harbor
20 districts, and local municipalities throughout the State.

21 The grantees manage the day-to-day operations of
22 these, but the Commission retains oversight authority to
23 these granted trust lands to ensure compliance with the
24 terms of the grant.

25 All of California's major ports are all within

1 granted lands. And there's some pictures of them.

2 --o0o--

3 LAND MANAGEMENT DIVISION CHIEF BUGSCH: School
4 lands. I mentioned sovereign lands, but the Commission
5 also manages school lands.

6 In 1853, Section 16 and 36 of each township were
7 granted to California by Congress -- by the U.S. Congress
8 to benefit public education. Hence the name school lands.

9 Originally, California had 5.5 million acres.
10 But over time most of this has been sold off in the
11 primary areas. And we still retained ownership to just
12 under half a million acres of school lands, mostly in the
13 southern California desert and in the northeast in the
14 forest areas. And we also have an additional 790,000
15 acres of mineral rights on lands that we sold.

16 --o0o--

17 LAND MANAGEMENT DIVISION CHIEF BUGSCH: My
18 division, LMD, is responsible for the surface management
19 and Greg's division is responsible for the minerals
20 management. And revenues generated from school lands
21 leases go to the California State Teachers' Retirement
22 System, STRS.

23 --o0o--

24 LAND MANAGEMENT DIVISION CHIEF BUGSCH: The next
25 few slides will just show you a few of the areas that we

1 are working on, that are current priorities for LMD. I
2 won't go through the litany.

3 Jennifer mentioned a lot of the land exchanges
4 going on and title settlements in the Bay Area. America's
5 Cup is going to be coming and there's a lot happening on
6 the San Francisco waterfront.

7 --o0o--

8 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Renewable
9 energy. We have various leases for -- and applications
10 for different types of renewable energy - wind, wave,
11 tidal, solar, and geothermal.

12 --o0o--

13 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Owens
14 Lake. We're working on the master plan for the dry bed of
15 the Owens Lake. So there's a lot of activity going on
16 there.

17 --o0o--

18 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Sea level
19 rise you heard about in the legislative proposals for the
20 Controller.

21 --o0o--

22 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Lake
23 Tahoe. You've heard a little bit about that already, and
24 you'll hear more.

25 --o0o--

1 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Marine
2 oil terminals. You've already been inundated with that in
3 the legislative things, so I won't go into that.

4 --o0o--

5 LAND MANAGEMENT DIVISION CHIEF BUGSCH: And the
6 San Joaquin River restoration. Our Boundary Unit is doing
7 a lot in the settlement aspect of this to do the actual
8 mapping.

9 That's it. Thank you very much.

10 EXECUTIVE OFFICER FOSSUM: Thank you, Brian.

11 Yeah, the last slide Brian showed we have -- the
12 Commission has been given \$960,000 to help in that
13 restoration project by establishing our boundaries along
14 the area and saving acquisition costs to the project
15 proponents.

16 Next up is Kevin Mercier. Kevin's an Acting
17 Chief of the Marine Facilities Division where he served as
18 assistant chief for nearly 20 years. Kevin has a depth of
19 experience prior to that role serving in similar roles in
20 the Navy for two decades.

21 Kevin.

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

24 MARINE FACILITIES DIVISION ACTING CHIEF MERCIER:

25 Good afternoon, Mr. Chairman, commissioners.

1 You haven't heard enough about marine terminals
2 yet.

3 (Laughter.)

4 MARINE FACILITIES DIVISION ACTING CHIEF MERCIER:

5 I'll give you a little bit more.

6 I'm Kevin Mercier. And I'll give you a brief
7 overview of the Marine Facilities Division and the Oil
8 Spill Prevention program.

9 I will be followed by Martin Eskijian, who will
10 discuss our high visibility engineering regulations, and
11 Maurya Falkner, who will brief you about the Marine
12 Invasive Species program.

13 The first slide shows some incidents which we are
14 designed to prevent.

15 In 1976 eight people died when the S.S. Sansinena
16 blew up at earth Berth 46 in Los Angeles in San Pedro.

17 In February of 1990, the American Trader spilled
18 400,000 gallons of crude oil at the State lease in
19 offshore Huntington Beach. And the results are the slide
20 on the -- or the picture on the right.

21 That ship sat down on its own anchor while it was
22 in the berth and punctured its hull and turned the oil
23 loose. And it scattered from Newport Beach to Seal Beach.

24 Mainly because of this spill and the previous
25 Exxon Valdez disaster, the Legislature passed the

1 Lempert-Keene-Seastrand Oil Spill Prevention and Response
2 Act of 1990.

3 The Legislature found that because of the
4 inadequacies of cleanup and response measures, emphasis
5 must be put on prevention. To carry out the Commission's
6 responsibilities under the Act, the Marine Facilities
7 Division was created.

8 The Act defined marine facilities as any facility
9 where oil is handled or stored and located on marine
10 waters or located where a discharge could impact marine
11 waters.

12 Marine terminals are a subset of facilities
13 defined as a marine facility used for transferring oil to
14 or from tank vessels.

15 The Act requires the Commission to write and
16 update regulations for operations at marine terminals.
17 Operations manuals are required at all marine facilities
18 and the division approves marine terminal ops manuals.

