

MEETING
STATE OF CALIFORNIA
LANDS COMMISSION

STATE CAPITOL
ROOM 447
SACRAMENTO, CALIFORNIA

FRIDAY, JUNE 21, 2013
10:02 A.M.

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

A P P E A R A N C E S

COMMISSION MEMBERS:

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

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

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

STAFF:

Ms. Jennifer Lucchesi, Executive Officer

Mr. Mark Meier, Chief Counsel

Ms. Nicole Dobroski, Marine Invasive Species Program
Manager, Marine Facilities Division

Ms. Ninette Lee, Public Land Manager, Land Management
Division

ATTORNEY GENERAL:

Mr. Joe Rusconi, Deputy Attorney General

ALSO PRESENT:

Mr. John Berge, Pacific Merchant Shipping Association

Mr. David Bolland, Association of California Water
Agencies

Ms. Jan Brisco, Consultant, Copyright Services

Mr. Jeff Carothers, Fugro West, Inc.

Dr. Andrew Cohen, Center for Research on Aquatic
Bioinvasions

Mr. Marc Holmes, The Bay Institute

A P P E A R A N C E S

ALSO PRESENT:

Mr. Lawrence Kolb, Sierra Club California

Ms. Alison Madden, Pete's Harbor

Dr. Karen McDowell, San Francisco Estuary Partnership

Mr. Eric Pease

Mr. Tim Schott, California Association of Port Authorities

Mr. Buckley Stone

Ms. Wendy Stone

I N D E X

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II CONFIRMATION OF MINUTES FOR THE TELECONFERENCE MEETING OF MAY 23, 2013	1
III EXECUTIVE OFFICER'S REPORT	3
<p>Continuation of Rent Actions to be taken by the CSLC's Executive Officer pursuant to the Commission's Delegation of Authority:</p> <ul style="list-style-type: none"> - Brubaker-Mann, Inc. (Lessee): Continuation of rent at \$100 per year for a General Lease - Right of Way Use, located on State school lands in a portion of Section 30, T10N R1E, SBM, east of Barstow, San Bernardino County. (PRC 8462.2) - North Baja Pipeline LLC (Lessee): Continuation of rent at \$655 per year for a General Lease - Right of Way Use, located on State school lands in a portion of Section 16, T12S R20E, SBM, near State Hwy. 78, Imperial County. (PRC 8378.2) - Ben Ansolabehere (Lessee): Continuation of rent at \$500 per year for a General Lease - Grazing, located on three parcels of State school lands; two parcels near the town of Spangle and one parcel 25 miles east of the City of Ridgecrest, Imperial County. (PRC 3803.2) - Sierra Pacific Power County (Lessee): Continuation of rent at \$2,411 per year for a General Lease - Right of Way Use, located on State school lands in Modoc and Lassen Counties. (PRC 7903.2) 	
IV CONSENT CALENDAR C01-C91 THE FOLLOWING ITEMS ARE CONSIDERED TO BE NON-CONTROVERSIAL AND ARE SUBJECT TO CHANGE AT ANY TIME UP TO THE DATE OF THE MEETING.	4

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LAND MANAGEMENT DIVISION
NORTHERN REGION

C01 MARK R. FREEMAN AND JULIE BANNON-FREEMAN, TRUSTEES OF THE FREEMAN FAMILY TRUST, U.D.T., DATED MAY 10, 2004 (LESSEES); DAVID PUTNAM, TRUSTEE OF THE MARTIN AND ANNE PUTNAM 2010 IRREVOCABLE TRUST DATED DECEMBER 10, 2010 (APPLICANT): Consider termination of Lease No. PRC 3545.1, a General Lease - Recreational Use, and an application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 5240 North Lake Boulevard, near Cornelian Bay, Placer County; for an existing pier and two mooring buoys previously authorized by the Commission, and two existing freshwater intake pipelines not previously authorized by the Commission. (PRC 3545.1; RA# 24812) (A 1; S 1) (Staff: G. Asimakopoulos)

C02 CARLA J. ROTH AND DAVID G. NASAW, CO-TRUSTEES OF THE NASAW-ROTH FAMILY TRUST; AND MICHAEL ROTH THUNEN, TRUSTEE OF THE MICHAEL ROTH THUNEN REVOCABLE TRUST (LESSEES); JOHN ROBERT PROCIDA, JR. AND MARY CHRISTINE MARTINSON, TRUSTEES OF THE JPMM TRUST DATED SEPTEMBER 10, 2002 (APPLICANTS): Consider termination of Lease No. PRC 4203.9, a Recreational Pier Lease, and an application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 4156 Ferguson Avenue, near Cornelian Bay, Placer County; for an existing pier, boathouse, and one mooring buoy previously authorized by the Commission, and a boat lift and one mooring buoy not previously authorized by the Commission. (PRC 4203.1; RA# 23012) (A 1; S 1) (Staff: G. Asimakopoulos)

C03 CAROLYN SUE GRISET, AS TRUSTEE OF THE CAROLYN SUE GRISET FAMILY TRUST DATED AUGUST 15, 1989 (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 6123 North Lake Boulevard, near Tahoe Vista, Placer County; for an existing pier, boat lift, and two mooring buoys. (PRC 6924.1; RA# 18512) (A 1; S 1) (Staff: G. Asimakopoulos)

