

MEETING  
STATE OF CALIFORNIA  
LANDS COMMISSION

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SACRAMENTO, CALIFORNIA

THURSDAY, MARCH 29, 2012

10:04 A.M.

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

APPEARANCES

COMMISSION MEMBERS

Mr. John Chiang, State Controller, Chairperson

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

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

STAFF

Mr. Curtis Fossum, Executive Officer

Ms. Jennifer Lucchesi, Chief Counsel

Ms. Sheri Pemberton, Legislative Liaison

ATTORNEY GENERAL

Mr. Joe Rusconi, Deputy Attorney General

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PROCEEDINGS

1  
2 CHAIRPERSON CHIANG: Good morning. I call this  
3 meeting of the State Lands Commission to order. All  
4 representatives of the Commission are present. I am John  
5 Chiang the State Controller. I am joined this morning by  
6 Chris Garland, the Chief of Staff to the Lieutenant  
7 Governor, and Pedro Reyes representing the Department of  
8 Finance.

9 For those of -- for the benefit of those in the  
10 audience, the State Lands Commission manages State  
11 property interests in over five million acres of land,  
12 including mineral interests. Specifically, the Commission  
13 has jurisdiction in filled and unfilled tide and submerged  
14 lands, navigable waterways, and school lands.

15 The Commission also has responsibility for the  
16 prevention of oil spills at marine oil terminals and  
17 offshore oil platforms and for prevention of the  
18 introduction of marine invasive species into California  
19 waters.

20 Today, we will hear requests and presentations  
21 concerning the leasing, management, and regulation of  
22 these public sovereign and school land property interests  
23 and the activities occurring thereon.

24 The first item of business will be the adoption  
25 of the minutes from the Commission's January 26th, 2012

1 meeting. May I have a motion to approve the minutes.

2 ACTING COMMISSIONER REYES: So moved.

3 CHAIRPERSON CHIANG: We have a motion. Do I have  
4 a second?

5 ACTING COMMISSIONER GARLAND: Second.

6 CHAIRPERSON CHIANG: We have a second.

7 Without objection, the motion passes.

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

10 Mr. Fossum.

11 EXECUTIVE OFFICER FOSSUM: Yes. Thank you, Mr.  
12 Chair, members. Today's agenda there's a couple of items  
13 that I'd like to mention, even though they're going to  
14 stay on consent. Item 25 follows up on the Commission's  
15 direction for the staff to meet with Lake Tahoe  
16 stakeholders on rent benchmarks being used there. A  
17 meeting was held on February 29th. We had a good turnout  
18 from them and the issue was discussed at length.

19 Staff hasn't received any written comments to  
20 date, and therefore we're going to be bringing the report  
21 to the Commission on the status of those benchmarks and  
22 alternatives at the May meeting.

23 Item 25 provides for applying any changes the  
24 Commission may make to those Lake Tahoe items on the  
25 January or this meeting, March meeting, agendas and

1 tolling any challenges until the Commission makes a  
2 determination on whether to change the rent formula. So  
3 it's continuing the practice we did at the last meeting.

4           Item 109 is the passage of -- late last year, AB  
5 982 was enacted and called for the Commission to enter  
6 into a Memorandum of Agreement with the Secretary of  
7 Interior by April 1st, which would subsequently effectuate  
8 land exchanges in the California desert.

9           And I'm very pleased to announce that we are --  
10 we've developed a very productive working relationship  
11 with BLM on this to exchange those properties and we hope  
12 that will facilitate solar, wind, and geothermal projects  
13 out in the California desert. Approval of Item 109  
14 authorizes us entering into the MOU with BLM and sets  
15 forth a process to effectuate those changes. So we're  
16 happy we were able to meet that deadline set by the  
17 Legislature.

18           I'm also pleased to announce that in partnership  
19 with the Department of Fish and Game, the Commission has  
20 helped facilitate the removal of 116,000 cubic yards of  
21 sediment from the ocean in the Batiquitos Lagoon  
22 Ecological Reserve in the City of Carlsbad in San Diego  
23 County.

24           The Commission staff performed the contracting  
25 work there that also provided for enhancement to the

1 California Least Tern nesting sites in the lagoon and  
2 beach replenishment at South Ponto State Beach. This is  
3 the largest project at the lagoon in over 18 years.

4 I would like to acknowledge the retirement of one  
5 of the Commission's outstanding employees, Mike Bell.  
6 Mike is a Senior Boundary Determination Officer in our  
7 Land Management Division. He came to the Commission in  
8 2000 after more than 22 years working in the private  
9 sector as a surveyor. He's a licensed land surveyor and  
10 our in-house expert on GIS. Mike sorted through many  
11 complex boundary issues for the Commission in a number of  
12 geographic areas, including the open coast in southern  
13 California, at Lake Tahoe, and the San Francisco Bay Area.