19 In addition, the Commission is directed to
20 inspect facilities and monitor operations at oil
21 terminals.

22 --o0o--

23 MARINE FACILITIES DIVISION ACTING CHIEF MERCIER:
24 This slide shows the geographical distribution of
25 division undertakings.

1 Our northern California field office is located
2 in Hercules and covers the State's northern half, roughly
3 aligned with the sector San Francisco of the Coast Guard.
4 The NCFO monitors 19 marine terminals.

5 The Division's four outstanding environmental
6 scientists are located in the Sacramento office.

7 The Division headquarters and southern California
8 field office are co-located in Long Beach. The
9 headquarters includes our Engineering Branch, Planning
10 Branch, and Marine Invasive Species Database staff.

11 The southern California field office oversees the
12 operations of 32 onshore and offshore terminals from
13 Goleta down to San Diego.

14 --o0o--

15 MARINE FACILITIES DIVISION ACTING CHIEF MERCIER:

16 This slide shows the breakout of our division
17 organization by branch. We are primarily a field
18 operations organization with a majority of the staff in
19 the field offices.

20 The field office marine safety specialists not
21 only monitor marine oil transfers, but they also inspect
22 vessels for compliance with the State's Marine Invasive
23 Species program.

24 The Planning and Human Factors Branch focus on
25 reviewing regulations and researching improved methods for

1 mitigating risks and reducing causes of incidents.

2 Our engineers are the only State engineers with
3 experience in construction of waterfront structures,
4 including piers and wharfs. You'll hear more about them
5 in the Environmental Branch in a few minutes.

6 --o0o--

7 MARINE FACILITIES DIVISION ACTING CHIEF MERCIER:

8 So how are we doing?

9 These graphs track our performance over the last
10 11 years. There were over 6,000 transfers at California
11 marine terminals in 2010. Our staff is in the field seven
12 days a week and we monitor more than 2,500, or 40 percent,
13 of the transfers.

14 In contrast, there were 11 small spills at
15 terminals for the year.

16 So that's 6,200 transfers, 11 spills.

17 --o0o--

18 MARINE FACILITIES DIVISION ACTING CHIEF MERCIER:

19 These pictures show a little bit of what the
20 staff finds when they go out in the field. Of the 2,500
21 boardings that we made, we had to do this 78 times at the
22 offshore moorings. The hookups at the terminals are
23 typically by hoses or loading arms.

24 --o0o--

25 MARINE FACILITIES DIVISION ACTING CHIEF MERCIER:

1 In 2010, more than 28 billion gallons of oil were
2 transferred to California marine terminals. That's 77
3 million gallons a day. All last year there were only 63
4 gallons spilled. So that's 28 billion gallons, 63 gallons
5 spilled.

6 In summary, we -- the Marine Facilities Division
7 is the little known organization that you don't hear very
8 much of because we represent the spills that you never
9 hear of because they didn't happen. That's with the
10 exception of the two people following me, which makes our
11 division pretty popular throughout the world.

12 Next I'll introduce Mr. Martin Eskijian, our
13 award winning chief engineer. Tomorrow Martin will be in
14 La Jolla to receive the Charles Martin Duke Lifeline
15 Earthquake Engineering Award from the American Society of
16 Civil Engineers. The award is presented annually to those
17 who make definite contribution to the advancement of
18 lifeline earthquake engineering.

19 Martin, congratulations, and you're up.

20 (Applause.)

21 MR. ESKIJIAN: Thank you very much, Mr. Chairman
22 and commissioners, and ladies and gentlemen. My name is
23 Martin Eskijian, for the record.

24 I'm going to describe very quickly the marine oil
25 terminal engineering and maintenance standards that came

1 about.

2 --o0o--

3 MR. ESKIJIAN: A little history. If you all
4 remember the 1994 Northridge earthquake, following that
5 earthquake FEMA said, "We'll give hazard mitigation grants
6 to anybody that can write regulations to mitigate the
7 effects of the next earthquake."

8 And in 1995, we were awarded money -- significant
9 money then -- supplemented by the State Lands Commission
10 to develop standards.

11 Why did we do this?

12 Well, first of all, the act that Kevin's referred
13 to says that we, the Commission, are responsible for the
14 performance standards of marine oil terminals. So with
15 that as our vehicle, we felt we could move forward with
16 regulations. And now we are Chapter 31F of the California
17 Building Code between fire pits, radiation rooms, and
18 swimming pools.

19 How did we get into this?

20 I started looking at these in the early nineties.
21 And you can see a picture there on the left of the
22 condition of these structures. It's what I call
23 geriatric, and they're in serious or poor condition. If
24 you read a textbook on marine structures, they tell you
25 that 50 years is the life span of a marine structure, the

1 average age is over 55, probably closer to 60. There has
2 been no upgrades. And you can imagine 60 years ago the
3 standards for seismic loads are like nothing.

4 Vessels have grown in size significantly, from a
5 couple hundred feet to a thousand feet. And you all know
6 that sail areas get bigger with size. Impact loads get
7 larger, just like you remember from high school physics,
8 one-half MB^2 , M is much higher and velocity becomes
9 critical, higher berthing loads, higher mooring loads.
10 And there's never been mooring analyses performed on these
11 structures. Nobody ever said you had to.