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C04 JEFFREY A. OMAND AND DIANE DEARY OMAND, TRUSTEES OF THE DIANE DEARY OMAND AND JEFFREY A. OMAND FAMILY REVOCABLE TRUST DATED JULY 21, 1992 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in the Sacramento River, adjacent to 6770 Arabella Way, near the City of Sacramento, Sacramento County; for an existing single-berth floating boat dock, gangway, two pilings, and a two-pile dolphin previously authorized by the Commission, and an existing boat lift and jet-ski ramp not previously authorized by the Commission. (PRC 8490.1; RA# 23112) (A 9; S 6) (Staff: G. Asimakopoulos)

C05 ROBERT E. JAMES, III AND MINDY E. COOPER-SMITH, TRUSTEES, COOPER-SMITH/JAMES 2001 FAMILY TRUST, DATED 4/21/2001 (LESSEE): Consider revision of rent to Lease No. PRC 7690.1, a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 3230 West Lake Boulevard, near Homewood, Placer County; for two existing mooring buoys. (PRC 7690.1) (A 1; S 1) (Staff: G. Asimakopoulos)

C06 W. KENT RAMOS AND KYLE RAMOS (APPLICANTS): Authorize acceptance of a settlement of outstanding rent under Lease No. PRC 701.1, a General Lease - Industrial Use, for wharfage facilities adjacent to 1555 South River Road on sovereign land in the Sacramento River and an application for a General Lease - Industrial Use, of sovereign land located in the Sacramento River, adjacent to 1555 South River Road, in the city of West Sacramento, Yolo County; for an existing concrete pier, ramp, five three-pile dolphins, and an uncovered floating boat dock. (PRC 701.1 and PRC 3373.1; RA# 16612) (A 8; S 5) (Staff: R. Boggiano)

C07 DEBRA WALENTA-POPE AND STANLEY D. POPE (LESSEES); RICHARD A. BUCKO AND JUANITA L. BUCKO (APPLICANTS): Consider termination of Lease No. PRC 8064.9, a Recreational Pier Lease, and an application for a General Lease - Recreational Use, of sovereign land located in the Sacramento River, adjacent to 11864 Washington Avenue, near the town of Courtland, Sacramento County; for an existing uncovered floating boat dock, gangway, and two pilings. (PRC 8064.1; RA# 25212) (A 5; S 6) (Staff: R. Boggiano)

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- C08 DONALD H. ALTHOFF AND JEAN C. ALTHOFF, COTRUSTEES UNDER THE DONALD H. ALTHOFF AND JEAN C. ALTHOFF REVOCABLE LIVING TRUST, DATED FEBRUARY 6, 2004 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in the Sacramento River adjacent to 17428 Grand Island Road, near Walnut Grove, Sacramento County; for an existing uncovered floating boat dock, gangway, three-pile dolphin, and bank protection. (PRC 4789.1; RA# 25312) (A 8; S 4) (Staff: R. Boggiano)
- C09 THREE RIVERS ACQUISITION CO., LLC (APPLICANT): Consider application for a General Lease - Right-of-Way Use, of sovereign land located in the Mokelumne River, adjacent to Assessor's Parcel Numbers 069-030-35, 069-030-36, and 156-0070-007, near the city of Isleton, between Tyler Island and Bouldin Island, San Joaquin and Sacramento counties; for the installation, use, maintenance, and operation of a 4.5-inch inside diameter natural gas pipeline. (W 26623; RA# 07912) (A 8,10; S 4,5) (Staff: R. Boggiano)
- C10 FRANK SANDERFORD REVOCABLE TRUST (APPLICANT): Consider application for a General Lease - Protective Structure Use, of sovereign land located in the Sacramento River, adjacent to 26160 Walch Avenue, near the city of Orland, Tehama County; for existing bank protection. (PRC 6725.9, RA# 23812) (A 3; S 4) (Staff: V. Caldwell)
- C11 OLYMPIA MORTGAGE FUND, LLC (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in the Sacramento River, adjacent to 3083 Garden Highway, near the city of Sacramento, Sacramento County; for two existing three-pile wood dolphins and two wood pilings. (PRC 5347.1, RA# 24612) (A 7; S 6) (Staff: V. Caldwell)
- C12 DOROTHY E. RAY SURVIVOR'S TRUST AND HUBERT CARLISLE RAY BYPASS TRUST (LESSEES); PAUL R. SCOTT AND ANDREA K. SCOTT (APPLICANTS): Consider termination of Lease No. PRC 4784.9, a Recreational Pier Lease, and an application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in the Sacramento River, adjacent to 17368 Long Island Road, near Walnut Grove, Sacramento County; for an existing fishing pier with wood enclosure and walkway previously authorized by the

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Commission and existing bank protection not previously authorized by the Commission. (PRC 4784.1; RA# 27412) (A 15; S 5) (Staff: V. Caldwell)

C13 JAMES H. FRAYSER, TRUSTEE OF THE JAMES H. FRAYSER 1992 REVOCABLE TRUST, AND JUDY DEVILLE (LESSEES); BERNARD E. SCOVILLE (APPLICANT): Consider termination of Lease No. PRC 5042.9-A, a General Lease - Protective Structure Use, and an application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in the Sacramento River, adjacent to 2395 Garden Highway, near the city of Sacramento, Sacramento County; for an existing single-berth uncovered floating boat dock, wood dolphin, 11 wood pilings, gangway, and bank protection. (PRC 5042.1; RA# 25812) (A 7; S 6) (Staff: V. Caldwell)

C14 LOUIS STERVINOU AND MARY STERVINOU (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 5306 North Lake Boulevard, near Cornelian Bay, Placer County; for two existing mooring buoys and a freshwater intake pipeline not previously authorized by the Commission. (W 22543; RA# 22811) (A 1; S 1) (Staff: M.J. Columbus)

