

MEETING
STATE OF CALIFORNIA
LANDS COMMISSION

THE SHERATON GRAND SACRAMENTO
HENDRICKS ROOM
1230 J STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, APRIL 6, 2011
1:02 P.M.

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

BOARD MEMBERS

Mr. Gavin Newsom, Lieutenant Governor, Chairperson, also represented by Mr. Chris Garland

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

Ms. Ana J. Matosantos, Director of Finance, represented by Ms. Karen Finn

STAFF

Mr. Curtis Fossum, Executive Officer

Ms. Jennifer Lucchesi, Chief Counsel

Mr. Colin Connor, Assistant Chief, Land Management Division

Ms. Jennifer DeLeon, Senior Environmental Scientist

Mr. Eric Milstein, Senior Staff Counsel

ATTORNEY GENERAL

Mr. Joe Rusconi, Deputy Attorney General

ALSO PRESENT

Reverend Gary Banks, Bayview-Hunters Point Project Area Committee

Ms. Tiffany Bohee, San Francisco Mayor's Office

Mr. Mike Conner, The Nature Conservancy

Ms. Jennifer Fearing, The Humane Society

Mr. Rick Fowler

Mr. Pablo Garza, The Nature Conservancy

Mr. Jim Harnish, Mustang Airport

Mr. Bill Herms, California State Parks

APPEARANCES CONTINUED

ALSO PRESENT

Mr. Brian Holloway, Mustang Airfield

Dr. Veronica Hunnicutt, Citizens Advisory Committee

Ms. Roanae Kent, Alice Griffith Urban Strategies

Ms. Diane Kindermann, Mustang Airfield

Mr. Al Norman, Bayview Merchants Association

Mr. Paul Raveling

Ms. Linda Richardson, Bayview-Hunters Point Project Area
Committee

Mr. Dan Taylor, Audubon Society

Mr. William Van Wagoner, Los Angeles Department of Water
and Power

Reverend A. Walker, AARC and TCDC

Ms. Betsy Weiland, Save The American River Association

INDEX

	<u>PAGE</u>
I OPEN SESSION	1
II CONFIRMATION OF MINUTES FROM THE MEETING OF February 8, 2011	1
III EXECUTIVE OFFICER'S REPORT	2
IV CONSENT CALENDAR C01 - C66	24
V REGULAR CALENDAR 67 - 75	
67 CALIFORNIA DEPARTMENT OF PARKS AND RECREATION, THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, THE CITY AND COUNTY OF SAN FRANCISCO, THE PORT OF SAN FRANCISCO AND THE CALIFORNIA STATE LANDS COMMISSION (PARTIES): Consideration of the Hunters Point Shipyard/Candlestick Point Title Settlement, Public Trust Exchange and Boundary Line Agreement and the Candlestick Point State Recreation Area Reconfiguration, Improvement and Transfer Agreement, pursuant to Chapter 203, Statutes of 2009 (SB 792), concerning lands within Candlestick Point and the former Hunters Point Naval Shipyard, City and County of San Francisco. The result of the proposed Agreements is: to terminate any and all Public Trust and sovereign property rights in certain parcels within Candlestick Point and the former Hunters Point Naval Shipyard; acquisition of certain parcels by the California State Lands Commission, subject to the Public Trust; conveyance of certain lands to the Redevelopment Agency of the City and County of San Francisco subject to the Public Trust; and termination of existing Lease PRC 6414 and issuance of a new 66-year lease of certain lands acquired by the California State Lands Commission within Candlestick Point to the California Department of Parks and Recreation.	109

INDEX CONTINUED

PAGE

68	CITY OF LONG BEACH, CALIFORNIA STATE LANDS COMMISSION (PARTIES): Consider a proposed Title Settlement and Land Exchange Agreement pursuant to Public Resources Code Section 6307 involving certain parcels adjacent to Queensway Bay, within the Colorado Lagoon and adjacent to the Pacific Ocean, within the city of Long Beach, Los Angeles County. The result of the proposed Agreement is to terminate any and all Public Trust and sovereign property rights in certain filled tide and submerged lands adjacent to Queensway Bay, acquisition of certain parcels adjacent to the Pacific Ocean and within the Colorado Lagoon by the State, and issuance of a 49-year lease of lands acquired by the State Lands Commission to the city of Long Beach.	25
69	CALIFORNIA STATE LANDS COMMISSION: Consider supporting legislation regarding audits of local governments ITEM HAS BEEN POSTPONED FOR A FUTURE MEETING	28
70	CALIFORNIA STATE LANDS COMMISSION: Consider a resolution to support the San Francisco Bay Restoration Act	28
71	CALIFORNIA STATE LANDS COMMISSION: Consider a resolution to support the Lake Tahoe Restoration Act of 2011	32
72	CALIFORNIA STATE LANDS COMMISSION: Consider opposing legislation regarding the State's public trust property interests at Lake Tahoe	34
73	CALIFORNIA STATE LANDS COMMISSION: Consider opposing legislation regarding the leasing of shoreline protective structures	36, 144

INDEX CONTINUED

	<u>PAGE</u>
74 CALIFORNIA STATE LANDS COMMISSION: Consider a resolution to oppose the conversion and expansion of the existing privately owned, non-public-use Mustang Airport located adjacent to the Cosumnes River Preserve, Sacramento County, to a privately owned, public-use airport with up to 100 hangars and 25 tie-downs.	38
75 OWENS LAKEBED MASTERPLAN PLANNING COMMITTEE (PARTY) INFORMATIONAL: Provide an update on the status of the Owens Lake Master Plan process involving sovereign lands located on the dry lakebed of Owens Lake, near Lone Pine, Inyo County.	97
VI PUBLIC COMMENT	147
CLOSED SESSION	142
Adjournment	151
Reporter's Certificate	152

PROCEEDINGS

1
2 ACTING CHAIRPERSON GARLAND: I'll call this
3 meeting of the State Lands Commission to order. All the
4 representatives of the Commission are present. I am Chris
5 Garland, the Lieutenant Governor's chief of staff and his
6 designee. He sends his regards. He is on his way. To my
7 right is State Controller John Chiang and his designee
8 Cindy Aronberg. And to my left is Karen Finn representing
9 the Department of Finance.

10 For the benefit of those of you in the audience,
11 the State Lands Commission administers certain property
12 interests owned by the State, including its mineral
13 rights and mineral interests. Today, we will hear
14 proposals concerning the leasing and management of these
15 public properties.

16 The first item of business will be to adopt the
17 minutes from the Commission's February meeting. May I
18 have a motion to approve the minutes.

19 COMMISSIONER CHIANG: So moved.

20 ACTING COMMISSIONER FINN: Second.

21 ACTING CHAIRPERSON GARLAND: Moved and seconded.
22 Vote.

23 All those in favor say aye?

24 (Ayes.)

25 ACTING CHAIRPERSON GARLAND: Opposed?

1 Minutes pass unanimously.

2 The next order of business is the Executive
3 Officer Report. Mr. Fossum, may we have this report.

4 EXECUTIVE OFFICER FOSSUM: Yes, thank you,
5 Chairman Garland.

6 ACTING CHAIRPERSON GARLAND: Your microphone.

7 EXECUTIVE OFFICER FOSSUM: Thank you, and good
8 afternoon again. First of all, I'd like to respond to a
9 letter I received a couple days ago from Commissioner
10 Chiang. This request regards the State Lands Commission's
11 strategic plan and the fact that it has not been updated
12 in 14 years. That request we think is very important. He
13 wants us to identify and focus on some of the most
14 important and urgent issues facing the Commission. I
15 think each of the other Commissioner's offices received a
16 copy of that.

17 Our strategic plan has been a good guide for the
18 last 14 years. But as one might expect, it is out of date
19 on some issues. There certainly are some new issues
20 coming up that the Controller has requested to be included
21 in that. And we will be doing that and hoping to get the
22 Commission a report back to them later this year.

23 This first one is, of course, sea level rise that
24 he mentioned. And right now we have a bill, Senator
25 Pavley, SB 152 has been introduced in that regard.

1 Also, I'd like to mention that Controller Chiang
2 last year as Chairman and on the Ocean Protection Council,
3 and this year Lieutenant Governor Newsom, supported and
4 approved just last month at the Ocean Protection Council a
5 resolution dealing with sea level rise and giving guidance
6 to the other State agencies and local governments on that
7 issue.

8 We also are being asked to look at litter and
9 debris, and restrictions with our leases to try and help
10 limit that taking place. We already have some
11 restrictions, but we'll certainly look at expanding those
12 and trying to prevent additional pollution of our waters.

13 Commissioner Chiang is asking us to look very
14 carefully at market rate leasing. That's certainly
15 something we're also very interested in. We've been --
16 the Bureau of State Audits has been in our office 5 months
17 now going over our practices and asking us quite a few
18 questions in that regard. And, of course, we do have a
19 bill in the Legislature right now to remove the
20 prohibition on charging rent for certain recreational
21 piers in State waters.

22 Additionally, one of the issues that's been
23 arising lately is the ability of the Commission to
24 actually monitor what's going on with the local
25 governments, the trustees of local tidelands. Issues have

1 been raised at Long Beach by the Pacific Merchant Shipping
2 Association. Controller Chiang is asking us to look into
3 Redondo Beach. And there's also others. We have 85 local
4 grants. And each one of those is managing lands for the
5 State, and yet we really don't have the ability to
6 properly audit them and investigate them. And so we're
7 going to be looking at ways to do that and also look at
8 internal practices to try and improve that.

9 He's asked us to support legislation and programs
10 that protect the ocean and the coast. And certainly that
11 is one of our primary goals. So we'll be looking at that.
12 And there's also bills right now dealing with shoreline
13 protection that are in the Legislature. Today, we're
14 going to be asking the Commission to oppose one of those
15 bills.

16 A little later I'm going to be talking about our
17 website. The focus on having new technology and using
18 that technology to improve our communications with the
19 public and inform the public is certainly a very important
20 factor. And at the end of my presentation we'll be
21 showing a little bit more of that.

22 And then finally, a very important issue dealing
23 with our ability to deal with the United States and the
24 lands they control. They control a substantial amount of
25 land in our deserts. The Commission also has hundreds of

1 thousands of acres, but they're scattered. And so we
2 would like very much to function in a way to provide
3 alternative energy projects, solar energy projects,
4 geothermal, wind projects, all kinds of alternative
5 energy, even wave projects offshore.

6 But with the federal government, we're looking at
7 ways to try and exchange lands. We have hundreds of
8 thousands of acres again. The federal government has
9 their own projects. There is a bill, AB 982, by
10 Assemblywoman Skinner. And we're going to work with her
11 office to see if we can't do some amendments on that bill
12 that would help us in that regard on improving alternative
13 energy projects.

14 The next thing I'd like to discuss is what took
15 place in Japan. The day the Ocean Protection Council
16 passed the sea level rise guidance document was the same
17 day that the earthquake and Tsunami took place in Japan.
18 And I'd like to touch on all 3 of the disasters of both
19 the earthquake, Tsunami, and nuclear effects of that
20 natural event.

21 First of all, I'd like to mention, and I did
22 mention at the last meeting of the Commission, that Martin
23 Eskijian, one of our engineers, was awarded a national
24 award by the American Society of Civil Engineers for his
25 research and work on earthquake safety. He has traveled

1 to Japan after the Kobe incident, to Chile. He's traveled
2 to Turkey and New Guinea and India after seismic events in
3 each of those places, and has learned a lot and
4 incorporated that information he's learned into our MOTEMS
5 program, which is the Marine Oil Terminal Engineering and
6 Maintenance Standards, that the Commission adopted.

7 Basically, Martin is the father of that program,
8 and we're very happy to have him on our staff. We also
9 have some younger engineers coming along. And Alex
10 Augustin in our Long Beach office has been selected by the
11 American Society of Civil Engineers to go to Japan as part
12 of a recon team to look at the effects of the earthquake
13 and Tsunami there.

14 As to California, we've all read about the 50 to
15 75 million dollars in damage that happened to our coastal
16 development there, whether it's docks or marinas, boat
17 harbors. And that -- even though Crescent City was the
18 worst hit, and there was one loss of life there, reported
19 damage exists all the way down to San Diego Bay. So we
20 had an enormous event that happened in California. It
21 wasn't as bad as the '64 Alaska earthquake, when 11 people
22 died in California, but we can also anticipate that there
23 will be future such events.

24 In fact, the State Geologist reported that it's a
25 potential -- there is a potential for a 15 foot Tsunami in

1 southern California and a 25 foot Tsunami in northern
2 California.

3 Last Wednesday our -- your, excuse me, not our --
4 your Marine Facilities Division had its annual customer
5 service meeting at the northern California field office.
6 And certainly the Tsunami was one of the top issues being
7 discussed at that. We had representatives from the Corps,
8 the San Francisco Bay Colonel, who's in charge of the
9 Corps for this region was there and spoke. The Coast
10 Guard Captain, she spoke as well. And representatives
11 from U.S. EPA, and Fish and Game Oil Spill Prevention
12 Response, as well as the Commission staff all spoke on
13 issues relating to the Tsunami event.

14 And I want to mention that the Coast Guard
15 Captain specifically complimented your staff on its
16 assistance and cooperation in response to that event.
17 That earthquake that took place on March 10th triggered a
18 Tsunami in California that arrived approximately at 8:30
19 on that following Friday. While it wreaked considerable
20 damage, it did not really occur on any damage to the
21 marine terminals that the Commission regulates.

22 Fortunately, there was early notification from
23 CalEMA and the Coast Guard. And that enabled at 1:30 in
24 the morning our Marine Facilities Offices to contact all
25 the marine oil terminal operators by fax and phone to warn

1 them of the anticipated 3-foot tidal surge. They all took
2 precautionary measures in response to that.

3 Actual suspension orders were ordered by the
4 Coast Guard captains in both the Bay Area and in Los
5 Angeles, Long Beach to cease any kind of oil or hazardous
6 material transfers later that morning at 7 and 8 o'clock
7 respectively. Later that afternoon those orders were
8 withdrawn and things returned generally to normal. We
9 think your staff, your MFD staff personnel responded
10 swiftly and professionally dealing with that event.

11 In addition, our offshore oil operations on oil
12 rigs and islands also were notified and took precaution --
13 our staff notified those operators of those facilities to
14 take precautionary measures to ensure that there would be
15 both personnel safety and pollution prevention at those
16 sites.

17 Basically, there was no sign of any impacts on
18 any of those offshore oil operations. Again, part of the
19 engineering that our staff does is to make sure that's
20 going to stay that way. If there had been a severe
21 warning, then evacuation vessels were in standby and the
22 platforms would have been shut down. Fortunately, the
23 event wasn't that substantial. In Long Beach, drilling
24 operations were discontinued for part of that day.

25 Last week the staff also notified all our marine

1 oil terminal operators, all 39 of them, of their
2 obligations to have a Tsunami plan for their operations
3 and regulations that provide guidance. And that's on our
4 website as well.

5 The staff developed this program a few years ago.
6 The Commission approved it in 2009. And after going
7 through regulations, it became part of the California
8 Building Standards Code and enforceable on January 1st of
9 this year. So the obligations for these facilities --
10 these marine terminals to have Tsunami safety plans is
11 already on the books.

12 As to the nuclear issue, the State Lands
13 Commission has leases at both San Onofre and Diablo Canyon
14 with Southern California Edison and PG&E respectively.
15 Southern -- San Onofre has a 30-foot seawall that helps
16 protect them from potential Tsunamis. And at Diablo
17 Canyon, the facilities there are generally 85 feet above
18 sea level. So the threat of a Tsunami at either one of
19 those is fairly rare. But earthquakes certainly are a
20 factor.

21 In fact, just in 2008 a new fault was found just
22 offshore of Diablo Canyon within a mile of the facility
23 there. So just a couple days ago we were contacted by the
24 Pacific, Gas & Electric staff, and we are meeting with
25 them -- your staff is meeting with them on Tuesday to

1 discuss an offshore seismic survey to get more information
2 about the threats that may exist at that place. And I'd
3 like to add that just last week, a week ago today, there
4 was a 4.2 earthquake off of the central coast of
5 California.

6 The next thing I'd like to discuss is that
7 Redondo Beach at the last meeting, Controller Chiang asked
8 that an item be removed from the agenda dealing with
9 expenditure of tideland's revenues for its facility there,
10 and asked that we look into some issues regarding
11 potential misuse of funds.

12 The city has responded with substantial
13 information for us. We've just received it however. In
14 the meantime, we did follow up and look at that item for a
15 harbor patrol facility. We looked at what kind of funds
16 were available for that facility and what the needs were.
17 And we've placed that back on our agenda as Item C18 on
18 the consent agenda, because staff believes that it does
19 not involve any of the issues that have been raised at
20 this point. We will be following up on those issues of
21 the other funds, however.

22 I have 3 last items, hopefully positive items, to
23 mention to the Commission. One of them is that I'm very
24 pleased to report that our anticipated oil profit revenues
25 to go to the general fund are expected to be more than 10

1 times that that was estimated early on at \$45 a barrel.
2 Prices are now well over \$100 a barrel in southern
3 California. And rather than the projected \$30 million
4 that would go to the general fund, we're expecting over
5 \$300 million that the Commission will pass on there.
6 Although it does hurt us at the pump, it does help the
7 general fund.

8 (Laughter.)

9 EXECUTIVE OFFICER FOSSUM: At the last meeting I
10 also reported that we were beginning -- continuing work
11 and beginning work on our hazard removal program in Santa
12 Barbara county. And I have just a few slides I'd like to
13 share with the members as well as public here.

14 (Thereupon an overhead presentation was
15 presented as follows.)

16 EXECUTIVE OFFICER FOSSUM: Basically, the program
17 that we have ongoing there -- this is a slide indicating
18 all the different sites that we identified a few years ago
19 along the Santa Barbara coastline. There's also one in
20 Ventura of remnants from prior activities in the ocean.

21 Thirty-four years ago this week the Commission
22 Executive Officer wrote our Secretary for Resources
23 requesting funds for hazard removal on the coast. Several
24 injuries had taken place to members of the public. And
25 that request noted that prior removal efforts had actually

1 taken place in the fifties, sixties, and seventies.

2 That year, legislation was providing -- did
3 provide funding for removal of projects -- excuse me,
4 removal of hazards within the Sacramento River, American
5 River, Delta, and Lake Tahoe. Subsequently, funding was
6 made available and a number of sites were remediated in
7 the late eighties.

8 However, 10 years ago another study was conducted
9 and over 400 individual hazards on 24 sites were located
10 along the Santa Barbara and Ventura coastline. In 2002,
11 the Commission received funding of a total of \$900,000 and
12 was ready to remove hazards from these sites when the
13 general fund fell short and led to the Governor's
14 Executive Order that required State agencies to
15 disencumber contracts where goods and services were not
16 received. And those contracts were canceled and the
17 program ceased to go forward at that point.

18 --o0o--

19 EXECUTIVE OFFICER FOSSUM: Most hazards that
20 exist down there consist of steel, wood piles or pilings,
21 oil well casings, well caissons, rock and concrete groins,
22 railroad rail irons, abandoned electric cables and pipes,
23 and at least one deep offshore well head.

24 To date, we've only been able to find a few
25 responsible parties, so the rest of it is basically left

1 up to receiving grants from either State or federal or
2 other sources.

3 --o0o--

4 EXECUTIVE OFFICER FOSSUM: Under the Coastal
5 Impact Assistance Program, which was a federal Energy
6 Policy Act of 2005 Program, the Commission actually
7 received a grant in July of 2008 to fund the program. We
8 asked for a million dollars. They authorized \$700,000.
9 To date, we've spent \$250,000 approximately of that. And
10 just yesterday we were notified by the Resources Agency
11 that the additional funding is now available to us that we
12 were going to spend in subsequent fiscal years. And so we
13 will continue the program and move ahead on other hazards
14 that exist there.

15 --o0o--

16 EXECUTIVE OFFICER FOSSUM: The 2 hazards that
17 we've worked on this year so far are Site 15, which is in
18 the Montecito Area. And as you can see there, these are
19 remnant steel groins that existed probably for the last 80
20 years, eroded away and have provided a substantial hazard
21 to the public wanting to use the beaches.

22 We focused on these because of the potential harm
23 to the public. When we first estimated the cost of
24 removal of this one, we identified a 60-foot long area.
25 Because of winter storm action in the area, ultimately

1 when our contractor was out there, it turned out it was
2 200 feet long, and they were able to remove substantially
3 more, but the -- it, of course, cost us more.

4 --o0o--

5 EXECUTIVE OFFICER FOSSUM: The next slide is Site
6 22, which is down coast of the one you just looked at.
7 And there we identified 60 railroad rails that had been
8 driven into the beach to try and protect the shoreline at
9 that area. Once we began -- our contractor began removing
10 that, we found 480 of those rails there. And so they have
11 all been now removed. And this is what the beach looks
12 like at those 2 locations since we've completed that --
13 those 2 elements of the project.

14 --o0o--

15 EXECUTIVE OFFICER FOSSUM: The next project we're
16 looking at is up at Ellwood. There's been substantial
17 removal of hazards in the past in that area. It was a
18 very active oil development area in the 1930s with lots of
19 remnants. Periodically, new ones will be exposed. And so
20 the next project we're looking at is to remove some of
21 those at that location.

22 --o0o--

23 EXECUTIVE OFFICER FOSSUM: Finally, I'd like to
24 just say that funding continues to be a problem. We know
25 if funding is a problem for the State, funding is a

1 problem for the federal government. But when we're
2 looking at public health and safety issues, we still take
3 it as a very high priority and we'll be continuing to look
4 for sources of funds to continue to this program. And
5 that concludes that part of my report.