12 So picture 1 gives an example of a Port of Los
13 Angeles structure.

14 Excuse me.

15 --o0o--

16 MR. ESKIJIAN: The middle figure shows you what
17 happens when you accidentally overload a structure beyond
18 its gravity load capability.

19 And the third picture is an incident that
20 happened in the Carquinez Strait not too long ago, which
21 illustrates that if you're on a tugboat and you're in the
22 middle of the night and you see the wrong light and you're
23 not -- you're asleep downstairs, what can happen.

24 And so don't even stop the tugboat where the
25 pipelines are, and you say why am I showing that? I'm

1 showing it because following that incident, the
2 organization that ran that facility knew exactly what they
3 had to do to comply with MOTEMS: Rehabilitate and explain
4 what they were doing and how they were going to do it. It
5 was all figured out.

6 --o0o--

7 MR. ESKIJIAN: So we have now looked at 27 high
8 and moderate risk terminals in what we call the audit,
9 which includes what's listed there. And it's sort of like
10 a 60-year-old man going to the doctor and getting his EKG
11 and his colonoscopy, et cetera, et cetera - we won't go
12 into that, but it's similar, except for a structure. And
13 those are the items listed to give it a complete physical.

14 And we found that there are serious deficiencies.
15 And they're documented in an example there shown in the
16 middle which is on my desk. And an audit has like four to
17 six volumes. So you can multiply that times 27 and get
18 some idea the magnitude of what we're talking about.

19 We're the only state in the union that has such a
20 law. We know that it's being used in other places around
21 the world. And I believe it's the standard now in the
22 country of Turkey, following a -- when we went there
23 following a 1999 earthquake and tsunami.

24 The document also contains a clause on sea level
25 rise, and is also part of the military -- U.S. military,

1 their guidelines, so they're supposed to be followed.

2 On the right, another terminal that had a little
3 problem there with their deck.

4 --o0o--

5 MR. ESKIJIAN: In addition to looking at the
6 audits, as we see rehabilitation occurring, we find we get
7 volumes of analysis and design that have to be looked at
8 by our engineering staff of seven engineers. And what I
9 didn't realize 15 years ago was that I was creating a
10 monster. And I know now that the monster keeps growing
11 and needs to be fed. And the minute I think we've got it
12 under control, the monster gets bigger.

13 New structures. We have one being considered
14 right now for the Port of Los Angeles, a major crude oil
15 terminal called Pier 400, Berth 408. Many of the
16 terminals in the north and the south require major seismic
17 rehabilitation, which is a significant big deal, costing
18 millions of dollars, upgrading mooring and berthing
19 dolphins, because they can't carry the loads of these
20 modern vessels.

21 And also they've now found that there's
22 geotechnical issues such as liquefaction, lateral
23 spreading. And what we found too is that the soil moves
24 underneath the piles and makes the piles no longer
25 vertical but now are going to angle, which we observed in

1 Chile following the earthquake there.

2 So there's lots of things to do and lots more
3 activities.

4 And that pretty much ends my discussion, unless
5 you have any questions.

6 Yes.

7 ACTING COMMISSIONER KLASS: When was MOTEMS
8 adopted?

9 MR. ESKIJIAN: It became law in 2006. And it was
10 written so that 30 months after that - so there was a time
11 gap before it became, quote, enforceable - was 30 months
12 after that.

13 ACTING COMMISSIONER KLASS: In my previous
14 capacity I remember, probably ten years ago or something
15 on that order, State Lands came and made a presentation
16 about the horrible deferred maintenance at many of our
17 marine terminals.

18 I wonder in the past decade, can you give me a
19 sense of, is the situation worse in that time frame or is
20 it getting better or --

21 MR. ESKIJIAN: Gee, that's a very good question.

22 We find a lot of terminals, especially in the
23 Carquinez Strait, where there's a refinery next to the oil
24 terminal that they are cooperating, they're moving ahead.
25 And it's significant amounts of funds to do it.

1 We are talking to the ports of L.A. and Long
2 Beach. And leasing and scheduling has become an issue.
3 There are some that look as bad as the one I showed you,
4 the timber structure. They're still there. And the ships
5 are getting bigger and the risk is getting bigger.

6 ACTING COMMISSIONER KLASS: Thank you.

7 MR. ESKIJIAN: Thank you.

8 At this time, I'd like to introduce the third
9 facet of the marine -- yeah, go ahead, go ahead, Mr.
10 Chiang.

11 COMMISSIONER CHIANG: I'm sorry.

12 Do we employ any clean or green standards to the
13 building?

14 MR. ESKIJIAN: Pardon me?

15 COMMISSIONER CHIANG: Do you employ any clean or
16 green standards to the building construction? We are the
17 State Lands Commission.

18 MR. ESKIJIAN: No. Chapter 31F does not get into
19 green issues except for, you know, the timber has to be of
20 the right -- you can't use creosote and those kinds of
21 things. But all the work that is done goes through
22 environmental review, and some do require major
23 environmental issues to be treated and processed.

