

MEETING
STATE OF CALIFORNIA
LANDS COMMISSION

EMPLOYMENT DEVELOPMENT DEPARTMENT
AUDITORIUM
722 CAPITOL MALL
SACRAMENTO, CALIFORNIA

THURSDAY, SEPTEMBER 1, 2011
10:01 A.M.

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

APPEARANCES

COMMISSION MEMBERS

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

Mr. John Chiang, State Controller, also represented by Mr.
Alan Gordon

Ms. Ana J. Matosantos, Director of Finance, represented by
Mr. Pedro Reyes

STAFF

Mr. Curtis Fossum, Executive Officer

Ms. Jennifer Lucchesi, Chief Counsel

Mr. Steve Curran, Petroleum Drilling Engineer

Ms. Nicole Dobroski, Staff Environmental Scientist

Mr. Martin Eskijian, Senior Engineer

Ms. Mary Hays, Public Land Manager

Mr. Kevin Mercier, Acting Chief, Marine Facilities
Division

Ms. Lynn Takata, Environmental Program Manager

ATTORNEY GENERAL

Mr. Joe Rusconi, Deputy Attorney General

ALSO PRESENT

Ms. Cindy Aronberg

Mr. John Berge, Pacific Merchant Shipping Association

Ms. Maurya Falkner

Mr. Stephen Knight, Save the Bay

APPEARANCES CONTINUED

ALSO PRESENT

Mr. Tim Schott, California Association of Port Authorities

Mr. David Snodderly, Bruno's Island Yacht Harbor

Mr. Ade Adesokan, Bruno's Island Yacht Harbor

Mr. Paul Thayer

INDEX

	<u>PAGE</u>
I OPEN SESSION	1
II CONFIRMATION OF MINUTES FOR THE MEETING OF June 23, 2011	1
III EXECUTIVE OFFICER'S REPORT	1
IV CONSENT CALENDAR C01 - C84	36
C14 BRUNO'S ISLAND YACHT HARBOR, INC. (LESSEE): Consider authorization for the staff of the California State Lands Commission to provide notification of default for failure to comply with the terms and conditions of a General Lease - Commercial Use, Lease No. PRC 6855.1; consider authorization for staff of the Commission to terminate said lease; consider authorization for staff of the Commission and/or the Office of the Attorney General to take all legal steps necessary, including litigation, for ejectment, and removal of an existing commercial marina including a bridge and a boat repair facility, located in Seven Mile Slough, adjacent to 1200 W. Brannan Island Road, near the town of Isleton, Sacramento County; and restoration of the land to its natural condition to the satisfaction of the Commission.	37
C75 CALIFORNIA STATE LANDS COMMISSION (PARTY): Request authority for Executive Officer to enter into an agreement to support the development of a monitoring tool to verify vessel compliance with California's performance standards for the discharge of ballast water.	110
V INFORMATIONAL	
85 CALIFORNIA STATE LANDS COMMISSION, WILDHORSE RANCH, INC., CPN WILD HORSE GEOTHERMAL, LLC (PARTIES): Update on file records for one-sixteenth reserved mineral interest parcel, The Geysers Geothermal Field, Sonoma and Lake Counties.	

INDEX CONTINUED

	<u>PAGE</u>
VI REGULAR CALENDAR 86 - 90	
86 CALIFORNIA STATE LANDS COMMISSION (INFORMATIONAL): Staff Report titled, "2011 Update: Ballast Water Treatment Systems for Use in California Waters."	77
87 CALIFORNIA STATE LANDS COMMISSION (INFORMATIONAL): Staff Report on the State Lands Commission's efforts to remediate Oil Leakage in the Summerland Beach Area, Santa Barbara County.	117
88 CALIFORNIA STATE LANDS COMMISSION (INFORMATIONAL): Staff Report on the investigation of port/harbor damage resulting from the Japan earthquake and tsunami of March 11, 2011.	137
89 CALIFORNIA STATE LANDS COMMISSION: Consider a resolution proposed by the Lieutenant Governor acknowledging the 50th anniversary of the Save the Bay organization and commend their services and commitment to protecting and enhancing the resources of San Francisco Bay.	154
90 CALIFORNIA STATE LANDS COMMISSION: Consider a resolution recognizing Peter Douglas, Executive Director of the California Coastal Commission, for his decades of dedication to the California Coast and wishing him a Happy Retirement.	158
VII PUBLIC COMMENT	160
VIII CLOSED SESSION	161
Adjournment	161
Reporter's Certificate	162

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROCEEDINGS

ACTING CHAIRPERSON GARLAND: Good morning, everybody. Are we good?

Excellent.

I guess I have to use this.

I call this meeting of the State Lands Commission to order. All the representatives of the Commission are present. I'm Chris Garland, the Lieutenant Governor's Chief of Staff. And I'm joined today by State Controller John Chiang and the representative of the Department of Finance, Pedro Reyes.

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

The first item of business will be the adoption of the minutes from the Commission's June 23rd meeting. May I have a motion to approve the minutes?

COMMISSIONER CHIANG: So moved.

ACTING COMMISSIONER REYES: Second.

ACTING CHAIRPERSON GARLAND: Moved and seconded. The minutes are unanimously adopted.

Next order of business is the Executive Officer's report. Mr. Fossum, may we have the report.

1 EXECUTIVE OFFICER FOSSUM: Yes, Mr. Chair. Thank
2 you and welcome, Commissioner Chiang, Commissioner Reyes.
3 First, let me say that, in response to the Commissioners'
4 suggestions on being both efficient with our resources and
5 transparent, we've done the following:

6 We've made changes to the accessibility of the
7 agenda items. They're now downloadable to electronic
8 devices. We eliminated over two dozen of the agenda
9 binders since last time. We've notified recipients of all
10 our mailed agendas that they will no longer be receiving
11 the mailed agenda after this year. They'll be available
12 to them, if they request, by Email or on our website.

13 We've also changed the agenda format to make
14 locating the Consent items easier. We've now sorted the
15 items by region, by northern, central, and southern
16 California for our waterways and our school lands in a
17 separate section. We've also included a map for easy
18 reference.

19 We're working on adding accessibility of
20 information on line as requested by Controller Chiang and
21 Lieutenant Governor Newsom as well. We're working with
22 other agencies, the Ocean Protection Council and their
23 Coastal Geospatial Planning Program that is to protect the
24 environment and help wave energy projects proceed. We're
25 also working with DRECP dealing with school lands

1 resources, renewable resources in the desert, such as
2 solar, wind, geothermal, as well as habitat protection.

3 Since I'm discussing some of the activities and
4 progress we've been making, I'd like to highlight a few
5 others. The State Lands Commission, STRS, the Governor,
6 and the United States Department of Energy have signed the
7 Elk Hills settlement to give STRS an additional 15.5
8 million to the already 300 million that we negotiated for
9 them. I would like to thank our Long Beach auditing
10 staff, as well as the Attorney General's office whose
11 diligence made this happen.

12 I'm also pleased to announce that we've just
13 received from the City of San Francisco's Office of
14 Economic and Workforce Development that they've received
15 \$30.5 million, which is half of the \$61 million nationwide
16 that HUD is providing for such projects.

17 This project will -- these funds will help
18 transform the BayView Hunters Point neighborhood. The
19 project includes a three million square foot clean
20 technology hub, 10,000 residential units and over 300
21 acres of new and restored waterfront open space.

22 And if I could, I'd like to read a short thank
23 you that we received from the project manager with the
24 city.

25 Quote, "The land exchange and park

1 reconfiguration agreements with the State Lands
2 Commission and State Parks were absolutely
3 critical to securing this award and setting stage
4 for the revitalization of San Francisco's
5 southeastern waterfront. We'll be moving forward
6 with the initial exchange and park closing sooner
7 than we anticipated. We'll be in touch about
8 timing. Thanks very much to you, State Lands
9 staff, and the Commission, for expediting the
10 consideration of these agreements earlier this
11 year. Those efforts have yielded great results."

12 And so that's just an example of where we've
13 worked with local governments to move projects and help
14 promote jobs in California.

15 The Ocean Protection Council last month also
16 granted \$222,000 to the Commission to update our
17 Geophysical Survey Permit Program. At the meeting, the
18 need for geospatial data and tools was highlighted. There
19 was a panel of experts on marine renewable energy with the
20 State Lands Commission staff participating. And the OPC
21 voted to sponsor an interagency workshop to develop a
22 statewide regulatory guidance document for both test and
23 pilot hydrokinetic energy projects. And the Lieutenant
24 Governor, as the Chairman of the State Lands Commission,
25 supported all of these.

1 We're pleased to announce that Sacramento County
2 has denied expansion of the Mustang Airport, supporting
3 the Commission's position on that matter. We're also
4 pleased to report that more fences are being removed from
5 the lakebed at Lake Tahoe by property owners, and we
6 expect to report that at our next meeting in more detail.

7 The safety audit on Platform Holly is progressing
8 on schedule. And if Assembly Bill 1112 is enacted, we
9 expect the Long Beach unit audit should not be delayed.

10 On our legislative program, I'm happy to announce
11 that we've just posted a notice for a new Legislative
12 Liaison position. It's been six months that that's been
13 vacant. It's been a very difficult year for us to try and
14 keep up with all the legislation without that position,
15 but we're hoping to be able to fill that soon.

16 But on the bright side, Senate Bill 152, Pavley,
17 the Fair Pier Rent Bill is on the Governor's desk. This
18 week the Bee had an editorial that supported this measure.

19 Senate Bill 595, Senator Wolk, Abandoned Vessels,
20 also on the Governor's desk. There were no negative votes
21 in either House on that bill.

22 Assembly Bill, 982, Skinner, the solar energy
23 school lands exchange with the United States. It's going
24 back to concurrence -- for a concurrence vote in the
25 Assembly. Otherwise, it's headed to the Governor's desk.

1 And importantly, Assembly Bill 1112, by
2 Assemblyman Huffman, the OSPAF funding bill for our Oil
3 Spill Prevention Program, it was originally drafted for a
4 \$.03 provision. It's been negotiated down to \$.015 sent
5 amount per barrel. It did not pass on Tuesday. It was a
6 few votes short in the Senate. We expect it may be
7 amended. But if it's not enacted, it will impact our
8 offshore Oil Spill Prevention and Marine Safety Program,
9 and we could lose up to 16 positions dealing with both
10 engineers and inspectors in that program. So we're hoping
11 that does get passed.

12 Your Oil Spill Prevention Program is facing other
13 significant changes, both funding and major staff changes.
14 Two of the staff that have had the greatest impact on that
15 program in protecting the marine environment are retiring.
16 And, at this time, I'd like to take the opportunity to
17 acknowledge those two individuals.

18 First, Martin Eskijian. After 27 years of
19 dedicated service, Martin Eskijian is retiring from
20 service in a couple of months. During his time at the
21 State Lands Commission, Martin has been a huge -- has had
22 a huge contribution in the protection of California's
23 marine environment.

24 As the supervisor for the Engineering Branch, he
25 led the development of the Marine Oil Terminal Engineering

1 and Maintenance Standards, or known as MOTEMS. The
2 10-year project resulted in a code for the design,
3 construction, maintenance, inspection, repair of marine
4 oil terminals. It's the first such code in the world, and
5 is currently being adopted by government entities
6 worldwide.

7 Following the 1994 Northridge earthquake, FEMA
8 funds, under Hazard Mitigation Grant Programs,
9 supplemented with the State contributions, provided for
10 the development of MOTEMS. So far 40 terminals from
11 Eureka to San Diego have submitted their initial audits.
12 This is also -- excuse me. This has included inspections,
13 seismic analysis upgrades, geotechnical studies, mooring
14 berthing analysis, pipeline reviews, mechanical,
15 electrical, and fire suppression design modifications.
16 Many terminals have begun extensive seismic rehabilitation
17 and/or mooring berthing improvements to meet the
18 requirements of MOTEMS.

19 Martin started his career at the State Lands
20 Commission as a Reservoir Engineer in the Mineral
21 Resources Management Division. He was instrumental in
22 beginning a requalification program for California's
23 offshore platforms. And all, but one, were seismically
24 qualified. Martin joined the Marine Facilities Division
25 in 1994.

1 In addition to his work at State Lands, Martin
2 has participated in seismic damage assessments surveys in
3 many countries, and has taught graduate classes at the
4 University of Southern California and the University of
5 California, San Diego on the subject of marine structures.

6 In 1998, he won the Professional Achievement
7 Award for Professional Engineers in California Government.
8 And most recently, he won the 2001 C. Martin Duke award
9 from the American Society of Civil Engineers.

10 Mr. Eskijian is a U.S. alternate to the Permanent
11 International Association of Navigation Congresses
12 Committee tasked to develop standards for marine oil
13 terminals worldwide.

14 Martin has created groundbreaking programs that
15 have been adopted worldwide. His keen insight and the
16 ability to take complex engineering topics and explain
17 them clearly to non-engineering staff, such as myself,
18 will be greatly missed at the Commission.

19 And I'd like to have Martin step forward and
20 receive a plaque. And I'd like to also introduce his
21 wife, Effie.

22 Martin.

23 As is a tradition for long-serving State Lands
24 Employees, the staff comes up with a plaque and has
25 signatures from many of the staff provided to them. And

1 we'd like to do that, Martin, today.

2 Martin, we wish you all the best in your
3 endeavors in the future and thank you for all your
4 contributions in protecting California's waterways.

5 You'll be missed.

6 Thanks very much.

7 (Applause.)

8 COMMISSIONER CHIANG: Mr. Chairman?

9 EXECUTIVE OFFICER FOSSUM: And as I said, we
10 have -- go ahead.

11 ACTING CHAIRPERSON GARLAND: Yes, Mr. Controller.

12 COMMISSIONER CHIANG: May I say something?

13 EXECUTIVE OFFICER FOSSUM: Yes, please.

14 COMMISSIONER CHIANG: Martin, thank you for your
15 incredibly distinguished service. You have been a gem to
16 this agency and we are very, very proud of you. We hope
17 the next journey in life is as successful as the one you
18 have made for all of us.

19 SENIOR ENGINEER ESKIJIAN: Thank you very much.

20 (Applause.)

21 EXECUTIVE OFFICER FOSSUM: I would like to add
22 that he's become known as the father of MOTEMS. And I
23 don't think once you're a father that ever ends.

24 (Laughter.)

25 EXECUTIVE OFFICER FOSSUM: Our second loss that I

1 have to announce today is Maurya Falkner. Maurya has
2 dedicated 15 years of outstanding service to the
3 Commission's Marine Facilities Division and to protection
4 to California's marine and estuarine environment. During
5 her tenure as the Program Manager for the Commission's
6 Ballast Water Program, Maurya guided the program from its
7 paper beginnings as the 1999 Ballast Water Control of
8 Non-Indigenous Species Act to one recognized worldwide for
9 leading the protection against the unintentional release
10 of non-indigenous species from ships.

11 In 1999, Maurya was the Ballast Water Program's
12 only dedicated staff, and launched the program from
13 scratch. Over time, the program staff and its
14 responsibilities grew, as Maurya developed the program in
15 concert with State and federal agencies and the maritime
16 industry.

17 She developed and implemented a statewide ballast
18 water inspection and monitoring program, including a
19 database which tracks 10,000 to 16,000 vessel arrivals
20 each year. Through collaboration and partnership
21 building, the Marine Invasive Species Program today is
22 recognized internationally as the leader in the field. As
23 a result, Maurya has been asked to share her expertise
24 throughout the world. She's been asked to testify before
25 the United States Congress. She's a member of the Western

1 Regional Aquatic Nuisance Species Taskforce, the Pacific
2 Coast Ballast Project, and advisor to the North Sea
3 Ballast Water Opportunity Project.

4 Maurya's steady leadership, razor-sharp mind, and
5 collaborative hand will be greatly missed at the Marine
6 Invasive Species Program at the Commission.

7 We wish her safe adventures, big fish, and even
8 bigger jumps on the many happy trails as she rides into
9 retirement.

10 Maurya.

11 (Applause.)

12 EXECUTIVE OFFICER FOSSUM: And I have to
13 introduce her spouse as well John Freckman who's taking
14 the picture, is a former State Lands employee too, who's
15 been a retired annuitant for the last few years for the
16 Commission. Congratulations, Maurya. I hope you stay
17 around.

18 New batteries?

19 (Laughter.)

20 EXECUTIVE OFFICER FOSSUM: And we need to get
21 those back to finish them, by the way.

22 MS. FALKNER: If it's okay, I'd just like to say
23 that, you know, I really appreciate those words, Curtis.
24 That's very kind of you. This was a team effort though,
25 without Gary and Paul, early on in the program, and my

1 wonderful staff here in Nicole, Lynn, and Chris, all of
2 the field inspectors who have made the program so
3 understandable for the maritime industry, and my
4 colleagues and stakeholders around the world and the State
5 and around the world that have worked with us and, you
6 know, tried to collaborate and find areas of common ground
7 to keep this program working.

8 I'd also like to thank the Commission for their
9 courage in trusting staff in an area that was brand new.
10 I mean, we -- the Commission stuck their neck out, and
11 said, okay, let's go for it and let's keep working on
12 that.

13 And really the program would not be the success
14 it is today without the Commission's support. And so
15 thank you guys too.

16 Thank you.

17 (Applause.)

18 MARINE FACILITIES DIVISION ASSISTANT CHIEF

19 MERCIER: Not so fast. I think plaques are pretty nice,
20 but you know there's --

21 EXECUTIVE OFFICER FOSSUM: Introduce yourself,
22 please.

23 MARINE FACILITIES DIVISION ASSISTANT CHIEF

24 MERCIER: What's that?

25 EXECUTIVE OFFICER FOSSUM: Please introduce

1 yourself.

2 MARINE FACILITIES DIVISION ACTING CHIEF MERCIER:

3 Oh, I'm Kevin Mercier. I'm the Acting Division
4 Chief that Maurya has kept straightened out for quite some
5 time.

6 Along with the plaque, there's something that
7 we'd like to award to you. It's a Sustained Superior
8 Accomplishment Award as presented to Maurya Falkner for
9 her 15 years of outstanding service to the California
10 State Lands Commission's Marine Facilities Division, and
11 for her dedicated protection of California's marine
12 environment for the people of the State.

13 During her tenure as Environmental Program
14 Manager for the California State Lands Commission Marine
15 Invasive Species Program, Ms. Falkner guided the program
16 from its paper beginnings, as the sole person doing it, to
17 a staff of around 15 people, if you include the
18 inspectors.

19 So it's recognized worldwide and the award
20 awarded this day, 1st day of September 2011. And I've
21 also got something that you can use to take me to lunch
22 today.

23 (Laughter.)

24 MS. FALKNER: Oh, cool.

25 MARINE FACILITIES DIVISION ACTING CHIEF

1 Congratulations.

2 EXECUTIVE OFFICER FOSSUM: Thank you, Kevin.

3 (Applause.)

4 ACTING CHAIRPERSON GARLAND: Mr. Controller.

5 COMMISSIONER CHIANG: Maurya, I also wanted to
6 extend my deep thanks. I really appreciated your
7 comments, your indication of fellowship with your
8 colleagues. I think that's the incredible spirit we have
9 in State government, and you're a wonderful example, so
10 thank you very much.

11 MS. FALKNER: Thank you.

12 (Applause.)

13 EXECUTIVE OFFICER FOSSUM: Next, I would like to
14 discuss the recent Bureau of State Audits audit that begun
15 over a year ago, last August. This last week the Bureau
16 released its report and the report identified several past
17 incidents where the Commission staff processes were in
18 need of improvement. The report included three dozen
19 recommendations.

20 Nearly all of these recommendations, the staff
21 has agreed with. Nineteen of the recommendations have
22 already -- are already being implemented or have been
23 implemented. Ten could be implemented with additional
24 staff and eight we identified to explore further. Only
25 one was deemed unnecessary due to the fact that

1 legislation had been adopted in 1977 that resolved that
2 issue.

3 Of particular note in the report, but which the
4 media largely ignored, was the loss of 74 percent of our
5 general fund positions in the last two decades. I would
6 like to quote a few words from the auditor's report
7 however.

8 And this is a quote, "The Divisions that
9 generate revenues have experienced significant
10 staff reductions".

11 If I could have that first slide as well.

12 "Significant reductions in staff have
13 hindered the Commission's ability to conduct
14 activities necessary to ensure that the State
15 receives appropriate revenues and that lessees
16 comply with lease terms. To meet its objectives,
17 the Commission employed staff with expertise in
18 land appraisal, lease negotiations, boundary
19 determinations..." -- excuse me, "...engineering,
20 financial auditing and safety inspections".

21 You may have in front of you, I don't know if the
22 packet was provided to you, but -- and you may have seen
23 this before, these are documents out of the report that
24 identify the Commission's staffing in the last 20 years.

25 In the first column, you'll see in the blue, the

1 general fund positions in 1991, and there were 242
2 positions. Today, we have approximately 63. This is one
3 year out of date. So during that period of time, we lost
4 74 percent of those positions or 179 positions.

5 And the second quote I'd like to get is from
6 page 50 of their report.

7 "Although the Commission's total staff
8 declined from 253 in 1990 to 210 in 2010, this
9 overall decline has been accompanied by
10 significant changes in the total workload and
11 overall staff distribution of the Commission.
12 Since 1990, the Commission's duties have grown in
13 the areas of oil spill prevention and the control
14 of invasive marine species. These functions have
15 been accompanied by dedicated funding sources and
16 new program responsibilities.

17 "At the same time, the Commission's general
18 fund budget has decreased by 35 percent since
19 fiscal year 2001-2, accompanied, according to the
20 Commission's records, by a significant reduction
21 in the number of staff that perform duties paid
22 for by the general fund".

23 Next slide.

24 --o0o--

25 EXECUTIVE OFFICER FOSSUM: The slide that I'm

1 asking them to show up -- show right now shows that
2 decline of 74 percent of those general fund positions.
3 It's also in the Bureau of State Audits' report. And this
4 slide, "At the same time...", -- I'll quote again from the
5 report.

6 "At the same time that funding sources have
7 shifted within the Commission, the Divisions that
8 perform several of the Commission's core
9 revenue-producing functions, processing lease
10 applications, ensuring lease compliance, and
11 auditing oil and gas royalty payments have
12 experienced a net decline of 111 positions since
13 fiscal year 1990-91.

14 "As shown in Figure 3, Land Management has
15 lost..." -- excuse me, "...37 positions, a
16 reduction of almost 50 percent, while Mineral
17 Resources has lost 23 positions, accounting to a
18 32 percent reduction during the same period."

19 So I just wanted to -- any of the news reports
20 that were out there certainly seemed to miss this part of
21 the Bureau of State Audits report, but I think it's had a
22 significant effect on your staff's ability to keep up with
23 its tasks. We hope that that changes soon.