6 I have 2 last things to mention. We have a new
7 website for the Commission. One of the things that
8 Commissioner Chiang also mentioned in his letter to us was
9 the ability to have better communications. This was the
10 existing website up until about a week ago. We now have
11 up and running a new website that we'll show you.

12 And we believe it's much more accessible to the
13 public and provides a lot more information. And so we
14 hope that the public will find that -- we've already had
15 comments on it, positive comments. And so we're looking
16 forward to any other comments from the public or the
17 Commissioners if they have suggestions as to how to
18 improve this. So we're pleased to provide this to you at
19 this time.

20 I noted that I looked at the Governor's website
21 this morning, and of the 6 photographs on the Governor's
22 website, 4 of them show lands under the Commission's
23 jurisdiction, which I thought was interesting.

24 (Laughter.)

25 EXECUTIVE OFFICER FOSSUM: And finally, I'd like

1 to just mention that on the legislative front that we do
2 have a consent item, number 13, on our agenda today
3 dealing with a former Executive Officer of the Commission.

4 (Laughter.)

5 EXECUTIVE OFFICER FOSSUM: And if -- with any
6 luck, if SB 152 by Senator Pavley passes, he will be
7 paying rent to the State in the future along with former
8 Lieutenant Governor Garamendi --

9 (Laughter.)

10 EXECUTIVE OFFICER FOSSUM: -- both who have
11 leases from the Commission and boat docks on the State's
12 waterways, so we're hoping that's going to happen.

13 (Laughter.)

14 EXECUTIVE OFFICER FOSSUM: Thank you. That
15 completes my report.

16 COMMISSIONER CHIANG: Well, is there public
17 comment about that?

18 (Laughter.)

19 EXECUTIVE OFFICER FOSSUM: You have the
20 microphone. I should also mention that the items that
21 have been pulled from the Consent agenda and the Regular
22 agenda are C41, C42, C50, and Regular item number 69.

23 ACTING CHAIRPERSON GARLAND: Thank you, sir.
24 Questions from the Commissioners?

25 COMMISSIONER CHIANG: I do, a number of

1 questions. That was a terrific presentation.

2 I have a number of questions. First of all,
3 thank you to staff for upgrading the website. I think
4 it's incredible work. The first one referencing the
5 website. Curtis, I noticed that we have a large number of
6 public access easements. The Coastal Commission has them
7 on their website, and so I'd like that -- us to link that
8 page to our website.

9 EXECUTIVE OFFICER FOSSUM: Great idea.

10 COMMISSIONER CHIANG: At the outset, you
11 referenced the Tsunami. And so plaudits to our staff for
12 their work on that. A number of things. Are there any
13 takeaways that the public should know about in terms of
14 what we need to do in California as a result of that
15 tragedy in Japan? And my heart goes out to the people
16 obviously of Japan, and I'm sure the Commission's does.

17 And is there anything that is actionable that we
18 ought to take immediate note of so that California does
19 not have to visit such a situation in the event that
20 should fall upon us?

21 EXECUTIVE OFFICER FOSSUM: Thank you,
22 Commissioner. You know, we've thought about that a lot.
23 I think obviously our focus is on trying to prevent oil
24 spills primarily. But the Commission does have a bully
25 pulpit of sorts. And I think that -- in fact, this

1 morning I believe I saw an article in the paper talking
2 about an early warning system that could be implemented if
3 appropriate funding was available that would give people
4 at least a 30 minute -- or excuse me, 30 second, I guess
5 it was -- a very short period, but a warning if an
6 earthquake was going to take place. And certainly, the
7 same thing could be true of Tsunamis. Hawaii has a pretty
8 elaborate system in that regard.

9 We're not an -- you know, we're not the Energy
10 Commission and we're not seismic experts when it comes to
11 other areas of the State. But when it comes to the 2
12 areas that we really are involved in in oil terminals and
13 in offshore oil facilities, I think we are certainly going
14 to take any lessons we learned. As I said, one of our
15 staff -- at least one, maybe two of our staff will be
16 going over to Japan hopefully within a month to speak to
17 people there and investigate that.

18 So we hope we can learn from that. But we can
19 certainly also, when it comes to possible legislation or
20 other efforts that might help prepare us for ultimate
21 events like that, we can keep that in mind and bring it to
22 the Commission's attention.

23 COMMISSIONER CHIANG: Can you communicate to
24 staff that is traveling to Japan and the others who are
25 involved to communicate with Hawaii, obviously to get a

1 sense of what best practices are. Obviously, we are
2 resource challenged in this state, but to identify if
3 there's any low-hanging fruit and perhaps a short-,
4 medium-, long-term approach to get to the place we need to
5 be.

6 EXECUTIVE OFFICER FOSSUM: Certainly.

7 COMMISSIONER CHIANG: And then what is the level
8 of compliance in regards to the regulations regarding the
9 Tsunami plans that you referenced?

10 EXECUTIVE OFFICER FOSSUM: You know, either
11 Martin Eskijian, who is, as I mentioned, kind of the
12 father of our MOTEMS program, or Kevin Mercier, the head
13 of the Division, probably have better information, and we
14 can ask them. But my understanding is that those
15 regulations are in effect. They're supposed to have them.
16 The way the system is set up is that we do audits on them
17 periodically. Every 3 years, I believe, we're supposed to
18 be auditing all their practices, which would include the
19 Tsunami plan.

20 But as far as immediately going out and
21 investigating each of those plans or having enough staff
22 to do that, I'd have to refer to them to see, you know,
23 what the status of that is. If you'd like that answer, we
24 can --

25 COMMISSIONER CHIANG: Or if we could just send a

1 note to each of the jurisdictions, the -- you know, what's
2 the --

3 EXECUTIVE OFFICER FOSSUM: And we have done that.
4 In fact, a letter went out, I think it was March 29th, to
5 each of them in fairly good detail that the plans should
6 include not only the long-term Tsunami impacts, such as
7 from Japan or Alaska, but short ones as well, something
8 happening off the California coast.

9 I think everything that we know at this point
10 about seismic activity in California is that the threat is
11 much less severe in southern California or in central
12 California than it is in the northern California, because
13 of the way the plates are offshore, but that doesn't mean
14 it couldn't exist.

15 So the threat to many of the facilities along the
16 coast may be more from earthquake than from a Tsunami
17 event. Although, as I mentioned, the State Geologist was
18 reportedly saying that there could be a 15 foot Tsunami in
19 the southern California and 25 in the north. A lot of
20 what we've been reading is, you know, dealing with the
21 nuclear powerplants, because that was obviously something
22 that was very focused on by the public with our 2 plants
23 on the ocean.

24 And your staff is going to be working on looking
25 at the PG&E one as early as next week. And I expect that

1 very soon we may be coming back to the Commission with a
2 plan to look at that analysis of the offshore structures
3 to know how safe that area is.

4 Senator Blakeslee, who's, I believe a
5 geophysicist, has been in the paper reportedly asking a
6 lot of questions and asking for moratoriums and things
7 like that. I believe it's 2024 or something around there
8 when PG&E's license expires for Diablo Canyon. And so
9 they had already started applying for a new license from
10 FERC.

11 And so whether or not that will go forward or
12 whether they'll be reassessing that -- I think one of the
13 reasons they're doing a -- wanting to do a seismic study
14 soon is to do that kind of analysis to see exactly how
15 safe things are right now. But we'll keep the
16 Commissioners posted on anything we learn in that regard.
17 We can forward information and keep you aware, so it's not
18 just at Commission meetings.

19 COMMISSIONER CHIANG: Can you provide additional
20 background information? You said a fault a mile away from
21 Diablo recently discovered.

22 EXECUTIVE OFFICER FOSSUM: Well, what I learned
23 was that there -- I believe there was one earlier that was
24 within 4 miles of the offshore that geologists had
25 identified several years ago. But just in 2008 a new one

1 was located. I don't know any of the details on that,
2 other than it was within a mile reportedly. And so that,
3 you know, a lot of this information is coming out because
4 of what happened in Japan. It's now being focused on a
5 lot.

6 So we'll certainly work not only with the
7 companies that have leases with us, such as Southern
8 California Edison and PG&E, but also with the other
9 agencies that are looking into this to make sure that it's
10 a coordinated effect, and we will try and prepare.

11 I want to also mention that when the Ocean
12 Protection Council passed its resolution last month, one
13 of the things they identified is that -- and they were
14 focusing on sea level rise at the time. But even without
15 a Tsunami, there was an estimate that with a 100-year
16 storm on the coast -- no seismic activity, no Tsunami --
17 but a 100-year storm and projected sea level rise for this
18 century, it could affect 480,000 people that were
19 threatened by that, and, you know, many billions of
20 dollars. I know I have it in my notes here somewhere. I
21 can't remember, but it was a huge amount of money that
22 would also potentially be costs to the people of
23 California.

24 So sea level rise is huge as well. And we
25 certainly know, at this point, that unless trends change,

1 that that's going to be an enormous problem, whether
2 there's any kind of seismic activity.

3 COMMISSIONER CHIANG: And the design of the
4 offshore seismic study that they're going to do off
5 Diablo, I guess by PG&E, who finances it, who designs the
6 study, is that --

7 EXECUTIVE OFFICER FOSSUM: They would be
8 financing that, and it would -- we expect it would be a
9 full blown EIR. And that would have to be brought to the
10 Commission for review. And this is something that hasn't
11 been done a lot in the last number of years because of the
12 concern for its impact on both marine mammals, as well as
13 any humans that might be out in the ocean, the type of
14 seismic -- the type of geophysical analysis that goes on
15 to get good data can be harmful to the environment.

16 And so when the Commission has been approving
17 geophysical permits in recent years for studying the ocean
18 floor and so forth, it's much less of an impact on the
19 environment. And so we expect that with PG&E, we'll be
20 doing something, it will require a full blown EIR to
21 analyze those potential impacts. And we'll be talking
22 with them next week about that.

23 COMMISSIONER CHIANG: And then to the Attorney
24 General, do we have any discretion on Item 62?

25 DEPUTY ATTORNEY GENERAL RUSCONI: The short

1 answer is that based on the statute and the language of
2 the statute and the evidence into the record, you
3 virtually have no discretion but to approve the plan.

4 COMMISSIONER CHIANG: Okay. Thank you very much.

5 ACTING CHAIRPERSON GARLAND: Anything from
6 Finance?

7 ACTING COMMISSIONER FINN: No, nothing. Thanks.

8 ACTING CHAIRPERSON GARLAND: Thank you.

9 Then we've already dispensed with number 4 on our
10 script here. Are we clear that Items C41, 42, and 50 and
11 Regular item 69 are the only ones being removed from the
12 agenda today?

13 EXECUTIVE OFFICER FOSSUM: That's correct.

14 ACTING CHAIRPERSON GARLAND: Excellent. Is there
15 anyone in the audience who wishes to speak to an item
16 still on the Consent Calendar?

17 Seeing none, the remaining group of consent items
18 will be taken up as a group for a single vote. We'll now
19 proceed with that vote. Can I have a motion.

20 COMMISSIONER CHIANG: Move approval.

21 ACTING COMMISSIONER FINN: Second.

22 ACTING CHAIRPERSON GARLAND: It's been moved and
23 seconded. All those in favor?

24 (Ayes.)

25 ACTING CHAIRPERSON GARLAND: All those opposed?

1 The Consent Calendar is unanimously adopted.

2 Thank you.

3 The next item on the agenda is Item number 67. I
4 have with, hopefully your consent, I would like to push
5 this one back till my boss arrives.

6 (Laughter.)

7 COMMISSIONER CHIANG: Sure.

8 ACTING CHAIRPERSON GARLAND: The Lieutenant
9 Governor would like to be here for this one, and I'm
10 assured he is on his way, so we will at least temporarily
11 move 67.

12 Moving on to the next item, number 68 is to
13 consider the status -- is there a status update on
14 proposed title settlement and land exchange agreement
15 involving certain parcels in Long Beach? May we have the
16 staff presentation.

17 CHIEF COUNSEL LUCCHESI: Yes, Chair and
18 Commissioners, Jennifer Lucchesi. I will be giving the
19 staff report for this item.

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

22 CHIEF COUNSEL LUCCHESI: Commission staff and
23 City of Long Beach staff have been in discussions
24 regarding a proposed title settlement and land exchange
25 agreement concerning certain parcels adjacent to Queensway

1 Bay within and adjacent to the Colorado Lagoon and
2 adjacent to the Pacific Ocean, all in the City of Long
3 Beach.

4 The purpose of this staff report is to update the
5 Commission on the status of the negotiations for the title
6 settlement and land exchange agreement.

7 Certain filled parcels within the former
8 Queensway Bay development, since renamed the Pike at
9 Rainbow Harbor, were the subject of a previous land
10 exchange agreement approved by the Commission in 2001.
11 That exchange was subsequently challenged in court. And
12 in 2005, the Court of Appeal invalidated the exchange.
13 The consequence of the invalidation of the exchange is
14 that there are now currently non-trust uses on Public
15 Trust Lands.

16 Commission staff believes that the most
17 appropriate mechanism to resolve the conflict over the
18 uses of these Public Trust Lands is a new title settlement
19 and land exchange agreement pursuant to Public Resources
20 Code Section 6307.

21 Commission staff and city staff have been
22 involved in cooperative and extensive negotiations over
23 the past 3 years on such a title settlement and land
24 exchange agreement. Commission staff anticipated that
25 negotiations on the title settlement and exchange would be

1 completed by today's meeting.

2 However, there are some additional technical
3 details, such as finalizing legal descriptions which
4 remain incomplete. While Commission staff believes that
5 it is therefore premature to bring this agreement to the
6 Commission for its final consideration because of these
7 minor final details outstanding, Commission staff and city
8 staff are very close to finalizing this exchange and the
9 agreement terms that provide benefits both to the Public
10 Trust, the city, and the State.

11 Therefore, staff recommends that the Commission
12 direct staff to continue working with city staff on
13 finalizing the details of the title settlement and land
14 exchange agreement with the objective of presenting a
15 proposed agreement to the Commission for consideration at
16 its next meeting.

17 That concludes my presentation.

18 ACTING CHAIRPERSON GARLAND: Thank you. Any
19 comments from the Commissioners on this item?

20 ACTING CHAIRPERSON GARLAND: Seeing none, public
21 comment?

22 I don't believe we have any requests at this
23 time. Seeing none behind anyone, there is no reason for a
24 motion on this, am I correct?

25 CHIEF COUNSEL LUCCHESI: We are -- staff is

1 asking that the Commission direct Commission staff to
2 continue working with the city staff on this and bring a
3 proposed agreement to the Commission at its next meeting.

4 ACTING CHAIRPERSON GARLAND: Do we have a motion
5 and a second on that?

6 ACTING COMMISSIONER FINN: I shall move staff's
7 recommendation.

8 COMMISSIONER CHIANG: Second.

9 ACTING CHAIRPERSON GARLAND: Having a motion and
10 a second, all those in favor?

11 (Ayes.)

12 ACTING CHAIRPERSON GARLAND: All those opposed?

13 It passes.

14 That brings us to Item 69. Item 69 is to
15 consider supporting legislation --

16 EXECUTIVE OFFICER FOSSUM: That one has been
17 removed.

18 ACTING CHAIRPERSON GARLAND: It has been pulled.
19 That's correct.

20 I'm so good about following my script.

21 (Laughter.)

22 ACTING CHAIRPERSON GARLAND: Item 70 is to
23 consider the resolution supporting the San Francisco Bay
24 Restoration Act. May we have the staff presentation.

25 SENIOR ENVIRONMENTAL SCIENTIST DeLEON: Hi. Good

1 afternoon. I'm Jennifer DeLeon. I'm with the Division of
2 Environmental Planning and Management, but currently also
3 filling in part time with the legislation. Thank you,
4 Curtis, thank you, Jennifer for entrusting me with that.
5 I'm here to give a very, very brief overview of Items 70
6 through 73. The first two, 70 and 71, pertain to federal
7 legislation that we are asking you to support by way of
8 passing a resolution. And we've provided those
9 resolutions in your packet.

10 The second two are asking for your opposition to
11 2 State bills, and those are Items 72 and 73.

12 The first item, 70, is to ask for your support on
13 Senate Bill 97 by Senator Feinstein. This is the San
14 Francisco Bay Restoration Act of 2011. Last year, also on
15 April 6th, but of 2010, a very similar bill and a similar
16 resolution was placed in front of the Commissioners for
17 their support and they did.

18 This bill is slightly different than last year's
19 bill. That bill did not become law. This bill is
20 different in that it does not establish a program office,
21 but rather simply asks for activities to be carried out.
22 And it does not specify a funding amount as was specified
23 in last year's bill.

24 This bill amends the Clean Water Act to establish
25 a 10-year grant program administered by the EPA for the

1 purpose of ecosystem restoration in the bay and its
2 estuaries. This would be to implement the goals of the
3 San Francisco Estuary Partnership's Comprehensive
4 Conservation Management Plan, which was a collaborative
5 effort among many agencies and local stakeholders.

6 The projects would be based on priority, and the
7 priority list would be set by the administrator of the
8 EPA, along with State, local, affected governments and
9 other interested parties.

10 And we believe that you should support this and
11 pass the resolution because a coordinated ecosystem-based
12 approach to restoring and maintaining the vitality of the
13 San Francisco Bay would greatly improve Public Trust
14 values of these lands for all the people of the State of
15 California.

16 ACTING CHAIRPERSON GARLAND: Thank you. Next is
17 public comment. I don't believe we have any on this item,
18 am I correct?

19 Yes. Any comments from the Commissioners on this
20 item?

21 ACTING COMMISSIONER FINN: I just have a
22 question. And again, does it -- did you say it does
23 require coordination with the current State agencies that
24 might have jurisdiction in those areas versus -- the Bay
25 Conservation Development Commission, and --

1 SENIOR ENVIRONMENTAL SCIENTIST DeLEON: Yes.

2 ACTING COMMISSIONER FINN: It would. Okay. I
3 didn't know if you said that.

4 SENIOR ENVIRONMENTAL SCIENTIST DeLEON: Yes. The
5 priority activity list would be activities that were meant
6 to effectuate the goals of the conservation -- the
7 comprehensive management plan, but it would require the
8 EPA administrator to coordinate with State and local
9 governmental agencies, as well as non-governmental
10 stakeholders and interested parties.

11 ACTING COMMISSIONER FINN: Okay. Thank you.

12 ACTING CHAIRPERSON GARLAND: Any additional
13 questions?

14 At this time, I would take a motion to approve
15 the proposed resolution as written in our packet. Do I
16 have a motion?

17 COMMISSIONER CHIANG: Move approval.

18 ACTING CHAIRPERSON GARLAND: And a second?

19 ACTING COMMISSIONER FINN: I'll second.

20 ACTING CHAIRPERSON GARLAND: Having been moved
21 and seconded, we'll take a vote. All those in favor say
22 aye?

23 (Ayes.)

24 ACTING CHAIRPERSON GARLAND: Opposed?

25 Passes unanimously.

1 Thank you very much.

2 SENIOR ENVIRONMENTAL SCIENTIST DeLEON: Thank
3 you.

4 The second resolution we are putting in front of
5 you is for Senate Bill 432, also by Senator Feinstein. It
6 is also co-sponsored by Senators Boxer, Reid, and Ensign.

7 This is the Lake Tahoe Restoration Act of 2011.
8 Again, a similar bill and a resolution was placed in front
9 of you last year. That bill, Senate Bill 2724, of 2010
10 did not become law. The 2011 version is very similar,
11 nearly identical. The one main difference is that it
12 establishes a 10-year restoration program, rather than an
13 8-year restoration program. This bill would authorize
14 \$415 million over 10 years to implement various
15 restoration activities at Lake Tahoe, including
16 improvements to water clarity, invasive species
17 prevention. It would also seek to reintroduce Lahontan
18 Cutthroat Trout to the lake. And it would also partner
19 with Forestry to reduce the threat of fire and erosion.

20 It builds on efforts started under the original
21 Lake Tahoe Restoration Act of 2000. It contains
22 improvement importantly to monitoring, accountability,
23 transparency, and reporting of project related spending.

24 We ask you to support this bill because
25 implementation of the projects that would be undertaken

1 would greatly enhance the Public Trust lands and easements
2 in the area for the people of California.

3 COMMISSIONER CHIANG: Move approval.

4 ACTING COMMISSIONER FINN: I'm sorry, just one
5 last question.

6 COMMISSIONER CHIANG: Sorry.

7 ACTING COMMISSIONER FINN: Who would manage
8 this -- sorry. Who would allocate these funds in the
9 federal agency? Does it come directly to the State, is it
10 to be allocated by Interior or did it say?

11 SENIOR ENVIRONMENTAL SCIENTIST DeLEON: It
12 doesn't say.

13 ACTING COMMISSIONER FINN: Okay. But the State
14 would -- would it be split between Nevada and California
15 for -- or is this all for California or...?

16 EXECUTIVE OFFICER FOSSUM: I think there's a
17 multitude of agencies that benefit. It includes things
18 like after the fire that took place up at Tahoe, water
19 quality issues impacted by those issues of having fires.
20 So it's not only directly in the lake itself but around
21 the lake, and so I think that probably the Forest Service.

22 But also one of the things we've had happen in
23 recent weeks and months is CalTRPA, Tahoe Regional
24 Planning Authority, has lost most of its staff, in fact,
25 the regulatory body for the lake, due to budget cuts.