24 COMMISSIONER CHIANG: I'd like to get -- I was
25 thinking -- we don't have to have it here, but can we

1 think about building materials, reuse, all the principles,
2 you know, climate change impacts of what we're doing.
3 Obviously, if we're -- we talk about sea level rise and
4 we're concerned about climate change adaptation, but we
5 ought to think about it in our --

6 MR. ESKIJIAN: Yes. Sea level rise is already
7 included, and it is now required that the operator
8 consider that. And there are documents out there, one by
9 the U.S. Army Corps of Engineers, that give curves to tell
10 you where that's going in this century. And it does
11 affect marine oil terminals in terms of increased depth,
12 which means a larger arrival mass. So there are issues,
13 and we ask people to address it. It's in the code today.

14 COMMISSIONER CHIANG: And how about energy,
15 energy use?

16 MR. ESKIJIAN: Energy use, we haven't -- we've
17 seen what's called cold ironing on one of the terminals,
18 where instead of having the engine on when they're
19 pumping, it is using electricity from shore.

20 That's at Berth 121, Port of Long Beach. And
21 that is now operational. It is a major -- it's a big deal
22 to make the terminals go to that. But it has started.

23 EXECUTIVE OFFICER FOSSUM: Commissioner Chiang,
24 if I could add. Of all the programs that the Commission
25 operates under, this is -- the Marine Facilities Division

1 is the only one that's really a regulatory branch of the
2 Commission. Prior to that, we were strictly a land
3 management agency.

4 There's a specific provision in the Public
5 Resources Code that bars the Commission from setting
6 building standards. So technically when the MOTEMS
7 standards were adopted, we had to go through the State
8 Building to get them adopted in the Building Code to
9 actually make them enforceable.

10 So unless that statute's changed or we go through
11 the State Building Code, we're pretty much barred from
12 setting building standards by that existing code section.

13 MR. ESKIJIAN: Yeah. And we just went to the
14 Building Standards Commission, and we have now -- the
15 first revision is out. It's on our website. And that was
16 effective 1 January 2011, but yet it cost me a year of my
17 time because we had to go to the Building Standards
18 Commission rather than through the State Lands Commission.

19 COMMISSIONER CHIANG: Yeah, I'd like us to think
20 about it. I don't know how much openness they have to it,
21 especially -- but if it's economically viable, we ought to
22 be pushing this, especially since, you know, in every
23 other aspect we're at the forefront.

24 MR. ESKIJIAN: Okay. Any other comments or
25 questions?

1 Thank you very much.

2 I'm going to introduce now Ms. Maurya Falkner.
3 She is the third facet of the Marine Facilities Division,
4 in charge of invasive species, and she manages the
5 program.

6 Ms. Falkner.

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

9 ENVIRONMENTAL PROGRAM MANAGER I FALKNER: Thanks,
10 Martin. And good afternoon, commissioners.

11 Some of us have been through this marine invasive
12 species stuff for quite awhile. Cindy, I think you've
13 been along for the ride for the whole time.

14 --o0o--

15 ENVIRONMENTAL PROGRAM MANAGER I FALKNER: So I'm
16 Maurya Falkner. I'm the Environmental Program Manager
17 within the Marine Facilities Division. And as Martin
18 said, I'll be talking about the third facet of the Marine
19 Facilities Division, the Marine Invasive Species program.

20 Just for a little primer, nonindigenous species
21 are also referred to frequently as exotics, invasives,
22 aliens, or introduced organisms. They are organisms that
23 are transported by human activities to regions outside
24 their natural range. And while there are several
25 mechanisms by which we transport them -- humans transport

1 organisms around within the coastal environments,
2 commercial shipping is considered the most important.

3 And commercial shipping can transport organisms
4 through two primary methods. One is ballast water and the
5 other is biofouling.

6 Ballast water, which is being shown discharging
7 here on this vessel, is necessary for many functions
8 related to the trim, stability, and maneuverability of
9 large seagoing vessels. Vessels have to take on ballast
10 water -- or may take on ballast water, discharge it, or
11 move it around, depending on cargo loading operations,
12 fuel use, weather conditions when they're out at sea.

13 In general, vessels take on ballast water as
14 they -- as cargo is unloaded in a port. And then they
15 discharge that water into another port when cargo is
16 loaded. So they transfer ballast water from a source port
17 to a receiving port. And this transfer of ballast water
18 results in the movement of many organisms from one region
19 to another.

20 Vessel fouling, on the other hand, is when -- is
21 shown in this picture here. Those are organisms attached
22 to the wetted portions of a vessel. When a vessel moves
23 from port to port, fouling communities are also
24 transported. And these may be attached or they may be
25 associated with -- or organisms can be associated with the

1 attached parts of the vessel. They release and spawn or
2 they can be knocked off during various operations.

3 California Legislators were very concerned about
4 the ongoing impact of these -- of invasive species on
5 California's economy and ecology, and they passed
6 legislation in 1999 to address this invasive threat.

7 Our mission within the Marine Facilities
8 Division, Marine Invasive Species program is to prevent
9 the introduction of nonindigenous species via commercial
10 shipping through these two vectors.