24 The ability of your staff to function with this
25 enormously increased burden speaks volumes about them.

1 The report suggests we should do more audits and
2 appraisals. With two auditors and one appraiser, we do
3 all we can.

4 While significantly more revenue could have been
5 generated had staffing not been cut, the Commission still
6 managed to generate nearly \$4 billion of non-tax revenue
7 to the general fund during the last 20 years.

8 Your staff is not only hard working and
9 dedicated, but diligent and professional. The staff and
10 Commission are both faced with seeking to balance goals of
11 maximizing revenue and providing the highest level of
12 environmental and resource protection of the lands
13 entrusted to the Commission's care.

14 We will continue to seek new means of generating
15 additional revenue and improvements to our processes with
16 the resources and staffing we are provided. And that ends
17 my report on the audit.

18 I do have one final item in my report. And I'm
19 pleased to announce that this is a great opportunity to
20 honor one, if not the longest serving Commission alternate
21 and liaison to the Commission. And it's Cindy Aronberg.

22 And I understand -- I just got a note that she
23 has arrived along with our former Executive Officer Paul
24 Thayer.

25 Cindy began working for the State Controller

1 Kathleen Connell in 1999.

2 COMMISSIONER CHIANG: Curtis, before we go to
3 Cindy, can we -- we'll do the buildup for Cindy.

4 (Laughter.)

5 EXECUTIVE OFFICER FOSSUM: Go back to the audit.

6 COMMISSIONER CHIANG: But on this particular
7 item, the shortcoming that occurred was our normal course
8 of action, just increasing the responsibilities of staff
9 without publicly acknowledging that we were short. And we
10 did make communication with previous administrations that
11 we were in need of additional resources to fulfill all
12 these responsibilities. But so that people have a sense
13 of the incredible work that's being done within this
14 agency, we ought to, at least in the public forum, have a
15 communication as to additional responsibilities, what
16 we're doing, and what doesn't get the same amount of
17 focus, obviously in these extraordinarily difficult
18 financial times.

19 If it has an impact in that particular arena or
20 it impinges in that arena, we're certainly going to have
21 to provide greater public discourse, in terms of how this
22 agency and the public is not getting the full benefit if
23 we had the ability to engage more fully in those
24 particular areas. So I just want us to think about how we
25 address that going forward.

1 EXECUTIVE OFFICER FOSSUM: I appreciate that very
2 much. And I can tell you that the staff was -- had to
3 have a choke chain on them basically not to write letters
4 to the editor throughout the State responding to a lot of
5 the allegations in the headlines.

6 We did think about doing that. We also certainly
7 could post things on our website. I talked to probably
8 five or six radio stations and had one television crew
9 come in, and did speak to a number of printed media
10 representatives as well trying to provide them with the
11 kind of attention that we thought these issues did
12 deserve.

13 And we certainly do acknowledge, both in our
14 written -- the staff's written response to the audit as
15 well as any of those communications that it wasn't
16 perfect. We don't know of any perfect agencies, but we
17 think we tried the best we could.

18 And even during the beginning of the audit, I
19 have to say that our new management in the agency in the
20 Land Management Division both the new managers there
21 worked very hard to work on the processes and worked with
22 our administrative staff to make sure that our computer
23 system and they were in synch. And those flaws that
24 existed, lack of communication, I think have all been
25 solved already.

1 So now we go on to the bigger things of how do
2 you manage 4,000 leases with a limited staff and generate
3 additional revenue? We're very pleased that Pavley's bill
4 is on the Governor's desk, as I said. And although that
5 won't balance the State budget, we think it makes those
6 leases fair and less controversial when some people have
7 to pay and others don't. But we'll welcome any ideas from
8 the Commissioners in that regard, and we will be looking
9 for it ourselves. So thank you.

10 ACTING CHAIRPERSON GARLAND: Commissioner Reyes.

11 Oh, I'm sorry. Go ahead, you wanted to follow
12 up.

13 COMMISSIONER CHIANG: Yeah. Everybody in
14 government is constrained and certainly we're going to
15 have to understand that we're going to continue to operate
16 constrained for the foreseeable future. We're not going
17 to get out of these economic difficulties for a long
18 period of time. The Governor is working incredibly
19 diligently on trying to make sure that we restore fiscal
20 order to the state.

21 But as we pointed out earlier, that we need to
22 make sure that people understand what the consequences are
23 if we're focusing in one particular area and we don't have
24 the resources in another area.

25 EXECUTIVE OFFICER FOSSUM: Yeah. In some ways,

1 the Commission operates as a police force to protect the
2 State's waterways. And in some -- there was an article, I
3 think I just saw yesterday, about Roseville had stopped
4 writing tickets or cut way back on their tickets, and it
5 didn't have a marked impact on accidents in the city over
6 a period of time.

7 But part of what the Commission does is generate
8 revenue and part of what it does is protect the
9 environment. And many times the activities that we do,
10 that are in the police nature of protecting the
11 environment don't generate direct revenue. And so it's a
12 balancing act that we do struggle with. We certainly are
13 trying to generate as much revenue as we can, and we're
14 looking for alternative ways to do that.

15 And it's pretty exciting about some of the
16 options that we're looking at, so I appreciate your
17 comments on that.

18 COMMISSIONER CHIANG: I know my staff has been
19 talking to you about having a workout plan by November.

20 EXECUTIVE OFFICER FOSSUM: Absolutely.
21 Appreciate that. Right. As I said, we welcome all
22 Commissioners' input on that area.

23 ACTING CHAIRPERSON GARLAND: Commissioner Reyes.

24 ACTING COMMISSIONER REYES: Yeah. I just -- you
25 took some of my verbiage, so thank you.

1 (Laughter.)

2 ACTING COMMISSIONER REYES: There are difficult
3 times for the State budget, but I am pleased to see that
4 you were able to implement of the three dozen or so
5 recommendations, you were able to implement over 19 of
6 them without any additional resources. So clearly, there
7 were areas where we could clean up without additional
8 staffing. So that was good that we do that overhaul and
9 look at internally.

10 But, you know, there are, as you pointed out,
11 Controller Chiang, there are many State agencies right now
12 who also suffer from many cuts, and we need to continue to
13 move forward. The Administration is not big on increasing
14 government, so that's a difficult position to -- for folks
15 to be in, but all State agencies are being impacted. Your
16 agency was impacted by cuts. My agency was impacted by
17 cuts. Certainly yours.

18 (Laughter.)

19 ACTING COMMISSIONER REYES: So, you know, and we
20 still must move forward with our responsibilities that we
21 have that have been bestowed upon that we've accepted. So
22 thank you.

23 ACTING CHAIRPERSON GARLAND: Thank you,
24 Commissioner.

25 I will associate myself with the comments of both

1 of the other Commissioners, and put a little plug in here
2 that having been cut 70 percent of our budget, I feel the
3 staff's pain on this one.

4 But there were, beyond the great work that you
5 and your staff do, there were several other
6 recommendations in the report that I understand you're
7 trying to address. And it appears as though we've got a
8 November deadline for -- or at least a November due date
9 for an action plan to the Commissioners for how we're
10 going to continue to address the issues of the audit, is
11 that correct?

12 EXECUTIVE OFFICER FOSSUM: Yes, we are. We have
13 been working on it. We've made significant progress. I
14 have to say that in the last month or so when we were
15 scrambling with some of this, they overlapped some degree
16 certainly, some of the recommendations that Controller
17 Chiang gave us earlier in the year, as well as the
18 Lieutenant Governor's office are being incorporated into
19 that plan, but we were diverted, to some degree, in trying
20 to respond to all this and finish up the audit with the
21 Bureau.

22 And so I think we're going to be back on track
23 now, but we're on a lot of different tracks, and we expect
24 to have that before the end of the year to the Commission
25 for their review.

1 ACTING CHAIRPERSON GARLAND: Without
2 overburdening and already diminished staff, is there an
3 opportunity to maybe expedite, at least a draft of, your
4 action plan for dealing with the Audit's report, so that
5 we're not waiting until November or December?

6 EXECUTIVE OFFICER FOSSUM: I think we can
7 hopefully get a draft out sooner than December. I was
8 hoping that the next meeting that's scheduled for the end
9 of October would be ready. I spoke to our senior staff
10 and was not given a lot of confidence to guarantee that.
11 We can certainly shoot for that, but, you know, we will
12 shoot for October, the end of October. If not, then we
13 will have some kind of a draft available by that time,
14 and -- but we'd like to have as much a polished product as
15 possible

16 ACTING CHAIRPERSON GARLAND: Well, if there's
17 anyway we can, from our office, my boss, give you support
18 to make the senior staff understand that sooner rather
19 than later --

20 EXECUTIVE OFFICER FOSSUM: Great. Thank you. I
21 mean --

22 ACTING CHAIRPERSON GARLAND: -- is the mantra
23 here.

24 EXECUTIVE OFFICER FOSSUM: Right. They are under
25 a lot of pressure to implement those recommendations that

1 have already been made by the Bureau. And so that's
2 really where the task has been focused, as I said, in the
3 last couple months, but we will -- we work for the
4 Commission and we will do the Commission's bidding.

5 ACTING COMMISSIONER REYES: Mr. Chair, just a
6 point of clarification. Does this require an action by
7 the full Board to ask staff to do this or --

8 EXECUTIVE OFFICER FOSSUM: No.

9 ACTING COMMISSIONER REYES: No. Thank you.

10 ACTING CHAIRPERSON GARLAND: Anything else on the
11 audit or any other issues before we get to honoring the
12 person who helped me the most when I first showed up at
13 the Commission.

14 COMMISSIONER CHIANG: No, thank you, Mr. Chair.

15 ACTING CHAIRPERSON GARLAND: Anything else?

16 ACTING COMMISSIONER REYES: No.

17 ACTING CHAIRPERSON GARLAND: Okay. Excellent.
18 We'll move on.

19 Mr. Controller, did you want to pick up here or
20 Curtis?

21 COMMISSIONER CHIANG: Did I interrupt you or --

22 EXECUTIVE OFFICER FOSSUM: I'll go first, if you
23 don't mind.

24 COMMISSIONER CHIANG: Please.

25 EXECUTIVE OFFICER FOSSUM: Cindy began working

1 for the State Controller, Kathleen Connell, in 1999, and
2 was the liaison from the Controller and alternate
3 Commission member for 12 years.

4 When Steve Westly became Controller in 2003, and
5 John Chiang in 2007, Cindy provided continuity and an
6 intellectual history on the Commission. Cindy is an
7 attorney and has benefited from that analytical and
8 critical thinking background.

9 Her intellectual curiosity led her to ask many
10 questions on leases and made staff ask better questions
11 and improve our processes and management of State lands.
12 She pushed for more accountability from lessees on
13 responsible use of State lands, but she also challenged
14 staff to improve as well.

15 Cindy's knowledge and understanding of the roles
16 and responsibilities of the Commission and the Common Law
17 Public Trust Doctrine combined with her commitment to her
18 principles, which included a long-term vision of more
19 sustainable environmentally friendly development and uses
20 of State lands, helped grow the legacy of the Commission
21 in a positive direction.

22 The Controller has many responsibilities and
23 Cindy was able to help three Controllers deal with major
24 issues coming before the Commission, including protecting
25 both environmental benefits and public uses of the four

1 and a half million acres of the lands within the
2 Commission's jurisdiction. The issues ranged from time
3 shares on tidelands and fences blocking public access to
4 the impacts of once-through cooling and desal plants, also
5 were climate change issues, greenhouse gas impacts,
6 including sea level rise, proposed LNG terminals, and
7 PXP's proposal to lease California's offshore for oil
8 development.

9 The Controller's vote has been important on these
10 issues and many other issues, and Cindy had a role in
11 getting the information and analysis to the Controller to
12 allow the right decisions to be made.

13 Her efforts have left an impact and legacy to be
14 proud of. As she embarks on her new frontiers, we want to
15 thank her for all her efforts on the Commission's behalf
16 and on behalf of the people of California and wish her and
17 her family the best in the future.

18 At this time, I'd like her to come forward, and
19 I'd like to ask Paul Thayer too, since Paul was the
20 Executive Officer for 11 years of the 12 that Cindy served
21 in that role. I'd just like to ask them to come forward.

22 And I want Cindy to know it's been a pleasure.
23 And we have a small memento from the Commission to provide
24 you.

25 And we're so happy you were able to make it

1 today. Glad to see you again. Thank you.

2 Paul, you may have a word or two.

3 MR. THAYER: Thank you. Thanks to Cindy, of
4 course, and thank you, Curtis, for giving me the
5 opportunity to speak to the Commission again. It's like
6 old home week to be able to come back and see all my
7 friends and colleagues and Commissioners that are still
8 here from when I was here in the past.

9 But I did want to publicly recognize all of
10 Cindy's hard work, and how much -- and to acknowledge how
11 much we worked together to try and move a public policy
12 agenda forward for the Commission and through the
13 Controller that benefited the environment and the Public
14 Trust values in California.

15 We spent an awful lot of time on resolutions and
16 there's sometimes a sense that the resolutions don't have
17 the power of regulation, and therefore aren't so helpful.
18 But, in point of fact, these are the way that new policy
19 initiatives get started. You can't start right out by
20 requiring something. You have to get people talking about
21 it.

22 And I think the Commission's role, particularly
23 in something like the once-through cooling policy, was
24 vital in terms of stirring the debate in California and
25 helping to move that issue forward.

1 Certainly, the waves from that resolution were
2 felt at the Ocean Protection Council, which adopted its
3 own resolution, the work of the other water agencies that
4 adopted new regulations as this issue became more
5 highlighted. And certainly, it got the attention of the
6 industry enough so they took us to OAL to have that
7 resolution declared an underground regulation.

8 So the other issue I wanted to also focus on was
9 climate change and sea level rise. Certainly, something
10 that you talk about on an ongoing issue which will have
11 tremendous significance for California and something which
12 directly affects the State Lands Commission's
13 jurisdiction. I think through -- with Cindy's assistance,
14 the Controller's office has been instrumental in getting
15 the Commission to adopt, I think, the first standard in
16 terms of assuring that certain levels of sea level rise
17 would be addressed in development on the Commission's
18 property and in other policy development.

19 So I could go on forever, because there was so
20 much work done over that period of time, but I wanted to
21 thank Cindy publicly for making all this happen.

22 Thanks.

23 (Applause.)

24 COMMISSIONER CHIANG: Can I make my comments
25 before you.

1 In life, especially in your professional career,
2 I think one asks whether you made a difference or not.
3 Cindy Aronberg has made a phenomenal difference to the
4 pathway of California's environmental and economic future.

5 As is pointed out on a few fronts, what Paul just
6 mentioned in terms of sea level rise, we all understand
7 that sea level rise is going to be a critical issue
8 throughout this world, if we have global climatic
9 disruption. We understand the weather patterns change.
10 We know that people's lives are at risk. We know the
11 economic future of California and the globe has certainly
12 changed.

13 So Cindy's leadership -- and so the Controllers
14 get the credit, but Cindy oftentimes provides tremendous
15 impetus in the movement of these issues.

16 So you should take great satisfaction that your
17 passion, that your intelligence, that your integrity has
18 made a tremendous difference.

19 When I first became Controller, one of the things
20 I wanted to do was to take the environmental issues into
21 the investment realm. And so we were moving and tried to
22 have major multi-national corporations recognize
23 environmental risk. And so the insurance companies
24 actually for businesses were at the front, because they
25 recognized these were part of the issues.

1 So Cindy's partnership, Cindy's work on those
2 issues has had something that the SEC -- her efforts
3 helped lead the SEC in recognition with our work with
4 other partners to have corporations recognize that this
5 has an impact.

6 And so we've had major critical issues that I
7 think we've acted in the best interests. And I say "we",
8 the State Lands Commission, on desalination, on LNG, on
9 Santa Barbara and the oil -- offshore oil drilling. And
10 Cindy has provided magnificent advice in that particular
11 front. So, Cindy, on my behalf, thank you very, very much
12 from the bottom of my heart.

13 MS. ARONBERG: Thank you, Controller.

14 (Applause.)

15 MS. ARONBERG: So I know the Commission has
16 important action items to get to today. May I take just a
17 few moments to say thank you?

18 ACTING CHAIRPERSON GARLAND: Yes, please.

19 MS. ARONBERG: Thank you so much. I've never
20 been one to be too long winded, so hopefully this won't be
21 too bad.

22 So often over the years I've been the one saying
23 goodbye to colleagues. And after 12 years of having the
24 honor to serve three Controllers, including this wonderful
25 Controller, it's my turn to say farewell.

1 So as I look around the room today, I see faces
2 that I saw at my very first Commission meeting, and I see
3 those who have joined since, and I realize how much I will
4 miss this part of my job.

5 When I began my tenure as a Deputy Controller for
6 Boards and Commissions, I was an experienced lawyer, but I
7 was an inexperienced and young Board member. And with the
8 patience of staff and the model of seasoned Board
9 colleagues, I learned and I gained so much.

10 So as everyone who knows me knows the issues and
11 concerns within the Commission's purview are near and dear
12 to my heart. And technical issues of protecting the State
13 sovereign and school lands aside, what makes any job
14 enjoyable is the people involved. And I have always found
15 the ever-changing Commissioners themselves to be so
16 collegial and it's very important, and I thank you for
17 that.

18 And our staff is really second to none. I've
19 been so heartened to see our program, some of which were
20 mentioned, over the years take on a much more grand
21 environmental perspective. And they've improved
22 dramatically under Paul's leadership and now under
23 Curtis's. And with the hard work of this uncommonly
24 dedicated and bright staff, we've moved ahead in so many
25 important public policy areas, from taking sometimes

1 difficult stands to protect our treasured coast and our
2 coastal economy from new offshore oil, from destructive
3 invasive species, from once-through cooling to leading
4 marine oil terminal and platform safety, to making sure we
5 receive the revenue to which taxpayers are entitled from
6 oil operations and placed before any of us got here and
7 from those making other uses -- other private uses of
8 public land.

9 So I particularly want to acknowledge Paul Thayer
10 who made keeping Controllers well informed a top priority
11 among his many dizzying priorities and he helped make my
12 work here such a joy. I said this at his retirement -- I
13 said this at your retirement, Paul, but thank you again
14 for everything. And it means so much to see you here
15 today. Thank you.

16 And my role as the designee of a Board member
17 would have been far more difficult without Paul and now
18 Curtis Fossum. Above all, they both possess integrity.
19 So important and not so common.

20 They both create an environment for Commission
21 staff in all divisions with the pervasive air of hard
22 working professionalism and good, clean government. I
23 think that if all Californians could get a sense of how
24 experienced, skilled, truly dedicated, and public service
25 oriented the staff members are here at the State Lands

1 Commission, and how much staff has had to step up and take
2 on extra work with the dwindling numbers of staff
3 positions over the years, as was mentioned, maybe people
4 realize that all public servants might have a little bit
5 less in jeopardy right now.

6 So thank you so much to staff for your hard work
7 that so many don't see, which brings the agenda items
8 before the Commission each meeting. You help Californians
9 get the most from our Public Trust Lands, and you also
10 make the Commissioners' and the Legislature's ideas take
11 shape and become functioning programs to protect
12 California's coast and economy, while also furthering
13 other important public policy goals.

14 Thank you, Controller. Thank you for so much.
15 Thank you for your very kind words. Thank you for seeking
16 transparency here and everywhere. And mostly, thank you
17 and also previous Controller Steve Westly and also Connell
18 before that for believing in me and trusting me to help
19 make the most of your esteemed place on this Commission.

20 So finally to our stakeholders, and I don't see a
21 lot here today, because we must not have an issue that
22 involves them.

23 (Laughter.)

24 MS. ARONBERG: But to our stakeholders who we all
25 know who they are over the years, and in particular to

1 those whose work is environmentally oriented, thank you
2 for your work with me and for working with all the
3 Commissioners over the years and with staff. Thank you
4 for making the extra effort to speak up often using your
5 very hard-to-come-by time and the small budgets to come up
6 here to meetings when we needed you.

7 And it was great when you wanted to tell the
8 Commission that our plans did fall short of the mark.
9 Thank you for that. The Commission needs your voices.

10 I just want to mostly thank all of you for your
11 friendship and for the professional relationships. The
12 Commission, its people, the projects, have made my 12
13 years here an experience that I will always, always
14 treasure.

15 Thanks. Thanks for the time.

16 (Applause.)

17 ACTING CHAIRPERSON GARLAND: Any additional --

18 EXECUTIVE OFFICER FOSSUM: That concludes my
19 Executive Officer's Report.

20 ACTING CHAIRPERSON GARLAND: Thank you.

21 The next order of business would be the adoption
22 of the Consent Calendar. Mr. Executive Director, is there
23 any -- are there any items being removed from the Consent
24 Calendar?

25 EXECUTIVE OFFICER FOSSUM: Yes, Mr. Chair. We've

1 pulled Items 35, 59, and 79 from the agenda. And we are
2 moving Item 14 and Item 86 to the regular agenda.

3 ACTING CHAIRPERSON GARLAND: I'm sorry, those
4 last two again.

5 EXECUTIVE OFFICER FOSSUM: 14 and 86.

6 I'm sorry, 86 is on the Regular Agenda.

7 ACTING CHAIRPERSON GARLAND: Right.

8 EXECUTIVE OFFICER FOSSUM: I believe Item 75, if
9 I'm not mistaken.

10 ACTING CHAIRPERSON GARLAND: Seventy-five?

11 EXECUTIVE OFFICER FOSSUM: Seventy-five. So with
12 that, I believe the Consent agenda can go forward.

13 ACTING COMMISSIONER REYES: So just so I may
14 understand. So 35, 59, and 79 will be addressed at a
15 future date?

16 EXECUTIVE OFFICER FOSSUM: That's correct.

17 ACTING COMMISSIONER REYES: And 14 and 75 will be
18 moved from Consent to an action item?

19 EXECUTIVE OFFICER FOSSUM: That's correct.

20 ACTING COMMISSIONER REYES: Okay. Move approval
21 of the Consent as revised.

22 COMMISSIONER CHIANG: Second.

23 ACTING CHAIRPERSON GARLAND: Motion and a second.
24 This calendar is unanimously adopted.

25 All right. So if we're going to stay in numeric

1 order, do we want to move to C14 at this time?

2 EXECUTIVE OFFICER FOSSUM: We can certainly do
3 that, Mr. Chair.

4 Mary Hays from our Land Management Division, I
5 think, is prepared to give a presentation on this item.

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

8 PUBLIC LAND MANAGER HAYS: Good morning, Mr.
9 Chairman, members. I'm Mary Hays, and I'm a Public Land
10 Manager with the Commission's Land Management Division.