14 Mike's diligence and hard work on the  
15 Candlestick/Hunters Point Title Settlement and Land  
16 Exchange Agreement with the City of San Francisco and  
17 State Parks contributed immeasurably to the success of the  
18 negotiations that resulted in the resolution of some  
19 complex title and boundary issues by that agreement.

20 It can't be overstated how instrumental he was in  
21 facilitating and finalizing that major agreement. His  
22 knowledge and expertise was utilized and relied on by all  
23 the parties, including the City and State Parks.

24 The result of that is that some of the most  
25 experienced attorneys and title officers in the State are

1 now calling Mike for advice. While I'd like to wish Mike  
2 well in his retirement, I'm also pleased to announce that  
3 he has agreed to come back for a while to help us on some  
4 special projects, including setting up our GIS layer that  
5 will incorporate the Commission's school lands. That will  
6 be used in conjunction with implementing AB 982 and  
7 exchanges with the BLM and military to facilitate  
8 renewable energy projects in California.

9 I want to thank Mike and -- especially because  
10 he's continuing to agree to assist the Commission in his  
11 semi-retirement.

12 And that concludes my report.

13 CHAIRPERSON CHIANG: Curtis, is Mike with us this  
14 morning?

15 EXECUTIVE OFFICER FOSSUM: You know, I don't  
16 believe he is. He's probably busy at his desk working.  
17 He's got one more day of work until --

18 (Laughter.)

19 EXECUTIVE OFFICER FOSSUM: And I'll tell you,  
20 sometimes when I'm working late and I look out the window,  
21 I can see him still working and on weekends even. He put  
22 in a lot of long hours on a lot of very important  
23 projects. And he's a real trooper, and I'm sure people  
24 will rely on him for decades to come.

25 CHAIRPERSON CHIANG: Please share with him my



1 deep thanks. With that, does anybody -- the Commission's.

2 CHAIRPERSON CHIANG: Thank you, Curtis, for the  
3 report.

4 The next order of business will be the adoption  
5 of the Consent Calendar. I will call again on Curtis to  
6 indicate which items, if any, have been removed from the  
7 calendar.

8 EXECUTIVE OFFICER FOSSUM: Items C47, C66, C70  
9 and C96 have all been removed and will be heard at a later  
10 date. Item C95 is being removed from the Consent Calendar  
11 and will be brought before the Commission following the  
12 major Consent Calendar. We're not putting it on the  
13 regular agenda for discussion, but it will be voted on  
14 separately.

15 CHAIRPERSON CHIANG: I'm sorry, Curtis. Could  
16 you repeat those again.

17 EXECUTIVE OFFICER FOSSUM: Pulled from the entire  
18 agenda are C47, 66, 70, and 96.

19 CHAIRPERSON CHIANG: Very good.

20 EXECUTIVE OFFICER FOSSUM: And we'll ask you to  
21 hear C95 -- or vote on it separately from the rest of the  
22 consent.

23 CHAIRPERSON CHIANG: Okay. At this time, is  
24 there anyone from the audience who would wish to speak on  
25 an item still on the Consent Calendar?

1           If not, the remaining group of consent items will  
2 be taken up as a group for a whole.

3           ACTING COMMISSIONER REYES: So moved.

4           ACTING COMMISSIONER GARLAND: And second.

5           CHAIRPERSON CHIANG: Without objection the motion  
6 passes.

7           EXECUTIVE OFFICER FOSSUM: And now C95.

8           CHAIRPERSON CHIANG: Okay. Is there a motion?

9           ACTING COMMISSIONER GARLAND: Actually, before we  
10 get to the motion, I have to -- this is my fault it's  
11 coming off of consent. I've got a personal conflict, so  
12 I'm going to be recusing myself from consideration of this  
13 item.

14           CHAIRPERSON CHIANG: Thank you, Chris.

15           Is there a motion?

16           ACTING COMMISSIONER REYES: Move approval of C95.

17           CHAIRPERSON CHIANG: Okay. There is a motion. I  
18 will second it. Without objection, the motion passes.

19           The next item is Item 112 to support State  
20 legislation regarding funding for harbor maintenance  
21 programs. May we please have the staff presentation.

22           LEGISLATIVE LIAISON PEMBERTON: Good morning. My  
23 name is Sheri Pemberton, Legislative Liaison for the State  
24 Lands Commission.

25           Calendar Item 112 involves SJR 15 a Senate Joint

1 Resolution, authored by Senator DeSaulnier and it deals  
2 with, as you said, the Harbor Maintenance Trust Fund,  
3 which is a federal fund that provides revenue for the  
4 United States Army Corps of Engineers to carry out the  
5 dredging of navigation channels to their authorized depths  
6 and widths.