11 Vessels currently are required to manage their
12 ballast water and conduct regular biofouling removal. The
13 current ballast water management practices are either full
14 retention of ballast water or exchange. However, by 2016,
15 vessels will be required to meet a performance standard
16 which is currently the strictest in the world.

17 --o0o--

18 ENVIRONMENTAL PROGRAM MANAGER I FALKNER: The
19 Marine Invasive Species program utilizes a multifaceted
20 approach to run its program. We develop our policies
21 based on technical advisory group meetings with technical
22 experts and various stakeholders. We collect and track
23 over 10,000 pieces of complex data annually. We identify
24 and facilitate various research that's necessary to meet
25 the mandate of the law. And we report back biannually to

1 you, the Commissioners, as well as to the Legislature on
2 our activities.

3 In addition to the Marine Facilities Division, we
4 partner with the Department of Fish and Game. They
5 conduct biological surveys of the ports, bays, and open
6 coastal areas in the state to determine any -- to identify
7 any new invasive species and to assess the effectiveness
8 of our program.

9 The Board of Equalization collects a fee and
10 deposits that fee into the Marine Invasive Species Control
11 Fund. The entire program within the state is special fund
12 fees assessed on vessels.

13 And then the State Water Board operates with us
14 in a consultative role.

15 --o0o--

16 ENVIRONMENTAL PROGRAM MANAGER I FALKNER: As we
17 continue to move forward, we have a lot of interesting
18 things on our plate. For the next 12 to 18 months we're
19 going to be required to -- we're continuing to implement
20 performance standards for ballast water discharge. And
21 we're in the process now of developing regulations that
22 will help reduce the introductions through biofouling.

23 We have several collaborative and funded projects
24 that we're working on, two of which are shown here. One
25 is with Cal Maritime Academy, the U.S. Maritime

1 Administration, and the State Lands Commission are all
2 funding a program to test treatment facilities on board a
3 teaching vessel at Cal Maritime Academy in Vallejo.

4 We also work closely with Portland State and
5 Smithsonian on biofouling issues and getting a better
6 handle on what our data show, what the papers show versus
7 what they're actually seeing when they dive.

8 Finally, we do quite a bit of work -- we have an
9 active role in several organizations at the State,
10 federal, and international levels. And because California
11 has often been a leader in the marine invasive species
12 control, we have been -- staff has been invited to speak
13 or participate on several committees and panels, some of
14 which are identified here - west coast -- Pacific Ballast
15 Water Group. We meet on an annual basis to coordinate our
16 programs and to work with the maritime industry.

17 At the federal level we work with the National
18 Invasive Species Council.

19 And then at the international level we consult
20 with Germany, the Netherlands, and Sweden on a North Sea
21 Ballast Water Program that they are implementing.

22 As part of all these activities, Commission staff
23 is going to continue to use the current resources to work
24 proactively with the regulated industry; the scientific
25 community; and the State, national, and international

1 regulatory agencies to continue to reduce the risk of
2 biological invasions in California waters.

3 And thank you, and I'll be happy to answer any
4 questions.

5 CHAIRPERSON NEWSOM: Just curiosity. Portland
6 State, did they have a particular discipline in the
7 biofouling area, or do our state universities have any
8 similar discipline in their partnerships with our CSUs?

9 ENVIRONMENTAL PROGRAM MANAGER I FALKNER: We work
10 actually with California State University, San Jose, to do
11 quite a bit of the ballast water treatment technology
12 work. So we have researchers out at Moss Landing that are
13 doing work on that. It just happens that the Smithsonian
14 Environmental Research Center was kind of the leader in
15 the biofouling research and they happen to have a
16 collaborative relationship with Portland State University.

17 But we utilize -- in addition to the academicians
18 at that, we also have people here in the state at various
19 levels that work with us on these biofouling issues. And
20 in fact one of my staff is a certified scientific diver
21 and he routinely goes and assists on these diving
22 operations. So we have people in the state doing that.
23 This was just a small example of the work we're doing.

24 CHAIRPERSON NEWSOM: Yeah. No, just curious. I
25 mean sitting on that CSU Board, we're looking for

1 partnerships and --

2 (Laughter.)

3 ENVIRONMENTAL PROGRAM MANAGER I FALKNER: No.
4 And we work quite a bit with UC Davis folks, with Wim
5 Kimmerer out of the Bay Area, and then Moss Landing. And
6 so we try to -- because we do have the expertise. But
7 many of the -- so we try to keep a nice tight network with
8 those folks.

9 CHAIRPERSON NEWSOM: That's great.

10 ENVIRONMENTAL PROGRAM MANAGER I FALKNER: Thank
11 you.

12 CHAIRPERSON NEWSOM: Important work. Thank you.

13 ENVIRONMENTAL PROGRAM MANAGER I FALKNER: Thank
14 you.

15 EXECUTIVE OFFICER FOSSUM: And thank you,
16 Commissioners, for your patience. We only have two more
17 presentations, and I believe they'll be fairly quick.

18 You'll now hear from Cy Oggins. And Cy is the
19 Chief of the Division of Environmental Planning and
20 Management. Cy has been with the State for 20 years and
21 previously worked in the Division before going to the
22 Department of Conservation. Last year we were able to woo
23 him back to the Commission.