C15 KAREN STONE MCCOWN, TRUSTEE OF THE KAREN STONE MCCOWN REVOCABLE TRUST AGREEMENT DATED MAY 11 1990, AMENDED AND RESTATED AUGUST 13, 2003 (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 263 Drum Road, near Meeks Bay, El Dorado County; for an existing pier, boathouse, and one mooring buoy. (PRC 4469.1; RA# 27211) (A 5; S 1) (Staff: M.J. Columbus)

C16 KAREN STONE MCCOWN, TRUSTEE OF THE KAREN STONE MCCOWN REVOCABLE TRUST AGREEMENT DATED MAY 11 1990, AMENDED AND RESTATED AUGUST 13, 2003 (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 255 Drum Road, near Meeks Bay, El Dorado County; for one existing mooring buoy. (W 26678; RA# 27112) (A 5; S 1) (Staff: M.J. Columbus)

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C17 RONALD E. IVERSON AND VIRGINIA L. IVERSON, AKA VIRGINIA L. IVERSON, TRUSTEES OF THE 2004 RONALD E. IVERSON AND VIRGINIA L. IVERSON REVOCABLE TRUST U/D/T AUGUST 17, 2004 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 3350 Edgewater Drive, near Tahoe City, Placer County; for two existing mooring buoys. (PRC 8320.1; RA# 23412) (A 1; S 1) (Staff: M.J. Columbus)

C18 WILLIAM ALBERT SHAW (LESSEE): Consider application for an amendment to Lease No. PRC 5786.9, a Recreational Pier Lease, of sovereign land located in Lake Tahoe, adjacent to 730 West Lake Boulevard, near Tahoe City, Placer County; to amend the authorized improvements to include two existing mooring buoys not previously authorized by the Commission. (PRC 5786.9; RA# 03410) (A 1; S 1) (Staff: M.J. Columbus)

C19 PARADISE FLAT II, L.P. (LESSEE); DREAMY, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY (APPLICANT): Consider acceptance of a quitclaim deed for Lease No. PRC 4120.1, a General Lease - Recreational Use, and an application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 291 and 301 Paradise Flat Lane, near Rubicon Bay, El Dorado County; for an existing pier and two existing mooring buoys. (PRC 4120.1, RA# 27912) (A 5; S 1) (Staff: M.J. Columbus)

C20 FRANK C. BLEUSS AND ROBIN A. BLEUSS (LESSEE); LUTZ FRANK KARBE (APPLICANT): Consider termination of Lease No. PRC 8492.9, a Recreational Pier Lease, and an application for a General Lease - Recreational Use, of sovereign land located in Donner Lake, adjacent to 14186 South Shore Drive, near the town of Truckee, Nevada County; for an existing pier. (PRC 8492.1; RA# 19912) (A 5; S 1) (Staff: W. Hall)

C21 RICHARD W. TESENE AND DIANE J. TESENE, AS TRUSTEES UNDER THE TESENE 1993 REVOCABLE INTERVIVOS TRUST, UNDER INSTRUMENT DATED JULY 15, 1993 (APPLICANTS): Consider application for a General Lease ;V Recreational Use, of sovereign land located in Montezuma Slough, adjacent to 3400 Gum Tree Road, near the city of Suisun, Solano County; for an existing boathouse, walkway, ramp, two pilings, and a floating dock. (PRC 4052.1; RA# 19812) (A 11; S 2, 3) (Staff: W. Hall)

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- C22 TDB SACRAMENTO DELTA CORPORATION (APPLICANT): Consider application for a General Lease - Recreational and Protective Structure Use of sovereign land located in Georgiana Slough, adjacent to 16853 Terminous Road, near the city of Isleton, Sacramento County; for an existing five-berth boat dock previously authorized by the Commission, and existing uncovered dock, two jet-ski floats, debris diverter, pilings, gangway, and bank protection not previously authorized by the Commission. (PRC 7680.1; RA# 19712) (A 11; S 3) (Staff: W. Hall)
- C23 DANIEL F. RAMOS AND JULIE R. RAMOS, TRUSTEES OF THE RAMOS FAMILY TRUST, DATED MARCH 19, 2002 (PARTIES): Consider acceptance of a quitclaim deed for an area incorrectly recorded as being owned by Daniel F. Ramos and Julie R. Ramos, of sovereign land, within the lease premises of Lease No. PRC 7967.9 issued to The Rivers Community Association, Inc., located on the Sacramento River, city of West Sacramento, Yolo County. (PRC 7967.9; AD 112; RA# 25012)(A 8; S 4) (Staff: W. Hall)
- C24 MARK T. O'BRIEN, TRUSTEE OF THE MARK O'BRIEN FAMILY TRUST, DATED JANUARY 27, 2004, AND MARILYN A. O'BRIEN, TRUSTEE OF THE MARILYN O'BRIEN TRUST, DATED FEBRUARY 12, 2004 (APPLICANTS): Consider application for a General Lease - Recreational and Protective Structure Use of sovereign land located in the Sacramento River, adjacent to 1715 Garden Highway, Sacramento, Sacramento County; for an existing floating dock with boat berth, pilings, gangway, and bank protection. (PRC 8494.1; RA# 28212) (A 7; S 6)(Staff: W. Hall)
- C25 SLAWSON EXPLORATION COMPANY, INC. (LESSEE): Consider termination of Lease No. PRC 8338.1, a General Lease - Right of Way Use, of sovereign land located in Nurse Slough, Honker Bay, near the city of Fairfield, Solano County; for a three-inch diameter natural gas gathering pipeline that was never constructed. (PRC 8338.1; RA# 19612) (A 11; S 3) (Staff: W. Hall)
- C26 CENTRAL VALLEY FLOOD PROTECTION BOARD (LESSEE): Consider application for an amendment to Master Lease No. 7203.9, a General Lease ;V Public Agency Use of sovereign land located in the Sacramento River, near the town of Walnut Grove, Sacramento County; to add a parcel of land and to authorize repair and maintainance of bank protection. (PRC 7203.9) (A 8; S 5) (Staff: D. Jones)