1 They had anticipated generating revenue from programs that
2 they had adopted that were -- that the courts found didn't
3 comply with the law. And so I imagine some of these funds
4 would typically be managed through that agency as well.
5 But if you'd like more detail on that, we can certainly
6 get you some more.

7 ACTING COMMISSIONER FINN: That's all right. But
8 I would second the motion.

9 ACTING CHAIRPERSON GARLAND: Having a motion and
10 a second on adopting the resolution, take a vote. All
11 those in favor say aye?

12 (Ayes.)

13 ACTING CHAIRPERSON GARLAND: Opposed?

14 Passes unanimously. Thank you very much for the
15 presentation.

16 Next item.

17 SENIOR ENVIRONMENTAL SCIENTIST DeLEON: Thank
18 you.

19 The next item is to request opposition to Senate
20 Bill 385 by Gaines. This bill would establish the State's
21 landward limits of Public Trust interests at the low water
22 mark, which is an elevation 6,223 feet, Lake Tahoe Datum.

23 This would effectively eliminate the State's
24 Public Trust easement at Lake Tahoe. Currently, the State
25 owns the submerged lands waterward of that low water mark

1 and maintains a Public Trust easement between the low
2 water mark and the high water mark.

3 These were established via court ruling. This
4 bill, if passed, would contradict those court rulings and
5 would establish -- would reestablish, through legislation,
6 ownership and easement boundaries. It appears to be an
7 attempt to limit the public access rights that exist
8 between the low and high water mark and would essentially
9 turn the shore zone area around Lake Tahoe over to private
10 ownership. It would also potentially violate 2 Articles
11 of the State Constitution relating to public access and
12 also gifts of public property.

13 ACTING CHAIRPERSON GARLAND: Any questions or
14 comments from the Commissioners?

15 Having none, I don't believe we have any public
16 comment either. We'll take a motion.

17 COMMISSIONER CHIANG: Move to take an oppose
18 position.

19 ACTING CHAIRPERSON GARLAND: And a second?

20 ACTING COMMISSIONER FINN: I'm going to have to
21 abstain for the Director of Finance on State legislation.

22 ACTING CHAIRPERSON GARLAND: Second.

23 Having been moved and seconded, we'll now take a
24 vote.

25 All those in favor say aye?

1 (Ayes.)

2 ACTING CHAIRPERSON GARLAND: All those opposed?
3 Abstentions?

4 ACTING COMMISSIONER FINN: Aye, abstain.

5 ACTING CHAIRPERSON GARLAND: That goes out 2-0
6 with an abstention from Finance.

7 And that would bring us to our next item number
8 70 -- first of all, thank you for that presentation. That
9 would bring us to Item 73.

10 SENIOR ENVIRONMENTAL SCIENTIST DeLEON: Thank
11 you. Item 73 is we are asking for opposition to Senate
12 Bill 876. I believe that is Harman. This bill would
13 mandate that when the Commission issues a lease for shore
14 protection structures for the use of private parties, that
15 the leases be for a mandatory term of 99 years, and that
16 rent would be limited in the number of times rent review
17 could occur and would be limited to -- would be tied
18 directly to the Consumer Price Index.

19 Currently, we do have the authority to grant
20 private property owners the right to build and maintain
21 shore-protected structures -- that would be things like
22 seawalls -- if these structures do not unreasonably
23 interfere with the uses and purposes reserved for the
24 people of the State.

25 The Commission may also fix and collect

1 reasonable charges or rents for the use of those lands on
2 which the structures are located.

3 Staff requests that you oppose this bill because
4 it limits the ability of the Commission to determine a
5 reasonable lease term and reasonable rent. It would
6 require the leases be issued for 99 years. And currently
7 our practice is to not issues leases in excess of 49
8 years. It would also limit the ability of the Commission
9 to set appropriate rent. The Consumer Price Index is tied
10 to consumer goods and services not to real estate. So we
11 are concerned that because it doesn't bear relationship to
12 property values, the Commission may not collect the
13 revenue that it is due.

14 EXECUTIVE OFFICER FOSSUM: Mr. Chair, because the
15 Controller has left at this point and only one alternate
16 can represent a Constitutional officer, I'd request that
17 any vote on this item be postponed, given the fact that
18 we're not going to get a second.

19 ACTING CHAIRPERSON GARLAND: Absolutely.

20 EXECUTIVE OFFICER FOSSUM: And that we move on
21 to -- and we can bring it back after we handle the other
22 items on the agenda. So we can either take up Item 74 or
23 75 at this time.

24 ACTING CHAIRPERSON GARLAND: Excellent. So folks
25 know, we are going to pass on any action on 73 at this

1 time until another elected member of this Commission gets
2 here, which hopefully will be my boss in short order.

3 (Laughter.)

4 EXECUTIVE OFFICER FOSSUM: Hopefully.

5 ACTING CHAIRPERSON GARLAND: Until then, we will
6 move on to Item 74 and consider a resolution opposing the
7 conversion and expansion of the Mustang Airport.

8 ACTING COMMISSIONER FINN: Do we acknowledge we
9 can't take a vote though until we have a --

10 ACTING CHAIRPERSON GARLAND: We acknowledge we
11 will not be able to take a vote. We will only be --

12 EXECUTIVE OFFICER FOSSUM: You may take a vote.
13 Only 2 -- only 1 of the 2 alternates to the Constitutional
14 Officers may participate and vote on the item.

15 ACTING COMMISSIONER FINN: Right.

16 ACTING CHAIRPERSON GARLAND: I'm happy to give my
17 colleague from the Controller's Office this one if she'd
18 like.

19 ACTING COMMISSIONER FINN: Only one of you.

20 ACTING CHAIRPERSON GARLAND: Excellent. But
21 either way, we will at least now start with the
22 presentation by the staff.

23 Thank you.

24 EXECUTIVE OFFICER FOSSUM: And before we start on
25 that, I just wanted to mention that we have a number of

1 people who have requested to speak on this item. However,
2 there's some confusion as to the boxes that were checked.
3 And I think Kim has provided you with stacks that reflect
4 opposition to the calendar item and support of the
5 calendar item. And, of course, the calendar item is one
6 in which the Commission is being asked to oppose -- or to
7 adopt a resolution opposing the airport expansion.

8 So some of the people in opposition to the
9 calendar item, in fact, put support, because they believed
10 they're supporting the airport. And I just wanted to
11 clarify that.

12 ACTING CHAIRPERSON GARLAND: And I believe Kim
13 has straightened this out and given me correct stacks, so
14 when we get there we will --

15 EXECUTIVE OFFICER FOSSUM: Yes. Great. And it's
16 up to the Commission how they want -- whether they want to
17 take them in groups or alternating or whatever.

18 ACTING CHAIRPERSON GARLAND: Excellent. Thank
19 you, sir.

20 Presentation.

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

23 SENIOR STAFF COUNSEL MILSTEIN: Good afternoon,
24 Commissioners. My name is Eric Milstein. I am your
25 Senior Staff Counsel assigned to this matter.

1 I want to give you a brief overview of the reason
2 we need this resolution. And I'll be happy to answer any
3 questions you may have.

4 Next slide, please.

5 --o0o--

6 SENIOR STAFF COUNSEL MILSTEIN: Just some
7 background on the Cosumnes River Preserve. First
8 acquisition of property was in 1984. And then over the
9 years into the mid-nineties more property was acquired
10 along the Cosumnes River and in the general area to make
11 up the preserve. Our involvement coming in the
12 mid-nineties.

13 It's important to note that Mustang Airport
14 didn't start operations until 1990.

15 Next slide, please.

16 --o0o--

17 SENIOR STAFF COUNSEL MILSTEIN: Okay. Today the
18 preserve is made up of over 60 properties, 46,000 acres,
19 and 7 land-owning partners, including the State Lands
20 Commission.

21 Next slide, please.

22 --o0o--

23 SENIOR STAFF COUNSEL MILSTEIN: Our involvement,
24 the bed of the Cosumnes River at this location is
25 sovereign lands. In 1998, an additional 263 acres were

1 purchased. In 2008, the Commission entered into a
2 management agreement with the other partners in the
3 preserve. And in 2010, actually one year ago today, the
4 Commission authorized staff to take legal action, if
5 necessary, regarding the Mustang Airport project.

6 Next slide, please.

7 --o0o--

8 SENIOR STAFF COUNSEL MILSTEIN: This is just an
9 overview of the preserve properties, the individual
10 parcels, and who owns which individual parcel.

11 Next slide, please.

12 ACTING COMMISSIONER FINN: I'm sorry. Could you
13 go back.

14 SENIOR STAFF COUNSEL MILSTEIN: Sure. There we
15 go.

16 ACTING COMMISSIONER FINN: I'm having trouble
17 finding --

18 SENIOR STAFF COUNSEL MILSTEIN: Oh, where the --
19 oh, is that a pointer?

20 Actually, further down. It's kind of the magenta
21 parcel, a little further south. Right there.

22 EXECUTIVE OFFICER FOSSUM: The Commission
23 acquired this here.

24 SENIOR STAFF COUNSEL MILSTEIN: Right there, yes.

25 EXECUTIVE OFFICER FOSSUM: And the airport is

1 right here.

2 SENIOR STAFF COUNSEL MILSTEIN: Will be located
3 right there.

4 ACTING COMMISSIONER FINN: And the airport is
5 right there, okay.

6 SENIOR STAFF COUNSEL MILSTEIN: I have a clearer
7 slide a littler further on.

8 ACTING COMMISSIONER FINN: Okay, all right.
9 We'll get to it.

10 EXECUTIVE OFFICER FOSSUM: And the Cosumnes River
11 is --

12 ACTING COMMISSIONER FINN: And the river is -- I
13 see, okay.

14 SENIOR STAFF COUNSEL MILSTEIN: This is kind of
15 the big picture.

16 ACTING COMMISSIONER FINN: Right there, okay.

17 EXECUTIVE OFFICER FOSSUM: And the Delta
18 Steamboat Slough.

19 SENIOR STAFF COUNSEL MILSTEIN: Next slide,
20 please.

21 --o0o--

22 SENIOR STAFF COUNSEL MILSTEIN: The Mustang
23 Airport project. Before I start, I want to emphasize that
24 the -- it's the position of staff and the preserve
25 partners that we do not object to the current use of the

1 airstrip at its current level of operations. Objection is
2 to the expanded operation which is being proposed.

3 Next slide, please.

4 --o0o--

5 SENIOR STAFF COUNSEL MILSTEIN: Here are the
6 proposed improvements. The airstrip started operations in
7 1990 as a privately owned personal use airstrip with
8 approximately 2 flights per week. The current use permit
9 at this level of operations has expired.

10 The numbers on this slide are what the applicant
11 has asked the county for and are self-imposed limitations
12 on operations. Sacramento County has determined that they
13 cannot enforce these limitations because they would be
14 preempted from doing so by federal law. Their estimate,
15 the County's estimate, is approximately 15,000 flights
16 annually.

17 Next slide, please.

18 --o0o--

19 SENIOR STAFF COUNSEL MILSTEIN: Here is a more
20 detailed aerial of the Mustang Airport and the Cosumnes
21 River Preserve Property surrounding it on 3 sides. Again,
22 I want to emphasize that the preserve started in 1984.
23 The airstrip started operations in 1990. And contrary to
24 statements that have been made, there's no evidence of any
25 sort of agreement as part of the purchases of property by

1 The Nature Conservancy and the airport regarding future
2 expansion of the airport.

3 Next slide, please.

4 --o0o--

5 SENIOR STAFF COUNSEL MILSTEIN: Our 2 main
6 concerns are public safety and environmental harm.

7 Next slide, please.

8 --o0o--

9 SENIOR STAFF COUNSEL MILSTEIN: While I'm here as
10 your attorney, I am also a retired Navy flight officer.
11 And to put it simply, birds and airplanes don't mix well.

12 I've placed this photo here for a couple of
13 reasons. While no airplanes of this size would operate
14 out of Mustang, it's been continuously argued that the
15 problem with aircraft wildlife strikes -- and wildlife
16 strikes is the official terminology -- are large numbers
17 of small birds being ingested into jet engines and causing
18 accidents similar to what brought down U.S. Air flight
19 1549 in the Hudson.

20 Since these types of jets won't be operating out
21 of Mustang, there's no problem, right?

22 Next slide, please.

23 --o0o--

24 SENIOR STAFF COUNSEL MILSTEIN: Well, that's
25 incorrect. Another component of these wildlife strikes

1 are large birds hitting small propeller-driven aircraft.
 2 This is probably the greater safety hazard, given the
 3 lighter construction, limited redundancy of systems, and
 4 generally single-pilot operations of these types of
 5 aircraft.

6 It's important to note that Sacramento
 7 International Airport, only about 30 miles from Mustang,
 8 has the largest number of reported wildlife strikes in the
 9 State of California. I emphasize reported, because
 10 throughout the process, great emphasis has been placed on
 11 the fact that there have been no reported wildlife strikes
 12 at Mustang, and few, if any, at nearby similarly sized
 13 airports.

14 This is a bit disingenuous, however, as the FAA
 15 only requires reporting at large airports serving
 16 commercial passengers. Hence, that is where most of the
 17 data comes from.

18 Additionally, the U.S. Department of Agriculture,
 19 which also has jurisdiction over wildlife strikes, has
 20 stated that only approximately 20 percent of strikes are
 21 reported period. So very limited pool of data on these
 22 smaller airports.

23 Next slide, please.

24 --o0o--

25 SENIOR STAFF COUNSEL MILSTEIN: Another issue

1 that's been brought up is the idea that since propeller
2 aircraft are supposedly noisier than other aircraft, the
3 birds can hear them sooner and fly out of the way.

4 On it's face it's preposterous, but there's
5 actually data to disprove that. And I just throw this up
6 here, because typically a piston engine aircraft that
7 would operate out of Mustang has a noise range of about 51
8 to 76 decibels.

9 This is a Sikorsky UH-60 helicopter, which has a
10 noise range of 100 to 110 decibels. And obviously, it's
11 susceptible to bird strikes, wildlife strikes, as any
12 other aircraft moving through the air.

13 Next slide, please.

14 --o0o--

15 SENIOR STAFF COUNSEL MILSTEIN: Now, the
16 environmental concerns. The preserve has been created for
17 the specific purpose of attracting large numbers of birds,
18 both common and threatened species. And I want to
19 emphasize my CEQA expert pointed out to me a little while
20 ago that the calendar item says endangered, but we are
21 actually talking about threatened species under the CEQA
22 guidelines.

23 A significant investment of public resources has
24 been made to further the purpose of attracting these
25 birds.

1 Next slide, please.

2 --o0o--

3 SENIOR STAFF COUNSEL MILSTEIN: One of the
4 largest rookeries in Sacramento county is located less
5 than a quarter mile from the end of the runway at Mustang.

6 Next slide, please.

7 --o0o--

8 SENIOR STAFF COUNSEL MILSTEIN: Here is the
9 rookery during nesting season. I'm not a birder, but I
10 believe these are cranes.

11 Next slide, please.

12 --o0o--

13 SENIOR STAFF COUNSEL MILSTEIN: Here are the FAA
14 guidelines that would control operations at Mustang
15 Airport. The 2 key distances to note are 5,000 feet from
16 wildlife areas and 5 mile radius from the airport in the
17 upper paragraph. And in the second paragraph, if land use
18 practice creates a wildlife hazard, the FAA encourages the
19 airport operator to take steps to control the wildlife
20 hazard.

21 What the problem is, is the FAA can step in at
22 any time, find that the wildlife that the preserve is
23 designed to attract is, in fact, a hazard to operations at
24 Mustang Airport. This in turn can lead to everything from
25 measures to drive wildlife away from the location, to

1 actually killing wildlife that is considered a hazard to
2 flight operations.

3 In fact, and I believe you have a copy of this
4 document, a wildlife assessment of Mustang Airport was
5 made by the USDA in 2008, and it recommends the airport
6 quote, "Combine harassment techniques with a lethal
7 shooting program", unquote.

8 Next slide, please.

9 --o0o--

10 SENIOR STAFF COUNSEL MILSTEIN: Here are the 2
11 radius circles around Mustang Airport. And you can see
12 our property falls within the greater five mile ring.

13 Next slide, please.

14 --o0o--

15 SENIOR STAFF COUNSEL MILSTEIN: In conclusion,
16 staff recommends adoption of the resolution opposing the
17 Mustang Airport expansion project, primarily for public
18 safety concerns, and the concern that existing habitat
19 restoration and future restoration would be harmed or
20 limited by expansion of the airport.

21 Thank you very much.

22 ACTING CHAIRPERSON GARLAND: Thank you for your
23 presentation.

24 Any comments or questions from the Commissioners?

25 ACTING COMMISSIONER FINN: Not now.

1 ACTING COMMISSIONER ARONBERG: Not now.

2 ACTING CHAIRPERSON GARLAND: And I will reserve
3 as well. So thank you for your presentation.

4 SENIOR STAFF COUNSEL MILSTEIN: Thank you.

5 ACTING CHAIRPERSON GARLAND: It's now time for
6 public comment. And hopefully we have these correct. If
7 they're not, it's probably my fault.

8 I believe we've got support first. And I've got
9 a Dan Taylor. Dan, are you still in the room?

10 Excellent. The microphone is yours.

11 Welcome.

12 ACTING COMMISSIONER FINN: This is support for
13 this resolution, correct?

14 ACTING CHAIRPERSON GARLAND: This is support of
15 the calendar item.

16 MR. TAYLOR: Chair and members of the State Lands
17 Commission. I'm Dan Taylor, public policy director for
18 Audubon California. And we're here to support strongly
19 the recommendation of staff on this item. I think Mr.
20 Milstein did an excellent job of providing the overview.
21 I agree with everything he said, except for one thing.
22 Those were not cranes. Those were American Egrets and
23 Great Blue Herons.

24 (Laughter.)

25 MR. TAYLOR: But the point stands that these are

1 large birds that, as a pilot, one would not want to
2 encounter in a flight or in a takeoff situation.

3 You will be hearing from other speakers to attest
4 to the significant conservation benefit and value that the
5 Cosumnes River Preserve is providing. We agree with those
6 statements in advance. This is one of the western
7 hemisphere's most important areas for birds and the object
8 and topic of significant study.

9 So we support strongly those recommendations. My
10 specific comment that I would like to make actually has to
11 do with public safety. As Mr. Milstein indicated, Flight
12 1549 that went down in the Hudson, only days before that
13 accident occurred, the Sacramento County Board of
14 Supervisors authorized their staff to proceed with an
15 effort to change the Fish and Game code to allow for
16 greater accommodations for public safety through the take
17 of wildlife that presented a risk to the flying public.

18 We engaged with the late Senator Cox in that
19 effort. And while it was a -- we all agreed with the need
20 for public safety as a tantamount concern, there were some
21 significant issues that needed to be resolved. We did so
22 and we think reached an accommodation which does provide
23 further protections to the flying public while reducing
24 the obvious risk to birds from a depredation standpoint.

25 But all of us around the table realize that what

1 we were doing is improving on a dangerous situation. That
2 in the airport the bird-strike business, it's all about
3 location. And since we're not changing the location of
4 Sacramento International Airport, it made sense to try to
5 work hard together to accommodate those fears and to make
6 additional changes, which we did.

7 Which brings us to Mustang Airport, and our
8 belief that the best way to avoid a future accident and
9 tragedy is to simply not allow the expansion of this
10 facility in this very, very problematic location. So from
11 a conservation standpoint and a public safety standpoint,
12 we strongly support the staff recommendation.

13 Thank you.

14 ACTING CHAIRPERSON GARLAND: Thank you, Dan.
15 Appreciate you heeding the warning lights there.

16 And we're going to alternate, if we don't have an
17 objection from the Commissioners, alternate on these.

18 ACTING COMMISSIONER FINN: The positions, sure.

19 ACTING CHAIRPERSON GARLAND: Jim Harnish. Jim,
20 are you still in the room?

21 MR. HARNISH: I am.

22 ACTING CHAIRPERSON GARLAND: Thank you, Jim. The
23 microphone is yours.

24 MR. HARNISH: Well, good afternoon,
25 Commissioners. My name is Jim Harnish. I would like to

1 defer my comments until our team has a chance to make a
2 presentation. We have a PowerPoint presentation that
3 Diane Kindermann would like to present, if that would be
4 okay?

5 ACTING CHAIRPERSON GARLAND: Yeah, if you'd like
6 to aggregate your time to make a presentation, that's
7 fine.

8 MR. HARNISH: That would be perfect.

9 ACTING CHAIRPERSON GARLAND: Are there others in
10 this list, Jim. I've got Paul Raveling, Diane
11 Kindermann --

12 MR. HARNISH: Correct.

13 ACTING CHAIRPERSON GARLAND: -- and Brian
14 Holloway.

15 MR. HARNISH: Correct.

16 ACTING CHAIRPERSON GARLAND: Are all of those --

17 MR. HARNISH: Brian and Diane are the 2 primary
18 presenters.

19 ACTING CHAIRPERSON GARLAND: Okay. So Paul is
20 not part of your group?

21 MR. HARNISH: No.

22 ACTING CHAIRPERSON GARLAND: All right. So the 3
23 of you will be aggregating your time.

24 MR. HARNISH: Correct.

25 ACTING CHAIRPERSON GARLAND: Do we want to do

1 that now?

2 Let's do it now, if we're ready.

3 MR. HARNISH: Okay. Great. Thank you,
4 Commissioner.

5 MS. KINDERMANN: Thank you, Commissioners. My
6 name is Diane Kindermann with the law firm of Abbott and
7 Kindermann here in Sacramento, California. And with me is
8 Brian Holloway land use and planning expert. That was Jim
9 Harnish who was speaking as well. He also is a land use
10 and planning expert. And also with us we have Diane Moore
11 of Moore Biological to speak, to some extent, on the
12 wildlife hazard issue.