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

1 ENVIRONMENTAL PLANNING DIVISION CHIEF OGGINS:

2 Good afternoon, Mr. Chair, members of the
3 Commission.

4 The Division of Environmental Planning and
5 Management was formed in 1975. Its stated purpose is to
6 ensure the compliance of the Commission with the
7 provisions of the California Environmental Quality Act, or
8 CEQA, and to provide analytical staff services to the
9 members of the Commission, the Executive Officer, and the
10 Commission's three line program, each of which you heard
11 from.

12 --o0o--

13 ENVIRONMENTAL PLANNING DIVISION CHIEF OGGINS:

14 What isn't so clearly stated is that DEPM's goal
15 is to take what some people view as a very confusing and
16 disorganized environmental review process in California
17 and turn it into a very organized process with extensive
18 public comment and participation at multiple stages of the
19 process that leads ultimately to an action by the
20 Commission and hopefully to a document certified by the
21 Commission that can then be used by other agencies in
22 their permitting processes.

23 --o0o--

24 ENVIRONMENTAL PLANNING DIVISION CHIEF OGGINS:

25 Our staff is fairly small. We have ten staff -

1 nine environmental scientists and a divisional secretary.
2 Our staff is funded -- 60 percent of our staff is funded
3 through reimbursements by our project applicants.

4 --o0o--

5 ENVIRONMENTAL PLANNING DIVISION CHIEF OGGINS:

6 Again, our primary role is to ensure compliance
7 with CEQA. We do this by preparing environmental impact
8 reports and other CEQA documents for projects on
9 Commission-owned lands. We also review other agencies'
10 CEQA documents for projects that may affect Commission
11 lands.

12 --o0o--

13 ENVIRONMENTAL PLANNING DIVISION CHIEF OGGINS: We

14 provide for extensive public and agency coordination
15 including review and comment on the Commission documents,
16 as I mentioned earlier. For approved projects, we ensure
17 compliance with the measures -- mitigation measures
18 approved by the Commission. And we have other
19 responsibilities, including extensive interagency
20 coordination and collaboration efforts throughout the
21 state. And we house the agency's Geographic Information
22 Systems program.

23 --o0o--

24 ENVIRONMENTAL PLANNING DIVISION CHIEF OGGINS: We

25 prepare EIRs and other CEQA documents to support land

1 management lease applications; marine oil terminal leases,
2 both new and renewals; onshore and offshore oil
3 development leases; and other Commission approvals.

4 --o0o--

5 ENVIRONMENTAL PLANNING DIVISION CHIEF OGGINS: In
6 the next two years we anticipate working with our Land
7 Management Division closely on multiple renewable energy
8 projects, including the Lucerne Valley Solar Project in
9 San Bernardino County, Pacific Gas & Electric Wave Energy
10 project offshore Santa Barbara County, the Truckhaven
11 Geothermal Project in Imperial County, a Tule Wind project
12 in San Diego County, sand mining projects in San Francisco
13 Bay, a potential new ocean outfall offshore McKinleyville
14 in Humboldt County, a new master plan for the Owens Lake
15 bed, and a vessel management plan for Tomales Bay in Marin
16 County.

17 --o0o--

18 ENVIRONMENTAL PLANNING DIVISION CHIEF OGGINS:
19 Again, in the next two years we will be working
20 with our Land Management Division and Marine Facilities
21 Division on multiple marine oil terminal lease renewals,
22 including Shell Martinez, Shore and Tesoro Amarco and Avon
23 wharves in San Francisco Bay; the decommissioning of the
24 Chevron Estero Marine Terminal in San Luis Obispo County,
25 and monitoring of mitigation measures at Chevron's El

1 Segundo marine terminal in Los Angeles County that was
2 approved last year, the Chevron Long Wharf in San
3 Francisco Bay, and Venoco Ellwood in Santa Barbara County.

4 --o0o--

5 ENVIRONMENTAL PLANNING DIVISION CHIEF OGGINS:

6 And as Greg Scott mentioned earlier, we'll be
7 working with our Mineral Resources Management Division on
8 multiple oil development projects, including a project by
9 Carone to drill from federal waters into State waters; the
10 Montalvo Wells project which is onshore in Ventura County
11 on the coastline; the recommissioning of Pier PRC 421 and
12 a new project called the Paredon lease, both of which are
13 offshore Santa Barbara County.

14 We also hope to finally resolve the final
15 disposition of Chevron shell mounds offshore Santa Barbara
16 county and to bring to you an update on the Commission's
17 Offshore Geophysical Survey Permit Program.

18 --o0o--

19 ENVIRONMENTAL PLANNING DIVISION CHIEF OGGINS:

20 And as we mentioned earlier, we have multiple
21 interagency efforts throughout the state that we'll be
22 working on, including Public Trust land efforts by Eagle
23 Lake in Lassen and Honey Lake in Lake County; multiple
24 projects in San Francisco Bay, in Lake Tahoe, and Owens
25 Lake in southern California. We recently completed a

1 project at Seal Cove, which is to replace a dilapidated
2 staircase at the Fitzgerald Marine Reserve and to build a
3 bike trail in San Mateo County.

4 And then we also participate in multiple
5 statewide efforts including the Abandoned Mine Lands
6 Forum, multiple working groups with the Ocean Protection
7 Council, and a new statewide advisory committee on cooling
8 water intake structures.