11 I'll be providing you with information on
12 Calendar Item number 14. This item asks the Commission to
13 consider the default and termination of a general lease
14 commercial use with Bruno's Island Yacht Harbor,
15 Incorporated.

16 Could we go to slide 2.

17 --o0o--

18 PUBLIC LAND MANAGER HAYS: The lease authorizes
19 the use, operation, maintenance of a commercial marina on
20 Seven Mile Slough near the town of Isleton in Sacramento
21 County. The lease was approved in 1985 for a term of 35
22 years, and is scheduled to expire in 2020.

23 --o0o--

24 PUBLIC LAND MANAGER HAYS: In 2004, the
25 Commission approved an amendment to the lease that

1 included a settlement for numerous issues and defaults,
2 including back rent and security deposit requirements. At
3 the same meeting, the Commission approved an encumbrancing
4 agreement with a secured party lender Owens Financial
5 Group, allowing the lessee to pledge the lease as security
6 for a loan on the marina.

7 In 2007, the lessee has been in default -- since
8 2007, the lessee has been in default several times, and
9 Owens Financial Group has cured defaults, including
10 payment of outstanding rent, providing insurance coverage,
11 and payment of \$9,000 towards the required security
12 deposit.

13 --o0o--

14 PUBLIC LAND MANAGER HAYS: Today staff is
15 recommending that the Commission ratify staff's findings
16 that the lease is now in default for, number one, failure
17 to pay the first installment of semi-annual rent due May
18 1st, 2011 in the amount of \$6,667; second, failure to
19 provide evidence that the Bruno's Island Yacht Harbor,
20 Incorporated is insured as required by the lease. Third,
21 failure of the lessee to maintain its certificate of good
22 standing with the Secretary of State since 2006. Four,
23 failure to pay the 2008 installment of a \$20,000 security
24 deposit in lieu of the bond in the Amount of \$3,000. And
25 5th, failure to maintain a bridge on the leased premises

1 in good repair and in safe condition.

2 --o0o--

3 PUBLIC LAND MANAGER HAYS: Slide 5. Beginning
4 last April, staff has sent several letters to the lessee
5 and copied Owens Financial Group requesting the known
6 defaults to be cured. On June 27th, 2011, Commission
7 staff received an anonymous call that reported the bridge
8 crossing Seven Mile Slough at the marina had suffered
9 damage and was unsafe to drive on. It was reported the
10 bridge was damaged by the weight of a fire truck
11 responding to a call.

12 The following day on June 28th, the Commission's
13 engineering staff made a visual site inspection of the
14 bridge and confirmed that significant structural damage
15 had occurred, and that the repair to the bridge was
16 substandard.

17 --o0o--

18 PUBLIC LAND MANAGER HAYS: Next slide.

19 Engineering staff recommended that the bridge be
20 shut down to all vehicular traffic until a full inspection
21 and repairs could be completed by a licensed engineer.

22 The bridge is the sole means of access for
23 patrons and the public to and from the marina. And
24 Commission staff believes the bridge presents a threat to
25 public safety because of its state of disrepair. The

1 River Delta Fire Department conducted its own inspection
2 of the bridge and refuses to allow its big engines on the
3 bridge, and has stationed a smaller engine on the Island
4 until the bridge is repaired.

5 The lessee has acknowledged the bridge is unsafe
6 by placing caution cones on the bridge, reducing the
7 posted speed on the bridge from five miles to two miles an
8 hour, and not allowing heavy vehicles like garbage trucks
9 to cross the bridge.

10 --o0o--

11 PUBLIC LAND MANAGER HAYS: Staff has urged
12 closure of the bridge in letters on June the 30th and on
13 July the 8th. To date, the lessee has refused to do so.
14 Staff views the unsafe condition of the bridge to be
15 inconsistent with the lease provision requiring the leased
16 premises and all improvements to be in good order and
17 repair and in a safe condition, and therefore constitutes
18 a default of that lease provision.

19 Staff notified Owens Financial Group of the
20 condition of the bridge and our view that it was an
21 additional default of the lease. Owens Financial has
22 informed staff that it's currently renegotiating a new
23 loan. And as a condition of that loan, the lessee must
24 cure the defaults and require a professional engineer to
25 review and approve the contractor's repair estimate and

1 final inspection of any repairs by a licensed engineer to
2 determine if the bridge is structurally sound for its
3 intended use.

4 Discussions and correspondence with our lessee in
5 the past months and up to the past week have been
6 unsuccessful in obtaining compliance with the terms of the
7 lease. A representative from a company known as ARI
8 Company, LLC has been staff's primary contact for several
9 months.

10 ARI Company has also been in discussions with
11 Owens Financial Group regarding the loan and curing the
12 lease defaults. However, our lessee, Bruno's Island Yacht
13 Harbor, Incorporated has refused to clarify its business
14 relationship with ARI Company and ARI has likewise
15 refused.

16 ARI Company has provided Commission staff with
17 evidence of insurance and a certificate of good standing
18 from the Secretary of State. Those documents only refer
19 to ARI Company as an insured party to the lease and in
20 good standing with the Secretary of State.

21 Because of the insistence of ARI Company that the
22 Commission staff should be doing business with them
23 directly and not our lessee, this has made communication
24 with our lessee very difficult.

25 The Commission has no contractual business

1 relationship with ARI Company, and our lessee has not
2 provided clarification of the relationship and what
3 agreements they may have made with ARI Company for use and
4 operation of the leased premises.

5 On Monday, August 29th, staff performed a site
6 inspection of the bridge. And as the next photo shows, it
7 appears that the lessee has started repairing the bridge.
8 However, staff has not been provided evidence or given
9 assurances that a licensed engineer has been consulted, or
10 if they would -- final repairs will be inspected by a
11 licensed engineer.

12 This past Monday, ARI Company submitted a check
13 in the amount of \$2,480.14 as a partial payment towards
14 the outstanding May 1st rent, which includes, at this
15 point, with penalty and interest over \$7,400.

16 Based on the above mentioned defaults and the
17 background as described in more detail in the calendar
18 item, staff is recommending that the Commission --

19 --o0o--

20 PUBLIC LAND MANAGER HAYS: -- first, ratify
21 staff's findings that the lease, number PRC 6855, is in
22 default. Second, authorize staff to issue a Notice of
23 Termination of the lease and ejection of Bruno's
24 Harbor -- Bruno's Island Yacht Harbor, Incorporated with a
25 copy to Owens Financial Group. Three, authorize the

1 termination of the lease subject to the right of Owens
2 Financial Group to cure the lease under the terms of the
3 encumbrancing agreement recorded and filed on June 15th,
4 2005 or such longer period as determined as necessary by
5 the Commission's Executive Officer, but no longer than a
6 120 days from September 1st.

7 And finally, authorize the Commission staff and
8 the Office of the Attorney General to take all steps
9 necessary, including litigation, to terminate the lease
10 and eject Bruno's Island Yacht Harbor, Incorporated from
11 the leased premises to seek removal of the improvements
12 from the lease premises, to seek restoration of the lease
13 premises and recovery of any damages to which the State is
14 entitled, under the lease and the law, subject to the
15 rights of Owens Financial to cure the lease under the
16 terms of the encumbrancing agreement or such longer period
17 as determined as necessary by the Executive Officer, but
18 no later than 120 days from today.

19 Staff is available if you have any questions.
20 And it's my understanding that our lessee or his
21 representative is in the office -- is in the audience.
22 Excuse me.

23 ACTING CHAIRPERSON GARLAND: No questions at this
24 time from the Commission. I would ask that Ade Adesokan,
25 is that

1 MR. ADESOKAN: Yes, sir.

2 ACTING CHAIRPERSON GARLAND: Step to the
3 microphone.

4 MR. ADESOKAN: Good morning, Honorable
5 Commissioners. I have Mr. Snodderly here with me who is
6 the President of the company. And I'm a representing
7 agent for the company as well.

8 On the service, if one reviews -- the speaker is
9 off?

10 COMMISSIONER CHIANG: No, it's on.

11 MR. ADESOKAN: Yeah, if one reviews what the
12 State Lands position just laid out, one would assume that
13 we are really in default and that we haven't done anything
14 in terms of maintaining a relationship with the State
15 Lands.

16 Contrary to the things that the State Lands
17 mentioned, we have done a lot of things to satisfy State
18 Lands. However, State Lands has refused to deal in good
19 faith with us. As a matter of fact, we believe that State
20 Lands is taking this as a personal issue rather than a
21 professional relationship to get the issues resolved.

22 I would like to provide these items to the
23 Commissioners for review of the activities that have taken
24 place since we started a conversation with State Lands.

25 First, when we began to have financial

1 difficulty, due to the economic turndown, we contacted the
2 State Lands and requested that we go from paying -- making
3 payments on an annual basis or twice a year to going on a
4 monthly basis.

5 What the State Lands said is that in order for us
6 to have the privilege of having a conversation like that
7 with them, we have to pay \$2,000. It was suggested to
8 them all we're requesting is that we have an opportunity
9 to pay on a monthly basis, so that that way it ties up
10 with our cash-flow situation.

11 Second, when we had a flooding, we contacted the
12 State Lands, and we suggested to them that we had a
13 flooding on the island, and we would like some help in
14 terms of making adjustments to the rent pending the time
15 that we recover from that flood, since we have to do
16 almost about \$300,000 repairs associated with the flood.

17 Third, regarding the bridge, we began work on the
18 bridge on our volition. It was regular maintenance that
19 we were doing on the bridge. At about 6:58 in the
20 morning, they called me and said that someone had called
21 them regarding the bridge collapse. We suggested to them
22 that I was on that bridge the night before, because I
23 specifically asked Vicky when the report came in. She
24 said it was the day before.

25 But the night before that, I was on that bridge,

1 and I drove over that bridge. And I said to them, what we
2 were doing is simply a repair work. We were changing the
3 wooden beam to an H frame iron steel beam. And that was
4 approved by the professional engineer. And we have a copy
5 of the approval of what we're doing. As a matter of fact,
6 that particular steel beam is superior and stronger than
7 the wooden beam that was there before.

8 We were doing that on our own. What happened,
9 the person that made the call is Danny Furtado, who was an
10 employees of the company that we got rid of simply because
11 he was doing crazy things. He was trading with the
12 customers on the island, and not doing the work for them.
13 He would buy vehicles or buy equipment, sell it to the
14 customers, you know, as an employee. And we told him he
15 could not do that any longer, that that is basically
16 putting liability on the company and that's unacceptable.

17 So because we got rid of him, he made the call to
18 them. Nothing was wrong with the bridge. The bridge has
19 no structural issue associated with it, and we have the
20 professional engineer certification to speak to that
21 specifically.

22 And when they came in, they only give us two
23 hours, you know, before they showed up. And I already
24 told them that we were doing repairs on it. The
25 photograph that was shown on there was a photograph

1 incidental to the repairs we were doing at that time.
2 This preceded them showing up on the island.

3 Nothing happened to that bridge. The bridge
4 never collapsed. The bridge never had any damages, none
5 whatsoever. The only thing that happened, prior to that,
6 which I specifically told them myself, was that a 43,000
7 ton -- I mean a 4,300 pound fire truck ran through the
8 bridge one day. And because of that, there was a
9 loose -- this wooden thing, the trestle on that, you know,
10 loosened up. So what we decided to do was to tighten that
11 trestle up and then replace the wooden beam under that
12 with an iron frame.

13 We have been doing that since 1994. We replace
14 each one of those wooden beams with an iron beam. The
15 cost to us is \$44,000 every single time we do that. And
16 we've been doing that on a practically an every two or
17 three year basis, because we have to save up to do that.
18 And we started doing that prior to them showing up. So
19 all of the allegations that was here is incorrect.

20 Regarding the lease payments, what happened was
21 when we ran into cash flow problems, we contacted them and
22 we spoke to them saying please, let's go into a monthly
23 payment to you guys, but they refused that. They said we
24 have to come up with \$2,000 just for the privilege of
25 discussing, making adjustment on the payments. We said

1 \$2,000, that's a lot of money for us when we're trying to
2 struggle to meet the payments.

3 After all, over the last 10 years, we've paid
4 State Lands between \$150,000 and \$200,000. The State
5 Lands did nothing for the business to support the
6 business. And all we request, for God's sake, hear what
7 we have to say. This is the only thing we come to you
8 guys for.

9 And I recall specifically Mary saying we are the
10 State of California. We do whatever it is we want. That
11 is not acceptable. The fairness is all we request. We're
12 not asking for a handout. We're not asking for anything
13 other than for you guys to be fair to us and treat us, you
14 know, fairly in terms of the way you make a decision.
15 That's all.

16 You know, we are not out to do anything wrong.
17 We actually work very, very hard to maintain the business,
18 and also to struggle to make sure that the business does
19 well. You know, don't kill us. Just help us to help the
20 business. And even the provision of the State Lands
21 itself in its own Constitution did say that it have to do
22 everything reasonable, reasonable, to make sure that the
23 leases do not expire unnecessarily and they need to work
24 with the customers in order to satisfy their leases.

25 And in addition to that, every single time

1 anything happens, even at the jeopardy of our financing,
2 they go to the lender. It's tantamount to a person owning
3 a home with a mortgage on it, and the handyman says, you
4 know, every time there's an issue then they go to the
5 lender and tell them that, hey, you've got an issue here,
6 disrupting the relationship and interfering with our
7 ability to get financing that will reduce our cost
8 structure, which will make it easier for us to be able to
9 pay State Lands.

10 ACTING CHAIRPERSON GARLAND: Thank you for your
11 presentation. There was one question. Your initial
12 comments you said you were representing a company, which
13 company are you representing? Are you representing --

14 MR. ADESOKAN: Bruno's.

15 ACTING CHAIRPERSON GARLAND: Bruno's?

16 MR. ADESOKAN: Yes.

17 ACTING CHAIRPERSON GARLAND: Okay.

18 MR. ADESOKAN: ARI and Bruno -- Bruno is doing
19 business as ARI. And I explained to them the relationship
20 between the two companies is the previous lease that was
21 there, which is a triple net lease with --

22 MR. SNODDERLY: The Waltons.

23 MR. ADESOKAN: -- the Waltons, expired. And when
24 the lease with the Waltons expired, we tried to look for
25 another triple net lessee, which because of the economic

1 downturn, it was very difficult to find a satisfactory
2 one.

3 And because of that, Mr. Snodderly, you know,
4 formed ARI as the operations company to handle all of this
5 stuff associated with the marina, and I am in charge of
6 ARI.

7 ACTING CHAIRPERSON GARLAND: So you're
8 representing ARI.

9 MR. ADESOKAN: And Bruno's. Mr. Snodderly is
10 here with Bruno's. So we're representing -- I'm
11 representing both companies.

12 ACTING COMMISSIONER REYES: I just want to make
13 sure I understand. So they're distinct companies. ARI is
14 one company and Bruno's is a different company. You're
15 representing both?

16 MR. ADESOKAN: Correct.

17 ACTING COMMISSIONER REYES: Okay, so one, just
18 not the other. I think one of your statements was Bruno
19 and ARI is the same, was that accurate?

20 MR. ADESOKAN: Yeah. ARI is managing the
21 property. The property is owned by Bruno, and ARI is
22 owned by Bruno, but ARI operates the business and Bruno
23 owns the property.

24 ACTING CHAIRPERSON GARLAND: They lease the
25 property.

1 MR. ADESOKAN: Yes.

2 ACTING CHAIRPERSON GARLAND: I appreciate you're
3 trying to clarify that. I'm still not sure it's clear.

4 Mr. Controller, I see your light is on. Was
5 there something you wanted to jump in here?

6 COMMISSIONER CHIANG: Yeah, a series of
7 questions. So if we gave you the opportunity -- if we
8 extended the lease or continued to let you operate the
9 lease, at what point will you make whole on the payments
10 that are outstanding?

11 MR. ADESOKAN: The only payment that we owe the
12 State Lands right now is the current lease, which the
13 payment is -- goes through November of this year.

14 COMMISSIONER CHIANG: And so how much do you owe?

15 MR. ADESOKAN: We owe them \$4,000 -- less than
16 \$4,000. That's all we owe State Lands. That's all.

17 And also on the insurance issue, I specifically
18 discussed it with them. I told them there are only one
19 insurable risk, which is the marina itself. And ARI
20 carries that insurable risk and pays on it. And we showed
21 them the certificate of insurance naming the State Lands
22 as the loss payee, and also a co-insured. And they gave
23 the language specifically to be included on that policy,
24 which we did. But they said no, we are not going to
25 accept that, because it should be taken by Bruno, and we

1 said there's no -- and Bruno is named as an insured.

2 So, you know, I mean what difference does it make
3 who provides you with a policy in as long as the insurable
4 risk is taken care of and you guys are named as the
5 insured and Bruno is named as the insured? It really
6 doesn't matter. That's not the way insurance works.

7 All insurance works for is to provide insurable
8 risk and cover the risk associated with that in case of a
9 loss. And inasmuch as that loss is covered, it doesn't
10 really matter who pays the premium. It's a matter of who
11 is insured and who gets protected in case of a loss.

12 And Bruno is protected, State Lands is protected.
13 So what is the issue?

14 MR. SNODDERLY: Owens.

15 MR. ADESOKAN: And Owens, who is the lender, is
16 also protected. So all parties who has any exposure of
17 any -- of any -- the smallest amount of exposure is
18 covered under the lease and under the insurance policy.
19 The only thing there is, ARI, the operating company, is
20 paying for the premium. That's it.

21 COMMISSIONER CHIANG: Next question. Have you
22 concluded?

23 MR. ADESOKAN: Yes.

24 COMMISSIONER CHIANG: Okay. So you indicated
25 that a professional engineer had worked on this and you

1 had the documentation available. And so my understanding
2 from the staff's testimony was that documentation was not
3 provided, is that correct?

4 EXECUTIVE OFFICER FOSSUM: That's correct.

5 COMMISSIONER CHIANG: And so do you have the
6 documentation now? Can you give it to staff, so that
7 they'll review it? And then why wasn't that documentation
8 delivered at an earlier date?

9 MR. ADESOKAN: The issue -- and our attorney
10 spoke to that. The issue is that State Lands is taking
11 jurisdiction over the bridge as an owner of the bridge.
12 And we told them that you do not own the bridge. We are
13 leasing from you the submerged area underwhich the bridge
14 passes. And we've always maintained the bridge, and we
15 always made sure that the bridge is in safe, strong,
16 structurally-sound position.

17 COMMISSIONER CHIANG: So can I ask -- point you
18 in a different direction, so that we could -- I don't want
19 to take too much of your time.

20 MS. SOKAN: Sure.

21 COMMISSIONER CHIANG: Are you willing to submit
22 the documentation or are you not willing to submit the
23 documentation?

24 MR. ADESOKAN: No, we will give them. And I
25 spoke to Mary a couple of days ago, and I said once the

1 bridge is done and the engineer signs off on the
2 completion of the work, we'll provide them with a
3 certificate of completion, which is signed by the
4 engineer.

5 COMMISSIONER CHIANG: So the repairs are not
6 complete to date, is that -- they --

7 MR. ADESOKAN: The work is still -- the work is
8 still going. We hope to complete the work hopefully by
9 next week.

10 COMMISSIONER CHIANG: So you are willing to
11 submit documentation today of the work that has been done
12 thus far or you will submit the documentation after all
13 the work is done?

14 MR. ADESOKAN: After all the work is done.

15 COMMISSIONER CHIANG: So the documentation that
16 you're in possession of today, if I understand correctly,
17 you will not turnover yet until the work is done?

18 MR. ADESOKAN: Exactly.

19 COMMISSIONER CHIANG: Okay.

20 MR. ADESOKAN: And the reason being that as the
21 work is being done, the engineer give us specifically how
22 to approach the task, and they're working with us. It
23 would be premature to provide, you know, a certificate of
24 completion if the work is still in flux. We don't know
25 what it's going to take to complete the entire work. And

1 we don't know if there will be any changes, depending on
2 what the engineer says needs to be done to complete the
3 task.

4 However though, once the task is complete, we
5 know everything is done, and then we can provide them with
6 the certificate that shows that the work is complete.

7 COMMISSIONER CHIANG: And do you have a schedule
8 of the work plan?

9 MR. ADESOKAN: Yes. And that -- we hope to
10 complete that by next week, barring any issues that
11 arises.

12 COMMISSIONER CHIANG: So -- but you are in
13 possession of none of those materials at this time?
14 You're not in physical possession, at this moment, of a
15 work plan?

16 MR. ADESOKAN: Oh. Actually, if I can print it
17 out -- it's on the computer. I can print it out and I
18 can -- I have that.

19 COMMISSIONER CHIANG: Okay. And then will you --
20 are you willing to accept a post-repair review by the
21 Commission?

22 MR. ADESOKAN: Absolutely.

23 COMMISSIONER CHIANG: Okay. And so why wasn't
24 all this agreed upon earlier?

25 MR. ADESOKAN: The reason why, you know, we did

1 not agree is simply because the State Lands they hold a
2 very fixed position. Even to the minutest detail of how
3 the work should be done, they're choosing to spell that
4 out to us. And we said to them, look, it's an existential
5 basis for our company. Our survival depends on us making
6 sure that this bridge is done correctly.

7 You are State Lands. You do not run the
8 business. You are only a provider of a lease to us, and
9 we are paying you a lot of money to have that lease. When
10 we are walking on the bridge, we want to make sure that we
11 defer to our own engineers, and we let them make the
12 decision as to what needs to be done. And when it's done
13 properly, we provide you with a certificate of completion.

14 There's absolutely no need for the State Lands to
15 give us the specific ways in which the work has to be
16 done. It's just -- it's improper, simply because -- I
17 mean, the engineer is there to do all of the work and
18 dictate the way it's to be done. When this had -- it has
19 to be done one way. They've never had any issues with the
20 maintenance of the place.

21 COMMISSIONER CHIANG: Okay. So this work will be
22 done next week?

23 MR. ADESOKAN: It will be completed by next week.

24 COMMISSIONER CHIANG: On your word this will be
25 done by next week?

1 MR. ADESOKAN: Yes, barring any --

2 COMMISSIONER CHIANG: I don't want to hear
3 barring. Barring what?

4 I mean, with all due respect, this Commission has
5 been incredibly patient in working with you. Now, you may
6 have difficulties about points and principles, right? But
7 as I review the record in terms of payments, we've been
8 patient. We represent the public interests, right? But
9 we also are sensitive to individual and small businesses
10 and your needs. So we're trying to find a balance here.

11 But at some point, you have to make a decision.
12 And so if you say this is going to be done next week, I'm
13 for having the staff make a decision, right -- and I don't
14 speak for my colleagues -- next week upon review to see if
15 you fulfill all the criteria that they asked you to meet.