13 Our presentation, although we're splitting it up
14 among the 4 of us, it will not be much longer than that
15 that was presented by the support for the opposition --
16 for the resolution. So we'll be similar.

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

19 MR. HOLLOWAY: Good afternoon, Commissioners.
20 Brian Holloway. I'm a land use professional planner in
21 Sacramento representing Mustang. The Board here is kind
22 of low school here. That is existing Mustang Airfield.
23 As you can see, it's a landing strip and 1 hangar. The
24 landing strip is here --

25 ACTING CHAIRPERSON GARLAND: We need you to stay

1 on the microphone.

2 MS. KINDERMANN: Our PowerPoint photos were large
3 and they didn't quite cooperate as we anticipated. We
4 apologize.

5 MR. HOLLOWAY: Anyway, I guess we can go to the
6 first PowerPoint slide.

7 Do I do that?

8 --o0o--

9 MR. HOLLOWAY: Okay. Great. This is the
10 proposal. And as you can see, the white area in the
11 middle is the existing runway widened. There's a yellow
12 area to the west, which is a lengthening of the runway.
13 And the reason that's done is to allow the planes to land
14 further towards the center of the property and away from
15 the farms that are to the east.

16 And then also you can see that there are some
17 taxiways. And up at the upper right-hand corner of the
18 airfield, you can see the proposed hangars, 60 on the
19 right and 40 to the left with some tie downs in the
20 middle.

21 Now, one thing I would want to mention is earlier
22 you saw the photographs of The Nature Conservancy
23 properties to the north of the hangars. There to the
24 west -- great. Thank you -- and then to the south a
25 little bit.

1 I'd like to go up to the rectangle in the
2 northwest corner of the photograph to the left -- the
3 other left.

4 (Laughter.)

5 MR. HOLLOWAY: Just to the right. That 90 acres,
6 you can see that there's a strip right through the center.
7 That is a channelized creek where the creek is natural on
8 the left. It is natural on the right.

9 And The Nature Conservancy wanted to buy that
10 property and acquire it in order to naturalize that strip
11 as well. That 90 acres was owned by Mr. Bjelland, the
12 owner of the airfield. The Nature Conservancy approached
13 him and asked to buy that for obvious reasons. And he
14 agreed to do that. And in spite of what Mr. Milstein
15 said, there were verbal agreements made that if they sold
16 that land, and it was sold less than the price --
17 agricultural prices, they got a discount on it, the Nature
18 Conservancy would be neutral on the expansion plans that
19 they were aware of for the airfield. So I just wanted to
20 put that in the record.

21 Next slide, please.

22 --o0o--

23 MR. HOLLOWAY: As mentioned, the airfield has
24 been in operation since 1990. Approximately 3 to 4
25 flights per day. This is an interesting thing. The

1 operation is a takeoff or a landing, so it's kind of
2 double counted as opposed to a trip, you know, to the
3 grocery store and back, which counts as one. Again, a
4 large hangar with 6 planes in it and existing paved
5 runway. I apologize for my voice. It's allergies.

6 Next slide.

7 --o0o--

8 MR. HOLLOWAY: As Mr. Milstein pointed out, this
9 is the proposal, is to widen the runway, lengthen it, and
10 add hangars. And really the purpose of the airfield is to
11 provide, in essence, a mini storage for planes. The idea
12 is not to have a very active airfield, and that's why we
13 have so many restrictions on our operations. The idea
14 here is to provide hangar space, which I'll get to in just
15 a minute.

16 Next slide.

17 --o0o--

18 MR. HOLLOWAY: We conducted a hangar study in the
19 Sacramento region, and we looked at a number of hangars
20 and airfields in the area that were still operating. And
21 as you can see, they almost all have hangars. Franklin
22 Field to the west really can't expand hangars because it's
23 in a major flood zone, and that's why they only have 8.
24 And they're actually portable hangars. All of these
25 airfields that currently exist have basically multi-year

1 waiting lists to get a hangar.

2 What we were told by most of the airfield
3 operators was that there was a 10-year waiting list in
4 order to get a hangar. And the reason for this is the
5 fact that Sacramento county has lost or shut down 3
6 general aviation airports in the county. And basically
7 only 2 remain that are operational. Sunset is in the
8 process of being closed at the Board of Supervisors
9 requirement.

10 ACTING COMMISSIONER ARONBERG: Mr. Holloway,
11 you've heard me ask this question before, but I want to
12 give the other Commissioners --

13 MR. HOLLOWAY: Questions are fine anytime.

14 ACTING COMMISSIONER ARONBERG: Oh, great, because
15 it's just about this slide. I want to give the other
16 Commissioners an opportunity to check in with you about
17 it. Can you tell us about the hangar study and the way it
18 was conducted?

19 MR. HOLLOWAY: The way it was conducted was, on 2
20 separate occasions in the last year and a half my office
21 either called or met with the operators of the airfields,
22 and we found out how many hangars they had in existence,
23 if they had any planned, how many tie downs they had, and
24 what their wait -- were all the hangars filled, and was
25 there a waiting list.

1 And then we went out to the local air pilots
2 association. We met with them on numerous occasions and
3 they completely validated what the airport operators were
4 saying was that we need hangars. Our planes are sitting
5 out and being exposed to the elements.

6 ACTING COMMISSIONER ARONBERG: Thanks.

7 MR. HOLLOWAY: Next slide, please.

8 --o0o--

9 MR. HOLLOWAY: This is an important slide,
10 because what this shows is it shows you the kinds of
11 planes that are at those other regional airfields in
12 Sacramento. And I want to point out to you -- especially,
13 I'm going to be talking about Franklin Field in a couple
14 minutes.

15 You'll notice that Franklin has approximately 120
16 flights per day. And if you look at Mustang at full build
17 out, we would be at 40 flights per day. So the existing
18 Franklin Field actually operates at 3 times the intensity
19 that Mustang would. And I'll get into why that's an issue
20 in just a moment.

21 Next slide, please.

22 --o0o--

23 MR. HOLLOWAY: As it was mentioned, the
24 application for this additional expansion of the airfield
25 was filed in 1997. There were 2 Mitigated Negative Decs

1 performed by the County of Sacramento. And Ms. Kindermann
2 decided with the county that really an EIR needed to be
3 completed for the project, and a full Environmental Impact
4 Report was done for the project.

5 I've been doing development projects for over 30
6 years and I've never had an Environmental Impact Report on
7 any project that I've ever done where there were no
8 significant impacts. In this particular case, this
9 airfield's expansion, as studied many times by the County,
10 basically there are no significant impacts and no override
11 is required.

12 The Final EIR is now basically complete. And one
13 of the things that's important about this airfield is
14 there is a demand for and there is appreciation for it in
15 the community. Sacramento county has community planning
16 advisory councils, which are basically neighborhood folks
17 who are appointed by the board of supervisors to provide
18 recommendations on all land-use projects in their
19 neighborhood.

20 And the 2 community planning advisory councils
21 that overlap the airfield both unanimously approved this
22 project after 2 hearings each. The planning commission
23 held several -- the county planning commission held
24 several hearings on the project. The planning commission
25 unanimously approved the project over their staff

1 recommendations. The county parks commission their staff
2 was recommending against it, because county parks co-owns
3 lands with The Nature Conservancy. And the parks
4 commission, on a split vote without a quorum, overruled
5 their staff and again endorsed the project.

6 The Nature Conservancy appealed the project to
7 the Board of Supervisors and we go before them on the 3rd
8 of May.

9 Next slide, please.

10 --o0o--

11 MR. HOLLOWAY: As I mentioned, the Final EIR is
12 complete and there are no significant impacts. And that's
13 important to think about what Mr. Milstein said and what
14 he pointed out in his presentation, that the true
15 statistical, comprehensive analysis -- the environmental
16 analysis found no significant impacts. The project is
17 consistent with the county general plan in its zoning.
18 And 140 acres of the 160 acres -- it's 160 acre site.
19 Only 20 acres will actually be used for airport
20 facilities. The 140 acres will remain in agriculture.
21 And it's not within a Williamson Act.

22 Next slide.

23 --o0o--

24 MR. HOLLOWAY: So just to go to your staff's and
25 The Nature Conservancy's concern, there are no wildlife

1 hazards. The FAA guidelines that were mentioned do not
2 apply here at all. And county staff, I believe, has
3 agreed with us finally, because the FAA guidelines apply
4 to federally financed airports. This will not be a
5 federally financed airport in any way, and so those
6 guidelines do not apply.

7 One thing I would like to mention is that there
8 are 80 airports, 80 general aviation airports, in
9 California that are within 0 to 5 miles of federally
10 designated State ecologically sensitive areas. And 69 of
11 those are within 2 miles of environmental hazard --
12 environmental habitat areas, and 11 within 5 miles.

13 Next slide.

14 --o0o--

15 MR. HOLLOWAY: Okay. You'll remember that I
16 mentioned Franklin Airfield. What this is a picture of is
17 The Nature Conservancy headquarters -- which I'm not sure
18 how to do this. There it is. I don't know who's doing
19 that, but they're really good.

20 Thank you, Bob.

21 Thank you.

22 That's the Nature Conservancy headquarters. And
23 you can see it sits smack-dab in what's obviously
24 incredible habitat area. In fact, this is where The
25 Nature Conservancy took the park commissioners and the

1 planning commissioners and said can you see an airport
2 here? Of course, sitting in that location you could
3 imagine what their response was.

4 If you go up to the right a little bit on the
5 other side of all that water, you will see Franklin
6 Airfield. Franklin Airfield is a county airfield that is
7 located adjacent to The Nature Conservancy preserve. In
8 fact, their runways point at The Nature Conservancy
9 headquarters. So you can see that this particular airport
10 in immediate proximity to an incredible wildlife habitat,
11 bird sanctuary is not complained about. The Nature
12 Conservancy says that this particular airport, which
13 operates at 3 times what Mustang would operate at, which
14 includes crop dusters carrying pesticides and fertilizers
15 over the habitat areas is not a problem. They have no
16 concerns with it at all. It's a good neighbor.

17 Next slide, please.

18 --o0o--

19 MR. HOLLOWAY: Again, this is in the foreground,
20 additional wetlands area for wildlife. And just right on
21 the other side of that is Franklin Field. Nature
22 Conservancy headquarters is over here by my hand.

23 Next slide, please.

24 --o0o--

25 MR. HOLLOWAY: This is a picture of Franklin

1 Field, and you can see how close it is to all that
2 habitat, existing incredible habitat with The Nature
3 Conservancy headquarters right in front. Again, not a
4 problem here.

5 Next slide.

6 --o0o--

7 MR. HOLLOWAY: This is Mustang. Where's the
8 habitat? This is a problem for The Nature Conservancy.
9 We have -- we don't understand what this is about. It's
10 pretty obvious why the county found no significant
11 environmental impacts with this particular project.

12 Next slide, please.

13 --o0o--

14 MR. HOLLOWAY: The Nature Conservancy claims that
15 this -- that Mustang will be a hazard to the habitat area
16 that they control. What's interesting is that The Nature
17 Conservancy owns and operates a general aviation airport
18 in the middle of a nature preserve that they control and
19 operate in Edgartown, Massachusetts. It's called Katama
20 Airfield. And you can see here that it's owned and
21 operated by The Nature Conservancy. No problems here.

22 In fact, the fact that this airfield operates
23 simultaneous with and in conformance with the habitat area
24 is not a problem to The Nature Conservancy.

25 Diane.

1 MS. KINDERMANN: Thank you, Brian. I appreciate
2 that.

3 Yeah. So as Brian indicated, if you look at the
4 quote, we're on this one. It just says it's under the
5 combined control of the town of Edgartown and Nature
6 Conservancy. Home to 26 rare or endangered species of
7 plants and fauna. It's a destination for thousands of
8 persons who travel to Martha's Vineyard by private
9 airplane.

10 And if you go onto the next slide, please.

11 --o0o--

12 MS. KINDERMANN: Here's a picture of Katama
13 Airport and the beach. You can fly right up to the beach.
14 A hundred feet from the beach you can land and have a
15 picnic on the beach. And in spite of this incredible
16 habitat, they do not perceive a land-use conflict as they
17 do with Mustang Airfield. There are actually 3 landing
18 strips at Katama.

19 Next slide.

20 --o0o--

21 MS. KINDERMANN: It's just some more information
22 about the airfield trust. And once again, it's -- it just
23 gives -- provides more information. I don't want to take
24 up more of your time with that.

25 The next slide --

1 --o0o--

2 MS. KINDERMANN: -- is just another photograph,
3 another viewpoint of the Katama airstrips there. There's
4 the beach. And then the following slide is a map of
5 Martha's Vineyard, Chappaquiddick Island. And if you look
6 at the south between item number 0 and M at the very
7 bottom of the -- yeah, there it is. That's Katama
8 Airfield, and all that water around it. And yet The
9 Nature Conservancy supports that, while they do not
10 support Mustang Airfield, which is a small business, which
11 would benefit the community.

12 --o0o--

13 MS. KINDERMANN: And then the final slide on
14 Katama -- well, the second to last slide. It just shows
15 that Katama Airfield is actually a conservation district.
16 It's both. And this is from the town of Edgartown
17 Planning Board.

18 --o0o--

19 MS. KINDERMANN: And then one more slide on
20 Katama. It indicates that it has -- it's from Wikipedia.
21 It indicates it has 3 runways and averages 22 flights per
22 day.

23 So if we have one more moment, I wanted Diane
24 Moore just to come forward and speak on the issue of a
25 conflict with the habitat and the rookery. She actually

1 conducted a few studies out at the rookery. Would we have
2 a moment to do that before we wrap up?

3 ACTING CHAIRPERSON GARLAND: I'd ask whoever is
4 keeping time right now to give us a heads up on whether or
5 not we've used the consolidated time of 3 people?

6 MS. LUNETTA: They've used 14 minutes.

7 ACTING CHAIRPERSON GARLAND: So that would be --
8 we've already extended your time.

9 MS. KINDERMANN: We've used it up. All right.
10 Well, thank you. So we won't have Diane Moore come
11 forward, but will be available to answer any questions.

12 And then there's just one final slide. It's our
13 fact and fiction slide. And we've provided you with
14 copies of this. You're welcome to look at that. We're
15 very aware most recently in a meeting, as recent as
16 December of 2009, The Nature Conservancy told us that they
17 would like our applicant -- the applicant simply to
18 sell him the land. And we know that The Nature
19 Conservancy is -- one of their businesses is purchasing up
20 private land and selling it at a profit to regulatory
21 agencies. And we are assuming that's maybe what's going
22 on here.

23 Thank you for your time.

24 ACTING CHAIRPERSON GARLAND: Thank you for your
25 presentation.

1 Next on our list is Mike Conner, I believe.
2 Diane Moore was with you, correct? Was supposed to be
3 with the last presenter? Yes.

4 Mike Conner, are you still in the room?

5 MR. CONNER: Right here.

6 ACTING CHAIRPERSON GARLAND: Excellent, the
7 microphone is yours, sir. Welcome.

8 MR. CONNER: Thank you. My name is Mike Conner.
9 I'm with The Nature Conservancy. I'm a Senior Project
10 Director with our organization.

11 I would like to open -- or first thank you for
12 hearing our perspective on the Mustang Airport this
13 afternoon. I'd like to state on the onset that The Nature
14 Conservancy does not oppose nor has it ever the present
15 permitted use of the Mustang landing strip. However, we
16 do oppose the proposed expanded use, and therefore support
17 the resolution at hand.

18 The existing use entails up to 3 operations per
19 day, that's per the permit. And in contrast, the proposed
20 permit would entail, according to Sacramento County
21 Airport System, 40 operations a day. That's over 13-fold
22 multiplication there.

23 Then the TNC believes that it's not -- it's just
24 not that -- excuse me. We believe the expansion will
25 inevitably lead to conflicts between wildlife and

1 airplanes, posing a threat to human safety and virtually
2 impacting the numerous and diverse birds of the preserve.

3 It's not just the nature conservancy that
4 believes this. In 2007, a division of the USDA came out
5 and did a 1-day survey with the result of this initial
6 consultation being wildlife hazards are present at Mustang
7 Airport with significant wildlife hazards during the early
8 morning hours.

9 They also go on to make the recommendation about
10 measures to be taken to mitigate this risk, including
11 vegetation management implementation of a wildlife
12 harassment program. That includes pyrotechnical --
13 pyrotechnics and all, and also a lethal shooting program.

14 Not only will such a situation adversely impact
15 wildlife, it undermines a significant public investment,
16 roughly \$150 million in public and private funds made on
17 the preserve. Some of these funds include State and
18 federal mitigation funds on areas -- including areas that
19 touch the Mustang Airport property.

20 The preserve has been recognized as a globally
21 important birding area. So here we have created starting
22 in 1984 including buying 4,800 acres around the airport,
23 adjacent to, touching the airport before Dick Bjelland
24 ever filed his permit, we purchased all this property to
25 attract birds, okay.

1 The expanded airport use is an incompatible use
2 with this. Here we are attracting birds and then putting
3 in an expanded airport. It doesn't work for me. I think
4 there's a human and wildlife safety hazard associated with
5 that.

6 ACTING CHAIRPERSON GARLAND: I'd ask you to wrap
7 it up. Your time is up and I have one question for you.

8 MR. CONNER: Okay. Let me touch -- full market
9 value was paid for the property. We have the records to
10 show that. We contacted both Lodi and Mather airports.
11 Recently, Lodi said they have 15 hangars available.
12 Mather says they have 20. They've said this for the past
13 year.

14 As far as Franklin Airport goes, those
15 photographs, the nearest Nature Conservancy wetland were
16 over a mile away from the actual end of the runway at
17 Franklin.

18 ACTING CHAIRPERSON GARLAND: Thank you for your
19 comments.

20 MR. CONNER: Sure.

21 ACTING CHAIRPERSON GARLAND: I didn't want you to
22 get away from the microphone. There was an assertion made
23 in the previous presentation that there was some kind of
24 verbal agreement made between the parties. And since it
25 was made, I'd like the Conservancy to address that.

1 MR. CONNER: Sure. We have heard this a lot, and
2 we have gone to the project director and the deal doer of
3 that time and have statements on record with the county
4 board of supervisors stating that that's untrue. Also,
5 we -- I'll leave it at that.

6 EXECUTIVE OFFICER FOSSUM: I'd just like to say
7 that the law provides that transactions dealing with real
8 property have to be in writing. Otherwise, they're not
9 binding.

10 ACTING CHAIRPERSON GARLAND: That's correct. Any
11 other comments from the Commissioners while we've got the
12 Conservancy here?

13 ACTING COMMISSIONER FINN: Yeah. I just have one
14 question. Did you say that there is a plan to use a
15 lethal bird control program?

16 MR. CONNER: There was a recommendation by
17 Wildlife Services, which is a division of the USDA in
18 2007. They went out and did a 1-day assessment. And,
19 yes, there is a recommendation to use lethal control as
20 one management technique for the -- and this was the
21 airport in its present operation of 3 operations per day
22 not the expanded use.

23 ACTING COMMISSIONER FINN: Okay.

24 ACTING COMMISSIONER GARLAND: And we've got one
25 more presenter from the Conservancy, so if we've got

1 additional questions.

2 ACTING COMMISSIONER ARONBERG: Okay. I want to
3 ask him one question. I'd asked the previous presenters,
4 they said they made calls to the nearby airports and
5 there's a 10-year waiting list. But you said something
6 different, can you tell me more about that?

7 MR. CONNER: I have statements -- and actually
8 they're on file with the Sacramento County Board of
9 Supervisors. I can provide them to you. I don't have
10 hard copies with me. I do have them on a computer -- from
11 the owners or managers of both Mather and Lodi that have
12 said since last April, we have -- Lodi has 15 spots. Lodi
13 is within 5 or 6 miles of the Mustang location and Mather
14 Air Force Base says they have 20.

15 Also, the airport operator at Lodi said that
16 there is plenty of hangar capacity in the Sacramento
17 region and that is in that letter.

18 ACTING COMMISSIONER ARONBERG: Okay. So you have
19 something in writing you're saying?

20 MR. CONNER: I do. Everything that I've stated
21 here, I have in writing.

22 ACTING COMMISSIONER ARONBERG: Thank you.

23 MR. CONNER: Including the price.

24 ACTING CHAIRPERSON GARLAND: Thank you.

25 At this time, without objection, we're going to

1 take a -- do you want to take a 5-minute break?

2 CHAIRPERSON NEWSOM: No. 120 seconds.

3 ACTING CHAIRPERSON GARLAND: Well, let's keep
4 going then.

5 CHAIRPERSON NEWSOM: Can we do that? I'm sorry.

6 ACTING CHAIRPERSON GARLAND: Take a 2-minute
7 break, so we can switch out and get the real chair in
8 here.

9 Thank you.

10 (Thereupon a recess was taken.)

11 CHAIRPERSON NEWSOM: Thank you very much.

12 I appreciate it. Thank you, everybody for -- I
13 can't say indulging us, because you really were indulging
14 me, so I'll take responsibility personally for my
15 tardiness. And I apologize for getting in the middle of
16 this critical issue, at least from my perspective. I did
17 get some update on some of the public comment that already
18 has been provided.

19 We have, I think, 4 remaining speakers on this
20 item. And I would like to ask that Betsy Weiland come up
21 in support of our Calendar Item number 74. And then we'll
22 move quickly to ask Paul Raveling to come up after Betsy
23 and then Pablo Garza to be prepared to come after that.