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C27 WALDO POINT HARBOR, LLC (LESSEE): Consider an application for an Agreement and Consent to Encumbrancing of Lease No. PRC 8594.1, a General Lease - Commercial Use, of partially filled and unfilled sovereign land at Waldo Point Harbor in Richardson Bay, Marin County, for public access and related amenities. (PRC 8594.1; RA# 31712) (A 10; S 2) (Staff: G Kato)

C28 STEVEN K. YOKOI AND BEVERLY J. YOKOI, TRUSTEES OF THE YOKOI REVOCABLE LIVING TRUST DATED JULY 14, 2011 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in the Sacramento River, adjacent to 907 Piedmont Drive, near the city of Sacramento, Sacramento County; for an existing covered floating boathouse with uncovered dock, ramp, and three pilings. (PRC 4616.1; RA# 19512) (A 9; S 6) (Staff: N. Lavoie)

C29 E.I. DU PONT DE NEMOURS AND COMPANY (APPLICANT): Consider application for an amendment to Lease No. PRC 1725.1, a General Lease - Right-of-Way Use, of sovereign land located in the San Joaquin River, near the city of Oakley, Contra Costa County; for the final removal of the authorized improvements and termination of the Lease upon final removal. (PRC 1725.1; RA# 14004) (A 15; S 7) (Staff: N. Lavoie)

C30 GEORGE A. HEINER (LESSEE): Consider application for an Agreement and Consent to Encumbrancing of Lease No. 6836.1, a General Lease - Commercial Use, of sovereign land located in the Sacramento River, in the town of Locke, Sacramento County; for an existing commercial marina known as The Boat House Marina. (PRC 6836.1; RA# 27312) (A 11; S 3) (Staff: N. Lavoie)

C31 JAMES I. TANIMOTO AND EVELYN K. TANIMOTO, TRUSTEES IN TRUST, UNDER THE JAMES I. AND EVELYN K. TANIMOTO LIVING TRUST, DATED AUGUST 7, 2000 (APPLICANTS): Consider application for a new General Lease - Recreational Use, of sovereign land located in the Sacramento River, adjacent to Assessor's Parcel Number 030-0490-038, city of Sacramento, Sacramento County; for an existing uncovered floating boat dock, piling, dolphin, and ramp. (PRC 7463.1; RA# 22610) (A 9; S 6) (Staff: N. Lavoie)

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C32 CHARLES S. McDOWELL AND CORINNE L. McDOWELL (LESSEES); CHARLES S. McDOWELL AND CORINNE L. McDOWELL, TRUSTEES OF THE McDOWELL FAMILY TRUST, DATED JUNE 28, 1994 (APPLICANTS): Consider termination of Lease No. PRC 8489.1, a General Lease - Recreational Use, and an application for a General Lease - Recreational Use, of sovereign land located in Georgiana Slough, adjacent to Sacramento County Assessor's Parcel Number 156-0080-069, near the city of Isleton, Sacramento County; for an existing gangway and four pilings previously authorized by the Commission, and an existing uncovered floating three-berth boat dock, pump house, boat lift, one additional piling, debris diverter, and utility conduits not previously authorized by the Commission.
(PRC 8489.1; RA# 12112) (A 11; S 3) (Staff: N. Lavoie)

C33 HOMewood VILLAS, LLC (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 5130 West Lake Boulevard, near Homewood, Placer County; for an existing pier.(W 26649; RA# 02912) (A 1; S 1) (Staff: N. Lee)

C34 COPYRIGHT SERVICES, LTD., A CALIFORNIA CORPORATION (APPLICANT): Consider an application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, 6770 West Lake Boulevard, near Homewood, Placer County; for an existing pier and two mooring buoys previously authorized by the Commission and an existing boat lift not previously authorized by the Commission. (PRC 4923.1; RA# 11507) (A 1; S 1) (Staff: N. Lee) 6

C35 NATHAN TOPOL, DBA HOMewood RESORT (LESSEE): Consider an amendment of Lease No. PRC 5857.1, a General Lease - Commercial Use, of sovereign land located in Lake Tahoe, adjacent to Assessor's Parcel Numbers 097-130-026 through 097-130-030, near Homewood, Placer County; to revise the lease area description and to remove an existing pier from the authorized improvements; and consider acceptance of a quitclaim for the lease area associated with the existing pier. (PRC 5857.1; RA# 14810) (A 1; S 1) (Staff: N. Lee)

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C36 DAVID SCHNEIDER (APPLICANT): Consider application for a General Lease - Dredging Use, to dredge material from granted land, minerals reserved; located in the North Humboldt Bay Channel in the City of Eureka at 990 West Waterfront Drive, Humboldt County. (W 25543; RA# 24912) (A 7; S 2) (Staff: D. Oetzel)

C37 MICHAEL AND JESSICA LEMIEUX (LESSEE): Consider revision of rent for Lease No. PRC 5526.1, a General Lease - Recreational Use, of sovereign land located in the Petaluma River at Black Point, near the city of Novato, Marin County; for the continued use and maintenance of an existing pier, ramp, deck, and floating boat dock. (PRC 5526.1) (A 6; S 3) (Staff: D. Oetzel)