16 MR. ADESOKAN: They are -- yeah, we can complete
17 the work by next week on the bridge. That's not a
18 problem.

19 ACTING CHAIRPERSON GARLAND: And submit to
20 inspection by State Lands' appointed either staff or --

21 COMMISSIONER CHIANG: So beginning next --

22 MR. ADESOKAN: Yes. They can come down and do
23 the inspection of the bridge.

24 COMMISSIONER CHIANG: So unfettered access when
25 they want to come, end of next week, so Friday. And they

1 can determine whether -- it doesn't have to be on Friday,
2 but the earliest would be Friday after you're complete
3 with your work, to review whether you've met all criteria,
4 submitted all documentations as to fulfilling the
5 obligations of this lease.

6 MR. ADESOKAN: Yes. If they --

7 COMMISSIONER CHIANG: That's a yes?

8 MR. ADESOKAN: Yes. And that's if they're
9 specific in terms of what it is that they're looking for,
10 not come which and which aren't, which as has been our
11 experience with them.

12 COMMISSIONER CHIANG: With what, I'm sorry?

13 MR. ADESOKAN: If they're specific --

14 COMMISSIONER CHIANG: If they are specific with
15 what?

16 MR. ADESOKAN: -- in terms of what it is that
17 they're looking for from us.

18 COMMISSIONER CHIANG: I think we've been
19 specific.

20 MR. ADESOKAN: What is in the State Lands letter
21 is basically what you're alluding to or basically the
22 dialogue on the --

23 COMMISSIONER CHIANG: So what is unspecific?
24 What is unclear to you?

25 MR. ADESOKAN: What technical requirements, you

1 know, are they seeking in terms of the bridge repair? A
2 certification of a professional engineer? If that's it --

3 COMMISSIONER CHIANG: Yes.

4 MR. ADESOKAN: -- that's good with us.

5 EXECUTIVE OFFICER FOSSUM: If I could, Mr. Chair.
6 You know, Mr. Ade said that the Commission staff was
7 telling in minute detail how this bridge was to be
8 repaired. The minute detail was that it be a licensed
9 engineer that certified it, that's the detail, nothing
10 beyond that.

11 MR. ADESOKAN: No.

12 EXECUTIVE OFFICER FOSSUM: And he has refused to
13 do that. So that's where the problem really comes.
14 That's the problem with the safety of the bridge. And we
15 gave him in June 60 days notice to have the bridge
16 repaired. It hasn't been repaired yet.

17 One thing, and let me go on, because -- well, let
18 me make a recommendation to the Commission. Right now,
19 the way the staff recommendation is drafted is to find
20 them in default, but give Owens Financial 60 days in which
21 to cure or 120 days, if I deem that they're making
22 progress on all these different issues.

23 I think we could amend that to allow the 60 days
24 or some shorter period for -- I was going to say Bruno's,
25 but I'm not sure if Bruno's exists anymore, because it's

1 not licensed to practice -- or it's not licensed in
2 California as a business and yet they're our lessee.

3 So we've had a real problem with figuring out
4 exactly who to do business with. Our lessee, if it
5 exists, it's not -- the Secretary of State doesn't believe
6 it does. And yet, this organization -- we haven't seen
7 any paperwork indicating that ARI has a legal relationship
8 with Bruno's. And so if, in fact, ARI is acting only as
9 the agent, then Bruno's is still our lessee. And if ARI
10 is a new separate company and is doing all these things,
11 then maybe they should get a lease from the Commission as
12 opposed to Bruno's.

13 There just seems to be a real disjunct between
14 what's going on there and us being able to tell what's
15 going on.

16 COMMISSIONER CHIANG: Okay. So do you have or
17 can you immediately access the contract that exists to
18 establish the business relationship between Bruno's and
19 ARI?

20 MR. ADESOKAN: We provided that to State Lands
21 back in April.

22 COMMISSIONER CHIANG: Curtis or staff?

23 MR. ADESOKAN: And specifically regarding the
24 items that you're asking for --

25 COMMISSIONER CHIANG: Can you -- Sorry. I just

1 want to stick point to point so that we can resolve these
2 issues.

3 EXECUTIVE OFFICER FOSSUM: We've seen nothing in
4 writing from Bruno's. We have Mr. Snodderly here who is,
5 we believe, Bruno's. And however, neither one of them
6 have been able to provide us anything in writing
7 indicating what the relationship is between the two
8 organizations.

9 COMMISSIONER CHIANG: Okay. I want you to
10 provide that documentation by the close of business
11 tomorrow.

12 MR. ADESOKAN: I will provide that and we did
13 provide it to them back in April, but I will resubmit it.

14 COMMISSIONER CHIANG: Okay. They're not in
15 possession, right, and so we have an unresolved issue. So
16 please provide that to them by the close of business
17 tomorrow. You're able to do that?

18 MR. ADESOKAN: Yes. And also regarding the
19 specificity of how the bridge needs to be repaired, I have
20 a letter here specifically from State Lands detailing, you
21 know, blow by blow how they want the bridge repaired,
22 contrary to what he's saying.

23 COMMISSIONER CHIANG: Okay. Let me ask the next
24 question. Do we have evidence of the ability of Bruno's
25 to operate their business legally in the State of

1 California?

2 MR. ADESOKAN: Yes, as a matter of fact --

3 COMMISSIONER CHIANG: And where is it?

4 MR. ADESOKAN: We're going -- we're going there
5 right after this meeting is complete. What happened was,
6 there's a certificate of interest that Mr. Snodderly was
7 supposed to have delivered to them, but Mr. Snodderly has
8 been very, very sick, you know, over the last year and a
9 half. It actually is -- we're only blessed to have him
10 alive, you know, and I have to drag him here this morning.

11 So I'm going there with him to get that. And
12 it's a simple issue that we can resolve with the State of
13 California. It's only related to the certificate of
14 interest that was not completed and sent in to the
15 Secretary of State.

16 COMMISSIONER CHIANG: So they are not operating
17 legally at the moment, because they haven't fulfilled all
18 their obligations.

19 MR. ADESOKAN: Technically, yes.

20 COMMISSIONER CHIANG: Okay. Thank you.

21 ACTING CHAIRPERSON GARLAND: I know that staff
22 wanted to -- it appeared as though staff wanted to at
23 least make an additional comment. Curtis.

24 EXECUTIVE OFFICER FOSSUM: The other comment I'm
25 concerned about is that this failure to pay has been going

1 on for a number of years, probably something about five --
2 excuse me, seven years. So -- or excuse me, I want to
3 make that clear. Seven years ago, the Commission agreed
4 on certain amendments to the lease to allow the Owens
5 Financial to come in and bail them out periodically, which
6 they have done, because there were defaults going on at
7 that period of time.

8 And Owens has, in fact, come forward on a number
9 of occasions to pay the rent. But as we indicated in the
10 staff report, right now the rent is owing and there is
11 penalty and interest on that. As to the insurance -- if
12 there is insurance, that's wonderful. It would be nice if
13 the organization that is under lease from us does have
14 good standing from the Secretary of State's office, but it
15 hasn't for the last five years, according to their
16 records.

17 And as far as the bonding goes, again seven years
18 ago, we allowed, rather than the posting of a single bond,
19 that they make periodic payments until the bonding became
20 sufficient. And they're still in arrears on those
21 installment payments.

22 And finally, on the maintenance of the bridge,
23 you know, we think it's just -- it's so important that the
24 public not be put in a position of danger. And we don't
25 think it's too much to ask for a registered engineer to

1 actually provide plans on how the bridge is to be repaired
2 and certify that that's been done in a safe manner. We've
3 contacted Sacramento County. They indicate they have no
4 regulations dealing with standards for bridges. We
5 certainly have none for this type of facility, and are, in
6 fact, barred by legislation from adopting regulations of
7 that nature.

8 So we're certainly not telling in detail how the
9 bridge is to be repaired, other than to say it should be
10 done safely and by an engineer, and we would expect that
11 to take place.

12 So as I said before, I think our recommendation
13 would be to give them sufficient time to cure these, as we
14 have in the past. We gave them 60 days notice from the
15 staff. If the Commission desires, we can give additional
16 time to Bruno's, or their lender. Their lender has 60
17 days, according to the staff report, as well as another 60
18 days, if necessary.

19 COMMISSIONER CHIANG: So this is where I am. I'm
20 a little bit more generous and a little bit less generous.
21 I'm prepared to terminate, except they said they're ready.
22 And so if they're ready, and they're making all these
23 pronouncements here, then let's actually set a deadline

24 Now, they're also in default, and so the question
25 is I want to see everybody's interests on the table to see

1 if Bruno's, ARI, Owens, will come to the table very, very
2 quickly. Now, instead of a time rush, I'm also concerned
3 if we terminate the lease, you know, what happens
4 otherwise. There's not necessarily a rush, but this is
5 incredibly frustrating with allegations leveled.

6 And so if you're alleging that people aren't
7 being fair, part of your ability to say somebody is unfair
8 is your ability to perform. And I think we've been very
9 fair in giving them an opportunity to perform. So I want
10 to see the party perform according to the contract that we
11 have.

12 EXECUTIVE OFFICER FOSSUM: And if I could add,
13 what the calendar item does say is that it finds they're
14 in default of the lease. It ratifies the staff's finding
15 of that, and it authorizes the staff to terminate the
16 lease. It doesn't direct staff to do so. So that's --
17 and that's a nuance, but it, in fact, doesn't require us
18 to terminate the lease or eject them if they continue to
19 or if they begin to cooperate and to come up with all the
20 defaults in a way that cures them.

21 ACTING CHAIRPERSON GARLAND: And if I understand
22 you correctly, those terms are 60 days, and then at your
23 discretion 120 days?

24 EXECUTIVE OFFICER FOSSUM: That's right. And
25 technically those are for the secured lender Owens

1 Financial, but we would certainly be willing to allow a
2 like period of time for Bruno's to become licensed.

3 ACTING CHAIRPERSON GARLAND: Now, I want to jump
4 in here because the issue of not legally doing business in
5 the State is of major concern, at least to me and it looks
6 like it is to both of the other Commissioners.

7 That's not addressed in the current staff
8 recommendations. And if the assurances the Controller
9 just got can somehow be documented, so that I believe the
10 agreement was that the contractual relationship between
11 the two entities would be substantiated and given to the
12 Commission staff by Friday; and then there's the issue of
13 Bruno's getting legal, so to speak, with State. And my
14 understanding from what you said is you're going over to
15 the Secretary of State's office today?

16 MR. ADESOKAN: Yes.

17 ACTING CHAIRPERSON GARLAND: So you should be
18 able to provide then the paperwork that Bruno's is legally
19 doing business in California also by tomorrow?

20 MR. SNODDERLY: I don't think we can do that by
21 tomorrow.

22 MR. ADESOKAN: We don't know what we're going to
23 get from -- the Secretary of State has a list of items
24 that we would need to get done, but we'll go with them.

25 ACTING CHAIRPERSON GARLAND: Staff would need

1 to -- I believe did you say you've been operating without
2 a license for five years?

3 MR. ADESOKAN: No, that is not the case.

4 EXECUTIVE OFFICER FOSSUM: We'd be willing to
5 give them 30 days to document that they're doing business
6 in California lawfully.

7 ACTING CHAIRPERSON GARLAND: Okay. So how long
8 are you going -- I think it was asserted that it's been
9 five years. How long are you asserting that you've been
10 doing business illegally in California?

11 MR. ADESOKAN: No. Actually, we discovered about
12 the suspension when they brought it up. We were not even
13 aware of that, because we thought we were in compliance.

14 COMMISSIONER CHIANG: So if --

15 MR. SNODDERLY: My name is David Snodderly. I'm
16 President of Bruno's Island Yacht Harbor, Inc. And I just
17 want to let you know that I am here and available to
18 answer questions. And I have been ill the last year and a
19 half.

20 COMMISSIONER CHIANG: Well, I'm glad you're in
21 better health.

22 MR. SNODDERLY: So that's part of the reason that
23 I haven't paid as much attention to this. I was a party
24 to the negotiation of this lease in 1985 with Claire
25 Dedrick. It goes a long ways back, and my health was

1 better then.

2 But we can get you the documents for the good
3 standing of the corporation within the 30-day period, no
4 sweat.

5 COMMISSIONER CHIANG: First of all, and most
6 importantly, I appreciate that you're in better health.
7 I'm happy to see that. The question is coming out of
8 suspension, if you're in suspension, because I'm not --
9 we're not using the technical terms here for incorporation
10 and taxes.

11 Do you have the money, if requested, when you go
12 over to the Secretary of State to make up for past
13 obligations?

14 MR. SNODDERLY: We can raise that.

15 MR. ADESOKAN: Yes.

16 MR. SNODDERLY: The short answer, yes.

17 COMMISSIONER CHIANG: Well, you can raise it, but
18 if they ask you for the check at the Secretary of State's
19 office, will you be able to provide it?

20 MR. ADESOKAN: Yes. We don't think the amount
21 owed to the State on the suspension is significant. It's
22 probably an issue of -- that's what we're thinking.

23 COMMISSIONER CHIANG: So the --

24 MR. SNODDERLY: There's confusion on one tax
25 return that has to be redone by the CPA. So that's an

1 issue and it needs to be decided.

2 COMMISSIONER CHIANG: Okay. Can you --

3 MR. SNODDERLY: But we have a number, if we want
4 to take that number, which is a computed number.

5 MR. ADESOKAN: The maximum amount based on the
6 State evaluation on that is \$2,100 for that issue.

7 MR. SNODDERLY: The Secretary of State fees are
8 like 25 a year plus penalty for the statement, you know,
9 so it's not a significant number. And we thought it was
10 being done, but it wasn't.

11 COMMISSIONER CHIANG: So --

12 MR. SNODDERLY: Let me find out, because it might
13 be germane to your thinking, is that nobody mentioned the
14 flood in January of 2011, which impinged our cash flow,
15 and we did ask for State Lands help with that and didn't
16 get any.

17 We're getting by. The bridge was engineered in
18 1995 and rebuilt. What we rebuilt was an old county
19 bridge that Bruno brought up from Marin County in 1965,
20 and it had like four-inch planking on top and not pressure
21 treated. And we replaced that with eight-inch planking
22 that was pressure treated. What happened to the bridge
23 recently is yet a component failure of one of the timbers
24 that's on the top of the piling. And it was just too
25 heavy a load and it got old, so it's being repaired.

1 The entity status we talked about. And so if we
2 can have some time to fix that, I think we can work
3 together.

4 ACTING CHAIRPERSON GARLAND: Thank you. I think
5 we're getting closer to wrapping this one up.

6 It sounds like we've got a -- the staff's
7 recommendation, which we're not changing, with the
8 addition of 30 days to -- well, Friday to show staff
9 the --

10 EXECUTIVE OFFICER FOSSUM: The recommendation --
11 the relationship.

12 ACTING CHAIRPERSON GARLAND: -- legal
13 relationship between the two entities, and then 30 days to
14 become compliant with Bruno as doing business in the State
15 of California. Is that the understanding -- and the
16 engineering certification at the completion of the task.

17 MR. SNODDERLY: And what's the deadline of that?

18 COMMISSIONER CHIANG: I was just trying to push
19 the deadline earlier, and then staff has that full time to
20 make the evaluation, because I don't want us to be where
21 we've been before where people get to the end of the
22 deadline and ask for additional time.

23 ACTING CHAIRPERSON GARLAND: Right. It was
24 stated earlier that you believed the work would be done by
25 the end of next week.

1 MR. ADESOKAN: Yes, that's a representation of
2 the contractor to us.

3 ACTING COMMISSIONER REYES: Mr. Chair, just --
4 I'm not sure that you agree that that's going to be
5 doable.

6 MR. SNODDERLY: Well, I'm not in that loop, so
7 I've delegated that to Mr. Ade.

8 ACTING CHAIRPERSON GARLAND: Okay. So then it
9 would be -- would it be reasonable -- and I'm asking this
10 of my fellow Commissioners, then if the parties
11 representing that it be done by the end of next week, that
12 would be the 9th of September, it would be that Friday, so
13 then it would be available for Lands' staff to inspect and
14 then receive completion documentation from a certified
15 engineer by the 12th of September, so that we're not
16 running up against --

17 EXECUTIVE OFFICER FOSSUM: I think we're most
18 concerned about -- I mean, we certainly believe that an
19 engineering certificate is -- of completion is important,
20 but we're also concerned -- you know, we have two of our
21 engineers who are dealing with marine terminals and
22 they're basically bridges as well. Vehicles go out on
23 these marine terminals to monitor, transfer of oil from
24 ships to shore and making sure that those things are safe
25 in a safe condition. Our concern is that the bridge needs

1 to be -- that the loads on the bridge, for example, the
2 fire trucks, the garbage trucks, everything else, it needs
3 to be engineered in a way, so that the engineer can say my
4 plan is to put this in here because of the stress loads on
5 that bridge of this weight category, it needs to be up to
6 that speed.

7 So as you often see on bridges, they'll have
8 weight restrictions, even on streets. And so we would
9 want the engineer to be able to document the weight load
10 and the design of the repair work in a way that would show
11 that the stress loads were repaired in a adequate way, so
12 that it was a safe bridge.

13 So if that's the kind of detail they're talking
14 about, certainly we are concerned about that. I couldn't
15 even, when I remodeled my house, change a beam without
16 getting a certified engineer to come in and look at the
17 stress loads of what that would do to the roof and
18 everything else.

19 So for a bridge that many people use over one of
20 our waterways, we think it's very important to make sure
21 that it's safe. And we're not telling them how to make it
22 safe, but to have it designed safely and the stress loads.

23 COMMISSIONER CHIANG: And so is the --

24 MR. SNODDERLY: We couldn't agree more that the
25 bridge needs to be safe.

1 COMMISSIONER CHIANG: And so -- I'm sorry. Go
2 ahead.

3 MR. SNODDERLY: And the issue is that -- and
4 nobody seems to recognize that in 1994 or '95 when we
5 rebuilt the bridge from the old 1960 bridge, which was
6 basically gone, we got that engineered by Mr. Syo through
7 the Emson firm who is a professor at Davis. And that was
8 engineered to highway loads.

9 And after 10 years, or 12 or 14, whatever it is,
10 we had a component failure, which is not unusual. The
11 State of California has suffered similar component
12 failures in bridges. And so our position is that we
13 should be allowed to repair that in the normal course of
14 business. And two hours wasn't much time for us to react
15 to the inspection.

16 COMMISSIONER CHIANG: But our understanding, at
17 this point, is that your bridge is being constructed up to
18 those standards. If it's not being constructed up to
19 those standards, it fails the test as required by --

20 EXECUTIVE OFFICER FOSSUM: If those standards
21 exist and those engineering drawings exist, that the
22 engineer who will be certifying the repair being done, I
23 would expect that would probably be adequate.

24 MR. ADESOKAN: Actually, the bridge is over
25 engineered for the purpose of its use. And the PE -- the

1 structural engineer has that detail and has also signed
2 off on that specifically because they did a thorough
3 analysis of that bridge.

4 The bridge is extremely important to our
5 business, because that's the only way of getting in and
6 out. It would be foolish for us not to make sure that the
7 bridge is safe, the bridge is structurally sound, and also
8 that it will last. It's just a prudent thing to do as an
9 existential issue for the company, you know --

10 EXECUTIVE OFFICER FOSSUM: So if they provided
11 the staff with those engineering drawings, so that we
12 could review them, and that certification is made that
13 they are brought up to those standards, that would be
14 fine.

15 ACTING CHAIRPERSON GARLAND: Okay. In that case,
16 we're going to close the item. Any further comments from
17 the Commission?

18 Curtis, would you like to just review what's
19 before us right now, which I believe is the staff's
20 recommendation and then the additional terms that the --

21 EXECUTIVE OFFICER FOSSUM: Right. Basically,
22 it's to ratify the fact that they are currently in default
23 of the lease and authorize the staff to give them a Notice
24 of Termination and to their secured party lender, and also
25 authorize a 60-day period in which to cure to Owens

1 Financial.

2 The Commission has added a couple of provisions
3 that would allow that the engineering work that's going to
4 be done be certified by the engineer by September 12th,
5 and that within 30 days Bruno's provides the Commission
6 with documentation that it has -- is lawfully doing
7 business in California; that by the end of business
8 tomorrow, September 2nd, that they provide a written
9 statement as to the relationship and authority that ARI
10 has to represent Bruno's in any action.

11 And that -- if you desire, then we'd also ask
12 that the engineering drawings for the bridge repair in
13 1995 be provided to us, so that we can check those.

14 COMMISSIONER CHIANG: Is there anything else you
15 need?

16 EXECUTIVE OFFICER FOSSUM: No.

17 COMMISSIONER CHIANG: Okay. Thank you.

18 ACTING CHAIRPERSON GARLAND: All right.

19 COMMISSIONER CHIANG: So moved.

20 EXECUTIVE OFFICER FOSSUM: As long as they cure
21 these things, we will be very pleased.

22 ACTING CHAIRPERSON GARLAND: We've got a motion
23 and --

24 ACTING COMMISSIONER REYES: Second.

25 ACTING CHAIRPERSON GARLAND: -- and a second.

1 But before we take the vote, I do want to say to -- thank
2 you for the time you've spent, and this is an opportunity
3 for you to do what you need to do to get right. And I
4 think I speak for, at least my boss, when I say I hope you
5 do meet the terms and that we can continue down this path.

6 So thank you.

7 Having a motion and a second, all in favor of the
8 staff's recommendation?

9 (Ayes.)

10 ACTING CHAIRPERSON GARLAND: Oh, I'm sorry.

11 ACTING COMMISSIONER REYES: Did we have public
12 comment?

13 ACTING CHAIRPERSON GARLAND: We had public
14 comment.

15 ACTING COMMISSIONER REYES: Anybody else?

16 ACTING CHAIRPERSON GARLAND: No, that was it.
17 Motion, second.

18 All in favor aye?

19 (Ayes.)

20 ACTING CHAIRPERSON GARLAND: Opposed?

21 The ayes have it.

22 EXECUTIVE OFFICER FOSSUM: Thank you. The next
23 item, I believe, will be Item 86. And I think we're going
24 to be taking that staff report up -- it's an informational
25 item -- before we vote on Item 75.

1 ACTING CHAIRPERSON GARLAND: Correct. That was
2 my understanding as well.

3 We can ask staff to step up and inform us.

4 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: Thank
5 you. Good morning, Mr. Chairman and Commissioners.
6 Today, I'll be summarizing the Marine Invasive Species
7 Program's latest report, assessing the availability of
8 ballast water treatment technologies to meet California's
9 performance standards for the discharge of ballast water.
10 And I have a presentation.

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

13 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: If
14 there's a button, I don't see it.