24 MS. WEILAND: Thank you. Thank you very much.

25 My name is Betsy Weiland. And I'm here with Save

1 The American River Association. And before everybody
2 goes, "Whoops, wrong river. Wrong. You're here on the
3 wrong river". I have to say, "Au contraire".

4 The Save The American River Association is
5 currently involved in directing efforts to realize the
6 California Heartland Project and also the grass roots
7 working group effort to rescue our regional parks and open
8 space. The Cosumnes River Preserve is integral to these
9 legacies.

10 I hope to be able to leave the room today and be
11 able to go back to the community, the community we serve,
12 the schools, the organizations, the individuals we speak
13 to and tell them that our State Lands Commission, number
14 one, respects the Public Trust. When they take public
15 monies and invest them, they are serious about making sure
16 those investments realize their full potential. That
17 those investments are protected and they're valued.

18 And number 2, I hope the Lands Commission
19 realizes, because we cannot have the constituency who
20 really needs to speak here in the room, and that is the
21 birds that we're talking about, because they can't come
22 here, we need to be that voice. We need to realize that
23 we are not just talking about just birds, okay. These
24 birds are valued members of our community here in
25 Sacramento.

1 We are in the Pacific Flyway. We are
2 internationally important. We hold tremendous
3 responsibility to the rest of the world to see that these
4 populations thrive and are protected.

5 Locally, these birds mean everything to our
6 economy, health, and well-being. I ask the Commission to
7 please, on behalf of Save The American River Association,
8 and the other organizations and individuals and groups
9 that we interact with, to please, please support staff
10 resolution.

11 Thank you very much for your time.

12 CHAIRPERSON NEWSOM: Thank you very much, and
13 appreciate that, Ms. Weiland. And again, Paul, thank you.

14 MR. RAVELING: Hello. I'm Paul Raveling from El
15 Dorado Hills. And I'm actually in the wrong category. As
16 a retired software engineer, I'd like to note that in the
17 question of in support, did not specify in support of the
18 project or in support of the recommendation.

19 CHAIRPERSON NEWSOM: So recorded.

20 MR. RAVELING: Yes. And to introduce myself, I
21 can sort of approach this wearing 3 hats. One is as
22 someone who has always had a strong affinity for birds.
23 And the iconic moment for that probably was the first date
24 between the young lady who became my wife and me was the
25 6th Annual Condor Watch at Mount Pinos in the Los Angeles

1 area.

2 On another side of the coin, as I said, I'm a
3 software engineer. I'm somewhat what of a generalist, but
4 that combination always means being highly analytical,
5 especially when it's possible to be mathematically
6 analytical.

7 And somewhere in the middle of that, I'm a
8 sailplane pilot, which is sort of like being a junior
9 soaring bird, but the soaring birds are better at it than
10 the humans are. And the soaring birds are magnificently
11 equipped in both their aerodynamics and their piloting
12 skills.

13 Usually, the soaring pilot on days when lift is
14 scarce will look for soaring birds to join up with them in
15 a thermal, because the birds can find them better. And
16 frankly, one of the most thrilling experiences of my
17 flying history was when, for the first time, a red-tailed
18 hawk joined up with me and my thermal.

19 Normally, the soaring birds keep at least 200
20 feet away from sail planes in that kind of soaring. When
21 the hawk joined up with me, it overflew my cockpit 8 feet
22 above the canopy and it was an impressive site.

23 With respect to this -- there's a lot of fear and
24 belief where what you need is facts. And the facts are
25 that not many people have addressed the question of why do

1 bird strikes happen? And I'm also speaking as a former
2 physics major, by the way. And there are 2 main reasons
3 which have nothing to do with most of the things that have
4 been talked about.

5 One is the speed of aircraft. Speed is very much
6 a factor. And I could give you a mathematical
7 relationship for that if I had time to bring in a graph.
8 The other is cross sectional area of the aircraft in
9 question, which is why Sacramento International has 1,800
10 bird strikes, while the south county area with nothing but
11 light general aviation aircraft logged only 2 in that
12 database.

13 An interesting case to identify what factors are
14 effective is Mather. At Mather, there have been only 2
15 light general aviation bird strikes. Light general
16 aviation meaning single engine piston powered. And far
17 more -- I don't have the statistics with me, but I believe
18 about 50 in the 20 years of the FAA database for other
19 types of aircraft, including commercial, military, and
20 larger general aviation such as light twins.

21 CHAIRPERSON NEWSOM: Mr. Raveling, the light has
22 turned red. If you can wrap up your comments, we'd be
23 grateful.

24 MR. RAVELING: Okay. I don't have time now to
25 say more. I would like to have substantive conversations

1 with anyone who's willing. You're welcome to contact me.
2 You can find my website at www.sierrafoot.org, and an
3 Email contact there. I would enjoy showing anyone what
4 it's like at Cameron Airpark, which is essentially a good
5 model for what Mustang would become. And perhaps driving
6 through the area around the Mustang Airport.

7 CHAIRPERSON NEWSOM: Thank you.

8 Pablo Garza, and followed -- and this is the last
9 card I have. If anyone else wishes to speak, we'll
10 certainly afford you the opportunity. Jennifer Fearing.

11 Thank you, Mr. Garza.

12 MR. GARZA: Thank you. And good afternoon. My
13 name is Pablo Garza. I'm Associate Director of State
14 Policy and External Affairs for The Nature Conservancy.
15 You have already heard from my colleague Mike Conner, the
16 Senior Project Director, in stating our support of the
17 staff recommendation.

18 I'll use my time to kind of rebut some of the
19 points made by the project proponents.

20 Quickly, the business of whether or not there was
21 a deal when The Nature Conservancy purchased the 90 acres
22 from Mr. Bjelland, there was no deal. There's no
23 documentation. We've been in touch with staff. Mike
24 Eaton and Chris Unkel, who handled that transaction, they
25 have -- I have signed letters with me today.

1 Unfortunately, I don't have copies for you. They said
2 there was no verbal agreement and there's no written
3 agreement. I don't know why that keeps coming up, but we
4 continue to refute that fact.

5 Second, they referenced the December 2009
6 meeting. I was present where they said The Nature
7 Conservancy expressed interest in purchasing Mr.
8 Bjelland's property. I was there. That never came up.
9 That is not our interest. That is not our intent.

10 Thirdly, Mr. Holloway talked about the existing
11 permitted use of Mustang Airfield. And we've continually
12 said we do not oppose the existing use. It's a limited
13 personal use, privately operated airport. We are okay
14 with that.

15 The permit is for 3 operations a day. And an
16 operation is a takeoff and a landing is a second
17 operation. So it's 1 and a half round trips a day.

18 Mr. Holloway said something like 6 and a half
19 flights per day. I don't know where that -- he got that.
20 I have the use permit right here, and it's -- this is the
21 county use permit from 1990. It's 3 operations a day.

22 In our observations of staff and anecdotal
23 conversations with neighbors, it's actually significantly
24 less than that.

25 Thirdly, much was made about the Katama Airfield,

1 that allegedly The Nature Conservancy is involved with.
2 I'll say that is from 1924. The Nature Conservancy was
3 found in 1951. We did not establish that airport. We are
4 organized by State chapters, so I do not have a lot of
5 knowledge of on-the-ground facts of Katama Airfield, so I
6 will -- believe me, I will gather those.

7 What I can speak to is we also have 3 other
8 airstrips on Nature Conservancy properties in the country.
9 And I was on the phone this morning with our Arlington,
10 Virginia office talking to the woman who runs our
11 insurance policy. And 1 is in Texas and 2 are in Santa
12 Cruz Island. And these are dirt -- graded dirt strips.
13 They have very limited use. And if this is what we were
14 talking about at Mustang, we would be -- we wouldn't be
15 here today. If what they were proposing was comparable,
16 for example, to what we have at Santa Cruz Island, we
17 would not be here in opposition. We are okay with that.

18 And I think the -- more importantly the point
19 isn't whether or not The Nature Conservancy operates or
20 has airstrips on its properties. We're talking about this
21 specific location and whether or not it makes sense to put
22 a publicly serving airport and dramatically expand the
23 use -- its existing use in the heart of an area that sees
24 so much wildlife and bird use.

25 It looks like I have a red light.

1 CHAIRPERSON NEWSOM: Yes.

2 MR. GARZA: Thank you for your time and I'll be
3 available to answer any questions if you have any.

4 CHAIRPERSON NEWSOM: Mr. Garza, we have a
5 question for you.

6 ACTING COMMISSIONER ARONBERG: The proponents of
7 the airport said that The Nature Conservancy is in the
8 business to buy land and then sell it at a profit to
9 regulatory agencies. Can you comment on that? Is that
10 what the Nature Conservancy is in the business of doing?

11 MR. GARZA: No. I would dispute that very
12 strongly. And I think what -- it is true that many times
13 we access public and private funds to purchase, you know,
14 properties that have high ecological and conservation
15 values. And in many instances, we do then turn around and
16 transfer them to regulatory agencies for the long term
17 management.

18 And I think more than anything this is because,
19 frankly, I know you guys are public officials, but Nature
20 Conservancy moves a little more quickly than a lot of
21 public agencies, and we're able to do deals as
22 opportunities arise in a more efficient and fast manner.

23 And frankly, we work in a lot of very
24 conservative areas. And especially in the Central Valley
25 in this state. And we work with agricultural communities

1 and well received. And people -- a lot of folks are more
2 comfortable working with a private organization than with
3 a federal or State regulatory agency.

4 So we are not in the business of -- I don't know,
5 boondoggling or whatever. You know, we -- I think it's --
6 we're here to protect biodiversity. And we use a science
7 based approach to identify high value areas. And we
8 often -- we do partner with public agencies frequently,
9 but it's not to get some special deal. You know, that's
10 preposterous.

11 ACTING COMMISSIONER ARONBERG: Are you a
12 nonprofit agency? It sounded like they said that you're
13 in the business to profit.

14 MR. GARZA: Fair enough. Yeah, we are a private
15 nonprofit charitable organization, 501(c)(3) organized.
16 So we could not profit off of it.

17 CHAIRPERSON NEWSOM: Thank you, Mr. Garza.

18 MR. GARZA: Thank you.

19 CHAIRPERSON NEWSOM: Appreciate it.

20 Ms. Fearing, thank you. And follow -- the final
21 speaker card I have -- again, if you wish to speak, please
22 let Kimberly know -- is Rick Fowler.

23 MS. FEARING: Hi, Lieutenant Governor and others.
24 My name is Jennifer Fearing. I'm here on behalf of The
25 Humane Society of the United States. We're the nation's

1 largest animal protection organization, and we have more
2 than 1.3 million members and supporters in California.

3 And we have submitted letters to the county board
4 of supervisors here on this issue, as well had a letter
5 run in the Sacramento Bee. I thought I would just read
6 that, since that will definitely be brief.

7 We believe expanding the airport is a bad idea,
8 bad for people, bad for birds, and bad for the
9 environment. The Humane Society opposes this plan out of
10 concern for the birds whose habitat and lives would be
11 irreparably changed by an airport extension, but also
12 because of the pressing issue of public safety.

13 Birds and aircraft do not mix to expand flight
14 operations in an area that serves as a preserve.
15 Especially one designed to attract birds, it makes
16 absolutely no sense to those of us at the Humane Society.

17 We're glad to see the State Lands Commission
18 considering weighing in on this issue, and we're grateful
19 for your attention to the matter.

20 Thank you.

21 CHAIRPERSON NEWSOM: Thank you so much.

22 Mr. Fowler.

23 And, again anyone else that wishes to speak that
24 hasn't filled out a card, please do so. And otherwise,
25 Mr. Fowler, you'll be the last public comment.

1 MR. FOWLER: Commissioners, thank you very much.
2 I'm Rick Fowler currently serving as President and CEO of
3 the Community College Foundation. And before that, I had
4 served 3 terms as a Sacramento County Project Planning
5 Commissioner.

6 And our commission has heard countless hours of
7 testimony on Mustang Airport, and -- unlike the editorial
8 board of The Sacramento Bee, and many of the people in the
9 room who may have just come as a result of hearing that
10 something bad was going to happen to environmentally
11 sensitive lands.

12 We've heard the testimony. We've seen the
13 environmental impact studies. We deemed them adequate and
14 complete. And every time that this issue appeared before
15 the Commission, it was voted overwhelmingly or unanimously
16 in favor of Mustang Airport.

17 I have some personal experience, in that I myself
18 have an airline transport pilot rating, and I've also run
19 an airport in Illinois, a major facility in an
20 environmentally sensitive area. I'm very familiar with
21 the compatibility and use. And our commission had to
22 consider the closing of Sunset Sky Ranch Airport nearby in
23 south county.

24 And at the time that that closure was being urged
25 by many people, as development in Elk Grove began to get

1 closer and closer to that airport, which served the
2 general aviation community in that area, many of the
3 pilots came and testified before our commission about how
4 many years the waiting list was for hangar space. Things
5 you've heard about hangar space at today's hearing are
6 flat incorrect.

7 Some of the facilities named are tie downs only,
8 not hangars. There is a long wait for hangar space. It
9 is inadequate in Sacramento county. And these people that
10 were -- basically, will be runoff from Sunset Sky Ranch.
11 When our commission voted to close that, the relief that
12 staff county staff urged was that this Mustang Airport
13 would be coming along and be a relief for it.

14 And now that Sunset Sky Ranch has been voted to
15 close, the forces are at work to say now we've got to also
16 prevent this from doing what the county staff and others
17 had talked about Mustang being able to serve the south
18 county general aviation. The fact that it is in a remote
19 area is actually in favor of the compatibility of the use.
20 And it is a very light small aircraft -- you know, very
21 light impact on the adjacent uses.

22 And the Environmental Impact Statements that the
23 airport owner has paid millions of dollars to do have all
24 shown the compatibility. So I urge the Commission to do
25 the right thing and not oppose Mustang Airport.

1 Thank you.

2 CHAIRPERSON NEWSOM: Thank you, Mr. Fowler.
3 Thank you for your comments.

4 DEPUTY ATTORNEY GENERAL RUSCONI: Mr. Chairman,
5 I'm going to transmit a request from the attorney for
6 Mustang Airport who would like you to consider giving her
7 time to rebut, but that's up to your discretion.

8 CHAIRPERSON NEWSOM: I think I personally,
9 considering my tardiness, would appreciate that. And I
10 think there will be some questions as well from
11 Commissioners. So it may be opportunistic. So please
12 come on up.

13 MS. KINDERMANN: Thank you, Commissioners. Would
14 you like to ask questions first or I just have 2 comments
15 on items raised?

16 CHAIRPERSON NEWSOM: Make the comments, then I
17 think we'll ask the questions.

18 MS. KINDERMANN: All right. Thank you.

19 First of all, on the Lodi airport, the phone call
20 made regarding the available space. Those are tie downs.
21 Mr. Fowler referred to that. That is not hangar space.
22 And small general aviation pilots are looking for their
23 own individual hangar space.

24 In terms of the Mather Airport availability,
25 there is no availability there of individual hangar space.

1 It's one large hangar, where they would all park together.
2 And most small general aviation pilots do not want to fly
3 in and out of Mather among FedEx jets and what have you.
4 It isn't the type of traffic that they want. They're
5 looking for a small place to go on the weekend, work on
6 their planes, socialize, and have a private area to keep
7 their planes. So those items are incorrect.

8 And once again, I know this isn't -- you know,
9 you're more concerned about land-use compatibility, but
10 once again both Mr. Holloway and I sat in a meeting and
11 Mr. Winternitz of The Nature Conservancy said why doesn't
12 Mr. Bjelland just sell us his land. And I would testify
13 to that under penalty of perjury.

14 CHAIRPERSON NEWSOM: I appreciate that. Do we
15 have any questions?

16 ACTING COMMISSIONER ARONBERG: I wanted to ask
17 Mr. Milstein a couple of questions and then perhaps --

18 MS. KINDERMANN: Should I wait here?

19 CHAIRPERSON NEWSOM: Please.

20 Mr. Milstein, come on up.

21 Thank you.

22 EXECUTIVE OFFICER FOSSUM: And, Mr. Chairman,
23 before he does, I would like to make one comment regarding
24 the appeal that was made last year of the planning
25 commission's actions. It was mentioned that The Nature

1 Conservancy made that appeal. It was actually made by 12
2 different entities, 10 NGOs as well as the Department of
3 Fish and Game, and the State Lands Commission. So it
4 wasn't just The Nature Conservancy appealing that action.

5 CHAIRPERSON NEWSOM: That's an important point.
6 Okay, Mr. Milstein, thank you.

7 SENIOR STAFF COUNSEL MILSTEIN: Okay. Again,
8 good afternoon, Commissioners. I'm the Senior Staff
9 Counsel assigned to this case.

10 CHAIRPERSON NEWSOM: Thank you.

11 ACTING COMMISSIONER ARONBERG: Mr. Milstein,
12 there was some mention about the EIR having no significant
13 impacts. Can you tell us if you've looked at the EIR or
14 perhaps other staff has looked at the EIR, and what are
15 your thoughts about the EIR?

16 SENIOR STAFF COUNSEL MILSTEIN: Well, I
17 basically -- one of the issues we would challenge in
18 litigation is the validity of the EIR. So, you know, I
19 don't want to go into any detail and violate any kind of
20 confidence, but we see a lot of problems with the
21 substance and the procedure followed with the EIR.

22 ACTING COMMISSIONER FINN: I was going to ask the
23 same question, because of the staff's comments in the
24 analysis that said numerous flaws with the entitlement
25 process and the environmental review.

1 EXECUTIVE OFFICER FOSSUM: I can try and address
2 a little bit of that.

3 CHAIRPERSON NEWSOM: Please.

4 EXECUTIVE OFFICER FOSSUM: Certainly, a year ago
5 when we were going through this process, we were a little
6 more in tune with it. We had hoped that our actions at
7 that time would have had a better effect. First of all,
8 the Commission staff did not receive notice of this action
9 being taken by the county until the Final EIR came. So
10 there's a number -- as Eric said, a number of procedural
11 complaints that the Commission made to the County in
12 regard to how the notice was made in that document.

13 There's also a significant number of inadequacies
14 we pointed out in the environmental document dealing --
15 failing to analyze information that was available, as well
16 as new information that had come in during the draft
17 stage.

18 So along with the other appellants of the
19 planning commission action, there were numerous -- both
20 procedural and substantive matters as the EIR was drafted.
21 And that is actually the action the Commission previously
22 authorized us to file suit on was to challenge the EIR, if
23 necessary. There's been a lot of confusion at the county
24 level as well as to who actually had the authority to take
25 the actions.

1 There's issues about whether the planning
2 commission had any jurisdiction at all given this airport,
3 and whether or not other bodies would also have to approve
4 some of this, given the myriad legal standards that come
5 into effect giving -- dealing with airports. There's even
6 State Department -- or CalTrans Division of Aeronautics
7 that has jurisdiction on some of these projects.

8 So there was just a lot of unanswered questions,
9 but -- and I think our documents that the Commission has
10 previously filed with the Board of supervisors elaborate
11 on those, and -- but I -- unless our CEQA expert, who's
12 here today, would like to present some additional ones, we
13 can --

14 ACTING COMMISSIONER FINN: No, that's fine. It
15 just gives me a flavor for what the issues are.

16 And then the last question I have is I hear the
17 conflict of increased business there. I hear the
18 proponent of the project say minimal increase, yet I'm
19 hearing, at the same time, a huge demand for more hangars,
20 more tie downs. And so that kind of conflicts with me.
21 Is there minimal increased activity or significant
22 increase in activity that's going to happen there? Was
23 that --

24 SENIOR STAFF COUNSEL MILSTEIN: No, I mean, I
25 think you're onto a good point. It's two separate issues

1 clearly, but the level of activity, if there's that much
2 of a demand for hangar space, which I think that, again,
3 The Nature Conservancy made clear that they dispute that
4 there is hangar space available in that county.

5 If there is that great a demand, then, you know,
6 I think logically you'd see a greater amount of use at
7 Mustang. And, as I said, the county -- you know, there's
8 a lot of numbers floating around. And part of the
9 confusion is, you know, is it an event, is it a takeoff or
10 is it a landing? So sometimes you're multiplying times 2,
11 sometimes you're dividing by 2. But, you know, the
12 numbers that the applicant has asked for are self-imposed
13 limitations.

14 And again, the county made clear that they can't
15 enforce that. So the number they have in their
16 documentation is upwards of 15,000 flights a year, which
17 would be pretty significant, very significant.

18 ACTING COMMISSIONER FINN: Okay. Thank you.

19 ACTING COMMISSIONER ARONBERG: One more question,
20 Eric, sorry.

21 SENIOR STAFF COUNSEL MILSTEIN: Oh, sure.

22 ACTING COMMISSIONER ARONBERG: So you indicated
23 that you're a former U.S. Navy Pilot.

24 SENIOR STAFF COUNSEL MILSTEIN: A Flight Officer,
25 yes.

1 ACTING COMMISSIONER ARONBERG: Flight Officer.
2 I've heard a couple of pilots get up here supporting the
3 expansion of the airport. Can you just give us your
4 opinion.

5 SENIOR STAFF COUNSEL MILSTEIN: Okay, my personal
6 opinion. I love airplanes. I've spent my whole -- you
7 know most of my life around hangars and airfields. I love
8 airplanes. I go to the air shows. I'm one of those kind
9 of geeks.