9 And that concludes my portion of the
10 presentation.

11 EXECUTIVE OFFICER FOSSUM: Thank you, Cy.

12 And now our last, but certainly not least, Dave
13 Brown. He's the Chief of our Administrative Information
14 Services Division. Dave came to the Commission 31 years
15 ago from the Highway Patrol. Dave's the man behind the
16 curtain working all the levers to keep the agency
17 functioning.

18 (Laughter.)

19 EXECUTIVE OFFICER FOSSUM: Dave deals with our
20 budget, contracting, personnel, computers, records, and
21 more.

22 David.

23 ADMINISTRATIVE SERVICES CHIEF BROWN: Well, that
24 concludes my presentation.

25 (Laughter.)

1 (Thereupon an overhead presentation was
2 Presented as follows.)

3 ADMINISTRATIVE SERVICES CHIEF BROWN: Good
4 afternoon, Mr. Chairman and Commissioners. My name is
5 Dave Brown and I am the Chief of the Administrative and
6 Information Services Division. And our division provides
7 support to all of the Commission line programs, all of the
8 people you've heard from so far.

9 Our mission is to provide Commission management
10 and staff with the resources that they need to achieve
11 their program goals and objectives. We do this by
12 providing comprehensive fiscal, information technology,
13 records management, and human resource services.

14 --o0o--

15 ADMINISTRATIVE SERVICES CHIEF BROWN: Our fiscal
16 section manages a budget of just 208 positions, for all of
17 the wonderful things you've heard that we do, and \$30
18 million from a variety of funding sources.

19 We also manage a system of full cost recovery for
20 processing applications for the use of lands under the
21 Commission's jurisdictions. We will recover the full cost
22 of preparing and presenting all of the applications
23 presented to you today. We are budgeted to recover \$4 1/2
24 million in this manner of 250 applications per year.

25 We also bill the leases that we charge rents on.

1 And we have nearly a thousand paying leases accruing over
2 \$15 million annually to the General Fund.

3 We collect the royalties from the extraction of
4 resources from these lands, which could total over \$350
5 million this year alone. Most of this is deposited to the
6 General Fund as well.

7 We manage five office locations statewide and
8 provide all contracts, travel, purchasing, and
9 telecommunication services.

10 --o0o--

11 ADMINISTRATIVE SERVICES CHIEF BROWN: We also
12 provide a full range of information technology support.
13 We manage the network Email, provide database management,
14 information security, disaster recovery, and other IT
15 services to all staff at all locations.

16 --o0o--

17 ADMINISTRATIVE SERVICES CHIEF BROWN: In human
18 resources, we provide all of the personnel services
19 including recruitment, classification and pay, equal
20 employment opportunity, labor relations, privacy
21 protection, training, and so on.

22 --o0o--

23 ADMINISTRATIVE SERVICES CHIEF BROWN: As the
24 Commission has been in existence since 1938, and is the
25 successor to the Surveyor General and various land boards

1 and commissions, we manage a huge amount of historical
2 records. We provide retention services, historical record
3 restoration and preservation, central file management,
4 mail and reproduction services. We're responsible for
5 over 47 million paper records, 30 million of which are
6 located in our offices.

7 This unit also provides you with the support for
8 these meetings and maintains an archive of all meeting
9 records.

10 On our website, we have a comprehensive record of
11 Commission meetings back to 1965, with copies of all
12 calendar items and meeting minutes. We're working on
13 getting all the way back to 1938.

14 I would also like to take this opportunity to
15 review our current budget.

16 --o0o--

17 ADMINISTRATIVE SERVICES CHIEF BROWN: The
18 Commission has four major funding sources to support the
19 programs you've heard about here today: The General Fund,
20 the Oil Spill Prevention and Administration Fund, the
21 Marine Invasive Species Control Fund, and Reimbursements.

22 --o0o--

23 ADMINISTRATIVE SERVICES CHIEF BROWN: These funds
24 support 208 positions. These positions are restricted by
25 the fund sources to perform the work only in those program

1 areas supported by that funding.

2 --o0o--

3 ADMINISTRATIVE SERVICES CHIEF BROWN: Over the
4 past 20 years the proportion of these positions has been
5 altered dramatically. In 1990, the Commission had 242
6 General Fund positions and a few reimbursed positions.

7 As a result of budget reductions, a policy of
8 full cost recovery from Commission lease and permit
9 applicants, and new Commission programs such as Oil Spill
10 Prevention and Marine Invasive Species, the General Fund
11 positions now comprise less than a third of that total.

12 --o0o--

13 ADMINISTRATIVE SERVICES CHIEF BROWN: Today there
14 are only 63 1/2 General Fund positions remaining. So why
15 is this such a big deal?

16 We all know that the General Fund has been in
17 crisis for several years. But from the Commission's
18 perspective, and my graph right here, you can see that
19 this goes back with the Commission over two decades.

20 The significance is that these are the revenue
21 positions. These are the positions that perform the
22 royalty accounting, revenue receipts, auditing, and oil
23 field management. These are also the positions
24 responsible for enforcement, trespass investigation,
25 litigation, and ejectments.