15 Next slide, please.

16 As a bit of background, non-indigenous species,
17 or NIS, are organisms transported by humans to a region
18 where they do not occur historically. NIS may have
19 serious negative environmental, economic, and human health
20 impacts in the receiving environment. They arrive in U.S.
21 waters by way of a variety of mechanisms or vectors --
22 thank you -- such as recreational boating, intentional
23 release, and aquaculture.

24 However, the ballast water of ships is one of the
25 most important vectors of species release in marine and

1 aquatic habitats. Ballast water is used to maintain the
2 trim and stability of vessels at sea. It has been
3 estimated that more than 7,000 species are transported
4 around the world each day in the ballast water of ships.

5 --o0o--

6 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI:

7 Acknowledging the significant threat of species
8 introduction from ballast water release, and the need to
9 more effectively manage ballast water discharges, the
10 California Legislature passed the Coastal Ecosystems
11 Protection Act in 2006, which directed the Commission to
12 implement performance standards for the discharge of
13 ballast water and to write reports assessing the
14 availability of treatment systems to meet those standards.

15 The performance standards regulations were
16 approved in October of 2007. California standards set
17 limits for organism concentration as a function of
18 organism size class in ballast water discharge. The
19 standards will be implemented on a graduated time schedule
20 based on a vessel's ballast water capacity and status as a
21 new or existing vessel.

22 --o0o--

23 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: So this
24 table shows California's standards in comparison to the
25 standards set by the International Maritime Organization,

1 also known as the IMO.

2 Note that California standards for the organisms
3 greater than 50 micrometers in size - so this is the top
4 row there - is set as no detectable living organisms,
5 which is not directly comparable to the IMO standard for
6 the same organism size class.

7 California's standards for bacteria and viruses,
8 if you kind of jump down a little bit on the table, have
9 no direct counterparts in the IMO standards. And
10 California standards for the human health indicator
11 species, so that's the E. Coli, the enterococci and the
12 vibrio are only roughly two to three times more stringent
13 than IMO.

14 Only the standards for organism in the 10 to 50
15 micrometer size class, so that's the second row, can be
16 considered 1,000 times more stringent than the IMO
17 standard.

18 --o0o--

19 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: The
20 first two legislatively mandated technology assessment
21 reports were completed in December of 2007 and in January
22 of 2009. On January 1st of 2010, California standards
23 were implemented for newly built vessels with a ballast
24 water capacity of less than or equal to 5,000 metric tons.

25 Because of the time required to build a vessel,

1 any ship for which construction began on or after January
2 1st of 2010 won't be ready for service and likely to reach
3 California waters until this year or perhaps later. Thus
4 far, we have not yet seen any vessels in California that
5 are required to meet our performance standards.

6 Last year, the 2010 Legislative Report, which was
7 approved by the Commission in August, assessed the
8 availability of treatment technologies for new build
9 vessels with a ballast water capacity of greater than
10 5,000 metric tons. So this is kind of the next vessel
11 size class. The standards will be implemented for that
12 size class on January 1 of 2012.

13 When approving the 2010 report, the Commission
14 requested that staff present an updated report by
15 September 1st of 2011 to ensure that technologies were
16 developing on schedule to allow for the implementation of
17 the standards on January 1 of 2012. So we present that
18 updated report to you today.

19 --o0o--

20 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: As with
21 previous reports, the assessment of available ballast
22 water treatment systems to meet California's performance
23 standards is challenging due to a number of factors.

24 Not all systems have data available for review.
25 And the data that is available does not cover every

1 environmental or shipboard condition.

2 Furthermore, the testing methods and protocols in
3 existence were developed for the International Maritime
4 Organization standards and are not specifically tailored
5 for California standards. Thus, there are issues
6 surrounding statistical confidence, when comparing data
7 that was collected for the IMO purposes and using it to
8 assess availability in California.

9 Because of these challenges and the fact that
10 staff does not currently have the practical ability to
11 test and approve treatment systems, we evaluate systems
12 for the potential to comply with the California standards.

13 These statistical and testing challenges have
14 been discussed recently at the federal and State levels by
15 the EPA and various Great Lake states. It's important to
16 note, however, that none of these federal or State reports
17 evaluated the ability of systems to meet the California
18 standards.

19 They all reviewed multipliers of the IMO
20 standard, which are quantitatively different than
21 California for some of the organism size classes.

22 ACTING COMMISSIONER GORDON: Can I stop you right
23 there?

24 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: Sure.

25 ACTING COMMISSIONER GORDON: In layman's terms,

1 can you explain to my simple non-scientist mind --

2 (Laughter.)

3 ACTING COMMISSIONER GORDON: -- what the
4 difference between the two standards are, so we're talking
5 apples and apples here?

6 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: Sure.
7 Let me back up a little bit.

8 One of the major differences is for that biggest
9 size class of organisms. So these are -- you can see
10 them -- this would be organisms you can see with your
11 naked eye, but they'd still be pretty small.

12 The IMO standard sets a specific concentration,
13 so 10 organisms per cubic meter of water. Our standard is
14 set as no detectable living organisms. There's no volume
15 metric concentration associated with that. It's not no
16 detectable per cubic meter. So we don't have to sample
17 any specific volume of water. So your standard is really
18 a function of what the detection methods will be.

19 If you set specific detection methods to
20 determine if there are any organisms in that sample and we
21 don't find any organisms, then the vessel would be in
22 compliance.

23 ACTING COMMISSIONER GORDON: Can you tell me just
24 again why would we have used a different standard than the
25 IMO? Why did we decide to go with no detectable organisms

1 as opposed to a certain number per cubic meter of water?

2 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: At the
3 time that the IMO standards were put together -- or when
4 our standards were put together, it was felt that the IMO
5 standards were not strict enough, that existing management
6 strategies vessels are allowed currently to exchange
7 ballast water in the mid-ocean.

8 They'll pick up water in Japan, let's say, come
9 part way across the ocean, replace that water with
10 mid-ocean and then come to California. It was felt that
11 that mid-ocean exchange, at times, could be equivalent to
12 the IMO standards.

13 So it was felt that the IMO standards didn't
14 really advance environmental protection. So California
15 wanted to take things another step further and try to
16 really protect California's waters. So we felt that
17 setting a no detectable standard would certainly be
18 pushing the treatment system vendors to develop more
19 impressive systems, so to speak.

20 ACTING COMMISSIONER GORDON: So again I'm not a
21 scientist. Unfortunately, I went to law school, so I'm
22 not all that bright.

23 (Laughter.)

24 ACTING COMMISSIONER GORDON: So when you're
25 saying no detectable, but you're not using a cubic

1 standard, did you -- I mean, does that mean you have to
2 test the entire -- all of the ballast water? I mean, how
3 would you determine that there's nothing detectable in the
4 ballast water? You've still got to take a certain volume
5 of water to test, don't you?

6 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: Yes. So
7 what we are doing right now is developing those detection
8 methods. So we will lay out -- specifically, we will
9 measure X volume of water using X technique over X time
10 period. And if there are no organisms in that volume of
11 water based on those techniques, then we will consider it
12 not detectable.

13 ACTING COMMISSIONER GORDON: So then, I guess,
14 I'm missing something. So how is that different then over
15 time than what the IMO standard is?

16 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: It does
17 create a stricter standard. You will find, you know,
18 depending on -- depending on how we set our methods, it
19 will allow us to determine if there are fewer organisms in
20 the ballast water than would be in the IMO standard.

21 ACTING COMMISSIONER GORDON: Is it possible for a
22 regulated entity to understand what those volumetric
23 standards that you're going to adopt are going to be?

24 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: Yes,
25 because we are in the process of developing regulations

1 where we will clearly lay out exactly what the volumes and
2 techniques will be to assess compliance with that
3 standard. So we plan to go through the rulemaking
4 process, which, of course, will be open to the public, so
5 there will be opportunity for industry and other
6 technology vendors to comment. And then they will --
7 these methods will be clearly laid out for them.

8 ACTING CHAIRPERSON GARLAND: I have to take a
9 half a step back here. Once we lay out those metrics, are
10 we currently at a place where we can measure to the
11 standards that are set in law? Are there current tests
12 available to be able to meet those standards?

13 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: For
14 compliance verification purposes, we believe that the
15 methods we lay out will be able to determine whether or
16 not vessels are in compliance with our standards.

17 In terms of a priori testing, testing that is
18 done before the systems are put into operation, there are
19 some challenges with the statistics of it right now to
20 know with a 95 percent confidence limit, which is kind of
21 a general scientific term, whether or not those systems
22 meet our standards.

23 So there are some statistics issues up front. We
24 are willing to acknowledge that. But we believe that the
25 methods that we will lay out in the compliance

1 verification protocols will make it very clear exactly how
2 our standards will be measured. It will be clear to the
3 industry. They will have opportunity to provide public
4 comment on to how those methods are developed. We're
5 working with a group of international scientists to
6 develop those techniques. So we feel they will hold up
7 statistically and be valid scientifically.

8 ACTING CHAIRPERSON GARLAND: So taking it a half
9 a step -- you know, ballast water for dummies here.

10 (Laughter.)

11 ACTING CHAIRPERSON GARLAND: Currently, we cannot
12 meet -- there is technology or metrics to meet the current
13 standards right now?

14 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: We can't
15 verify it statistically.

16 ACTING CHAIRPERSON GARLAND: With statistical
17 significance and a confidence interval of 95 percent?

18 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: Right.
19 So I can't say that there aren't technologies. All I can
20 say is that we don't have the methods to determine
21 statistically that they can meet the standards.

22 ACTING CHAIRPERSON GARLAND: Okay. Do we -- is
23 there a reasonable expectation that there will be by
24 the -- in time to meet the goals set forth in law?

25 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: The

1 statistics will not -- or the methods will not come
2 together enough in the next three months, so that we will
3 have that statistical certainty.

4 ACTING CHAIRPERSON GARLAND: Okay.

5 EXECUTIVE OFFICER FOSSUM: We expect to have
6 that, I believe, next summer sometime. But correct me if
7 I'm wrong, Nicole, but I think the same problem exists
8 with the IMO standards, that they haven't come up with the
9 methodology yet to actually measure?

10 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: For the
11 compliance protocol things, how we will measure the
12 discharges once they come into the State, there is no
13 entity in the world, not IMO, not the Feds, not any other
14 states that have yet developed compliance protocols.

15 ACTING CHAIRPERSON GARLAND: Has that been
16 communicated to the Legislature that the requirements that
17 they've asked us to meet cannot be scientifically met at
18 this point with another implementation date, I believe --

19 EXECUTIVE OFFICER FOSSUM: It was at the last
20 time -- the last report that the Commission received last
21 year, and that's why they were -- the Commissioners last
22 year were anxious to hear what kind of progress over the
23 next year, being today, was made.

24 And what we found is there's been significant
25 progress, but, you know, maybe you're on third base now

1 not home yet. And so what we're most interested in, I
2 think --

3 ACTING CHAIRPERSON GARLAND: Well, were we born
4 on third base or did we hit a triple?

5 EXECUTIVE OFFICER FOSSUM: No, I think we --

6 ACTING CHAIRPERSON GARLAND: Because it sounds to
7 me like we asked a question a year ago that --

8 EXECUTIVE OFFICER FOSSUM: No. I think every
9 year we're -- this is a fairly short time frame in which
10 this whole program has been operating about 12 years now.
11 And, you know, starting from scratch -- we talked about
12 Maurya's retirement -- and how the progress has been made
13 over that period of time. And we believe that the
14 technologies that are coming out now to do the treatment
15 technologies are such.

16 And, in fact, you received one letter from
17 Echochlor where they say they are prepared to certify that
18 even -- that their technology will meet California's
19 standards. And they have already put two of these
20 treatment systems on vessels that have been approved by
21 the Coast Guard and can sail in California waters without
22 doing ballast water discharge out in the ocean.

23 So do we know for a fact that they can? We don't
24 know, because we haven't come up with the standards to
25 measure it yet, which we hope to do next year, but they're

1 saying they can. And so --

2 ACTING COMMISSIONER REYES: So how can they say
3 that though? They don't know the protocol that we're
4 using to establish this.

5 EXECUTIVE OFFICER FOSSUM: Well, they know the
6 measurements. And based upon their studies of the -- in
7 shooting for the -- as Nicole said, in shooting at the IMO
8 standards, they have done so much better than those
9 standards using whatever protocol they're using for
10 measurement, that they're willing to certify to these ship
11 owners that they will comply.

12 Now, does that mean that they have to pay the
13 penalties if they violate, or that they have to repair it
14 or whatever? You know, that's something that business is
15 saying. And they're saying they're working with countries
16 all over the world building these ships. So I can't tell
17 you personally that these things are truthful, but that's
18 what this company -- and I believe they're one of the most
19 well thought of companies in this regard.

20 ACTING COMMISSIONER GORDON: Curtis, are there --
21 is there any evidence that there's more than one company
22 that's making this claim? My worry would be that if we
23 adopt a standard where there's only a single vendor, that
24 we are essentially giving a State-mandated monopoly to one
25 company, which we would be -- I know my boss would not

1 wish to do. And I suggest --

2 EXECUTIVE OFFICER FOSSUM: Right. I don't think
3 that they have a corner on the market. I think they're
4 using a technology that involves a certain chemical that I
5 would expect any of the companies would have access to for
6 treatment systems. And there's probably dozens. And I'll
7 let the experts speak to that. But as to how many
8 technologies are being worked on right now throughout the
9 world, certainly this is huge for everybody in the world.

10 You know, the companies who have been working
11 with the IMO have sought to have a standard that -- you
12 know, that many different vendors could comply with. We
13 think those standards are ones that are not as good as
14 they should be, given technology today.

15 And while some of the standards are identical to
16 the ones the Legislature has adopted, some of the other
17 standards are not. And, in fact, one standard I've been
18 told is less than even ballast water exchange. So the IMO
19 standards aren't perfect. Maybe ours aren't perfect
20 either. Certainly, that's something, if our measurement
21 techniques come up, and say you can't prove perfection in
22 that, we would be the first one to recommend legislation
23 changing the standards.

24 At this point, we're still working on how do you
25 measure it, so we can know. And, you know, that's -- it

1 is a bit of a dilemma. We'll certainly acknowledge that,
2 but we don't think it's an impossible one.

3 I mean, these same arguments have been made since
4 the beginning. And so they'll continue until we actually
5 have the technology to measure compliance and in what
6 format to do that.

7 ENVIRONMENTAL PROGRAM MANAGER TAKATA: Chairman
8 and Commissioners, could I interrupt --

9 EXECUTIVE OFFICER FOSSUM: It's Lynn Takata.

10 ENVIRONMENTAL PROGRAM MANAGER TAKATA: -- just to
11 clarify. I'm Lynn Takata. I am the new Environmental
12 Program Manager for the Marine Invasive Species Program.
13 And I just wanted to interject as to your question if
14 there was another technology vendor that has certified
15 that they can meet California's standards.

16 We, in the past, for our last technology
17 assessment, had another technology vendor certify that
18 they would be willing to certify to meet California
19 standards. We did not request -- we had requested
20 technology vendors, at that time, for that previous
21 report, if they could certify.

22 For this report, we didn't explicitly ask them
23 again. So the company that said this time that they could
24 certify is the same company that -- is one of the
25 companies that had said last time they would certify, in

1 addition to another one that last time had said they could
2 also certify.

3 ACTING CHAIRPERSON GARLAND: Is there a reason we
4 didn't ask them to certify this time, since we did last
5 time and we're trying to move towards this?

6 ENVIRONMENTAL PROGRAM MANAGER TAKATA: I think we
7 assumed that since they had certified last time, that
8 would -- and it was in a legislative report, that that
9 would suffice. We didn't necessarily anticipate those
10 questions, but that report was brought to the Legislature
11 in last year, August.

12 ACTING CHAIRPERSON GARLAND: Did we ask anybody
13 additionally to certify?

14 ENVIRONMENTAL PROGRAM MANAGER TAKATA: Not this
15 go around. We have not.

16 ACTING CHAIRPERSON GARLAND: So we asked last
17 time and one person said yes -- one company said yes.

18 ENVIRONMENTAL PROGRAM MANAGER TAKATA: Last time
19 two.

20 ACTING CHAIRPERSON GARLAND: Two said yes?

21 ENVIRONMENTAL PROGRAM MANAGER TAKATA: Yes.

22 ACTING CHAIRPERSON GARLAND: Even though, we --

23 ENVIRONMENTAL PROGRAM MANAGER TAKATA: And this
24 time one company stepped forward and -- without us asking
25 and reiterated that they felt the same.

1 ACTING CHAIRPERSON GARLAND: And they said they
2 could meet a standard that, frankly, we haven't set yet.

3 EXECUTIVE OFFICER FOSSUM: Well, the standard is
4 set. It's how to measure to seek compliance, but --

5 ENVIRONMENTAL PROGRAM MANAGER TAKATA: And
6 secondly, I'd like to point out that in Gregory -- Dr.
7 Gregory Ruiz's comment letter that hopefully was included
8 in your packet, there is the ability to detect exceedance
9 of the standard should not be confused here. We will be
10 able to detect exceedance of the standard with a fair
11 amount of statistical certainty.

12 ACTING CHAIRPERSON GARLAND: What's a fair amount
13 of -- this is the one place I do have a little bit of
14 expertise. What do you consider a fair amount of
15 statistical certainty? Are we talking about a 95 percent
16 confidence interval?

17 ENVIRONMENTAL PROGRAM MANAGER TAKATA: With a
18 non-detectable standard, the chances of finding something
19 in there, given a specific sampling protocol, become very
20 small, as you -- if you keep finding nothing in there. So
21 I can't give you the specific numbers, but they become
22 very, very small.

23 ACTING COMMISSIONER GORDON: Let me ask one other
24 question slightly different, as I look at that schedule up
25 there. My experience in environmental regulation is set

1 the bar high, give the regulated community a time frame to
2 meet that standard that fits in with business models that
3 work.

4 As I look at that, these are very expensive
5 systems. They're going to be -- ships are going to be
6 completed January of next year, and we don't really have a
7 standard yet.

8 So if they're going to be expected to install
9 fairly expensive systems that we don't know whether
10 they're going to comply two years, four years, six years
11 out, it doesn't strike me as that's a reasonable direction
12 to go as the technology is changing.

13 And if we want these companies to comply with
14 very high standards, it just seems they're going to be
15 putting stuff on that they're not going to know whether
16 it's going to meet California's standards coming in. And
17 what I see, frankly, is a whole lot of litigation coming
18 out of where we're going right now, without environmental
19 benefit from that litigation.

20 And what I'm looking for, as I consult with the
21 Controller on this, are standards that are attainable,
22 that the companies can meet and we're not going to spend
23 the next 10, 20 years in court fighting over what the
24 meaning of these standards are.

25 Are we going there?

1 ENVIRONMENTAL PROGRAM MANAGER TAKATA: We are
2 currently -- once protocols for compliance measuring come
3 out, the shipping industry will know whether they're in
4 compliance or not. So staff are currently working on
5 those protocols. And I'd also like to point out that --

6 ACTING CHAIRPERSON GARLAND: I have to jump in
7 here, because this is the second kind of non-answer
8 answer. And maybe, in your scientific world, it's an
9 answer, but in our world, it's really not.

10 The question I asked and this question, these are
11 pretty binary situations. We're either working towards
12 this or we're not. We're either asking people to make
13 significant investments when we don't know what we want
14 from them yet, and we can't tell them how they can comply
15 with what we don't know we want from them yet. And I
16 think -- I just want to -- I think that's where you were
17 going and that's where I am currently, and I believe where
18 my boss is currently.

19 We are all for setting the bar high and then
20 getting there, but we can't be unrealistic in asking folks
21 to meet our standards, particularly when we can't meet our
22 standards yet either. And this is why I wanted the other
23 issue removed from the Consent Calendar and put after
24 this, so that we could have the broader discussion about
25 what we're doing here and what we're asking other folks to

1 do.

2 I'm satisfied with the presentation to this
3 point, if Alan and Pedro are. I'm satisfied that we're
4 not going to get an answer.

5 EXECUTIVE OFFICER FOSSUM: And if I could clarify
6 something. The report is on the informational agenda.
7 The actual calendar item, as I've been provided, it
8 appears to be one that was an earlier version when it was
9 talking about having the Commission approve the item.

10 That's incorrect. That should have not been
11 there. And for some glitch that took place, the actual
12 item -- the report is fine, but the -- if you look at the
13 calendar item itself where it says consider approval of
14 and asking the Commission to accept it, those were not
15 intended as action items or anything for the Commission.

16 This is just a report back to the Commission on
17 this status. We certainly can take your comments and any
18 direction you want us to go in, but we're not asking you
19 to approve the report or accept it.

20 ACTING COMMISSIONER REYES: We're supportive of
21 the issue.

22 ACTING CHAIRPERSON GARLAND: Absolutely.

23 ACTING COMMISSIONER REYES: I mean, we're very
24 concerned about invasive species, but people need to
25 understand what stick they're being measured against. And

1 I'm getting the sense that we don't have that stick yet,
2 and so it's kind of hard to come up and say this is what
3 you need to do, but we're not really sure how we're going
4 to measure that. And that causes me some concern, as
5 supportive as I am on -- or as concerned as I am about
6 invasive species, the ballast. I want to have a better
7 sense of that.

8 ACTING CHAIRPERSON GARLAND: And I think at a
9 time when all three of our bosses are trying to create
10 jobs and financial certainty and get folks to reinvest in
11 California, asking an industry to meet a standard at this
12 point that we need to understand better, I think is
13 important.

14 ACTING COMMISSIONER REYES: But we need to
15 continue moving forward on this. There's no doubt about
16 it.

17 ACTING CHAIRPERSON GARLAND: Absolutely. There's
18 no putting on the brakes here at this point. I think we
19 need to -- our direction would be for the staff to
20 continue to work on this.

21 ACTING COMMISSIONER REYES: You're on the right
22 track.

23 EXECUTIVE OFFICER FOSSUM: And we'll keep the
24 Commission posted on the advances we do make or the
25 information that becomes available to us. And, you know,

1 if it becomes -- if it comes to a point where we think
2 it's a Catch 22 for these shipping companies, we'll bring
3 that to you, and we'll go to the Legislature, if
4 necessary.

5 ACTING CHAIRPERSON GARLAND: Yeah. I think we
6 need to -- knowing the Legislative deadlines, we've got
7 bill introduction in December and somewhere through
8 December through February. So we should have a good sense
9 of if we need to ask the Legislature to give us more time,
10 we should have a sense of that inside that window, so that
11 we can ask for those changes to be made.

12 EXECUTIVE OFFICER FOSSUM: Right. And frankly,
13 we were doing a lot of soul searching on that. And so it
14 was somewhat surprising to me to see such a strong letter
15 from one company who said, "No problem. We'll comply.
16 And we'll tell the ship owners who buy our product that
17 they're guaranteed". But we'll factor all those things in
18 to any information we provide you.