10 But this is just a bad location. This is not --
11 you know, you have a huge -- whether it's a private
12 airplane or a commercial airplane, you have a big piece of
13 metal moving through the sky, and birds don't get out of
14 the way. I mean, sometimes they do, if you're lucky,
15 sometimes they don't. And it's like driving down the
16 highway and thinking that the bugs aren't going to hit
17 your windshield. I mean, it's the same -- it's a similar
18 analogy. So I love airports. I'd love to see another
19 airport.

20 You know, if there's a demand, which we question,
21 I mean, you know, another airport would be great. This is
22 just a poor location right next to a preserve designed to
23 attract something that an airplane is going to fly into,
24 whether, you know -- whether the bird tries to get out of
25 the way or the pilot tries to avoid the bird, what have

1 you. It's going to happen. It's just, you know, physics
2 or whatever you want to call it.

3 CHAIRPERSON NEWSOM: Any additional questions?
4 Thank you.

5 SENIOR STAFF COUNSEL MILSTEIN: Thank you.

6 CHAIRPERSON NEWSOM: Do you want to just --
7 because you're standing there so patiently, any final
8 comments?

9 MS. KINDERMANN: You've been very gracious with
10 you time. Thank you.

11 Well, I also wanted to add there was just mention
12 of a USDA gentleman out on the site identifying a menu of
13 options in the event that there were an issue with birds,
14 but that is a menu of options that's provided to all
15 airports in the event that there's a wildlife conflict,
16 which there has not been at this airport.

17 During it's 20-year tenure, there have been no
18 bird strikes and there have been none at -- similarly at
19 Franklin Field. Well, actually there was one since 1955.
20 It's been in operation since 1955. So there has been
21 activity at this airport. The EIR did not mix the
22 numbers. People who are familiar with aviation understand
23 the difference between an operation and a flight. And we
24 don't believe it's confusing.

25 But thank you for your time, we appreciate it, if

1 you have any further questions.

2 CHAIRPERSON NEWSOM: Hold on one second. We may
3 have one.

4 ACTING COMMISSIONER ARONBERG: So is Franklin --
5 there was some confusion. Is Franklin required to report
6 or not required to report? I understood that they're not
7 required to report under law.

8 MS. KINDERMANN: Well, I don't know whether or
9 not they're required to report, but we do know there is
10 one reported bird strike out there. But if they're not
11 reported, how do you know -- how are you assuming they
12 would occur is my response to that.

13 CHAIRPERSON NEWSOM: Thank you.

14 MS. KINDERMANN: Thank you for your time.

15 CHAIRPERSON NEWSOM: Thank you very much.

16 MS. KINDERMANN: We appreciate your time.

17 CHAIRPERSON NEWSOM: Thank you.

18 Just, Curtis, if you could just sum up again the
19 staff recommendation and perhaps just reflect on what
20 you've heard in the public session.

21 EXECUTIVE OFFICER FOSSUM: Sure, Mr. Chair. The
22 Commission staff, on a number of occasions last year, took
23 positions on this. In fact, 2 years ago we first
24 commented to the County on this, and the concerns that we
25 had about the potential impacts to the preserve there, as

1 well as potential human impacts. And, of course, when
2 we're focusing on an environmental document first, we're
3 looking very carefully to make sure it's going to comply
4 with CEQA, and we identified a number of flaws.

5 So it wasn't just the project itself at that
6 time. It's also the analysis that the public had to look
7 at and the decision makers had to make their decision. So
8 we think there's a couple of problems with the project
9 from that standpoint.

10 We have made -- taken formal position, the
11 Commission has. And this was an attempt, I think, to
12 bring it at a public forum where the public, both sides of
13 the issue, could express to the Commission their views.
14 And then we could make it very clear if the Commission
15 followed the staff's recommendation, to the board of
16 supervisors, the strong concerns that the Commission had
17 about expanding this airport.

18 Again, I think nobody that I've heard speak
19 talked about closing the airport, but the significant
20 expansion of activity at that airport we think is not in
21 the public's interest and would violate, in fact, CEQA as
22 it is currently -- this project has been analyzed.

23 CHAIRPERSON NEWSOM: Thank you for that summary.

24 Are there any comments before we move -- and
25 public comment now is officially closed. And any comments

1 before we move to a motion from the Commission?

2 ACTING COMMISSIONER FINN: I don't think so.

3 CHAIRPERSON NEWSOM: I, again, apologize for
4 being late, though I have followed this and gotten a great
5 deal of information from all sides over the last few
6 weeks. And, look, I understand good people can disagree,
7 but fundamentally it seems an enormous amount of resource
8 and energy human, as well as financial resources, have
9 been placed into enhancing this area in a way that
10 clearly, from my humble perspective, is incompatible with
11 an expansion of an airport.

12 I know that some would argue let the private
13 sector decide, let the market decide. If there's a bird
14 strike, then, by definition, people would be less likely
15 to use the airport, and the airport would fall on its own
16 petard. I'm not willing to take that risk. It seems that
17 this State and it seems that multiple agencies within the
18 State have invested an enormous amount in enhancing our
19 natural resource, both birds and other natural resources.

20 And it has been a huge success. And so from my
21 perspective, there's a certain point where you've got to
22 call the question. And I appreciate the board of
23 supervisors will take this up. I hope we had -- I was
24 wishing we had a little more clarity and direction from
25 the board. I know there seems to be some differences of

1 opinion on the board, and sort of an outstanding member
2 that's poised to vote.

3 But this member of this body is firmly of the
4 opinion that we need to move on, and the end of tyranny as
5 opposed to tyranny without end. And I'm in support of the
6 staff recommendation. And I'm grateful for your
7 diligence. And I look forward to hearing from you, a
8 motion, in support of that staff recommendation.

9 ACTING COMMISSIONER ARONBERG: So Lieutenant
10 Governor, you've summed it up very well. I don't
11 understand why we would be pouring taxpayer dollars into
12 this place to attract birds and then expand this airstrip
13 into a large airport with possibly, is it 15,000 flights a
14 year?

15 EXECUTIVE OFFICER FOSSUM: There's estimates that
16 go --

17 SENIOR STAFF COUNSEL MILSTEIN: That was the
18 county estimate.

19 ACTING COMMISSIONER ARONBERG: Okay. So I
20 happily make the motion to adopt staff's recommendation.

21 ACTING COMMISSIONER FINN: And I will second
22 that. Again, I was more moved -- the preserve started
23 before the airport was there. And I can appreciate the
24 owner's interest in a small airport, but I do -- knowing
25 that the preserve was started before and there's been

1 long-term plans, I would, like you said, heartily second
2 it too.

3 CHAIRPERSON NEWSOM: There's a motion and
4 seconded. And the vote in support of staff
5 recommendation, can I hear an aye?

6 (Ayes.)

7 CHAIRPERSON NEWSOM: Without objection, that will
8 be the recommendation of this body in support of Item
9 number 74.

10 We have one item formally on the calendar, and
11 then one I'd like to go back to. I guess you skipped Item
12 number 67. First, we could call now Item 75, which is an
13 update on the status of the Owens Lakebed Master Plan.

14 And we would love to hear from staff on that.
15 There may have been others that we skipped. We'll get to
16 them. We'll skip around. But at least let's get to 75.

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

19 CHAIRPERSON NEWSOM: All right. Thank you.

20 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

21 All right. Good afternoon, Chairman and
22 Commissioners. My name is Colin Connor. I'm the
23 Assistant Chief of the Land Management Division.

24 CHAIRPERSON NEWSOM: Get close to that mic so
25 they can hear you in this very strangely configured room.

1 (Laughter.)

2 CHAIRPERSON NEWSOM: Sorry guys.

3 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

4 I'm the Assistant Chief of -- Colin Connor, the
5 Assistant Chief of the Land Management Division. And I'm
6 here to give an informational update on the status of the
7 Owens Lake Master Plan process. This is actually the
8 third update I've given in the last -- the prior 2 were
9 last year. I realize we have 2 new Commissioners, so I'm
10 going to keep this general and brief, in the interests of
11 time, because I know we've got another calendar item to
12 go.

13 --o0o--

14 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

15 Owens Lake is in Inyo County in the eastern
16 sierra. You can see by the map there.

17 --o0o--

18 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

19 It was formally a lake. It's now dry. There's
20 more background in the calendar item. I'm not going to go
21 into a great deal on this.

22 --o0o--

23 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

24 The primary driver right now is controlling the
25 dust on the lake. The Great Basin Air Pollution Control

1 District is tasked with controlling that. They're
2 basically requiring the City of Los Angeles, Department of
3 Water and Power to initiate dust control measures.
4 There's 3 of them right now. There's shallow flooding,
5 gravel, and managed vegetation. This is a picture that
6 was taken last year. That's dust being swept up there.
7 This is the car that we were in. It got so bad that we
8 actually had to stop in the dust. This dust is very fine
9 and it poses a health danger.

10 --o0o--

11 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

12 And that's why they're trying to control the
13 dust. So last year, January of last year, the master plan
14 process kicked off with the hiring of a facilitator to
15 organize the structure of the process. The facilitator is
16 Gina Bartlett. She's with the California State
17 University, Center for Collaborative Policy. She went out
18 and identified all the potential stakeholders, public
19 agency, private parties, local businesses.

20 From those, formed a planning committee, which is
21 the decision-making body of the master plan. There are
22 people who actually are going to be voting on the content
23 and makeup of the plan.

24 Underneath the planning committee, there were
25 work groups that were established to study key elements of

1 the plan. We'll get into that in just a moment. The
2 coordinating committee is a subgroup of the planning
3 committee that basically just meets to try and agendaize
4 what the planning committee is going to be discussing at
5 any given planning committee meeting.

6 There's also the agency forum, which are the
7 public agencies that have ownership or regulatory
8 jurisdiction over the planning area.

9 --o0o--

10 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

11 The planning committee -- this is -- there are
12 approximately 30 planning committee members. These are
13 some of the more renowned, I guess, City of Los Angeles,
14 Department of Water and Power, Great Basin, Fish and Game,
15 State Lands Commission, Inyo County, the local tribes
16 there. There's also other stakeholders, the Audubon
17 Society, Eastern Sierra Land Trust, Sierra Club. This is
18 just a few of them.

19 --o0o--

20 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

21 We meet once a month basically. There have been
22 approximately 10 meetings. And as I mentioned before,
23 they kicked off in January 2010. Actually, the first
24 meeting was March. The meetings are typically held in
25 either Bishop or Keeler. Keeler is on the eastern side of

1 the lake itself.

2 --o0o--

3 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

4 Key elements of the plan. These are identified
5 from the various stakeholders. Dust control is the driver
6 as I mentioned before. Because of the shallow flooding
7 that has gone on on the lake that DWP has put water on the
8 lake, it's attracted a lot of birds. There's also other
9 types of wildlife there, elk and other things.

10 Water conservation is important to the City of
11 Los Angeles. State Lands Commission is very interested in
12 the Public Trust values. We've identified those as public
13 access and recreation, habitat, and the scenic viewshed,
14 the esthetics of the Owens Valley.

15 Other key elements are public access and
16 interpretation, cultural resources. There are tribes
17 there, and they're very concerned about sites, former, you
18 know, fishing sites, burial sites, that type of thing.
19 There is a mining operation on the lake that we lease out
20 to. There are also grazing leases along the edge of the
21 lakebed.

22 There's been a lot of talk about renewable energy
23 on the lake, specifically a solar farm. There's other
24 economic development that the county is interested,
25 specifically tourism. Anything that could develop tourism

1 in that area and utilize the restaurants and hotels there.

2 And then the other key component of the plan
3 would be monitoring and adaptive management to make sure
4 that the elements in the plan are implemented and carried
5 out over the period of time.

6 --o0o--

7 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

8 One of the key elements that I mentioned is
9 habitat. The work group -- the habitat work group has
10 developed what's known as the habitat suitability index.
11 And this is a measurement. They basically have looked
12 over all the data -- the bird counts for the various cells
13 on the lake and identified those areas that have been
14 attracting birds.

15 And from this, they've expressed these areas as
16 value acres. And from that, they looked to see what --
17 now, that they've identified what areas are value acres,
18 how they can actually enhance other habitat areas on the
19 lake.

20 --o0o--

21 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

22 This is a map of the lake. It's kind of an
23 overlay. It's primarily the dust control areas. That's
24 all the colored areas primarily around the eastern side.
25 The areas that have been identified as having habitat

1 values, the value acres, are shown in the cross-hatching.
2 And they're a little bit more difficult to see.
3 Primarily, up along the -- thank you -- up along the top
4 there and along the lower edges.

5 --o0o--

6 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

7 Now, going forward, the planning committee has
8 been meeting since March of last year. We have broken
9 down into the various work groups to identify the key
10 elements. Those work groups are drafting the parts of the
11 master plan, the relevant sections. We also have hired an
12 environmental consultant to do an EIR that is going to
13 also analyze the master plan. As you can see from this
14 flowchart, the processes are going to run more or less
15 parallel. And the CEQA -- the actual EIR process is going
16 to kick off later this summer. And the actual Draft EIR
17 will be completed later towards the end of this year, with
18 the Final EIR and master plan hopefully being done
19 sometime spring or summer of next year.

20 --o0o--

21 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

22 These are the next steps: Getting going on the
23 draft master plan. As I said, we're writing the elements
24 of it right now. We should have a draft master plan out
25 in the summer or fall of this year. There will be an EIR

1 scoping meeting. And the EIR -- the Draft EIR will use
2 the draft master plan as its basis for analysis.

3 That EIR -- the Draft EIR should be done by early
4 2012. The Final EIR and the master plan and a Memorandum
5 of Agreement should be done by the summer of 2012. The
6 Memorandum of Agreement will be pretty much the device to
7 help implement the plan elements. Basically, who's going
8 to do what? Who's going to be responsible for doing what.

9 And then we hope to, at some point -- as part of
10 this process, the City of Los Angeles and the State Lands
11 Commission staff have actually looked into consolidating
12 all the leases and amendments that are out there on the
13 lake into one consolidated master lease. It would just
14 streamline the process. Then we can just simply amend
15 that master lease for any future dust control needs.

16 So that's where we're at. If you have any
17 questions, I'm available. The City of Los Angeles,
18 Department of Water and Power staff are also available.
19 They were going to submit a speaking request form, but in
20 the interests of time, they were going to leave that to
21 you, if you had any questions for them.

22 CHAIRPERSON NEWSOM: Any questions from the
23 Commission?

24 Just out of curiosity, what's -- once you analyze
25 the plan, what's the plan going to include? How do you

1 deal with dust mitigation in such a large area?

2 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

3 Well, I think, and speaking from DWP's
4 perspective, they want to use less water on the lake. So
5 we're looking at ways of -- combinations of other dust
6 control methods that could free up more water. And again,
7 those would be variations of gravel and managed
8 vegetation, maybe like a hybrid mix of them. It gives a
9 more natural appearance, but uses less water, like a -- it
10 would almost look like a streambed type motif.

11 CHAIRPERSON NEWSOM: Interesting.

12 EXECUTIVE OFFICER FOSSUM: Yeah, I think some of
13 the planning is the fact that certain avian species that
14 they're trying to attract don't need as deep a water as is
15 currently being there. And so if they are able to
16 reconfigure some of the basin areas, they could have more
17 habitat, more shoreline, less deep water. And that way,
18 L.A. would have more water for their ratepayers. And yet
19 the environmental impact would be a positive one, rather
20 than a negative one. So that's what we're hoping for in
21 the long run.

22 L.A. has made a significant investment in dealing
23 with the air quality problems that exist there. The PM10
24 is the worst measured in the United States. And so this
25 is a significant health problem, and they've invested a

1 great deal of money. So it's a very important project,
2 and that's why we wanted to bring it to the Commission at
3 this point.

4 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

5 And from the State Lands Commission's
6 perspective, we don't want to see any erosion of public
7 trust values. And the City of Los Angeles has actually
8 agreed that, you know, they don't want to see that either.
9 Getting rid of water or freeing up water, as long as it
10 doesn't affect habitat, I think we're all good with that.

11 And as a matter of fact, the City is looking at,
12 as Curtis mentioned, ways that these hybrid dust control
13 measures could actually enhance habitat value.

14 CHAIRPERSON NEWSOM: Excellent. Thank you.
15 Thank you for the work. Looking forward to learning more.

16 No public comment on this. More in presentation.
17 Does anyone wish to speak?

18 Come on up.

19 You don't have to fill every form. That's too
20 bureaucratic.

21 MR. TAYLOR: Thank you, Lieutenant Governor. Dan
22 Taylor on behalf of Audubon California. It seems like
23 birds are the theme of the afternoon, but this is a case,
24 I think, where we can talk about birds without argument.
25 We are one of the active stakeholders in this process.

1 And I come here today simply to communicate our strong
2 support for the effort, and our appreciation for the
3 leadership of the State Lands Commission and the staff.
4 They're doing a terrific job there.

5 This may be one of those opportunities where we
6 can actually seize an outcome that's bigger than what any
7 of us would have perhaps expected initially, dust control
8 for public health benefits, water for wildlife. By the
9 way, when water was put on that lake, within weeks 40,000
10 to 60,000 birds had shown up. So the word quickly got
11 around.

12 (Laughter.)

13 MR. TAYLOR: As well as economic benefits. And
14 more importantly, or as importantly for the State Lands
15 Commission, Public Trust and recreational opportunities as
16 well.

17 So a lot of important work to do. We're an eager
18 participant. We thank you for your efforts and look
19 forward to getting this thing finished.

20 Thank you.

21 CHAIRPERSON NEWSOM: Excellent. Thank you very
22 much.

23 Anyone else?

24 Please, come on up.

25 If you could just state your name for the record.

1 MR. VAN WAGONER: Certainly. Good afternoon.
2 I'm William Van Wagoner with the Los Angeles Department of
3 Water and Power. And I just wanted to kind of follow up
4 on some of these previous comments. We're extremely
5 excited about this master plan effort. The level of
6 energy and interest that's been -- that we've seen kind of
7 wrapping around helping us come up with this plan.

8 And I think we're really looking at a potential
9 win-win here, where we can actually sustain that habitat
10 in a much more sustainable way from the perspective of the
11 State's Water Resources. And we're very excited about
12 that. I think Colin hit the nail on the head with looking
13 at hybrids and actually ways to make the landscape work
14 better, both in terms of habitat, but also for aesthetics
15 and public access as well, which I understand are
16 important Public Trust values.

17 One point of clarification on the consolidation
18 of the leases. That's actually something we're working on
19 right now. It's underway.

20 Thank you.

21 CHAIRPERSON NEWSOM: Excellent. Thank you.
22 Thanks for your work.

23 Anybody else wish to comment on this item?

24 Seeing no one, we'll close public comment.

25 Any final comments from staff?

1 EXECUTIVE OFFICER FOSSUM: No. Other than, I
2 think Bill mentioned it very well, and that is that we
3 think there's a much better effort going on now than in
4 the past. All the stakeholders are participating on an
5 ongoing basis and we're getting a great deal of
6 cooperation from the city in helping to sponsor that
7 cooperation. So we're very appreciative of that.

8 CHAIRPERSON NEWSOM: Excellent. Thank you.

9 EXECUTIVE OFFICER FOSSUM: And if I could
10 recommend that we now go to the Item on San Francisco
11 and Hunters --

12 CHAIRPERSON NEWSOM: Is that 67?

13 EXECUTIVE OFFICER FOSSUM: Yeah, probably.

14 CHIEF COUNSEL LUCCHESI: Yes.

15 CHAIRPERSON NEWSOM: Item number 67?

16 CHIEF COUNSEL LUCCHESI: Yes.

17 CHAIRPERSON NEWSOM: Great. So we'll go back to
18 Item 67. And, Jennifer, do you want to lead us off?

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

21 CHIEF COUNSEL LUCCHESI: Yes, I will. I have a
22 PowerPoint presentation.

23 There you go.

24 Commission staff respectfully requests your
25 consideration of Calendar Item 67, the title settlement

1 Public Trust Land Exchange and Boundary Line Agreement and
2 the Candlestick Point State Recreation Area
3 Reconfiguration Improvement and Transfer Agreement.

4 As part of these agreements, the Commission staff
5 also requests your consideration of the termination of the
6 existing lease to State Parks and the issuance of a new
7 lease to State Parks for certain lands within Candlestick
8 Point, and also for the authorization to enter into a
9 boundary line agreement.

10 --o0o--

11 CHIEF COUNSEL LUCCHESI: In 2009, the Legislature
12 enacted Chapter 2003, better known as SB 792, for the
13 purpose of facilitating the productive reuse of the former
14 Hunters Point Naval Shipyard and Candlestick Point.
15 Currently, both of these sites are severely underutilized
16 and in a dilapidated condition.

17 --o0o--

18 CHIEF COUNSEL LUCCHESI: This slide shows
19 Candlestick Point, which is currently being used on an
20 intermittent basis for parking for Candlestick Park.
21 Again, the State Recreation Area on the lower picture you
22 can see is very underutilized.

23 --o0o--

24 CHIEF COUNSEL LUCCHESI: This slide shows Hunters
25 Point, again very underutilized and in need of a lot of

1 improvement.

2 --o0o--

3 CHIEF COUNSEL LUCCHESI: SB 792 authorizes the
4 Commission to carry out an exchange of lands that will
5 place or confirm the Public Trust on lands that are no
6 longer used -- excuse me, on lands with substantial value
7 for the Public Trust and terminate the Trust in lands that
8 are no longer useful for Trust purposes. The Trust
9 Agreement and the transfer agreement are in furtherance of
10 the Legislature's direction contained in SB 792.