C38 RICHARD J. BOYLE, JR. AND CATHERINE M. BOYLE, TRUSTEES OF THE BOYLE FAMILY TRUST DATED APRIL 13, 2006 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 8789 Rubicon Drive, near Tahoma, El Dorado County; for an existing pier and two mooring buoys. (PRC 8227.1; RA# 15912) (A 1; S 1) (Staff: S. Paschall)

C39 RICHARD BOWLING, JR. AND KATHLEEN S. BOWLING, AS CO-TRUSTEES OF THE BOWLING REVOCABLE TRUST DATED DECEMBER 27, 1991 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 4692 North Lake Boulevard, near Cornelian Bay, Placer County; for an existing pier, boat lift, and two mooring buoys. (PRC 5318.1; RA# 06412) (A 1; S 1) (Staff: S. Paschall)

C40 570 LAKESHORE, LLC, A NEVADA LIMITED LIABILITY COMPANY (LESSEE): Consider revision of rent to Lease No. PRC 5553.1, a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 8399 Meeks Bay Avenue, near Meeks Bay, El Dorado County; for one existing mooring buoy. (PRC 5553.1) (A 1; S 1) (Staff: S. Paschall)

C41 RICHARD A. COOMBS AND JENNIFER C. COOMBS (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Donner Lake, adjacent to 15336 South Shore Drive, near the town of Truckee, Nevada County; for an existing pier. (PRC 8201.1; RA# 09811) (A 1; S 1) (Staff: M. Schroeder)

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C42 BULLSEYE FARMS, A CALIFORNIA GENERAL PARTNERSHIP (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 4810 West Lake Boulevard, near Homewood, Placer County; for an existing pier, boat lift, and two mooring buoys. (PRC 4091.1; RA# 14312) (A 1; S 1) (Staff: M. Schroeder)

C43 ROBERT L. GOTELLI AND KELLY J. GOTELLI, TRUSTEES OF THE GOTELLI FAMILY TRUST U/A DATED AUGUST 20, 2003 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 4800 West Lake Boulevard, near Homewood, Placer County; for two existing mooring buoys. (PRC 8358.1; RA# 08011) (A 1; S 1) (Staff: M. Schroeder)

C44 SUSAN R. WYCKOFF (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in the Sacramento River, adjacent to 1210 2nd Avenue, near Walnut Grove, Sacramento County; for an existing uncovered floating boat dock, two wood pilings, and a gangway. (PRC 7645.1; RA# 08412) (A 11; S 3) (Staff: M. Schroeder)

C45 GENE A. LANDEN, TRUSTEE OF THE GENE A. LANDEN TRUST, DATED OCTOBER 24, 2003 (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 3021 Jameson Beach Road, city of South Lake Tahoe; El Dorado County; for an existing floating pier and two mooring buoys. (PRC 8404.1; RA# 26311) (A 5; S 1) (Staff: M. Schroeder)

C46 CHARLES B. MOLLETT, CASEY ALLAN HARSH, BRENT HUNTER HARSH, TROY EDWARD HARSH, DANIELLE LOUISE HARSH STIRITZ, ANTOINETTE HARSH, AND MICHAEL G. MOLLETT (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 56 Moana Circle, near Homewood; Placer County; for two existing mooring buoys. (W 26402; RA# 22109) (A 1; S 1) (Staff: M. Schroeder)

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C47 CEDAR FLAT IMPROVEMENT ASSOCIATION, INC. (LESSEE): Consider revision of rent to Lease No. PRC 4173.1, a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 4370 North Lake Boulevard, near Carnelian Bay, Placer County; for an existing pier, sundeck with stairs, and 21 mooring buoys. (PRC 4173.1) (A 1; S 1) (Staff: B. Terry)

C48 STANLY RANCH VINEYARDS, LLC (APPLICANT): Consider application for a General Lease - Right-of-Way Use, of sovereign land located in the Napa River, adjacent to Assessor's Parcel Numbers 046-400-015 and 047-240-024, near the city of Napa, Napa County; for the installation, use, maintenance, and operation of a 20-inch inside diameter recycled water pipeline and a 6-inch inside diameter sewer force main. (W 26657; RA# 21112) (A 4; S 2) (Staff: B. Terry)

C49 LAKE TAHOE VILLA, LLC, A DELAWARE LIMITED LIABILITY COMPANY (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 3077 Jameson Beach Road, City of South Lake Tahoe, El Dorado County; for an existing pier previously authorized by the Commission and one existing mooring buoy not previously authorized by the Commission. (PRC 3526.1; RA# 06911) (A 5; S 1) (Staff: B. Terry)

CENTRAL REGION

C50 ROBERT E. MORI, II (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in the Mokelumne River, adjacent to 30005 West Vail Road, near Walnut Grove, San Joaquin County; for an existing uncovered floating boat dock, gangway, and two articulation arms attached to deadmen on the upland not previously authorized by the Commission. (PRC 6500.1; RA# 23312) (A 13; S 5) (Staff: R. Boggiano)

C51 UNITED STATES FISH AND WILDLIFE SERVICE (APPLICANT): Consider application for a General Lease - Public Agency Use, of Sovereign land located in the Merced River, adjacent to Assessor's Parcel Numbers 043-020-023 and 043-050-015, near the town of Snelling, Merced County; for restoration and rehabilitation of the bed of the Merced River and floodplain to improve aquatic habitat and provide flood management; temporary installation of