7           And it was established in 1986 to fund these  
8 activities. And it's based on a user fee collected by  
9 shippers who use the nation's coastal ports. So the  
10 federal government deposits that revenue, which is about  
11 1.4 billion annually, in this fund.

12           And for the past several years, the federal  
13 government has not spent the money in the fund on harbor  
14 maintenance and has allowed a large surplus to accrue of  
15 almost \$6 billion.

16           There are two bills in Congress HR 104 and S 412  
17 that require that the revenue and interest credited to the  
18 fund are used for their intended purposes for maintaining  
19 our navigation channels. This resolution, SJR 15,  
20 requests that the President and Congress increase federal  
21 funding from the Harbor Maintenance Trust Fund for  
22 navigational improvement equal to the amounts credited to  
23 the fund, and also urges the President and Congress to  
24 enact House Resolution 104 or Senate Resolution 412.

25           So this bill -- this Resolution, SJR 15, would

1 memorialize the California Legislature support for these  
2 two bills. And the recommendation is to support the  
3 resolution. It's pending on the Senate floor and was  
4 approved unanimously by the Senate Transportation and  
5 Housing Committee earlier this week.

6 CHAIRPERSON CHIANG: Thank you, Sheri.

7 Any comments from the members?

8 ACTING COMMISSIONER REYES: Mr. Chair, Pedro.  
9 Finance has traditionally abstained from legislation --  
10 from voting on legislation. So in keeping with that fine  
11 tradition, we will abstain from Items 112 through 116.

12 CHAIRPERSON CHIANG: Okay.

13 ACTING COMMISSIONER REYES: So I'd like the  
14 record to reflect that, please.

15 CHAIRPERSON CHIANG: Thank you, Pedro.

16 Chris.

17 ACTING COMMISSIONER GARLAND: Items 112 and 113,  
18 which I believe are similar in nature --

19 LEGISLATIVE LIAISON PEMBERTON: Yes.

20 ACTING COMMISSIONER GARLAND: -- are something  
21 that the Lieutenant Governor's office has been working on  
22 rather diligently and we look forward to supporting.

23 CHAIRPERSON CHIANG: Okay. Did you want to make  
24 a motion on 112?

25 ACTING COMMISSIONER GARLAND: I move that we

1 adopt 112.

2 CHAIRPERSON CHIANG: Okay. Items 112 and 113.  
3 We have a motion by Chris. I will second.

4 Without objection, the motion passes.

5 We'll go to -- oh, I can't strike that, can I. I  
6 didn't take public comment on it.

7 CHIEF COUNSEL LUCCHESI: You can open it.

8 CHAIRPERSON CHIANG: Let me reopen that vote. Is  
9 there anybody who would like to make public comment?

10 No.

11 Then renew the motion, seconded. Without  
12 objection, motion passes on both Items 112 and 113.

13 Next item is 114.

14 LEGISLATIVE LIAISON PEMBERTON: 114 involves the  
15 proposed Sacramento-San Joaquin Valley Water Reliability  
16 Act, which is a Congressional bill that was recently  
17 approved by the House, and is currently in the Senate.

18 This Act, HR 1837, is opposed by a wide-ranging  
19 and diverse coalition of nearly 200 different  
20 organizations. It's also opposed by the Secretary of  
21 Natural Resources, Secretary Laird, Senators Boxer and  
22 Feinstein.

23 What the bill would do is block and repeal State  
24 and federal laws that protect the California Bay-Delta  
25 estuary and the San Joaquin River, including the co-equal

1 goals of water supply reliability and ecosystem  
2 restoration that the Legislature mandated in 2009. And it  
3 would also block implementation of the San Joaquin  
4 Restoration Settlement Act.

5           So we think it's detrimental to Public Trust  
6 resources for all of these reasons, including it would ban  
7 State agencies from requiring any water right holder to  
8 protect fisheries and other Public Trust resources; weaken  
9 the Central Valley Project Improvement Act by redirecting  
10 restoration funds to water supply, rather than habitat  
11 restoration; and exempt consideration of alternatives and  
12 environmental impacts under the National Environmental  
13 Policy Act for any new Central Valley Water Project  
14 project, no matter how destructive it might be to the  
15 environment.

16           And so for all these reasons, the staff  
17 recommendation is to adopt the resolution Exhibit A in  
18 opposition to HR 1837.

19           CHAIRPERSON CHIANG: Thank you.

20           Any comments?

21           ACTING COMMISSIONER GARLAND: None at this time.

22           CHAIRPERSON CHIANG: Okay. Are there any public  
23 comments?

24           Is there a motion?

25           ACTING COMMISSIONER GARLAND: So moved.

1 CHAIRPERSON CHIANG: I will second. Without  
2 objection, motion passes. Next item is Item number 115,  
3 which is a resolution to oppose federal legislation  
4 authorizing new offshore oil leases in California.