19 ACTING COMMISSIONER GORDON: I'd like -- before
20 we move on to something else, is there progress being made
21 between the staff and the regulated community to get to a
22 place where, at least, you guys are talking the same
23 language?

24 I mean, as the letters -- I read the letters with
25 my nonscientific brain. They really sound like they're in

1 different universes. I mean, I hear your side. And you
2 guys sound like -- and I have a lot of confidence that
3 you're very good scientists and you're moving in a
4 direction that I'm comfortable with. And then I read the
5 letters from the other side, which sounds like you're
6 pushing them in places that they can't go, that they don't
7 understand. There are scientists from their side all over
8 the world saying that you guys don't know what you're
9 talking about.

10 And you've got scientists on your side saying you
11 do. And without going through reading and becoming as
12 expert as you are in the minutia of invasive species
13 organisms, which I don't suspect I will become expert in
14 between now and January, what I want -- is there progress?
15 Could we call up -- are there any of the stakeholders --
16 can any of the stakeholders in here we can call them up so
17 I can --

18 EXECUTIVE OFFICER FOSSUM: Actually, there are.

19 ACTING COMMISSIONER GORDON: I want to hear folks
20 out there to say we're working together and we're going to
21 try to get this to a place that everybody at least
22 understands what we're talking about. Can we do that?

23 EXECUTIVE OFFICER FOSSUM: Commissioner Gordon,
24 we have two individuals fortunately enough who would like
25 to speak. One in support representing the California

1 Association of Port Authorities. And then John Berge, who
2 is with the Pacific Merchant Shipping Association, who
3 wishes to speak in opposition. So you're going to get
4 some public input as well.

5 ACTING COMMISSIONER GORDON: I'd like to have
6 them up here. You guys can stay here, because I don't
7 want you guys talking past each other. I'd like to get
8 some kind of direction, so that we all know where we're
9 going here.

10 ACTING CHAIRPERSON GARLAND: I'll take these in
11 the order that they came in. I believe that Mr. Berge was
12 first in and he's in opposition to Calendar Item 86.

13 MR. BERGE: Thank you, Mr. Chairman --

14 ACTING CHAIRPERSON GARLAND: Good morning.

15 MR. BERGE: -- Commissioners. John Berge with
16 Pacific Merchant Shipping Association.

17 These are all good questions that have been
18 asked, and I appreciate your attention to this matter.
19 And I also want to thank staff for all their efforts in
20 moving forward with this, and their general good work in
21 running this operation, the invasive species program.

22 But I do must disagree with their conclusions and
23 recommendations in the report. But first, I want to
24 emphasize that we're in total agreement with moving
25 forward with the implementation of treatment systems.

1 In fact, most of the systems that have been rated
2 highly in this report are going to be put on board
3 vessels. They've already been purchased by many vessel
4 owners and been installed or being installed. That is to
5 meet the international standard.

6 Where we disagree, strongly disagree, is with the
7 report's suggestion that these systems can or will be able
8 to clean ballast water to the level necessary to meet
9 California's standard. And this is not just our opinion,
10 but the opinion of the collected experts -- nation's
11 experts in this field, as outlined in the EPA science
12 advisory report.

13 We've submitted that information to the
14 Commission. And that evidence is unequivocal in its
15 findings that no on-board treatment systems exist that can
16 be verified to meet any discharge standards beyond those
17 adopted by the IMO, and proposed by the U.S. Coast Guard,
18 nor do any technologies show promise meeting anything
19 close to the California standard in the near future.

20 And this is not for lack of trying, because these
21 systems are being developed to eliminate all the
22 organisms. It's not like they're just trying to meet IMO
23 and stopping there.

24 And the strategy that staff has put forward,
25 which, and I quote from the report, "Develop verification

1 protocols to ensure that all vessel discharges are
2 compliant with California law", is a problem for us. And
3 it should raise problems for -- concerns for policy makers
4 as well.

5 Pretending to meet a discharge standard that's
6 been proven to be unattainable with existing technology
7 poses serious legal concerns for both us and the State,
8 and we believe the People of California deserve to have a
9 ballast water standard with which they can measure
10 environmental impacts to a level that's measurable and
11 verifiable, as opposed to developing a false sense of
12 security.

13 I do want to point out that the EPA SAB report
14 also included the Ecochlor system, the one that has
15 suggested that they can guarantee compliance with
16 California, within their review, and they determined this
17 system could not be anything beyond the IMO standard.

18 So as far as Ecochlor's certification or
19 guarantee, as one attorney told me that's worth basically
20 a bucket of warm spit. So I think we need to keep that in
21 consideration. On the one hand, you have one vendor
22 trying to sell a product, on the other hand you have the
23 entire science advisory board and their panel of experts.

24 ACTING CHAIRPERSON GARLAND: If you could --

25 MR. BERGE: So anyway, we believe the report

1 should recognize the limitations that have been put
2 forward, and be explicit in its assessment of current
3 technology. When the Legislature adopted the standards
4 proposed by the Commission, they understood the need to
5 modify them. Hence, the requirement for these occasional
6 reports on -- for assessment to provide guidance. And, in
7 fact, the schedule has been modified once before based on
8 a recommendation from this Commission.

9 So on the eve of this implementation date, 2012,
10 we believe that the International U.S. Coast Guard
11 Standard is the only standard that can be achievable with
12 existing technology, best available technology. And I
13 urge the Commission to recognize that reality in the
14 report.

15 And furthermore, we would like to see a
16 recommendation to the Legislature that the existing
17 standard be modified accordingly.

18 Now, if I could -- if you would give one
19 moment --

20 ACTING CHAIRPERSON GARLAND: One moment. You're
21 time has already --

22 MR. BERGE: I would like to address the time --
23 or the question of the difference between the IMO and the
24 California standard.

25 Now, specifically, in terms of non-detectable

1 organisms, a standard that the SAB report suggested was
2 not statistically viable.

3 There's a paradox here. Essentially, if you test
4 to the standards developed for the IMO systems, which is
5 right now pretty much the only acceptable or developed
6 standards out there, you're going to find that systems
7 will not meet a zero detectable organism level. There
8 will be some organisms found.

9 If, instead, you develop a protocol that finds
10 that there are zero organisms -- or there are no
11 detectable organisms, essentially what you've done is
12 created a less environmentally protective standard than
13 the IMO standard.

14 It's just a paradox you have. You can't have
15 both. So I think it's important to understand that
16 they've looked at this category. They looked at all the
17 categories and determined that the international standard
18 is the ultimate standard at this point in time. In the
19 future, that will change. And I think we have to keep
20 moving forward and change those accordingly, but in the
21 time being, I think we need some surety.

22 ACTING CHAIRPERSON GARLAND: Thank you.

23 ACTING BOARD MEMBER REYES: Mr. Berge.

24 ACTING CHAIRPERSON GARLAND: Pedro.

25 ACTING COMMISSIONER REYES: You know, when I

1 listen to folks talk about standards within existing
2 technology, I'm reminded of the catalytic converter when
3 California came up with that. And the auto industry was
4 opposed. How could they build a car for California and do
5 what they do with the rest of the nation. Clearly, they
6 can't do that. And low and behold where are we now?

7 The California Clean Air Act when it came out,
8 clearly we were just going to shut down business and
9 nobody would be able to do anything in California. And
10 somehow, we still managed to be the 8th economy in the
11 world.

12 So, you know, there's -- I get it. I get the
13 concerns. And you and I had a conversation on this. But
14 I think the reality is we're moving in this direction. So
15 my concern -- the only concern I have right now is making
16 sure that there is a protocol in place that we're going to
17 measure against.

18 But other than that, I think the industry needs
19 to be prepared for this. And the technology will come up.
20 It's just a matter of time. That's just my observation.
21 Thank you.

22 ACTING CHAIRPERSON GARLAND: Yes.

23 ACTING COMMISSIONER GORDON: And this is a
24 question to Mr. Berge and to staff. Is there an agreed
25 upon organization that determines what Best Available

1 Control Technology is?

2 MR. BERGE: I'll leave staff maybe to elaborate
3 more on that. To my understanding, there's various
4 organizations that have been recognized by the IMO, in
5 terms of testing to their standard.

6 Since California is not actually determining or
7 certifying any systems, I don't believe they've reached
8 that level, but again, I'd have to let them answer that.

9 ACTING COMMISSIONER GORDON: Can staff respond to
10 that?

11 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: The only
12 organization that is -- there are testing protocols for
13 the IMO standard. And then countries will certify those
14 systems as meeting the IMO standard, but there is no
15 international organization that kind of puts on the stamp
16 of approval and says this system is good to go throughout
17 the world yet. We're still in the young stages of these
18 technologies being implemented.

19 EXECUTIVE OFFICER FOSSUM: And just to be clear,
20 the IMO is a draft treaty basically amongst a number of
21 countries. It hasn't gone into effect. The United States
22 apparently has no intention of entering into the treaty,
23 but the Coast Guard independently is looking at what we're
24 informed is something similar, but it isn't in effect yet
25 either.

1 So everybody is kind of shooting at the future
2 here, and ships are putting these technologies in hoping
3 that some day they'll be able to comply with any of these
4 standards that may go into effect.

5 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: The
6 Coast Guard doesn't intend in the future to approve
7 treatment technologies, but they are several years away
8 from creating those approval programs.

9 ACTING CHAIRPERSON GARLAND: All right. We had
10 one other public comment from Tim Schott.

11 MR. SCHOTT: Thank you, Mr. Chair and
12 Commissioners. Tim Schott on behalf of the California
13 Association of Port Authorities, which is comprised of the
14 State's 11 commercial publicly owned ports.

15 We want to first commend to the State Lands
16 Commission for your fine work in this area. Frankly,
17 State Lands Commission is leading the world in this area,
18 but we'd also commend industry. They really have come to
19 the table from the very beginning when this whole debate
20 started and we've been involved for that 15-year process,
21 I think, or damn near now.

22 And we appreciate the idea of trying to set that
23 bar high and get industry to go over it. And I think
24 folks are genuinely trying to do that. We would
25 recommend, I think, three principle things.

1 First of all, the ports don't own or operate any
2 vessels that discharge, but we are stewards and trustees
3 of harbor resources and public resources, and we take that
4 role very seriously. Our members take that role very
5 seriously.

6 We'd asked the State Lands Commission to continue
7 to working with vessel owners and operators to monitor and
8 facilitate the advancement of on board ballast water
9 treatment technologies.

10 We would encourage you to recommend delaying or
11 modifying the performance standards, if it is determined
12 to be appropriate in that we cannot meet a standard and we
13 can't verify that folks are meeting that standard, until
14 or to allow the flexibility for viable treatment
15 facilities -- viable treatment technologies as they're
16 developed. So perhaps there's some flexibility that can
17 be built into these performance standards that recognize
18 where we are and where we want to be.

19 And then finally, we would just ask you to keep
20 in mind what I think all of you Commissioners have
21 mentioned, which is we are operating in a world economy
22 that is highly competitive. The ports are operating in a
23 world that is highly competitive and we would not like to
24 see diversion of cargo and related jobs, because of
25 confusion in California over a standard.

1 So I think it's an important thing to keep in
2 mind. We greatly appreciate the work you're doing. And
3 setting the bar high is the right thing to do. Folks are
4 coming to the table. We just aren't there yet to know
5 what that standard is, I think. I think that's what we've
6 heard from all sides.

7 ACTING CHAIRPERSON GARLAND: Thank you.

8 Any questions or comments?

9 Commissioner Reyes.

10 That concludes the -- staff, anything else?

11 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: If I
12 might just say one last statement.

13 ACTING CHAIRPERSON GARLAND: Sure.

14 STAFF ENVIRONMENTAL SCIENTIST DOBROSKI: We are
15 working very closely with industry. We do have a
16 technical advisory group where we meet with them, you
17 know, every -- a couple times a year. We last met with
18 them in March. The Pacific Merchant Shipping Association
19 is on that advisory group as well as other industry
20 members. We are working with them to develop these
21 protocols and we plan to have them in place in the next
22 six months. So we do have a plan to move forward.

23 EXECUTIVE OFFICER FOSSUM: If there's no other
24 questions, I think we should move on to Item 75.

25 ACTING CHAIRPERSON GARLAND: Yeah.

1 ENVIRONMENTAL PROGRAM MANAGER TAKATA: Good
2 morning. It's still morning -- good afternoon.

3 EXECUTIVE OFFICER FOSSUM: Just a clarification
4 on this. This being an action item and with two
5 alternates representing our Constitutional Officers,
6 you'll have to decide amongst yourselves who will
7 participate and vote on that.

8 ACTING CHAIRPERSON GARLAND: We're going to Rock,
9 Paper, Scissors right before the vote.

10 (Laughter.)

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

13 ACTING CHAIRPERSON GARLAND: And just so I don't,
14 Curtis, you did make mention earlier that there might have
15 been an issue with the content of this one?

16 EXECUTIVE OFFICER FOSSUM: Yes. Actually, the
17 Commission had this before in the June meeting. And, at
18 that time, we asked for the first phase of this program to
19 be funded for \$150,000. Subsequently, we found out from
20 the Department of General Services that we should be doing
21 the entire project in one contract, and so we're bringing
22 it back to the Commission for the entire \$450,000.

23 ACTING CHAIRPERSON GARLAND: Okay.

24 ENVIRONMENTAL PROGRAM MANAGER TAKATA: Good
25 afternoon, Commissioners and Mr. Chairman. As I mentioned

1 before, my name is Lynn Takata and I'm the new Program
2 Manager for the Marine Invasive Species Program within the
3 Marine Facilities Division.

4 I'm going to provide you a brief overview of
5 Agenda Item 75, which is a request to enter into an
6 agreement to fund the development of a monitoring tool to
7 verify vessel compliance with ballast water performance
8 standards.

9 Next slide, please.

10 --o0o--

11 ENVIRONMENTAL PROGRAM MANAGER TAKATA: So first
12 just a bit of background. The 2003 Marine Invasive
13 Species Act identifies specific directives and mandates
14 for the Marine Invasive Species Program. Amongst those,
15 the Act directs us to sponsor pilot programs to evaluate
16 alternatives and technologies that can be used to prevent
17 the introduction of non-indigenous species to the state,
18 via ballast water and other ship mechanisms.

19 Additionally, that Act directs us to sponsor
20 research that is necessary to carry out the requirements
21 of the Act.

22 So next slide, please.

23 --o0o--

24 ENVIRONMENTAL PROGRAM MANAGER TAKATA: So the
25 program in the past has several -- has funded several

1 projects to fulfill these directives. Generally speaking,
2 targeted projects have been those that improved
3 technologies for better prevention of non-indigenous
4 species release in California or projects that can inform
5 regulation, development, and policy recommendations for
6 the Commission.

7 So examples of specific projects have included,
8 but are not limited to, the installation of several
9 experimental ballast water treatment systems on working
10 vessels, the development of a hand-held tool to verify
11 legal ballast water exchange, and the development of the
12 west coast's only ballast water treatment technology
13 testing facility at the Cal Maritime Academy's Golden Bear
14 facility

15 Next slide, please.

16 --o0o--

17 ENVIRONMENTAL PROGRAM MANAGER TAKATA: So the
18 project proposed here for your consideration is the design
19 and development of a tool to determine vessel compliance
20 with California's ballast water discharge standards. As
21 described by Nicole Dobroski in the prior calendar item,
22 the Coastal Ecosystems Protection Act directed the
23 Commission to implement performance standards for ballast
24 water discharge.

25 In addition, the Marine Invasive Species Act

1 mandated that we inspect and sample 25 percent of vessel
2 arrivals.

3 Therefore, in order to carry out these
4 requirements, protocols and tools will be essential to
5 verify compliance with standards. And it's important to
6 note that this is the case regardless of the form in which
7 performance standards are implemented.

8 To date, no government entity has yet identified
9 or developed tools for assessing vessel compliance with
10 discharge standards -- for any discharge standards. Thus,
11 this specific project is critical for the Commission to
12 carry out the mandate set forth in the 2006 Coastal
13 Ecosystems Protection Act and the 2003 Marine Invasive
14 Species Act.

15 So a little bit more specifics on the project
16 detail. The proposed project is divided into two phases.
17 And the first phase, a naval engineering consultants
18 Glostern Associates will conduct a feasibility study for a
19 tool with several design elements, such as portability,
20 usability on the ship-board environment, and utility for
21 in-line in situ use on a vessel.

22 Completion of Phase 1 will produce a
23 three-dimensional prototype tool design. Pending the
24 completion of that first phase, the second phase will
25 entail the construction and the testing of the tool at the

1 Cal Maritime Academy's Golden Bear Facility.

2 As Curtis mentioned, the request to support Phase
3 1 of the proposed project was originally presented at the
4 last Commission meeting with the intent of addressing
5 Phase 2 at a later date. However, the Department of
6 General Services advised Commission staff that both phases
7 should be included in a single project.

8 So Commission staff have thus combined the two
9 phases and have brought it today for your consideration.

10 ACTING CHAIRPERSON GARLAND: Thank you.

11 Questions from either one of the Commissioners?

12 I just -- I have one question and it could be I
13 wasn't paying attention the last time the Commission
14 brought this up, since I wasn't sitting. Tool versus
15 protocols, you talk about you need both. Is this a -- is
16 there any chicken and egg going on here, where we're
17 designing a tool for something we don't know what we're
18 designing it for yet?

19 ENVIRONMENTAL PROGRAM MANAGER TAKATA: No matter
20 what standard or what the form of the standard takes, you
21 will need a way to quickly count whatever it is you want
22 to count, so that's why it needs to occur.

23 ACTING CHAIRPERSON GARLAND: So this isn't a case
24 where we're buying a Phillips head, but we're going to
25 find out later we need a flat head?

1 ENVIRONMENTAL PROGRAM MANAGER TAKATA: No. No.

2 (Laughter.)

3 ACTING COMMISSIONER REYES: Or that we need
4 pliers.

5 ACTING CHAIRPERSON GARLAND: Or that we need
6 pliers.

7 (Laughter.)

8 ACTING CHAIRPERSON GARLAND: All right. Any
9 public comment? There wasn't any handed in.

10 Any additional comment from the Commission?

11 In that case, thank you very much for your
12 presentation.

13 ENVIRONMENTAL PROGRAM MANAGER TAKATA: Thank you.

14 ACTING CHAIRPERSON GARLAND: And the previous
15 presentation as well. I don't think we thanked you.
16 Thank you.

17 So that would leave us with adopting this. Were
18 there any changes that needed to be made to the --

19 EXECUTIVE OFFICER FOSSUM: No.

20 ACTING CHAIRPERSON GARLAND: As it is. Okay. In
21 that case, I'll entertain a motion.

22 ACTING COMMISSIONER REYES: Move approval.

23 ACTING COMMISSIONER GORDON: Second.

24 ACTING CHAIRPERSON GARLAND: We've got a motion
25 and a second.

1 All those in favor say aye?

2 (Ayes.)

3 ACTING CHAIRPERSON GARLAND: Opposed?

4 Ayes have it.

5 Moving on.

6 Thank you, Commissioners. The next item of
7 business is Item 87. It's a staff report on the
8 Commissions's efforts to remediate oil leakage Summerland
9 Beach Area in Santa Barbara County. And Steve Curran from
10 our Long Beach Office will present this item.

11 Do we need to skip this and -- the pointer is not
12 going to work the technical folks are telling us, so it
13 doesn't matter.

14 PETROLEUM DRILLING ENGINEER CURRAN: All right.
15 I'll try to do it without. Explain it by verbiage.

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

18 PETROLEUM DRILLING ENGINEER CURRAN: Good morning
19 or afternoon, whatever it is, esteemed Commissioners,
20 Commissioner Garland, Commissioner Reyes, and Commissioner
21 Gordon.

22 My name is Steve Curran. I'm the drilling
23 engineer for the MRMD Division, Engineer Division down in
24 Long Beach. We're responsible for a lot of the drilling
25 and abandonment projects.

1 And today's talk is going to be about the
2 Summerland Oil Field and one particular problem we have
3 out there.

4 The presentation is -- let's start with a brief
5 overview of the Summerland Oil Field. The Summerland Oil
6 Field and the Summerland Offshore Oil Field are inactive
7 oil fields in Santa Barbara County, California about four
8 miles east of the City of Santa Barbara within and next to
9 the unincorporated community of Summerland.

10 First developed in 1890s and richly productive in
11 the early 20th century, the Summerland Oil Field was the
12 location of the world's first offshore oil wells drilled
13 from piers in 1896. This field was the first significant
14 field to be developed in Santa Barbara county and produced
15 3.18 million barrels of oil during its 50-year life span.
16 Finally being abandoned in 1939-1940 time frame.

17 Another nearby oil field entirely offshore
18 discovered in 1957 named the Summerland Offshore Oil Field
19 produced from two drilling platforms in Santa Barbara
20 Channel before being abandoned in 1996. And you'll see
21 maps of those in just a minute after I go through the
22 summary.

23 This talk is going to cover the history and
24 background, the previous remediation efforts, the 1993
25 well abandonment work, the leaking Becker in-shore well,

1 the current status, the proposed approach to reabandon the
2 Becker in-shore well and funding.

3 Next slide.

4 --o0o--

5 PETROLEUM DRILLING ENGINEER CURRAN: Actually, go
6 two slides.

7 --o0o--

8 PETROLEUM DRILLING ENGINEER CURRAN: There we go.
9 It doesn't work. Oh, it does work. Okay. Perfect.

10 Okay, these two photos show the Summerland
11 onshore field in 1906 time frame, where it has all the
12 wharfs and piers in place. And then the second view down
13 below in the right-hand corner is the Summerland Beach as
14 of 19 -- as of 2009 with everything removed almost current
15 day.

16 --o0o--

17 EXECUTIVE OFFICER FOSSUM: If I could interject
18 for a second, I just want the Commissioners to be aware
19 that the State of California didn't authorize any offshore
20 leasing or drilling until the 1920s. These are all
21 trespassers.

22 PETROLEUM DRILLING ENGINEER CURRAN: Thank you,
23 Curtis.

24 Okay. This is an aerial view of Summerland Beach
25 in relation to the Summerland offshore field. The red

1 represents the field boundaries. The offshore unit has
2 two platforms, Hilda and -- had two platforms Hilda and
3 Hazel, which were removed in the 1996 time frame. And on
4 the onshore part you can see the piers are superimposed
5 inside of the red area.

6 Here's a closer view showing the onshore portion,
7 where the piers existed for the offshore wells from 1898
8 to the 1920s. And the longest pier, which I can't point
9 in, the middle of the red area, is the Treadwell Pier,
10 which has some significance.