11 These agreements, if approved, will facilitate
12 the Hunters Point Shipyard and Candlestick Point Phase 2
13 project, a redevelopment of more than 700 acres of
14 waterfront land along the San Francisco southeastern
15 shores and the redevelopment of the Candlestick Point
16 State Recreation Area.

17 The parties to the agreement are the Commission,
18 State Parks, the San Francisco Redevelopment Agency, the
19 City and County of San Francisco, and the Port of San
20 Francisco. The parties to the transfer agreement are the
21 Commission, State Parks, and the San Francisco
22 Redevelopment Agency.

23 --o0o--

24 CHIEF COUNSEL LUCCHESI: The area that is subject
25 to the Trust Agreement includes lands within Candlestick

1 Point and the shipyard that were historic tide and
2 submerged lands subject to the Common Law Public Trust,
3 were historic uplands not subject to the Trust, and were
4 historic tidelands in which the Public Trust may have been
5 terminated.

6 More specifically, the shipyard site contains
7 lands that were historic uplands and lands that were below
8 the historic ordinary high water mark. Beginning in the
9 1860s, the Legislature authorized the conveyance of tide
10 and submerged lands at the shipyard through various
11 statutes.

12 In 1939, the United States began acquiring lands
13 in part by condemnation for the purposes of constructing
14 and operating the Hunters Point Naval Shipyard. The
15 shipyard was closed by the United States in 1974.

16 The State and federal government disagree as to
17 the effect of these federal condemnations on the existence
18 of the Public Trust interest in the shipyard lands. This
19 disagreement adds to the Trust title uncertainties within
20 the shipyard. In addition, the city also asserts certain
21 reserved rights and interests in the shipyard.

22 The State's sovereign interests in the fill
23 tidelands at Candlestick Point involve primarily reserve
24 streets and portions of former railroad right of way. In
25 1973, the Legislature authorized State Parks to acquire

1 and develop property at Candlestick Point for the State
2 Parks system. State Parks subsequently acquired certain
3 private lands near and along the shoreline of Candlestick
4 Point to create the State recreation area. The Commission
5 subsequently leased most of its lands to State Parks for
6 inclusion in that recreation area.

7 --o0o--

8 CHIEF COUNSEL LUCCHESI: The purpose of the Trust
9 Agreement is to settle certain boundary and title disputes
10 related to the Public Trust and to establish and
11 reconfigure the location of lands subject to the Trust and
12 lands free of the Trust within the subject area through a
13 land exchange.

14 So going back.

15 --o0o--

16 CHIEF COUNSEL LUCCHESI: Excuse me. In the light
17 blue here are the extent of the State's claims to the area
18 both at Hunters Point and at Candlestick Point. At the
19 end of this exchange all the State's Trust interests will
20 be reconfigured and consolidated along the shoreline band
21 to create a consolidated Public Trust ownership around
22 those 2 areas.

23 The exchange will be accomplished through
24 recorded conveyances and occur in several phases beginning
25 with the initial phase, followed by subsequent phases

1 based on cleanup efforts by the Navy. At all times during
2 the phasing, the Trust monetary value will always be
3 greater than the value of the Trust termination parcels.

4 The reason for the phasing is because the
5 shipyard is currently owned by the Navy. Pursuant to
6 federal legislation and various agreements, the Navy is
7 authorized to convey the shipyard to the agency in phases
8 after all the necessary hazardous materials cleanup is
9 complete. In the event of an early transfer of any phase
10 conveyance, the Commission would have to find that there
11 are sufficient implementation and liability measures in
12 place prior to any conveyance.

13 It is anticipated that the entire exchange will
14 take several years to complete with final buildout of the
15 project estimated at 15 to 20 years.

16 --o0o--

17 CHIEF COUNSEL LUCCHESI: Following the completion
18 of the exchange, the entire waterfront within the subject
19 area, as well as certain interior lands that have high
20 Public Trust values, will be subject to the Trust. The
21 Trust termination lands will be conveyed to either State
22 Parks or the Agency free of any Public Trust interests.

23 On this slide, those areas of Hunters Point and
24 Candlestick that are shaded in solid dark gray will be the
25 final Public Trust Lands. Those areas shaded in light

1 gray will be the Trust termination parcels.

2 SB 792 requires the Commission to ensure that
3 significant view corridors to the waterfront are
4 protected, adequate public access is provided, and other
5 conditions related to the hillside open space are met.
6 The hillside open space is that area -- excuse me, Curtis,
7 can you hand me that. Thank you -- that area right
8 here -- excuse me, it's touchy -- right here of Hunters
9 Point Shipyard. And that's actually a hilltop area that
10 provides expansive views of the waterfront and San
11 Francisco Bay.

12 More specifically, the hillside open space area
13 is a benefit to the Public Trust, because it provides
14 passive recreational opportunities to experience these
15 expansive views of the San Francisco Bay and the
16 waterfront.

17 To this end, the Trust Agreement requires, among
18 other things, that the construction of new buildings
19 within the shipyard conform to certain height limitations
20 in order to ensure views of San Francisco Bay and the
21 waterfront.

22 --o0o--

23 CHIEF COUNSEL LUCCHESI: The Trust Agreement also
24 requires that public pedestrian and vehicular access
25 between the hillside open space and the waterfront be

1 maintained and that streets and transportation facilities
2 located on the Trust Lands serve primarily Trust purposes
3 of access to shoreline improvements and shoreline
4 circulation.

5 Further, the Trust Agreement provides that
6 parking be available to the public for regional and
7 statewide use and not be restricted to residential
8 parking. And finally, the Trust Agreement protects the
9 State from any liability to the owners of properties
10 upslope and on the southerly downslope side of the
11 hillside open space from any ground failure that should
12 occur on lands at the hillside open space.

13 --o0o--

14 CHIEF COUNSEL LUCCHESI: The Trust Agreement also
15 provides for a boundary line agreement for the purposes of
16 fixing the agreed ordinary -- excuse me, the agreed 1869
17 ordinary high water mark within Candlestick Point and to
18 confirm that the Public Trust does not encumber certain
19 lands within the Alice Griffith site. The Trust Agreement
20 also provides for the termination of the existing lease to
21 State Parks and the issuance of a new lease to State Parks
22 for those lands -- on this slide colored in dark gray, for
23 those parcels within the State recreation area.

24 --o0o--

25 CHIEF COUNSEL LUCCHESI: In addition to

1 authorizing a Public Trust exchange, SB 792 authorizes a
2 reconfiguration of the Candlestick Point State Recreation
3 Area. Pursuant to the proposed transfer agreement, State
4 Parks, the Commission, and the Agency will make certain
5 conveyances to implement the State recreation area
6 reconfiguration. The transfer agreement does not provide
7 for the conveyance of any Trust termination lands. The
8 Commission would only be conveying certain lands to the
9 Agency in Trust.

10 --o0o--

11 CHIEF COUNSEL LUCCHESI: Specifically, the
12 transfer agreement provides for the phased conveyance by
13 the Commission of portions of the site identified in this
14 slide, and the phased conveyance by State Parks of certain
15 lands to the Agency in exchange for \$50 million in
16 improvements.

17 It's kind of hard to see, but the lands that
18 State Lands -- the Commission will be conveying to the
19 Agency in Trust are highlighted in dark gray. And those
20 light gray areas are what -- excuse me -- are what the
21 State Parks is going to be conveying to the Agency in
22 exchange for the \$50 million in improvements.

23 In addition to meeting all the legal elements
24 required by SB 792, Commission staff believes that both
25 agreements are in the best interests of the State for a

1 authorize its execution.

2 That concludes my presentation, and I'm available
3 for any questions.

4 CHAIRPERSON NEWSOM: Thank you, Ms. Lucchesi.
5 Thank you for your work on this. And I have so much that
6 I can say and add, having spent --

7 (Laughter.)

8 CHAIRPERSON NEWSOM: -- literally 17 years of my
9 life on this. But if there's no comments from the
10 Commission at this point, I'd first just open up to public
11 comment to the extent people are here to speak on this
12 item. And then I'll -- after listening, as I have
13 patiently to hundreds -- in hundreds of hearings to people
14 on this make my comments known.

15 Is there anyone here? This is -- okay. Look it.
16 Oh, there we go. You're all here. A lot of familiar
17 faces. I didn't see you all in the back.

18 Linda, come on up.

19 Ms. Richardson, if you could state your name.
20 And everybody -- yeah, if we've got -- you guys have --
21 did you all fill out forms?

22 Oh, you did. Okay. Good. Well, we'll just make
23 this up as we go.

24 Ms. Richardson

25 MS. RICHARDSON: Good afternoon to the Honorable

1 Lieutenant Governor of California, Gavin Newsom, to
2 distinguished Commissioners and staff members. My name is
3 Linda Richardson. And I am here today as the Project Area
4 Committee Bayview-Hunters Point. And as the chair of the
5 Land Use Committee, we have spent decades working with the
6 San Francisco Redevelopment Agency and all the city
7 agencies of San Francisco for the development of the
8 shipyard, you know, development project, working with the
9 San Francisco Redevelopment Agency, to us, one of the
10 finest redevelopment agencies in the State of California.

11 This project helped us to facilitate the
12 development of Phase 2 of the shipyard, you know, project.
13 And as your staff mentioned before, we are talking of an
14 area that is dilapidated, that needs to have
15 revitalization. And this is a public-private partnership.
16 And this is one of the signature projects, not only in the
17 State of California, but I would say in the country.

18 Here you have a settled Trust Agreement that
19 would enable \$50 million to be spent on the Candlestick
20 Point Recreation Area, an area right now that has limited
21 access and one of the most environmentally sensitive in
22 the country. I think what you have is a win-win
23 situation.

24 When the Candlestick project is developed, we are
25 going to be having a state of the art facility for the

1 environment, and we'll also help to revitalize the economy
2 of Bayview-Hunters Point for the southeast sector of
3 California.

4 Listen, you have here a jewel project. And we
5 please urge your approval of the staff resolution. I
6 think this is a win-win situation.

7 And while we're here, we'd like to let you know
8 that the San Francisco Redevelopment Agency is a jewel in
9 the state in California. And we know that we wanted to
10 urge a continuance of that agency because of the
11 successful projects in enhancing people's lives. And this
12 is one such project. So thank for your time here.

13 Thank you.

14 CHAIRPERSON NEWSOM: Thanks. The next commenter.
15 How are you doing?

16 It doesn't matter what I'm saying. It matters
17 what you're about to say.

18 Go on.

19 REVEREND BANKS: Good afternoon, Chair. It is
20 good to see you all, and Committee members. I don't know
21 what possessed me to get behind Linda. I feel like a bad
22 commercial at the end of a good movie.

23 (Laughter.)

24 REVEREND BANKS: But I'm here in support of this
25 exchange agreement. Being apart of the Project Area

1 Committee -- my name is once again Gary Banks. I'm a
2 Pastor at the Marketplace Fellowship Church in San
3 Francisco, and also the founder of the family restoration
4 house, which is a nonprofit organization in the
5 Bayview-Hunters Point community.

6 And I sit on the -- I'm a co-chair of the
7 Economic and Housing Committee for the PAC. And we've --
8 this has been a long and tedious process. I've been apart
9 of this for the last 10 years. And this project has also
10 been highly vetted by every committee. We've had hundreds
11 of community meetings, and workshops, as well as support
12 from the Board of Supervisors, and the Project Area
13 Committee and the CAC committee as well.

14 And also the voters of San Francisco voted for
15 this under Proposition G, which was hosted at my church.
16 Ha-ha.

17 (Laughter.)

18 REVEREND BANKS: But we're excited about what's
19 going on. And also there are many benefits that's going
20 to take place through this project. We have over \$83
21 million of community benefits. Looking at over 10,000
22 housing structures going up with a high percentage of
23 homes for low income families, and also job opportunities.

24 And it's just going to be an incredible project
25 for the City of San Francisco. So we urge that you

1 support this project. This is the stepping stone in
2 getting us moving in the right direction.

3 Thank you very much.

4 CHAIRPERSON NEWSOM: Thank you, Pastor.

5 MR. NORMAN: Mr. Chairman, Committee members, Al
6 Norman, Bayview Merchants Association. And we're coming
7 to you before today -- and I guess you see that we have a
8 good cross section of our community.

9 And like Ms. Richardson said, we came, and it was
10 redevelopment. A lot of people are critical of
11 redevelopment. Redevelopment this and redevelopment that.
12 But we asked redevelopment to come back in our
13 neighborhood, because we had been a long, neglected part
14 of San Francisco. And redevelopment was the vehicle they
15 choose to increase our economic opportunities within our
16 community to become a significant part of San Francisco,
17 for which we had been denied.

18 We came out here, war families from the forties
19 and the fifties. Our mothers and fathers and grandfathers
20 worked at the shipyard. The shipyard closed. Economic
21 development, the slaughter houses, all the different
22 things that brought our parents and our grandparents out
23 here from the south. And so we were the first and second
24 generation of these migrant workers coming out here to
25 work in the shipyards and work in the slaughter houses and

1 do all the things.

2 And then when the shipyard closed, it was a big
3 depressed area in the Bayview-Hunters Point area. And as
4 you'll hear from Al Walker and many of the other people
5 who came up here with me today, this was the very thing
6 that we needed to revitalize our community and to help
7 provide the long needed business opportunities, employment
8 opportunities, and all the opportunities that are afforded
9 other folks everywhere else that we choose to bring to our
10 community.

11 They wanted to come out there and we wanted them
12 out there. We wanted to learn more out there doing the
13 things that they're doing. And everything we could do to
14 help them to help us create an opportunity for our --
15 we've done. And we just want to continue the legacy that
16 your Lieutenant Governor provided us the opportunity to
17 have in providing for our families, and pulling ourselves
18 up by our own bootstraps without having to depend on a
19 bunch of other people.

20 And the way the politics is going in this State
21 now, you all ought to afford us every opportunity to help
22 ourselves, because we're not getting very much from anyone
23 else.

24 Thank you so much.

25 (Laughter.)

1 CHAIRPERSON NEWSOM: Thank you, Mr. Norman.
2 Things I can't say, he just did.

3 (Laughter.)

4 CHAIRPERSON NEWSOM: How are you?

5 DR. HUNNICUTT: It's good to see you, Lieutenant
6 Governor --

7 CHAIRPERSON NEWSOM: Good to see you.

8 DR. HUNNICUTT: -- and Commissioners. Good
9 afternoon. My name is Dr. Veronica Hunnicutt. And I am
10 the chair of the Hunters Point Shipyard Citizens Advisory
11 Committee, 1 of 2 community oversight bodies who have been
12 working with the city, with the community, and with the
13 State in developing plans for the revitalization of the
14 shipyard and Candlestick Point.

15 And I am here today to urge you, not only on my
16 behalf, but on behalf of the members of the citizens
17 advisory committee, we are urging you to support -- we
18 would like to urge you to support this particular matter
19 before you.

20 The citizens advisory committee has been
21 participating in the planning efforts for this project for
22 more than a decade. And some of our original folks are
23 still with us today. I think we're down to 2. We've had
24 to -- when the Lieutenant Governor was mayor, he was kind
25 enough to appoint me to the committee and other

1 individuals as well. And we have continued the legacy
2 that these other folks who were with this project for so
3 long a period of time, we've continued their legacy and
4 are pushing very hard to make sure that everything is
5 completed.

6 And we are excited that the project secured final
7 entitlements from the city last summer. The
8 Bayview-Hunters Point community has historically lacked
9 access to basic resources, such as adequate open space,
10 affordable housing, retail stores, even grocery stores,
11 reliable transportation and economic development
12 opportunities.

13 Now, I have been within the community in a number
14 of contexts. One of the roles that I presently held was
15 as Dean of the Southeast Campus for City College of San
16 Francisco. So I'm very familiar with the area, because
17 the students would come into me and they would tell me
18 about what they didn't have within the community and how
19 difficult it was for them to take care of their basic
20 needs. So that's another way in which I am delighted
21 about what is happening now, in terms of getting the
22 community together.

23 This project will go a long way to addressing
24 these issues in the community with the creation of
25 thousands of units of affordable housing, hundreds of

1 acres of new and restored open space, millions of dollars
2 of investment in new transportation improvements, and very
3 importantly the rebuild of the dilapidated Alice Griffith
4 Public Housing site.

5 Besides the existing State park, there's
6 virtually no public access to the shoreline along the
7 community. This project will create a world class system
8 of interconnected waterfront parks which will bring
9 residents directly to the shoreline.

10 And additionally, the project will invest
11 millions of dollars to finish the buildout of the State
12 park and provide a dedicated revenue source for operations
13 and maintenance of the park, so we do not need to face
14 closures due to the State's limited budget.

15 Again, the citizens advisory committee for the
16 shipyard endorsed the project and associated agreements
17 last year. And I would urgently urge your support for the
18 revitalization of the Bayview-Hunters Point Area by
19 approving these agreements.

20 Thank you very much.

21 CHAIRPERSON NEWSOM: Thank you, Ms. Hunnicutt.

22 Thank you.

23 Next speaker, please.

24 Good afternoon

25 MS. KENT: Hello. My name is Roanae Kent. And

1 on behalf of the residents of Alice Griffith, I urge your
2 support for these agreements. The residents of Alice
3 Griffith has been engaged in the planning process for the
4 development of the shipyard and Candlestick Point for
5 years. We are excited about the project because it has
6 prioritized the rebuild of Alice Griffith and will ensure
7 that the existing residents will be able to move directly
8 into new units without having to be relocated temporarily
9 off site.

10 As an immediate neighbor of the State parks, I am
11 supportive of the project plans to invest millions of
12 dollars in improvements. Currently, the park is
13 underutilized, and with the investment, it can become a
14 regional resource for residents of Alice Griffith and
15 others to enjoy.

16 The agreements are necessary to move Alice
17 Griffith and the Bayview forward and will provide new
18 affordable housing units, jobs, economic development
19 opportunities for residents. I urge your approval of
20 these agreements.

21 Thank you.

22 CHAIRPERSON NEWSOM: Thank you very much, Ms.
23 Kent.

24 Reverend Walker.

25 REVEREND WALKER: To the distinguished and

1 Honorable Chair, Lieutenant Governor, Gavin Newsom, used
2 to be my mayor, and I still accept him as my mayor.

3 CHAIRPERSON NEWSOM: God Bless.

4 REVEREND WALKER: To the Honorable Chairpersons
5 that are here, it gives me great pleasure as well as --
6 pleasure and privilege to be able to come to Sacramento
7 and speak concerning this issue.

8 And I believe I heard that the staff recommended
9 the approval of this project. I thought I heard that.
10 And I appreciate the staff.

11 What really got my attention -- and the Chair was
12 correct, I mean hundreds of meetings in the community and
13 the neighborhood. And you heard talk about the voting.
14 Incidentally, I do Pastor a church in Bayview-Hunters
15 Point. I serve as chair of the African-American
16 Revitalization Consortium. It is a committee that is
17 concerned about to help implementing and help getting this
18 project approved. Also, the Tabernacle Community
19 Development Corporation, about five churches in the city,
20 we are nonprofit developers within the area. And I
21 represent them today in support, and we highly appreciate
22 it.

23 Again, when I saw the staff presenting all
24 those -- all of the visual aids that have been presented
25 here this afternoon, that was the most magnificent

1 audio-visual aids as you looked at the layout of the
2 shipyard and the development.

3 Incidentally, there will be 10,500 units of
4 housing that will be built. Thirty-two percent of those
5 housing will be affordable and my mayor made sure that
6 that would happen. Ten thousand permanent jobs, as well
7 as construction jobs and all of that.

8 And the land use of the State park -- I walk that
9 park 4 days a week. And I just celebrated my 80th
10 birthday. And I've developed, what I call, the 8-0 Club.
11 And I'd like to invite the mayor to join my club and many
12 of the Commissioners to join my club.

13 (Laughter.)

14 CHAIRPERSON NEWSOM: I hope I make it.

15 REVEREND WALKER: And unfortunately, I can't get
16 too many people to join my club because you have to be 80
17 years old to do that.

18 But it's a beautiful area, the park -- the area I
19 walk. I mean, it's not going to be a bother. All that's
20 going to continue. But the other area that we're talking
21 about, the 23 acres I believe it is, it's just a parking
22 lot for the 49ers for all of these years. But now it will
23 be utilized to help beautify.

24 And the last comment I'd like to make is that so
25 many times we talk about the poor area there, but this

1 project will be the economical engine that will drive the
2 positiveness in all areas of the city.

3 So thank you very much. And I appreciate the
4 staff, and I believe you're going to go along with the
5 staff recommendation.

6 Thank you.

7 CHAIRPERSON NEWSOM: Thank you.

8 Any additional public comment?

9 Anyone here -- anyone else here to speak -- thank
10 you -- on this item?

11 MS. BOHEE: Good afternoon, Mr. Chair,
12 Commissioners. Tiffany Bohee with the San Francisco
13 Mayor's Office of Economic and Workforce Development.

14 The City's plan to revitalize the former Hunters
15 Point Naval Shipyard and Candlestick Point areas is one of
16 the most important development projects in the city's
17 history, due to the scope and scale of the public benefits
18 that it will deliver to the city and the state as a whole.

19 After years of planning work, as you heard, and
20 personally experienced many of you, and with the
21 overwhelming support of San Francisco voters, the city
22 approved all necessary land-use entitlements for the
23 project last summer, including authorization to execute
24 these agreements.

25 The development plans call for building well over

1 10,000 housing units with 32 percent of those housing
2 units set aside as below market rates, including the
3 complete rebuild of the Alice Griffith Public Housing
4 site.

5 In addition, the project will generate millions
6 of square feet of much needed retail and commercial uses,
7 including what will be a major center for clean and green
8 technologies.