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warning buoys; and use and maintenance of an existing diversion facility not previously authorized by the Commission. (W 26647; RA# 15412) (A 21; S 12) (Staff: R. Boggiano)

C52 UNITED STATES GEOLOGICAL SURVEY (APPLICANT): Consider application for a General Lease - Public Agency Use, of sovereign land located in Old River and Middle River at Bacon Island, adjacent to Assessor's Parcel Numbers 129-150-15 (San Joaquin County) and 015-230-013 (Contra Costa County), near the city of Brentwood; for two existing water quality and velocity monitoring stations previously authorized by the Commission; and existing instrument shelters, water quality meters, solar panels, modem antennas, and caution signs not previously authorized by the Commission. (PRC 6980.9; RA# 25712) (A 9, 13; S 5, 14) (Staff: V. Caldwell)

C53 GERALD E. SHIPMAN AND PATTY SHIPMAN, TRUSTEES OF THE GERALD AND PATTY SHIPMAN FAMILY TRUST, DATED JULY 17, 2002 (APPLICANTS): Consider application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in the historic bed of the San Joaquin River, adjacent to 3444 Country Club Boulevard, in Atherton Cove, San Joaquin County; for an existing covered single-berth floating boat dock, pilings, and gangway previously authorized by the Commission; and a portion of an existing deck, boat lift, jet-ski float, electric and water utility outlets, and bank protection not previously authorized by the Commission. (PRC 5844.1; RA# 18204) (A 13; S 5) (Staff: V. Caldwell)

C54 SAN JOAQUIN RIVER CONSERVANCY (LESSEE): Consider acceptance of a quitclaim deed for Lease No. PRC 8520.9, a General Lease - Public Agency Use, and an application for a General Lease - Public Agency Use, of sovereign land located in the bed of the San Joaquin River, near the city of Fresno, Madera County; to replace the existing bridge across the North Channel of the San Joaquin River to Sycamore Island. (PRC 8520.9; RA# 26312) (A 5; S 14) (Staff: R. Collins)

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C55 JOHN C. LAING (LESSEE): Consider revision of rent for Lease No. PRC 8793.1, a General Lease - Protective Structure Use, of sovereign land located in the Pacific Ocean, adjacent to 4610 Opal Cliff Drive, near the city of Santa Cruz, Santa Cruz County; for a two-foot wide cutoff stem wall. (PRC 8793.1) (A 29; S 17)
(Staff: R. Collins)

C56 JENNIFER S. KRACH (LESSEE): Consider revision of rent for Lease No. PRC 8794.1, a General Lease - Protective Structure Use, of sovereign land located in the Pacific Ocean, adjacent to 4640 Opal Cliff Drive, near the city of Santa Cruz, Santa Cruz County; for a two-foot wide cutoff stem wall. (PRC 8794.1) (A 29; S 17)
(Staff: R. Collins)

C57 BRIAN D. BURKE AND KATHY LAMPRECHT (LESSEES): Consider revision of rent for Lease No. PRC 8795.1, a General Lease - Protective Structure Use, of sovereign land located in the Pacific Ocean, adjacent to 4630 Opal Cliff Drive, near the city of Santa Cruz, Santa Cruz County; for a two-foot wide cutoff stem wall. (PRC 8795.1) (A 29; S 17) (Staff: R. Collins)

C58 350 BEACH ROAD LLC (APPLICANT): Consider application for a General Lease - Recreational and Commercial Use, of filled and partially filled tidelands in San Francisco Bay located in the city of Burlingame, San Mateo County; for the reconstruction of a portion of the San Francisco Bay Trail; construction of a private driveway to Fisherman's Park including public and commercial parking; and reconstruction of a portion of the existing Airport Road to conform with the future alignment of Airport Road. (W 26655; RA# 21012) (A 22; S 8, 13)
(Staff: A. Franzoia)

C59 C&H SUGAR (LESSEE): Consider revision of rent for Lease No. PRC 5026.1, a General Lease - Industrial Use, of sovereign land located at 830 Loring Avenue, in the town of Crockett, Contra Costa County; for the use and maintenance of an existing wastewater treatment facility and ancillary structures related to sugar refinery operations. (PRC 5026.1) (A 11; S 7) (Staff: D. Oetzel)

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C60 EQUILON ENTERPRISES, LLC, DBA SHELL OIL PRODUCTS U.S. (APPLICANT): Consider application for a General Lease - Right-of-Way Use, of sovereign land located in San Francisco Bay, along the San Bruno Shoal, Alameda and San Francisco counties; for an existing 10-inch non-operational pipeline previously used to convey oil refined products. (PRC 3291.1; RA# 29312) (A 16, 19; S 8, 9) (Staff: D. Oetzel)

C61 CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER (APPLICANT/LESSEE): Consider application for an amendment to Lease No. PRC 8079.9, a General Lease - Public Agency Use, of sovereign land located in the dry lake bed, Owens Lake, Inyo County; to amend the lease term as it pertains to the soil tillage in the ninth amendment to the lease. (PRC 8079.9; RA# 28412) (A 34; S 18) (Staff: D. Simpkin)

C62 CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER (APPLICANT): Consider application for a General Lease - Public Agency Use, of sovereign land located in the dry lake bed, Owens Lake, Inyo County; for the construction and operation of a solar demonstration project. (W 26685; RA# 29112) (A 34; S 18) (Staff: D. Simpkin)