1 These are the positions responsible for
2 protecting the Public Trust. And over the past 20 years
3 these program areas have been suffering a death by a
4 thousand cuts. None that would be fatal, but cumulatively
5 they're having a significant impact on the Commission's
6 ability to carry out its core program objectives. And to
7 maintain revenues and protect the Public Trust.

8 --o0o--

9 ADMINISTRATIVE SERVICES CHIEF BROWN: In spite of
10 these reductions, the Commission's staff has continued to
11 ensure a significant flow of revenue. The Commission has
12 collected more than \$9.2 billion since its inception in
13 1938. Over a billion of this has been deposited to the
14 General Fund in the last three years alone. Commission
15 revenues are the second largest source of non-tax revenues
16 behind the State lottery, third depending on if you count
17 Indian gaming.

18 A lot of this has been dependent on highly
19 skilled and experienced staff with long tenure at the
20 Commission, many of whom continue to work as annuitants
21 after retirement.

22 However, as these staff are no longer available,
23 the Commission will be in for some significant challenges.

24 Thank you for your attention. And I think after
25 30 years with the Commission, I seem to be the one long in

1 the tooth here. I'm excited about these programs, as you
2 can tell. And again thank you.

3 CHAIRPERSON NEWSOM: Dave, just a quick question.

4 ADMINISTRATIVE SERVICES CHIEF BROWN: Yes.

5 CHAIRPERSON NEWSOM: On those 47 million or so
6 paper records and all these Commission minutes, et cetera,
7 what do you do with it? I mean, it's one thing -- you
8 know, I've kind of become a fanatic a bit about government
9 as a platform in allowing people to take governmental
10 information in an open way and be able to then mash it up
11 in a machine-readable way and actually provide those
12 records. And not the gotcha kind of government where it's
13 the press always trying to go after you and say, "Hey,
14 see, we gotcha" or some auditor, but to use this public
15 information provided for by the public, paid for by the
16 public, in a meaningful way and allow people to mash it
17 out, these developers, as Apple allows applications to be
18 developed on their platform.

19 Are we doing anything along those lines? Do we
20 have machine readable, downloadable data from this
21 Commission where people can utilize without having to pay
22 great sums and resources?

23 ADMINISTRATIVE SERVICES CHIEF BROWN: We have
24 attempted to get started on that on several occasions.
25 And every time we've gained a little bit of momentum,

1 another General Fund crisis has hit.

2 That little hump -- can we go back to the --
3 there was a --

4 CHAIRPERSON NEWSOM: The one where you had the
5 242 bounced up to 90 something, around to --

6 ADMINISTRATIVE SERVICES CHIEF BROWN: It bounced
7 up a little bit. A lot of those positions there were
8 during the Davis administration. And we received those
9 partially to do exactly what you're talking about, to
10 develop a system to copy some of these historic records.
11 A lot of our records are so old that they're literally
12 turning to dust. And in many cases, we've taken what we
13 call our swamp and overflow records. We are just about
14 ready to finish that up. That would be probably enough
15 records to fill that area behind Cindy three times over.

16 We've digitized all of that. We're going to send
17 those over to the State Archives. We're the first agency
18 that has been able to negotiate an agreement with the
19 Archives where we can put our stuff there and retain
20 ownership, because we need it for litigation and so on.

21 But those other records we now have in digital
22 format. And we could make them available given the
23 resources to do so.

24 So, yes, that's in our long-term plans. And it's
25 only people and money.

1 (Laughter.)

2 CHAIRPERSON NEWSOM: Yeah, I guess --

3 (Laughter.)

4 CHAIRPERSON NEWSOM: All right. Well, further
5 discussions down the road.

6 Thank you.

7 ADMINISTRATIVE SERVICES CHIEF BROWN: Okay.
8 Thank you.

9 CHAIRPERSON NEWSOM: Thanks so much.

10 EXECUTIVE OFFICER FOSSUM: That concludes the
11 staff's presentations for today.

12 CHAIRPERSON NEWSOM: I'm grateful.

13 Thank you, all of you. And it was particularly
14 helpful to the new guy, which is me. So I'm very
15 appreciative of your time.

16 And thank you to my colleague for indulging, as
17 he's been on this body for a lot longer than I, and a lot
18 of that I'm sure is familiar, but nonetheless helpful.
19 It's a refresher.

20 So I think that concludes the regular calendar.

21 And this is the opportunity for anyone who hasn't
22 had a chance to share their voice to share their voice in
23 public comment on anything that is on your mind related to
24 business in front of us.

25 And clearly there is nothing either on your mind

1 or there are no members of the public here, one or the
2 other.

3 (Laughter.)

4 CHAIRPERSON NEWSOM: So we'll close public
5 comment.

6 And this I think formally now concludes the open
7 portion of our meeting. And now it is time for us to go
8 into closed session.

9 So thank you all very much for being here. And
10 we'll try to clear the room. And as we do that, we'll
11 organize for a quick closed session.

12 Thank you.

13 (Thereupon the California State Lands Commission
14 meeting adjourned at 3:32 p.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 14th day of February, 2011.

JAMES F. PETERS, CSR, RPR
Certified Shorthand Reporter
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