9 As you heard, at full buildout, the project will
10 create over 10,000 permanent jobs, thousands of ongoing
11 construction jobs, and the project will invest over a
12 billion dollars in new transit and sustainable
13 infrastructure improvements.

14 As you saw from the images in the staff
15 presentation, what exists at these sites today provide
16 little benefit to the public or the Public Trust.
17 Importantly for State Lands, following the exchange, the
18 entire waterfront shoreline spanning the length of the
19 shipyard and Candlestick Point all the way to the county
20 line as well as other lands will be subject to the Public
21 Trust.

22 For State Parks, this project will provide
23 tremendous benefits. State Parks will receive, as you
24 heard, \$50 million in consideration for park improvements,
25 funding for operation and maintenance at Candlestick, as

1 well as land for enhanced access at the shoreline.

2 In our current economic climate of constrained
3 resources, by utilizing a true public-private partnership,
4 the project, along with these agreements, will cause tens
5 of millions of dollars of public open space, habitat
6 investments, and public access improvements all at no cost
7 to the State or the city's general fund.

8 Lastly, we'd like to thank the diligent work and
9 efforts of the staff of the Commission and State Parks.
10 We look forward to implementing this project in
11 partnership with the State.

12 Thank you for your time and consideration.

13 CHAIRPERSON NEWSOM: Thank you very much.

14 Additional public comment?

15 Anyone else that wishes to speak, if you can line
16 up, and grateful for the testimony so far.

17 MR. HERMS: Commissioner Newsom, other
18 Commissioners, the public, my name is Bill Herms. I'm the
19 Deputy Director for California State Parks. You have
20 heard a great deal about the benefits that California
21 State Parks will receive from these agreements. We are
22 extremely excited about this project.

23 And I did want to take a few moments also to
24 thank the staff of the current mayor and the former mayor
25 of San Francisco who have worked tirelessly for years to

1 bring this project before this Commission, as well as the
2 attorneys from the Attorney General's office, the State
3 Parks staff. This has been a very large team that has
4 worked extremely well together.

5 I would like to thank Jennifer Lucchesi and
6 Curtis Fossum for the cooperative nature that State Parks
7 and State Lands came together to solve some extremely
8 difficult problems. This is a very large project, as you
9 well know, with a lot of moving parts. And without that
10 spirit of cooperation, it would have taken us a lot longer
11 and been a lot more difficult. And I want to thank them
12 and everybody who was involved.

13 As you've heard, State Parks will receive \$50
14 million as a result of the approval of these agreements,
15 \$10 million for operations and maintenance of the park and
16 an additional \$40 million to renovate what is currently an
17 underutilized park. So we are very excited about the fact
18 to bring this park to a level where it will be a world
19 class park, not just for the people of the State of
20 California and the people of the Bay Area, but most
21 notably for the people of Hunters Point and the local
22 community that we have longed to serve. And we are very
23 excited about having the opportunity to do that in the
24 future.

25 I'm available for additional comments.

1 I did want to mention that in your packet you
2 also have a letter from Director Ruth Coleman explaining
3 that she has executed her duties under SB 792, and is
4 prepared to execute this agreement should the Commission
5 approve. And we wholeheartedly request your support for
6 this item and this project.

7 Thank you.

8 CHAIRPERSON NEWSOM: Thanks for all your help and
9 support. Anyone else that wishes to speak on this item?

10 Seeing none, we'll close public comment.

11 Let me thank everybody that took the time to get
12 up here to speak. I'm grateful for that. And I
13 understand the commute as well or better than anybody. So
14 I know what you're about to get in for when you go back
15 home, so I'll try to get you out of here as quickly as I
16 can.

17 I just want to make a few comments. You know,
18 you look back -- and I'm not in the nostalgic phase of my
19 life necessarily, but -- I hope not. But, you know, 7
20 years as the Mayor of San Francisco and about 7 plus years
21 as a city supervisor, and one of the things that we were
22 most vexed with, one of the things we remain -- which
23 remains vexing and things we struggle with in San
24 Francisco is dealing with the issue of income and
25 equality, dealing with the issue of concentrated poverty,

1 and dealing with the issue of Environmental Justice.

2 And these issues remain quite acute and visible
3 in the southeast sector of our city. There's
4 extraordinary things that are going on and extraordinary
5 leaders, and you heard from a number of them that are here
6 today, that have always given us an ember of hope that we
7 can once again, and I say once again, bring back to life
8 the energy of this community, because that life was taken
9 out when the Navy pulled out of the area. Made a lot of
10 promises, and never necessarily -- and it's not an
11 attack -- but never necessarily followed through on a lot
12 of their promises and commitments.

13 So we've been working for years and years, and
14 this goes back to many administrations, supervisors have
15 come and gone, mayors that have come and gone, but the one
16 constant is the community. And the one constant are the
17 people that said we can do more and we can do better. And
18 I just want to applaud their diligence, their tenacity,
19 their commitment, because this is an area of our State
20 where we have prostate cancer rates, cervical cancer
21 rates, breast cancer rates that are 2 to 4 times the State
22 and federal average.

23 This is part of the State of California where
24 just a few years ago you had 2 of the most polluting
25 powerplants in the country, not just in our State.

1 Because of their work, we shut down the Bayview-Hunters
2 Point plant, and we've torn it down. And because of their
3 work, we just shut down in January one of the last big
4 items on my agenda as mayor, the Mirant Plant, because of
5 the good leadership of ISO, but more importantly because
6 of the community.

7 And here we are now having done that, where we
8 have now a foundation because of Leader Pelosi's support
9 on remediation dollars, because of Dianne Feinstein's
10 incredible leadership on remediation dollars, hundreds of
11 millions of dollars we've drawn down from the federal
12 government, more than all the other shipyards in America
13 combined. Not something I was supposed to say as mayor,
14 but I can say that as Lieutenant Governor.

15 Nice to know the Speaker of the House, nice to
16 know a Senior Senator that was your former mayor. And we
17 got the voters to support a new vision. We got an
18 environmental review done. We got 2 boards of
19 supervisors -- and trust me, you think it's tough up here
20 in Sacramento. I know the tone and tenor has changed now.
21 Everyone loves everybody since I've gone.

22 (Laughter.)

23 CHAIRPERSON NEWSOM: But that may just be
24 momentary. But that was difficult. And a lot of battles,
25 a lot of scars. But to revitalize a public housing site

1 that's the only gated public housing site in San
2 Francisco. And why do you gate public housing? It's
3 because it was so dangerous. It was so war torn,
4 literally, that the community said enough. And they
5 wanted to get themselves off from the surrounding
6 community.

7 To revitalize that, to bring back to life this
8 community of 2 million square feet of R&D space for green
9 tech, and what a symbolism that is, the older economy to
10 the new economy, 700,000 square feet of retail, the 10,500
11 housing units you heard, the 32 percent that will be
12 affordable, the workforce training commitments from the
13 developer, the commitments we've made to local hire, the
14 commitments we've made to ongoing jobs, not just the
15 construction jobs. But the area that's in front of us is
16 the area of open space and parks.

17 And, you know, it's amazing. You go to parts of
18 Bayview, but a few hundred yards from what you just saw
19 and people have never been down on the bayfront. They
20 live right there. They just see it. They never actually
21 experience it. And it's difficult to navigate. And you
22 saw some of those photos, and it's a disgrace.

23 And so we had to fight and supervisor -- former
24 Supervisor Leno who became Assemblymen Leno, now Senator
25 Leno led the charge on SB 792. And, you know, that was a

1 struggle, but we keep fighting for those that just sort of
2 argue for a status quo that is perplexing to some,
3 concerned or scared about change. But these guys are the
4 leaders that promoted change, but delivered it, and not
5 just as a slogan, but they manifested it. And this is
6 part of that. And we're just right at the edge now where
7 this can be made real and we can get to work.

8 And this is one of the last big things. And so
9 how fortuitous it is for me personally just to bookmark
10 and all these things from my years as supervisor, mayor,
11 and now on the State Lands, that I can urge my colleagues
12 to support this, and to support the outstanding work of
13 the staff and Ms. Lucchesi, the State Parks staff, and
14 others that have really stewarded this through, asked
15 tough questions, because none of this is easy and none of
16 this is self evident or obvious. This is a complicated
17 Trust transfer and deal. And they did it with
18 extraordinary alacrity and I'm grateful for that. And I'm
19 grateful that all of you are here to hear me out, because
20 I'm very passionate about this and very proud of what is
21 about to happen in this community.

22 Any comments?

23 ACTING COMMISSIONER FINN: Well, I'll just add
24 something a little bit. As you know, our newest Governor
25 has decided -- or has a proposal out to eliminate

1 redevelopment agencies of which this has a very
2 significant role in it. But I think you've also heard him
3 say that his intention was never to undue or disrupt any
4 significant projects that were, you know, under contract,
5 underway.

6 And so I'm here also to add our support of the
7 project and acknowledge that this is exactly what the
8 redevelopment has been used for and is a good project. So
9 we'll be adding our support.

10 CHAIRPERSON NEWSOM: Thank you.

11 (Applause.)

12 CHAIRPERSON NEWSOM: They all like hearing that.

13 (Laughter.)

14 ACTING COMMISSIONER ARONBERG: I just wanted to
15 thank everyone who came here from San Francisco, the long
16 drive to tell us about, you know, what is, I guess, close
17 to the consummation of this wonderful, wonderful project.
18 So we're going to be happy to support it.

19 CHAIRPERSON NEWSOM: Thirty plus years.

20 (Applause.)

21 EXECUTIVE OFFICER FOSSUM: If I may, Mr. Chair.
22 I'd also like to reflect that your staff has been working
23 for a number -- your staff, meaning the Commission --

24 (Laughter.)

25 EXECUTIVE OFFICER FOSSUM: -- has been working

1 for a number of years on this project, and with
2 representatives of the City and State Parks. And they all
3 worked very hard on this. But I'd like to especially call
4 out Jennifer and Joe Rusconi who have worked on this for
5 the Attorney General's office diligently for so many
6 hours, so many days, months, years. And Mike Bell, our
7 boundary officer, who, on a number of occasions, I've gone
8 into the office on a weekend or even on a State holiday or
9 late at night and he was trying to help complete this
10 transaction. So I wanted to especially mention those
11 staff members.

12 CHAIRPERSON NEWSOM: Thank you, Mr. Bell. Thank
13 you, Joe. Thank you.

14 Well, thank you. Is there a -- well, is there a
15 motion to approve?

16 ACTING COMMISSIONER ARONBERG: So moved.

17 CHAIRPERSON NEWSOM: Seconded?

18 ACTING COMMISSIONER FINN: Second.

19 CHAIRPERSON NEWSOM: Without objection, we'll
20 move this item.

21 Thank you very much.

22 EXECUTIVE OFFICER FOSSUM: At this time, Mr.
23 Chair, I'd like to -- we have one last item to bring back
24 before the Commission a resolution, but I'd like to --

25 CHAIRPERSON NEWSOM: Oh, we voted, that was

1 unanimous. See how quick we move.

2 (Applause.)

3 CHAIRPERSON NEWSOM: Not like those other
4 committees.

5 (Laughter.)

6 CHAIRPERSON NEWSOM: Thank you all very much.
7 Sorry for the delay.

8 ASSISTANT CHIEF COUNSEL FOSSUM: I'd like to ask
9 your diligence in maybe going into closed session at this
10 time and then we'll come back into public session for that
11 last resolution, number 73.

12 CHAIRPERSON NEWSOM: Good. Can we --

13 EXECUTIVE OFFICER FOSSUM: So if we could clear
14 the room until we come back into open session.

15 (Thereupon the Commission recessed into
16 closed session at 4:05 p.m.)

17 (Thereupon the Commission reconvened in
18 open session at 4:24 p.m.)

19 CHAIRPERSON NEWSOM: All right. We're back from
20 closed session. And I want to thank everyone for their
21 patience, any of you that waited outside for those
22 deliberations to conclude.

23 I wanted to take a moment and just quickly go
24 back to Item number 62, which was addressed at the Consent
25 Calendar. And my Chief of Staff, Chris Garland is here.

1 And, Chris, you were sitting in this chair when we
2 deliberated, and this body moved that item forward on the
3 Consent Calendar. There have been some subsequent
4 conversations. Perhaps you can illuminate us to what they
5 were.

6 MR. GARLAND: Absolutely. First, let me
7 apologize to the other Commissioners. This is absolutely
8 my fault. I was at -- should have pulled C62 at the
9 Lieutenant Governor's direction and did not.

10 Subsequently, we've spoken to counsel and thank
11 them very much, both the in-house counsel and the Attorney
12 General's office. And we've spoken to Chris Garner at the
13 Long Beach City Council -- Long Beach Oil and Gas
14 Department. He's the director. And with his consent, it
15 was agreed that we would pull Item C62 for future
16 consideration inside the 45-day timeline and at a special
17 meeting of this body.

18 CHAIRPERSON NEWSOM: Joe, do you want to add to
19 that, amplify?

20 DEPUTY ATTORNEY GENERAL RUSCONI: Yeah. I think
21 that characterizes it. Although, I would say that what
22 they agreed to was a --

23 CHAIRPERSON NEWSOM: To rescind.

24 DEPUTY ATTORNEY GENERAL RUSCONI: Yes, a
25 rescission or that the approval is voided and that it will

1 be revisited completely within that 45-day statutory
2 period.

3 CHAIRPERSON NEWSOM: Where it will be publicly
4 noticed and people have a chance to discuss it.

5 DEPUTY ATTORNEY GENERAL RUSCONI: Correct.

6 EXECUTIVE OFFICER FOSSUM: I would just like to
7 make sure that the Commission is unified in that approach.

8 ACTING COMMISSIONER FINN: Yes. Just after
9 concurrence that you've talked to the city and they're
10 okay and it will be reheard at another publicly noticed
11 meeting.

12 EXECUTIVE OFFICER FOSSUM: Thank you.

13 CHAIRPERSON NEWSOM: And let me thank the city
14 for their willingness to do that under these
15 circumstances. And I'm grateful to both of you for
16 indulging me and giving me an opportunity. This is -- I'm
17 not -- this is not -- there's nothing except this, I need
18 more time to understand the nuances and the details of
19 this item. And candidly, I start -- the more I learn, the
20 more I realize I had a lot more to learn before I feel
21 comfortable making a recommendation or actually voting on
22 it, so I appreciate your indulgence.

23 Thank you, Mr. Garland.

24 There's one other item on the agenda.

25 EXECUTIVE OFFICER FOSSUM: Yes. Item 73 is a

1 resolution -- proposed resolution by the -- is it 73?

2 Yes, proposed resolution opposing legislation.

3 And Jennifer DeLeon is going to present that for
4 us.

5 CHAIRPERSON NEWSOM: Thank you, Ms. DeLeon.

6 SENIOR ENVIRONMENTAL SCIENTIST DeLEON: Thank
7 you, Commissioners. Thank you so much. Item 73 was the
8 4th of 4 that we've asked the Commissioners to take action
9 on today.

10 This is a request that the Commission oppose
11 Senate Bill 876. This bill would mandate a lease term of
12 99 years for private shoreline protection structures, that
13 would be for the use of private parties. And it would
14 limit the Commission from doing rent reviews or setting
15 rent at what they feel is appropriate, and would instead
16 tie the rent adjustment to the Consumer Price Index.

17 This conflicts with our current authority to
18 grant private property owners the right to build and
19 maintain such structures, as long as they don't
20 unreasonably interfere with the uses and purposes reserved
21 to the people of the State. We also have the authority to
22 set appropriate rent.

23 The reason we are requesting your opposition to
24 this bill is because we feel it limits the authority of
25 the Commission to set a reasonable lease term, which

1 currently we do not -- do in excess of 49 years. And this
2 would mandate a 99-year lease term. It also limits our
3 ability to adjust rent. In the current language of the
4 bill, the number of times that the rent could be adjusted
5 is left blank. It says only once every blank number of
6 years and only to the Consumer Price Index.

7 We feel that that does not bear any relationship
8 to real estate values, but instead is tied to consumer
9 goods and services, and is therefore an inappropriate
10 indicator.

11 Thank you.

12 CHAIRPERSON NEWSOM: Yeah, thank you.

13 Comments?

14 ACTING COMMISSIONER ARONBERG: No. If there's no
15 public comment, I'm happy to move staff's recommendation.

16 CHAIRPERSON NEWSOM: Good. Is there any public
17 comment? Anyone wish to speak on this item?

18 Seeing none, we'll close public comment.

19 There have been tough choices and then there are
20 easy choices. This one is the latter, not the former.

21 Any comments?

22 ACTING COMMISSIONER FINN: No. But as the
23 Director of Finance, we'll abstain on supporting --

24 CHAIRPERSON NEWSOM: As you should. Well done.

25 ACTING COMMISSIONER FINN: -- this piece of

1 legislation right now. Thank you.

2 CHAIRPERSON NEWSOM: Well done. I would do the
3 same. See what happens in the process.

4 Well, that leaves you and me.

5 ACTING COMMISSIONER ARONBERG: So I will move it.

6 CHAIRPERSON NEWSOM: Moved, seconded. Without
7 objection, we will move to oppose that bill.

8 Any other items coming forward today on the
9 agenda?

10 EXECUTIVE OFFICER FOSSUM: No, Mr. Chair, there's
11 not. We do have a -- we had one noticed speaker for the
12 public comment session, but I don't believe that person --
13 I think they notified staff that they were no longer
14 interested.

15 CHAIRPERSON NEWSOM: Good. Is there anyone --
16 did someone wish to speak at this stage and may have not
17 filled out a form. I don't see that. Okay. Very good.
18 Any additional comment?

19 ACTING COMMISSIONER ARONBERG: I hate to belabor
20 the meeting. I have one tiny legislative item to make a
21 comment on. Curtis or Jennifer, can you respond to the
22 Skinner Bill, AB 982. We understand amendments might be
23 on the way, which is great. They'll be more SLC friendly
24 hopefully. It seems like it could be a win-win for, you
25 know, California's teachers, you know, energy, alternative

1 energy, and for us. But can you just address it for a
2 moment?

3 EXECUTIVE OFFICER FOSSUM: Absolutely. Staff
4 submitted a bill analysis to the Resources Agency on this
5 bill. And our position, as the staff, was that we would
6 like to support this bill if it was amended. The bill
7 calls for the Energy Commission and the State Lands
8 Commission to work together to provide expanded
9 opportunities for alternative energy.

10 The concerns that staff have right now is that
11 it -- the way it's drafted, it talks about the Energy
12 Commission actually doing the leasing of the property,
13 State property, as opposed to the Commission. We have not
14 been involved in any detailed communication or
15 conversations with the author's office. We've put out
16 feelers. And we have talked to our former legislative
17 liaison, who is over in the Assembly now, and is going to
18 be working also with Assemblywoman Skinner to see if we
19 can't bring to conclusion a bill that we can support and
20 that makes sense.

21 We think the bigger log jam really in this area
22 of consolidating State properties for alternative energy
23 in the desert is the Bureau of Land Management and the
24 fact that, one, they own most of the land out in the
25 desert where these solar opportunities are. They do own

1 the Commission school lands in the hundreds of thousands
2 of -- over a hundred thousand acres. We'd like to
3 exchange with them and get some opportunities for solar,
4 but they also have a competing program to develop solar
5 power.

6 So it's going to be interesting to see how that
7 works out. We've had programs in the past to consolidate
8 with BLM. In fact, the Governor last year approved a --
9 the Commission approved and the Governor actually executed
10 an agreement that would have brought in \$8 million for the
11 State Teachers' Retirement System for us to buy additional
12 acres that we could use for solar projects or other
13 revenue generating for the State Teachers' Retirement
14 System.

15 And General Accounting Office of the federal
16 government found that BLM had failed to comply with
17 federal law. So even when the State goes through the
18 entire process and spends years on these things, the
19 federal government ends up being a road block.

20 So we hope that this bill can be amended in a way
21 that will help, but we also need support from the State
22 back in Washington D.C. to try and urge cooperation with
23 federal agencies to try and -- because I think everybody
24 realizes alternative energy is what's needed for the
25 nation as well as the state.

1 And so if we can work on a cooperative basis with
2 them, that's going to be the real road to the future on
3 this. So we'll be back to you before too many more
4 months, I would hope, with suggestions in that regard as
5 well.

6 CHAIRPERSON NEWSOM: That's great. Good to hear.
7 Thank you.

8 Is there any other business before the
9 Commission?

10 EXECUTIVE OFFICER FOSSUM: No. You have adopted,
11 also on the Consent Calendar, future meetings for the
12 Commission.

13 CHAIRPERSON NEWSOM: Oh, right, yes. Smart.

14 EXECUTIVE OFFICER FOSSUM: So I'd ask that your
15 staffs try and --

16 CHAIRPERSON NEWSOM: Calendar those. Good idea.

17 EXECUTIVE OFFICER FOSSUM: -- calendar those.
18 But I also will be, as we mentioned, I think the special
19 meeting that we're going to be having now later this
20 month, Kim will be talking to your office just to try and
21 get a date and time that works, and it may be multiple
22 locations, but we'll work on that and get it posted as
23 soon as we can.

24 CHAIRPERSON NEWSOM: Excellent.

25 EXECUTIVE OFFICER FOSSUM: Thank you very much.

1 CHAIRPERSON NEWSOM: Until then, thank you all
2 very much.

3 EXECUTIVE OFFICER FOSSUM: Thank you.

4 (Thereupon the California State Lands Commission
5 meeting adjourned at 4:34 p.m.)

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