11 --o0o--

12 PETROLEUM DRILLING ENGINEER CURRAN: The next map
13 shows is a field map showing the level of activity in that
14 time frame in 1906. You can see all the little black dots
15 on the upland portion and along on the piers are wells
16 that were drilled. The Treadwell Wharf is noted in yellow
17 and the Becker Wharf is also shown to the left. The
18 Becker inshore well location is shown at the inshore end
19 of the pier, the Becker Pier.

20 As per the DOG, DOGGR now, previously DOG, annual
21 report of 1915, 364 wells were completed on piers and
22 upland areas and two million barrels of oil had been
23 produced. One well produced 100 barrels per day for six
24 months, then declined to three to four barrels per day.

25 A typical good well would come in at 10 to 12

1 barrels a day and rapidly decline to one to two barrels a
2 day.

3 --o0o--

4 PETROLEUM DRILLING ENGINEER CURRAN: So as you
5 can see, we had a lot of wells there in the early times
6 before there was leasing, before there was anything. It
7 all started in the late 1890's and continued on to the
8 1920's. And, of course, the Commission was formed in
9 1921. So before that, it was in the purview of Surveyor
10 General.

11 So we've had a lot of efforts to remediate and to
12 keep up with abandonment, reabandonment work, and removal
13 of piling remnants, pier remnants throughout time. And
14 that's what I'm going to go over next.

15 In the 1950s and 60s, we removed obstructions,
16 surveyed and mapped well casings and pilings, 60 were well
17 casings and 30 were pilings. In 1968, we did the
18 Summerland cleanup project, one of our first big projects.
19 Sixty wells had surface plugs put in them and the casings
20 were cut off. Previously, they just had rags, rocks,
21 pieces of wood stuffed in them. That was the protocol
22 back in the early 1900s.

23 In the seventies, the Treadwell number 10 well
24 was actually reabandoned. That's the one on the long
25 pier. Five more wells were abandoned and we removed three

1 other well heads. In the 1980s, one of the projects was
2 we plugged Treadwell number 17 well and seep inspection
3 survey was conducted.

4 --o0o--

5 PETROLEUM DRILLING ENGINEER CURRAN: In the
6 1990s, the Summerland well abandonment project abandoned
7 three shore-side wells in 1993. And I'm going to show you
8 the equipment spreads on that in just a minute and go into
9 further detail.

10 And two-phased study was done directly after that
11 in 1995-1996 time frame. And this is where we spent the
12 most money for science, in conjunction with the USGS,
13 OSPR, the Department of Fish and Game and the University
14 of Santa Barbara.

15 We did a geophysical study. We did hydrographic
16 bathymetric measurements to make maps. We did
17 magnetometry surveys, which is kind of like going out
18 trying to find coins on the beach but on a bigger scale,
19 and did this extensive dive survey and gridded the whole
20 area, so we could tie what's existing now to what is
21 sitting at today's current roads and the bluff and all the
22 configuration of the beach, because there was some issues
23 of location and where things are from 1900 to the current
24 day.

25 In that Phase 1 study, we were looking for well

1 casings, oil seeps, wharf and pier remnants, anything that
2 needed to be cleaned up. We identified 43 targets, and
3 nine were classified as critical targets that we would go
4 back on for Phase 2 and do excavation work. So that was
5 Phase 2 of the study.

6 In that Phase 2, we categorized the Becker
7 inshore well, that's where it was discovered. We also
8 noted the Treadwell number 10 well still had some
9 problems, and we identified the major seeps and other
10 pieces of piling and pier remnants.

11 --o0o--

12 PETROLEUM DRILLING ENGINEER CURRAN: Okay. Since
13 2000 to current Fairweather Pacific who is now Interact,
14 LLC, prepared the Summerland Well Research Project. This
15 was funded by the Summerland Foundation. And basically,
16 they wanted them to take a closer look at the Treadwell
17 number 10 well, because we had three attempts to abandon
18 that well with limited success.

19 And I'll go into that in a minute. Alan
20 Grosbard, an attorney, was also hired to prepare an
21 in-depth historical review of the Summerland Field and the
22 Treadwell number 10 well and the Treadwell Pier of the
23 Treadwell family.

24 I'm going to provide you copies of that through
25 PDF, because it's a really good read, and it goes through

1 all of the lawsuits and everything else that happened
2 between the 1898 to 1930 time frame as far as ownership
3 rights, and everything, because there was a lot of people
4 involved in the Summerland area.

5 Fairweather Pacific, which is now, of course,
6 Interact, prepared a Treadwell number 10 seep remediation
7 project execution plan, which was very expensive, and the
8 conclusion came out that even if we did it, it would
9 probably still leak again, because it was too close to
10 seeps and drilled in a fault area. So the chances of
11 being successful would not be very well without drilling
12 relief wells or doing more drilling, which we didn't agree
13 with, because it would trigger a new lease obligation and
14 there were other issues. Plus, it's offshore in the surf
15 zone, so there's engineering difficulties with that.

16 Another study that was undertaken in 2005 to --
17 2001 to 2005 was collection of seep material from these
18 active seeps in the area, and that was conducted by UCSB,
19 Ira Leifer, the DFG, Department of Fish and Game, and OSPR
20 and NOAA, and that would be Ken Wilson was with the
21 Department of Fish and Game.

22 There report came out in 2007, and basically came
23 to the same conclusions of the Fairweather report that
24 doing anything with Treadwell 10 it was probably seep
25 activity and there was a fault there, so trying to

1 reabandon would not help us.

2 In the latest 2000 time frame, we've had periodic
3 sightings of oil on Summerland Beach and that's from the
4 Becker inshore well.

5 --o0o--

6 PETROLEUM DRILLING ENGINEER CURRAN: This is a
7 Google Earth photo, an aerial view, that shows the Becker
8 inshore well at the end of the Becker Pier right there in
9 the surf zone. And it shows the Treadwell Pier, which
10 extends out about a quarter of a mile. It's the longest
11 pier and the best constructed.

12 --o0o--

13 PETROLEUM DRILLING ENGINEER CURRAN: This is
14 where we get into the crux of the matter. This is cross
15 section through the Treadwell Pier area. If you look at
16 all of the green markings in here -- this is a geologic
17 cross section. So you're looking at rock that's cut away
18 like you fold back on the side of a box.

19 If you look at anything that is green, that has
20 oil. That's oil sand. If it's blue, of course, it's
21 water. If it's brown, it's a shale stone or clay stone.
22 So I didn't color all of the areas, but what I wanted to
23 show you in this slide is that the oil formations, which
24 are pleistocene and miocene outcrop at the surface. They
25 outcrop at the surface on land, and they outcrop out in

1 the water to the surface, so that's why we have the active
2 seeps. That's why all the drilling and all the activity
3 happened in the first place back at the turn of the
4 century.

5 So this geologic cross section is from a 1907
6 U.S. Geological Survey study by Ralph Arnold. The oil
7 sands are at a very shallow depth of 500 feet or less. So
8 there's not a lot of pressure involved. Some of the oil
9 formations lack adequate traffic mechanisms, which means
10 they outcrop to the surface and come up and actively
11 decoil. Even to this date, they do that.

12 That natural oil seepage causes oil seeps of
13 course and can cause oil on the beach and oil in the
14 bluffs. These upper miocene, like I said, and lower
15 pleistocene-aged formations is called the Fernando
16 formation. And, as a general rule -- I can't really show
17 you here, but as a general rule, if you move northward and
18 toward the shore everything comes up closer to the
19 surface. If you move offshore and further to the south,
20 everything goes deeper, so it's harder to get. That's why
21 they developed the upland part first and gradually moved
22 offshore because they wanted to go to deeper and deeper
23 formations and get more oil. Now, we'll skip over to the
24 1993 work of the abandonment of three wells I told you
25 about.

1 --o0o--

2 PETROLEUM DRILLING ENGINEER CURRAN: This work
3 involved abandoning three shoreside wells with a structure
4 that we had engineered and certified and using abandonment
5 called a surf sled vehicle. It could be constructed in
6 two configurations, 16 to 20 feet high and then you could
7 make it 30 feet high.

8 This work took place, like I said, in the surf
9 zone where high tide could be 8 to 10 to 15 feet of water
10 with waves breaking, and you'll see some pictures here in
11 a minute. That has the rig on the surf zone platform that
12 you're looking at now.

13 --o0o--

14 PETROLEUM DRILLING ENGINEER CURRAN: Okay. To
15 accomplish this, it's a really hard area to get to.
16 Access is very limited. It's a cliff area. There's
17 bluffs. It's a narrow road to go down. When you get
18 there at high tide, the water goes all the way to the
19 bluffs, or can.

20 So you're basically working in water all the time
21 or most of the time. So what we need to do was get the
22 sled placed without disturbing the beach too much. So
23 what we did was we set up this winch apron piling
24 substructure, which actually sets a big pulley machine
25 okay, so that you can grab the sled as it comes off of the

1 ship out in the ocean and pull it towards shore where you
2 want and then drop it and set it.

3 So all this work that you see on the beaches
4 setting the base, where you -- and those pylons that you
5 see that are sticking up are all driven in, so the base is
6 very rigid. Then you have a pin that they're showing
7 on -- the winch pin on the second picture. And then the
8 winch sits on top of that pin. And that's basically your
9 pulley machine with wire cables to pull the vehicle in.

10 --o0o--

11 PETROLEUM DRILLING ENGINEER CURRAN: Okay.
12 Here's the platform structure, the SSV, being loaded at
13 Port Hueneme with a crane. And in the foreground you can
14 see the yellow is the pontoons where you can float it, so
15 that you're towing it out to the site.

16 --o0o--

17 PETROLEUM DRILLING ENGINEER CURRAN: Here it is
18 under toe on the way out to the Summerland site. And you
19 can see in the picture down to the right-hand corner, you
20 have the winch line all set up with buoys connected to it,
21 the orange markers, okay. And you're getting ready to tow
22 this into shallower water.

23 --o0o--

24 PETROLEUM DRILLING ENGINEER CURRAN: Here's the
25 sled already set. And here's the final setting where it's

1 in the surf zone, and you're getting ready for one of the
2 abandonments. So this was the type of equipment we used
3 for 1993 to do the three wells.

4 --o0o--

5 PETROLEUM DRILLING ENGINEER CURRAN: Okay. So
6 now I'm going to skip over and show what we're doing today
7 continued efforts and where we're going to go from here on
8 the next well.

9 The California State Lands Commission inspection
10 staff in Santa Barbara does weekly inspections and
11 monitoring of the beach area in Summerland. The residents
12 report to Santa Barbara County when oil surfaces on the
13 beach or visible oil sheen in the water. We've been doing
14 this for years.

15 The most recent occurrence of oil on the beach
16 shown from a leaking well was March of 2011. And we did a
17 site visit, the State Lands Commission engineering staff,
18 with the County of Santa Barbara, with the local
19 residents, with the Summerland Foundation and any other
20 interested parties and had a meeting on site in April of
21 2011.

22 At that time, they sent a letter to the
23 Commissioners and to Curtis and us to follow up and give a
24 presentation on Summerland and what's going on with the
25 status of remediation and a whole history.

1 So we gave that presentation on August 2nd of
2 2011 to the Santa Barbara County Board of Supervisors.

3 --o0o--

4 PETROLEUM DRILLING ENGINEER CURRAN: The next
5 slide shows the Summerland Beach Becker onshore well
6 surfacing oil. And this is a picture of that with Andrea
7 Fishback who's with the Summerland Foundation was nice
8 enough to digitize these and send these to us, because you
9 can't always find the well. This can turn into a Where's
10 Waldo situation. We only see this happen certain times of
11 the year. It has to be a set of perfect conditions.

12 --o0o--

13 PETROLEUM DRILLING ENGINEER CURRAN: So the
14 current status is this, natural oil seeps remain active
15 and represent the majority of the oil to the surface and
16 the water in the area. There's limited access to the surf
17 zone as I showed you earlier.

18 Of course, we gave the presentation to the Santa
19 Barbara County Board of Supervisors. And, at that time,
20 they requested us to develop a master plan for remediation
21 of the work -- continuing work at Summerland. And you
22 have that letter also. That's an August letter in your
23 package.

24 And the Becker inshore well remediation effort
25 going to do an update on that and show you what we plan to

1 do. First of all, the Becker inshore well, the subject
2 well, was drilled at the turn of the century. The leaking
3 well casing was discovered in 1994 with the U.S.
4 Geological Survey and the excavation work. And, mind you,
5 we can't find the casing. We just have a hole dug deep
6 enough to where it's eight or ten feet at low, low tide
7 conditions, and you can see oil coming up.

8 And you send a roustabout down in with protective
9 gear, of course, and reaches down in the sand and feels.
10 Wow, there's metal. There's casing. It's about six or
11 eight inches that's broken off. So it's not anything
12 visible at the surface. It's going to take some work to
13 uncover it and abandon it.

14 The conditions for that well to bring oil to the
15 surface on the beach is low tide situation. It's usually
16 in the spring and fall months, and it's when the beach
17 sand cover has been removed by tidal action, because on --
18 the way that beach is set up, the sand cover can be
19 anywhere from one to two feet during certain times and it
20 can go all the way to 10 to 12 feet and it can change on a
21 weekly basis.

22 So most of the time this well is covered, but
23 when it surfaces, it's pretty ugly on the surface, and
24 it's available there for everybody to see and walk and
25 presents a public health hazard.

1 --o0o--

2 PETROLEUM DRILLING ENGINEER CURRAN: So here's
3 what we plan to do. We're pursuing funding through the
4 State budget process for the next fiscal year through a
5 BCP. There's a little bit of money in an OSPR
6 environmental enhancement fund, but it's only 300,000 per
7 year and it's broken up into many grants, so we probably
8 won't get much money out of that. It will pretty much
9 come from us on a BCP, like it has in previous years when
10 we've done remediation work. And they can comment more on
11 the funding if you need to know more.

12 --o0o--

13 PETROLEUM DRILLING ENGINEER CURRAN: Okay. The
14 engineering approach for reabandonment of the well. It's
15 a little bit different. We're not going to tow out a big
16 structure. Things have changed technologically since
17 1993. We're going to set everything up on the bluff at
18 Lookout Park.

19 So I'll go back and show you where Lookout Park
20 is, but it's basically on the bluff directly above where
21 this situates, and we're going to line ourselves in the
22 corner of a park and put up a huge crane, and we're going
23 to set up a coil tubing unit rig, similar to the one you
24 saw in previous pictures, on the bluff.

25 Then what we're going to do is drive a caisson

1 PETROLEUM DRILLING ENGINEER CURRAN: Okay. This
2 is just some pictures of what it would look like if it was
3 really offshore. That platform would represent the bluff.
4 So you have to understand that the bluff is 200 feet away,
5 so that would be the bluff. And that caisson structure
6 that you see that says the well entry, that's the well
7 we're going to have. But it's going to have an eight-foot
8 cylinder driven around it.

9 And then, of course, it has a well head tree.
10 Ours won't be that sophisticated. This is 15,000 pound
11 setup. Ours is going to be about 1,000 pound setup,
12 because it's very close to the surface and shallow, but
13 it's the same engineering principles involved. It's going
14 to be similar to this. It's having your main piece of
15 equipment on a platform or on the bluff and having your
16 auxiliary equipment right over the caisson on the working
17 platform.

18 --o0o--

19 PETROLEUM DRILLING ENGINEER CURRAN: Okay. In
20 this picture, you can see -- I keep saying coil tubing.
21 I'm sure you don't know what that is. It's tubing
22 that's -- it's a unit where you don't have to make any
23 connections. Everything is continuous tubing, kind of
24 like you would have for a telephone reel. If you ever
25 were a kid and played on the old telephone reels that were

1 emptied or made a table out of one for college, a similar
2 principle. It's the same thing, but only it has coil
3 steel tubing that's flexible. And it's pushed out with a
4 motor and that is what is brought down into the well.
5 There's no rotary component or anything. The only rotary
6 part of it is the drill bit that's down on the bottom. It
7 has a motor.

8 Okay. So you pump fluid through it and the drill
9 bits turns. That's the only thing that turns. The rest
10 of it is stationary, so it's more safe. There's no
11 connections to break and cause a mess. So this is widely
12 used throughout industry now. Coil tubing units for
13 cleanouts and for other kind of abandonment work and other
14 things.

15 Plus, you can separate the two components where
16 you put the main unit somewhere safe, and you put the
17 injection feeder head with the blowout prevention spill
18 stuff on the well head at a further distance away up to a
19 couple of hundred feet away.

20 So that's what that shows is the injection unit
21 is over on another platform and the main unit, the brain
22 and the feeder unit, is here.

23 --o0o--

24 PETROLEUM DRILLING ENGINEER CURRAN: And here's a
25 better picture of it. That injection head I told you

1 about, right here, if you look at the arrows, it shows the
2 injection head, which is going to go on the working
3 platform. And it shows the BOP assembly, which, of
4 course, if anything starts to come out of the well, we
5 want to close it in, unlike the Macondo well, so this does
6 have a BOP system on it.

7 So the BOP system is directly under the injection
8 head. And then the coil tubing actually comes out of the
9 injection head. It's fed all the way from the main unit.
10 So what you do is you excavate down in the sand. You dry
11 cut that piece of casing when you find it. You cold fuse
12 a well head on there, so now you've got an eight-foot
13 cylinder with a well head you can tie into.

14 And what you do is you tie this assembly down
15 into that. And this assembly locks on and skews on and
16 then it can hold pressures up to 1,500 pounds. And then
17 you're good to go. Now, you can start feeding in the
18 tubing. You have a drill bit on the bottom. You start to
19 clean it out and you see what you get.

20 Everything that comes out of the well gets
21 contained inside of the caisson, so we minimize the
22 environmental effects. It's a good safe procedure. It's
23 a little expensive, but it solves the problem.

24 EXECUTIVE OFFICER FOSSUM: Steve, how expensive
25 is it?

1 PETROLEUM DRILLING ENGINEER CURRAN: We're asking
2 for 700,000 for the BCP. If things go really well, it
3 could go as low as five. A lot of engineering involved.

4 ACTING COMMISSIONER GORDON: It's safe to assume
5 there's no responsible party of any kind to go after for
6 any costs?

7 PETROLEUM DRILLING ENGINEER CURRAN: That's
8 correct. That's Curtis's purview.

9 EXECUTIVE OFFICER FOSSUM: We have a number of
10 hazards. This is a new one that we hadn't been looking at
11 in the last few years. And whether it's really considered
12 a hazard or simply an oil seep that is kind of a nuisance
13 is still somewhat of an open question. There are other
14 hazards in Santa Barbara County left from oil drilling in
15 the early part of the 20th century, which we've been going
16 after. And so this will have to be prioritized amongst
17 those.

18 And funding we've had in the past, some of it was
19 swept because of prior budget problems. We were fortunate
20 enough to get some money from the United States in the
21 last few years so that we were able to continue the
22 program. But there's still a number of hazards out there.

23 ACTING CHAIRPERSON GARLAND: Okay. Thank you for
24 your presentation.

25 ACTING COMMISSIONER GORDON: Thank you.

1 EXECUTIVE OFFICER FOSSUM: And the next we have a
2 presentation from Martin Eskijian, his last opportunity to
3 address you. And, as I said, Martin has been in many
4 countries in the world dealing with the aftermaths of
5 earthquakes and tsunamis, the damage done at various port
6 and harbor structures.

7 And because of our involvement in the offshore
8 and at marine terminals and the safety of those and the
9 prevention of damage, oil spill and otherwise, we're --
10 Martin is going to give you a short presentations on what
11 he learned in Japan.

12 SENIOR ENGINEER ESKIJIAN: Thank you, Mr.
13 Executive Officer and thank you, commissioners, for the
14 opportunity to speak this afternoon. I know the hour is
15 late, so I'll try to make this quick. And if you have any
16 questions just ask them, blurt them right out, and I'll
17 try to make this as interesting as I can.

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

20 SENIOR ENGINEER ESKIJIAN: I've been on many of
21 these trips. And this was the most sobering of all of
22 them. The damage was absolutely incredible. I was part
23 of a -- there's the overview and introduction and I'll go
24 through it real quick.

25 --o0o--

1 SENIOR ENGINEER ESKIJIAN: The team, we had 10
2 people. It was organized by the American Society of Civil
3 Engineers, Coast, Oceans, Ports, Rivers Institute, which
4 I'm a member of. They funded most of us. And we were
5 coordinating with PARI, the Japanese Ports Airports
6 Research Institute. We were in the field 10 days, and we
7 had 10 engineering professionals. We also had dosimeters
8 on to measure our radiation levels.

9 --o0o--

10 SENIOR ENGINEER ESKIJIAN: Dr. Sugano was the
11 head of the PARI group, and he was pretty high up in the
12 Japanese structure of earthquake engineering and is now
13 director of special research.

14 --o0o--

15 SENIOR ENGINEER ESKIJIAN: This was the largest
16 that we know about ever in Japan, 9.0. It had foreshocks.
17 It had aftershocks. We talk about sea level rise in
18 California. Well, this is an example of what happens when
19 you have a tectonic motion downward and they are now
20 confronted with the equivalent of sea level rise.

21 The Tsunami, we have evidence of over 50 feet,
22 and it's a function of the elevation not how inland it
23 goes. So there's some examples where it went up to six
24 miles.

25 --o0o--

1 SENIOR ENGINEER ESKIJIAN: A little bit of
2 comparison between earthquakes. 9.0 for Japan. Haiti was
3 a 7.0. Look at the difference in depths and you can
4 discover quickly that when you have a building code that's
5 two pages long, it doesn't do much to save people's lives,
6 and that's what happened in Haiti.

7 Sumatra, I was there in India after that event.
8 And there was a very large loss of life because of people
9 were living along the coast and there was no education.
10 And seven million displaced in that earthquake/tsunami.

11 The magnitude 9, I felt that kind of interesting.
12 I picked off a number of 32 billion tons of TNT
13 equivalent. And that came from the nuclear weapons
14 industry. So divided by, you get 32,000 one-mega ton
15 nukes. It was about the equivalent of the energy released
16 in this one earthquake. Kind of staggering.

17 --o0o--

18 SENIOR ENGINEER ESKIJIAN: We started out by
19 bullet train from Tokyo moved north and we stayed in
20 Sendai. We had dosimeters on. We went into Soma, which
21 is in -- within the hot zone. We went all the way up to
22 Hachinohe, which is the top red marker you see there.

23 --o0o--

24 SENIOR ENGINEER ESKIJIAN: Just some quicky views
25 of before and after. On the left before on the right

1 after, these are some of the areas we visited.

2 --o0o--

3 SENIOR ENGINEER ESKIJIAN: In addition to the
4 lives lost, the property, the damage and everything else,
5 understand that the agricultural land is ruined for a
6 period of time. Some say a year, some say longer. The
7 Cesium 132 has a lifetime of 30 years. And there's now
8 concern that what came down in the mountains and rivers
9 and rain could now affect a lot of area of northern Japan.