SOUTHERN REGION

C63 ROBERT J. MIELKE, TRUSTEE, AND DIANNE C. MIELKE, TRUSTEE, THE MIELKE REVOCABLE TRUST (LESSEE): Consider revision of rent for Lease No. PRC 3176.1, a General Lease - Recreational Use, of sovereign land located in Huntington Harbour, adjacent to 16482 Somerset Lane, city of Huntington Beach, Orange County; for a boat dock, access ramp, and cantilevered deck. (PRC 3176.1) (A 72; S 34) (Staff: R. Collins)

C64 ORANGE COUNTY FLOOD CONTROL DISTRICT (LESSEE): Consider application for an amendment to Lease No. PRC 7312.9, a General Lease - Public Agency Use, of sovereign land located in the Pacific Ocean, in the city of Huntington Beach, Orange County; to conduct maintenance dredging of the Talbert Channel Ocean Outlet. (PRC 7312.9; RA# 21712) (A 74; S 37) (Staff: R. Collins)

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C65 WESTERN LOS ANGELES COUNTY COUNCIL, INC., BOY SCOUTS OF AMERICA (LESSEE): Consider application for an amendment to Lease No. PRC 6442.1, a General Lease - Recreational Use, of sovereign land located in the Pacific Ocean at Emerald Bay and Doctor's Cove, near Two Harbors, Santa Catalina Island, Los Angeles County; to revise the lease premises and the annual rent. (PRC 6442.1; RA# 14712) (A 70; S 28) (Staff: K. Foster)

C66 SAN DIEGO UNIFIED PORT DISTRICT (LESSEE): Consider revision of rent for Lease No. PRC 7987.1, a General Lease - Public Agency Use, of ungranted sovereign land located in San Diego Bay, San Diego County; for various uses including the operation of recreational moorings. (PRC 7987.1) (A 78; S 39)(Staff: K. Foster)

C67 STACY M. AND MARIA L. WEST (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Huntington Harbour, adjacent to 16652 Coral Cay Lane, City of Huntington Beach, Orange County; for an existing dock, ramp, and cantilevered deck. (PRC 5750.1; RA# 24212) (A 72; S 34)(Staff: A. Franzoia)

C68 CHARLES F. NICHOLS AND JUDITH A. NICHOLS, TRUSTEES OF THE NICHOLS FAMILY TRUST (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Huntington Harbour, adjacent to 3492 Gilbert Drive, city of Huntington Beach, Orange County; for an existing dock, ramp, and cantilevered deck. (PRC 3078.1; RA# 17903) (A 72; S 34)(Staff: A. Franzoia)

C69 CRAIG D. ALLEN AND DEAN K. ALLEN (APPLICANTS): Consider application for a General Lease - Recreational and Residential Use, of sovereign land located in Huntington Harbour, adjacent to 16911 Bolero Lane, city of Huntington Beach, Orange County; for an existing dock and access ramp previously authorized by the Commission, and an existing cantilevered deck and enclosure not previously authorized by the Commission. (PRC 3574.1; RA# 24210) (A 34; S 72)(Staff: A. Franzoia)

C70 LARRY AND PATRICIA LAMBERT (APPLICANTS): Consider application for a General Lease ;V Protective Structure Use, of sovereign land located in Huntington Harbour, adjacent to 3362 Venture Drive, city of Huntington Beach, Orange County; for existing bulkhead protection. (PRC 8295.1; RA# 21612) (A 72; S 34)(Staff: A. Franzoia)

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C71 SAN DIEGO BAY ENVIRONMENTAL RESTORATION FUND - SOUTH (APPLICANT): Consider application for a General Lease - Dredging Use, of sovereign land granted to the San Diego Unified Port District, minerals reserved, within central San Diego Bay, San Diego County; for the dredging of a maximum of 71,700 cubic yards of material for the purpose of environmental remediation, to be disposed of at appropriate landfill sites. (W 26665; RA# 22212) (A 76; S 39)(Staff: D. Oetzel)

C72 SAN DIEGO BAY ENVIRONMENTAL RESTORATION FUND - NORTH (APPLICANT): Consider application for a General Lease - Dredging Use, of sovereign lands granted to the San Diego Unified Port District, minerals reserved, within central San Diego Bay, San Diego County; for the dredging of a maximum of 105,000 cubic yards of material for the purpose of environmental remediation, to be disposed of at appropriate landfill sites. (W 26666; RA# 22012) (A 76; S 39)(Staff: D. Oetzel)

C73 CHEVRON U.S.A. INC. (PARTY): Authorize the execution of a Lease Termination Agreement covering Lease No. PRC 628.1, in the Pacific Ocean, Santa Monica Bay, El Segundo, Los Angeles County. (PRC 628.1; RA# 13212) (A 52; S 28) (Staff: A. Scott)

C74 DYNEGY MORRO BAY, LLC (APPLICANT): Consider application for a General Lease - Industrial Use, of sovereign land located in the Pacific Ocean, Estero Bay, San Luis Obispo County; for continued maintenance of an existing PLEM, two pipelines, and a concrete anchor. (PRC 1390.1; RA# 14412) (A 33; S 15)(Staff: A. Scott)

C75 OCEAN SURF LLC (APPLICANT): Consider application for a General Lease - Protective Structure Use, of sovereign land located in the Pacific Ocean, city of Malibu, Los Angeles County; for an existing rock revetment not previously authorized by the Commission. (W 26549; RA# 04612) (A 41; S 23) (Staff: D. Simpkin)

C76 CALIFORNIA STATE LANDS COMMISSION AND CALIFORNIA COASTAL COMMISSION (PARTIES): Consider acceptance of one offer to dedicate lateral public access easement over land adjacent to State tidelands in the city of Malibu, 26122 Pacific Coast Highway, Los Angeles County. (W 24665) (A 41; S 23)(Staff: D. Simpkin)