5 ACTING COMMISSIONER GARLAND: Can I just jump in  
6 here. Did we take an official action on 113?

7 I'm sorry, did we take an official action on 113?  
8 I think I only moved 112.

9 EXECUTIVE OFFICER FOSSUM: Actually, you  
10 mentioned both of them --

11 ACTING COMMISSIONER GARLAND: Yeah, but I only  
12 moved 112.

13 EXECUTIVE OFFICER FOSSUM: Yeah, okay. And then  
14 the Chair --

15 CHAIRPERSON CHIANG: You meant to only move 112  
16 or you said 112 and 113.

17 EXECUTIVE OFFICER FOSSUM: -- suggested that they  
18 were being taken together --

19 ACTING COMMISSIONER GARLAND: I meant to move  
20 both.

21 CHAIRPERSON CHIANG: -- so if you'd like to vote  
22 on 113 separately, we can certainly do that as well.

23 ACTING COMMISSIONER GARLAND: I apologize. I  
24 should have moved 112 and 113. So let me move 113 now.

25 CHAIRPERSON CHIANG: Okay.

1           CHAIRPERSON CHIANG: Motion, second. Without  
2 objection, motion passes.

3           ACTING COMMISSIONER GARLAND: There you go.

4           EXECUTIVE OFFICER FOSSUM: And just to make sure,  
5 we did vote on 114, correct?

6           ACTING COMMISSIONER GARLAND: Correct. We've  
7 already done that one.

8           EXECUTIVE OFFICER FOSSUM: All right.

9           LEGISLATIVE LIAISON PEMBERTON: And the next  
10 item, Calendar Item 115, involves three bills in Congress  
11 that propose two significant lease-banned offshore oil  
12 leases in California, particularly the southern California  
13 planning area, as well as along the Atlantic coast.

14           The centerpiece is HR 7. It's a federal funding  
15 and authorization bill for service transportation  
16 spending. And the funding formulas for these projects are  
17 generally renewed every few years. And the existing  
18 authorization is scheduled to expire at the end of this  
19 month, March 31st.

20           This Bill HR 7 would take the unprecedented step  
21 of linking that funding to expanded offshore oil lease  
22 revenue generated from the additional lease sales.

23           And then the two additional bills, HR 3410 and HR  
24 3408 have provisions that require the Secretary of the  
25 Interior to offer for sale lease tracts off the southern



1 California planning area for oil drilling leases by 2014,  
2 and then fast track that drilling by requiring that they  
3 be part of the 2012-2017 outer continental oil and gas  
4 leasing program, which currently excludes the Atlantic and  
5 the Pacific coasts. And it would also exempt those lease  
6 sales from a federal consistency review under the Coastal  
7 Zone Management Act, preventing the State from evaluating  
8 the impacts of those new leasing on our State and coastal  
9 resources.

10 So in the last decade, the Commission has passed  
11 about 10 resolutions opposing the expansion of federal  
12 offshore oil and gas leasing operations. And these three  
13 bills, since they propose to expand that drill -- or that  
14 leasing, the recommendation is to oppose the three bills  
15 in Congress -- well, the expanded offshore oil and gas  
16 leasing provisions of those three bills.

17 CHAIRPERSON CHIANG: Any comments?

18 ACTING COMMISSIONER GARLAND: Not at this time.

19 CHAIRPERSON CHIANG: Any public comments?

20 No.

21 Is there a motion?

22 ACTING COMMISSIONER GARLAND: Move it.

23 CHAIRPERSON CHIANG: We have a motion. We have a  
24 second. Without objection, motion passes.

25 Next item is?

1 EXECUTIVE OFFICER FOSSUM: Mr. Chairman, I think  
2 we're going to be pulling Item 116 off the agenda.  
3 Although, we support the concept there, we've been told  
4 that the author's office is not moving the bill, and so it  
5 won't be necessary to vote on that item.

6 CHAIRPERSON CHIANG: Okay. Curtis, what's the  
7 next order of business?

8 EXECUTIVE OFFICER FOSSUM: The next order of  
9 business is public comment.

10 CHAIRPERSON CHIANG: Okay. Is there any public  
11 comment on any item?

12 Okay. There appears not to be.

13 That concludes the regular calendar. Are  
14 there -- I'll give one last opportunity for public  
15 comment?

16 No. Okay. Then we are going to adjourn the open  
17 session and go into closed session.

18 (Thereupon the meeting recessed  
19 into closed session at 10:19 a.m.)

20 (Thereupon the meeting reconvened in  
21 open session at 12:42 p.m. and  
22 adjourned the meeting.)

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CERTIFICATE OF REPORTER

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

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of April, 2012.

\_\_\_\_\_

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