10 --o0o--

11 SENIOR ENGINEER ESKIJIAN: The largest recorded
12 instrument measured 23 -- I can't read it, 2393 gals and
13 if you divide by 980 centimeters per second, you get a
14 little over, almost 3 Gs of acceleration peak, which is
15 extremely large. The records were provided to us, and the
16 California Strong Motion Instrumentation Program, which I
17 serve on, volunteered to take the records, provide
18 displacement, and acceleration and velocity and also
19 compute the response spectra, which is very important to
20 us with earthquake engineers.

21 --o0o--

22 SENIOR ENGINEER ESKIJIAN: That's the earthquake
23 as it -- in one place where it was recorded. And you
24 notice there's about a -- almost a 50 second delay between
25 the first shock and the second shock. And I've never seen

1 a record as long as this one, so it's staggering.

2 --o0o--

3 SENIOR ENGINEER ESKIJIAN: The difference in
4 performance. On the left you see Tokyo, which I've also
5 visited during this trip, and you see no signs of damage
6 except air conditioning wasn't working real well, because
7 there's no power. There's a power loss.

8 Upper right, you see one of the homes on the
9 hills of one of the cities that -- this whole city was
10 wiped out, but these guys lived up on a hill. There's
11 absolutely no damage to the house. Earthquake engineering
12 is very good there. They don't make mistakes. They
13 design elastically and the structure did just fine.

14 The lower right, the red circles indicate the
15 windows are blown out. Well, gee what could have caused
16 that? The Tsunami.

17 So you look for signs like that. And something
18 that's very hard for engineers to grasp is that the
19 building may have survived just fine, but all the people
20 inside died anyway. You can't stop the water.

21 --o0o--

22 SENIOR ENGINEER ESKIJIAN: Onagawa was one of the
23 worst ones I've ever thought of seeing in my life. And we
24 have a video. And I may stop the slide show to show the
25 video. It's not integrated, because we didn't have time

1 to do that, but it was staggering to see the damage.

2 Can we flip to that video real quick.

3 If I was in Onagawa that day, I probably would
4 have died. I would have gone to the second floor of some
5 building and said, hey, I'm just going to watch the water
6 for awhile, and that was a wrong move. And you can see
7 why when you patch this video. It looks like no big deal
8 at the beginning.

9 You guys got it?

10 You'll have to excuse the little ad at the
11 beginning. I took it from the web and translated it into
12 a WAV file. And the company that does that puts a little
13 ad at the beginning.

14 Can you go full screen. Okay. Here we go.

15 (Thereupon a video was played.)

16 SENIOR ENGINEER ESKIJIAN: Something is coming
17 in. And you can see the town virtually disappear in front
18 of your eyes. Now, it's coming onto the parking lot.
19 That's not a big deal, right?

20 ACTING COMMISSIONER GORDON: How high is that,
21 that we're looking at right there? How many feet of
22 water?

23 SENIOR ENGINEER ESKIJIAN: We looking at more
24 than 50 feet of water, but not yet. Not yet. It's just
25 coming into the street. It looks pretty innocuous. You

1 know on the second floor and you say this is kind of
2 interesting. I'm going to watch this for awhile or even
3 not go to the roof. I'm going to go to the roof and I'm
4 going to watch.

5 It looks like, oh, no big deal, but just
6 understand it keeps coming. And white water indicates a
7 higher velocity. And there are some indications by the
8 experts that the outflow velocity was even higher than the
9 inflow velocity.

10 And you say to yourself, well, why is this
11 relevant to California? Well, if you have a dam failure
12 and you have a town down below it, this is what could
13 happen. You have a storm surge like we just had on the
14 east coast, you can have extreme damage where you never
15 thought you'd have water and you do.

16 So it's not just an academic look at what could
17 happen in Japan. It is relevant. And tsunamis too, like
18 we have in California, right John.

19 And then we have people that when you say Tsunami
20 in California, they run out to watch and you can die that
21 way. And one person died in Crescent City because of this
22 Tsunami by taking pictures. All the wooden structures
23 just got up and floated away, and we saw just the
24 foundations left.

25 And even if you're on the roof, you're still

1 going to not make it, because you're going out to see and
2 your little building is going to be total trash in about a
3 minute.

4 There was an article in an Oregon newspaper about
5 the hospital that you're going to see in a minute. And
6 the one doctor that was on duty risked his life and pulled
7 people out of the first floor of the hospital, which is
8 way up on a hill with bed sheets to save lives and not
9 knowing that his family was alive or dead for days.

10 You also don't want to be in car. And when you
11 think about it, you think you're going to get in your car
12 and drive away. But then you say, well, wait a minute now
13 there's no power, because the electricity is knocked out
14 because of the earthquake, so everybody is jammed at the
15 intersections and by the time you figure that out it's too
16 late.

17 ACTING COMMISSIONER GORDON: What's the time
18 horizon we're talking about?

19 SENIOR ENGINEER ESKIJIAN: About 20, 30 minutes
20 for the arrival time after the earthquake. We saw this
21 building and these two buildings survived. And there was
22 people that were running across a connector between the
23 two and they managed to get up to safety, I believe. But
24 you're seeing the entire town, this whole area, just going
25 out to see and being trashed.

1 And there was Tsunami warnings. They had the
2 sirens on, but it's still -- everybody is not going to get
3 out.

4 We can go back to the slide show now, if you can.

5 --o0o--

6 SENIOR ENGINEER ESKIJIAN: You can go to the --
7 start where you are in that slide. I only take another
8 few minutes -- Onagawa, about slide 10 or 15.

9 I had another one of a car -- it was a car and a
10 person in a car. And it's rather dramatic to see what
11 happens to the vehicle. And the guy got out and somehow
12 lived, but it's hard to believe he could make it out.

13 So we looked at buildings and also looked at port
14 and harbor structures, which is our prime interest.

15 Go ahead one more.

16 This was the most -- one of the most curious
17 things I saw is these are buildings that have turned on
18 their sides. The one on the right has a car still in the
19 garage of the building, and the building is flipped 90
20 degrees, both of them. But you notice, the building
21 survived just fine, but it's no longer quote "standing".

22 And this is my classic shot. I'm holding on to a
23 pile, which this is the foundation and the grade beams of
24 a building. And it's turned on its side 90 degrees and
25 all the other piles were ripped off. These were to make

1 it stable against liquefaction. And this one pile managed
2 to remain connected to the foundation and it's hanging
3 there.

4 And you've never seen a picture like that
5 anywhere else in the world, I don't think, ever again.

6 --o0o--

7 SENIOR ENGINEER ESKIJIAN: This is downtown
8 Onagawa afterward. And the arrows indicate cars on top of
9 buildings. And you say how could that ever happen? Well,
10 you saw what it looked like in real-time and, yes, it can
11 happen.

12 --o0o--

13 SENIOR ENGINEER ESKIJIAN: That's the hospital up
14 there that says evacuation zone. And again, the first
15 floor was flooded. It was quite a hike to get up there in
16 20 minutes. If you had to walk, you'd have a hard time
17 getting up there.

18 --o0o--

19 SENIOR ENGINEER ESKIJIAN: The buildings were
20 well designed, not for Tsunamis, but for earthquakes.
21 Wood buildings completely destroyed. Concrete and steel
22 could survive.

23 When you're in a coastal zone area, it is a big
24 problem. I don't know if the Japanese plan to rebuild
25 these cities in the exact same places, or are they going

1 to move to higher ground?

2 --o0o--

3 SENIOR ENGINEER ESKIJIAN: I'm not going to show
4 this slide, but this is really dramatic of inside a car.

5 --o0o--

6 SENIOR ENGINEER ESKIJIAN: We started in Soma,
7 which again, I said was in the hot zone.

8 --o0o--

9 SENIOR ENGINEER ESKIJIAN: You see settlement due
10 to liquefaction.

11 --o0o--

12 SENIOR ENGINEER ESKIJIAN: Abandoned marine oil
13 terminal survived very well. Pile-supported structures
14 like we have from marine oil terminals in California do
15 survive very well there. The water goes through them or
16 over them, and they're not really a big problem.

17 On the left, you see an incident where they're
18 unloading coal. And what happens when the vessel gets a
19 message that it's time to get out of port because of a
20 Tsunami and he's connected. What happens is you rip the
21 cranes. And on the right, you see a large movement of a
22 pipeline.

23 --o0o--

24 SENIOR ENGINEER ESKIJIAN: This is what's called
25 stone sand columns. It's a way to prevent liquefaction.

1 The idea is that the port pressure builds up in the
2 liquefiable material and it comes to these stone sand
3 columns and it squirts up and saves the soil. And this is
4 the first time I've ever seen anything like this, where
5 you see the upper six inches of the sand columns survived.
6 And it worked. It didn't collapse.

7 --o0o--

8 SENIOR ENGINEER ESKIJIAN: I did a rough
9 calculation on this. And I estimated about 220,000 pounds
10 this part of a sea wall weighed submerged weight. It got
11 picked up and flipped over by the Tsunami, 220,000 pounds.
12 And, you know, you can understand vehicles or vessels
13 moving and getting picked up and moved, but a block of
14 concrete that's submerged weighs over 200,000 pounds.

15 --o0o--

16 SENIOR ENGINEER ESKIJIAN: This is something I'd
17 never seen before in my life. I probably never will
18 again. It was unloading cargo, and I believe the Tsunami
19 hit. And if you know what sagging and hogging are, it
20 means you get this longitudinal moment in the structure,
21 in the frame of the vessel, and it broke the back of the
22 vessel. I've never seen anything like that before.

23 --o0o--

24 SENIOR ENGINEER ESKIJIAN: We went to a refinery.
25 We were not allowed to take pictures, but I snuck a couple

1 of them, before they told me that.

2 You can see the mud line in the fire trucks.
3 They never get out of their fire station. And after that,
4 their engines are shot anyway.

5 --o0o--

6 SENIOR ENGINEER ESKIJIAN: I snuck the picture on
7 the left. There's no damage to the marine oil terminals.
8 On the right was a base isolated container crane that
9 survived. It was designed by Dr. Sugano who led our
10 group. He was very proud of it. But what he didn't tell
11 you was that the crane next to him did not have the base
12 isolation system, and it also survived very well. We
13 didn't tell him that.

14 (Laughter.)

15 SENIOR ENGINEER ESKIJIAN: We said that's a great
16 job, Dr. Sugano.

17 Vessels onto wharves. And here you can see that
18 the wharf was designed very well. And what do you do with
19 it?

20 We thought we were really smart, down there on
21 the bottom left. I said, oh, yes the vessel broke its
22 moorings and there's bollard. No, no, no, no. There was
23 10 of these in a row that were sheared off. What happened
24 was the vessel just walked over the bollards and just
25 sheared them all off.

1 --o0o--

2 SENIOR ENGINEER ESKIJIAN: Now, that could ruin
3 your whole day if you're a marine terminal operator.

4 (Laughter.)

5 SENIOR ENGINEER ESKIJIAN: Yeah.

6 --o0o--

7 SENIOR ENGINEER ESKIJIAN: Tanks. Petroleum
8 weighs about 50 pounds per cubic foot. Sea water is about
9 64. So tanks tend to float if they're not really full or
10 tied down well. And these kind of just walked away and
11 got all messed up.

12 --o0o--

13 SENIOR ENGINEER ESKIJIAN: You never see a
14 picture of a ship on top of a seawall.

15 --o0o--

16 SENIOR ENGINEER ESKIJIAN: Oh, this is an
17 interesting one. This was a railroad terminal where
18 you're going to load the cars to deliver to the United
19 States or some other country. They never quite got out of
20 the parking lot. And after the Tsunami, these kind of
21 stacked them up there in the same place where they were
22 ready to go. I don't think they're going anywhere.

23 --o0o--

24 SENIOR ENGINEER ESKIJIAN: Ports. Liquefaction
25 moderate settlement. The port structures are well

1 designed. They're designed elastically, which they did
2 very well with.

3 Sheet walls did well. Baffled gravity walls did
4 pretty well. Tsunami pressures can uplift structures that
5 are not completely tied down and carry them inland.

6 Breakwaters. They designed breakwaters for a
7 certain height. You have a problem when it goes five or
8 ten meters over what you design. We recommend that they
9 tie down mechanical equipment and tanks and things like
10 that for buoyancy.

11 And there was no real good instrumentation both
12 for measuring the Tsunami and the earthquake, because all
13 the instrumentation got wiped out. And we believe that
14 should be protected better.

15 And finally, that the Japanese are much better
16 prepared than the Americans for Tsunamis and these kind of
17 earthquakes. And they've done a good job.

18 Yes.

19 --o0o--

20 ACTING COMMISSIONER REYES: Given the fact that
21 the big block is cement was drawn up, I mean, what do you
22 really do in terms of breakwater?

23 SENIOR ENGINEER ESKIJIAN: Well, that's a good
24 question. They can make it stronger, make it deeper.
25 You're not going to stop that. And what is this -- the

1 other question is, what's the return interval for this?
2 Is it 1,000 years? Is it 10,000 years?

3 They going to have to think very hard about that
4 question. And if it's a thousand year event, what are you
5 going to do? It's a policy -- it's a public policy issue.
6 How much do you want to spend to make it stronger and more
7 resistant?

8 ACTING COMMISSIONER REYES: Well, I'm just
9 thinking of the Martinez area and all those tanks there.
10 You know, something like that, how do you tie that down?

11 SENIOR ENGINEER ESKIJIAN: Okay. We -- what's
12 the word -- supported and provided funding for a Tsunami
13 study for the San Francisco Bay. It's on our website. We
14 know the run-up values for the San Francisco Bay based on
15 the absolute worst scenario, Cascadia Subduction Zone.
16 What would be the absolute worst case to come through the
17 San Francisco Bay?

18 And the problems aren't as bad as you think. And
19 the worst case is probably the Richmond inner harbor. And
20 those numbers are in our MOTEMS document as well as the
21 report on our website.

22 --o0o--

23 SENIOR ENGINEER ESKIJIAN: Thanks.

24 Go ahead, John.

25 It's farther up, and not only that, but you're

1 above the five or ten feet of run-up, so you're not going
2 to get hit. I would worry about the earthquake and what
3 they call elephant buckling at the bottom. I would worry
4 about sloshing, where you have the sloshing, because of
5 the dynamics of the fluid inside the tank -- the round
6 tank and what could happen in terms of the oil coming out.
7 And once it does, if you have a spark, you could ignite
8 the tanks. We saw that in Turkey. John and I were there.
9 We saw that in Turkey.

10 --o0o--

11 SENIOR ENGINEER ESKIJIAN: And then it's the
12 questions, and there I'm all done. And that's a classic
13 shot. The rubble was about two stories high. We wore
14 masks over our face most of the time. That was the
15 biggest danger. And the people were very hospitable in
16 spite of the damage and their personal losses to life and
17 their families. They very much helped us as we did our 10
18 days of work.

19 ACTING CHAIRPERSON GARLAND: Excellent. Thank
20 you.

21 EXECUTIVE OFFICER FOSSUM: Thank you, Martin.
22 Well, we're down to the last two items on the
23 agenda. These are action items. They are resolutions
24 however. And the first one, Item 89, is a resolution to
25 acknowledge the 50th anniversary of Save the Bay and to

1 commend their service and commitment to protecting and
2 enhancing the resources of San Francisco Bay.

3 We have both David Lewis, I believe, the
4 Executive Director here and Stephen Knight here, who is
5 their political director. And I'd like to say just a few
6 things about them.

7 They were created in 1961. This organization has
8 played a leading role in the preservation, restoration of
9 wetland habitat and submerged lands in the San Francisco
10 Bay region.

11 Save the Bay's major achievements during the
12 first half of the -- I guess, during its half century of
13 existence, including not only the creation of the San
14 Francisco Bay National Wildlife Refuge, but the creation
15 of the San Francisco Bay Conversation and Development
16 Commission, a sister agency, State agency. And, in fact,
17 one of our staff is over there at the Commission meeting
18 today voting on our behalf.

19 Save the Bay continues to work together in the
20 same manner of preserving the Bay and its environs. This
21 year, it's celebrating its 50th anniversary of successful
22 public education and outreach. It's resulted in greatly
23 reducing bay fill and pollution and in aiding and stopping
24 unnecessary shoreline development.

25 It's one of the largest organizations working to

1 protect the Bay. Save the Bay has inspired thousands of
2 students and other supporters to participate annually in
3 community events and restoration field trips geared toward
4 educating future bay stewards.

5 With the ultimate goal of establishing 100,000
6 acres of tidal marsh around the Bay, Save the Bay promotes
7 policies to green the bay and relies heavily on its
8 volunteers and the general public to meet its goals.

9 Without the assistance of Save the Bay, the Bay,
10 as we know it, may have been filled to nothing more than a
11 narrow waterway. Organizations such as Save the Bay are
12 essential for the protection and promotion of Public Trust
13 uses of our natural environment for the benefit of the
14 public and future generations.

15 At the direction of the Lieutenant Governor,
16 staff has prepared a resolution to acknowledge Save the
17 Bay on its 50th anniversary for its contributions in
18 protecting and preserving the environmental integrity of
19 the San Francisco Bay. The staff recommends adoption of
20 this resolution as set forth in Item 89.

21 ACTING COMMISSIONER GORDON: So moved.

22 EXECUTIVE OFFICER FOSSUM: And if you so support
23 it, we have a presentation of the resolution by the
24 Commissioners.

25 ACTING CHAIRPERSON GARLAND: Okay. Any comments

1 or -- I know we've got -- Stephen wanted to speak. Do you
2 want to speak now before we take it up, or --

3 MR. KNIGHT: It doesn't matter to me.

4 ACTING CHAIRPERSON GARLAND: Come on up to the
5 mic.

6 MR. KNIGHT: Thank you for those very kind words
7 Mr. Fossum. And thank, commissioners, for your time.

8 On behalf of our 30,000 members and supporters,
9 on behalf of 50 years of Bay Area and state residents who
10 love San Francisco Bay, I'm honored to be here today
11 standing on the shoulders of giants, specifically Kay
12 Kerr, Esther Gulick and Sylvia McLaughlin who stood up to
13 stop the rampant destruction of San Francisco Bay that was
14 underway in 1961.

15 And they did so in an environment where there was
16 no Endangered Species Act. There was no Clean Water Act.
17 There wasn't much else that we take for granted today in
18 the way of legal and environmental infrastructure.

19 So I just want to say thank you and we greatly
20 appreciate the recognition.

21 EXECUTIVE OFFICER FOSSUM: I'd like to add that a
22 couple months ago I was in the Capitol hearing a bill and
23 Sylvia McLaughlin was there testifying still to this day.
24 So I was very happy to see her there.

25 I have to say that we have yet to have the

1 execution of this document, but we'll get you one and
2 framed like this, and we'll give you the fake one right
3 now.

4 (Laughter.)

5 MR. KNIGHT: You can't see the signature in the
6 digital photo.

7 EXECUTIVE OFFICER FOSSUM: Congratulations.

8 (Applause.)

9 MR. KNIGHT: Thank you very much.

10 ACTING CHAIRPERSON GARLAND: All right then,
11 we've got a motion and a second on this one.

12 ACTING COMMISSIONER REYES: Second.

13 ACTING CHAIRPERSON GARLAND: And the vote all in
14 favor aye?

15 (Ayes.)

16 ACTING CHAIRPERSON GARLAND: The ayes have it.
17 There's only two of us.

18 EXECUTIVE OFFICER FOSSUM: Two to nothing.

19 And the final item before the Commission today is
20 Item 90. This is proposed by the staff. It's a
21 resolution for the Commission recognizing Peter Douglas,
22 the Executive Director of the California Coastal
23 Commission for his decades of dedication to the California
24 coast upon his retirement from State service.

25 Peter has been and remains an avid protector of

1 the lands along the California coast, including those
2 lands under the jurisdiction of the Commission for more
3 than two decades. It has been a long day.

4 Peter played an instrumental role in the drafting
5 and passage of Prop 20, the Coastal Initiative in 1972,
6 and the California Coastal Act in 1976.

7 He's a recipient of numerous honors and awards
8 for his work, including the 2009 Coastal Hero Award from
9 former California Lieutenant Governor John Garamendi.

10 Peter recently announced that he will be retiring
11 from his position as Executive Director of the California
12 Coastal Commission in November after more than a quarter
13 of a century in that position.

14 State Lands Commission manages the granted
15 tide -- the ungranted tide and submerged lands owned by
16 the State and serves the People of California by providing
17 stewardship of the lands, waterways, and resources
18 entrusted to its care through economic development,
19 protection, preservation, and restoration.

20 The Coastal Commission's mission complements the
21 mission of the State Lands Commission, which is to
22 protect, conserve, restore, and enhance environmental and
23 human-based resources of the California coast and ocean
24 for environmentally sustainable prudent use by current and
25 future generations.

1 Staff therefore requests that the Commission
2 adopt the resolution set forth in Item 90 and thank Peter
3 Douglas for his decades of unwavering commitment and
4 vision for the California coast and offer its heartfelt
5 gratitude for his dedication to coastal protection and
6 preservation of Public Trust resources and wishing him a
7 long, satisfying, and productive retirement.

8 ACTING COMMISSIONER REYES: Move staff's
9 recommendation.

10 ACTING COMMISSIONER GORDON: Second.

11 ACTING CHAIRPERSON GARLAND: A motion and a
12 second. All in favor -- sorry about that. We've got a
13 motion and a second.

14 Any public comment?

15 Any additional commissioner comments?

16 All in favor say aye?

17 (Ayes.)

18 ACTING CHAIRPERSON GARLAND: Opposed?

19 EXECUTIVE OFFICER FOSSUM: And we'll make sure
20 that the resolution is provided to Mr. Douglas as soon as
21 we can.

22 ACTING CHAIRPERSON GARLAND: Thank you.

23 Mr. Fossum, what's the next order of business?

24 EXECUTIVE OFFICER FOSSUM: The next order of
25 business is adjournment into closed session.

1 Oh, excuse me public comment.

2 ACTING CHAIRPERSON GARLAND: Have we gotten any
3 additional public comment request cards?

4 Excellent.

5 (Laughter.)

6 ACTING CHAIRPERSON GARLAND: Thank you.

7 Moving on to adjournment into closed session?

8 EXECUTIVE OFFICER FOSSUM: Correct.

9 ACTING CHAIRPERSON GARLAND: We'll be going into
10 closed session. I ask all non-staff and essential
11 personnel leave the room.

12 EXECUTIVE OFFICER FOSSUM: Thank you very much.

13 (Thereupon the California State Lands Commission
14 meeting adjourned at 1:13 p.m.)

15

16

17

18

19

20

21

22

23

24

25