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C77 ANGELO ZABY, TRUSTEE OF THE ANGELO ZABY TRUST, DATED SEPTEMBER 9, 1983 (ASSIGNOR); IDA ZABY (ASSIGNEE): Consider application for the assignment of Lease No. PRC 7986.1, General Lease - Recreational Use, of sovereign land located in Huntington Harbour, adjacent to 3632 Venture Drive, city of Huntington Beach, Orange County; for a boat dock, access ramp, and cantilevered deck. (PRC 7986.1; RA# 30412) (A 67; S 35) (Staff: D. Simpkin)
SCHOOL LANDS

C78 SOUTHERN CALIFORNIA EDISON COMPANY (APPLICANT): Consider application for a new General Lease - Right-of-Way Use, of State school land located in a portion of Section 16, Township 24 South, Range 38 East, MDM, near the unincorporated community of Little Lake, Inyo County, for an existing 33 kilovolt (kV) electrical distribution line, five wood poles, and three steel towers not previously authorized by the Commission and removal of four existing unused poles previously authorized by the Commission. (PRC 4511.2; RA# 04712) (A 34; S 17) (Staff: C. Hudson)

C79 MOLYCORP, INC (LESSEE) AND MOLYCORP MINERALS, LLC (APPLICANT): Consider rescission of authorization for assignment of lease, termination of lease, and application for issuance of a General Lease - Right-of-Way Use, Lease No. PRC 6375.2, of State school land located in a portion of Section 16, Township 16 North, Range 13 East, SBM, near the unincorporated community of Mountain Pass, San Bernardino County, for an existing 14-inch diameter potable water transportation line. (PRC 6375.2; RA# 20211) (A 34; S 17) (Staff: C. Hudson)

MINERAL RESOURCES MANAGEMENT

C80 CITY OF LONG BEACH (APPLICANT): Consideration of the First Modification and Supplement of the Long Beach Unit Annual Plan (July 1, 2012 through June 30, 2013), Long Beach Unit, Wilmington Oil Field, Los Angeles County. (W 17166) (A 54; S 27) (Staff: A. Reid)

C81 CALIFORNIA DEPARTMENT OF WATER RESOURCES (APPLICANT): Consider approval of a Non-Exclusive Geological Survey Permit on designated submerged lands in the Sacramento River and in Butte Slough, Colusa and Sutter Counties. (W 6005.140) (A 2; S 4) (Staff: R. B. Greenwood)

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C82 DEEP ROSE DEVELOPMENT, LLC (APPLICANT): Consider approval for a two-year extension of a State Geothermal Resources Prospecting Permit PRC 8949.2 on State lands, Inyo County. (PRC 8949.2) (A 26; S 18) (Staff: N. Saito)

C83 ROBERT G. WETZEL (APPLICANT): Consider application for an extension and amendment of a mineral prospecting permit for minerals other than oil, gas and geothermal resources on State lands, San Bernardino County. (PRC 9026.2)(A 34; S 18) (Staff: G. Pelka, V. Perez)

MARINE FACILITIES
ADMINISTRATION
LEGAL

C84 MARK CHODOS AND DAVID MANNING; RETHFORD FAMILY TRUST; RYAN HUGHES; MENCARINI TRUSTEES; JEFFEREY R. SCHOTSALE; CALIFORNIA STATE LANDS COMMISSION (PARTIES): Consider authorization for the staff of the California State Lands Commission and/or the Office of the Attorney General to take legal action to cause compliance with the Commission's leasing authority and remediation for the placement of unauthorized pilings and structures on sovereign state lands in the Sacramento River. (W 26581) (A 7; S 6) (Staff: P. Pelkofer,V. Caldwell)

C85 CALIFORNIA STATE LANDS COMMISSION, OAKLAND REDEVELOPMENT SUCCESSOR AGENCY, CITY OF OAKLAND (PARTIES): Consider authorizing the transfer of a parcel of land, known as Parcel E, in the former Oakland Army Base from the Oakland Redevelopment Successor Agency (ORSA) to the City of Oakland, subject to the public trust, pursuant to the Oakland Army Base Title Settlement and Exchange Agreement, dated June 30, 2006, and Chapter 664, Statutes of 2005.(AD 511) (A 18; S 9) (Staff: E. Milstein)

C86 NATHAN TOPOL, DBA HOMEWOOD RESORT (LESSEE): Consider the default and termination of Lease No. PRC 5857.1, a General Lease - Commercial Use, for an existing pier and 30 mooring buoys, located in Lake Tahoe, adjacent to Assessor's Parcel Numbers 097-130-026 through 097-130-030, near Homewood, Placer County; and authorization for the staff of the California State Lands Commission and/or the Office of the Attorney General to take all steps necessary, including litigation, removal of the improvements, and the restoration of the land to the satisfaction of the Commission. (PRC 5857.1) (A 1; S 1) (Staff: W. Crunk,N. Lee)

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C87 HENRY AND ROBERT WESTBROOK, DBA SHIP ASHORE RESORT (LESSEES/PARTIES): Consider denial of application for a General Lease - Commercial Use, Lease No. PRC 5284.1 and authorization for the staff of the California State Lands Commission and/or the Office of the Attorney General to take all steps necessary, including litigation, for trespass, ejectment, and removal of existing pilings, two docks, a breakwater, and any other related facilities located in the Smith River, adjacent to Assessor's Parcel Numbers 102-170-03, 102-170-05 and 102-010-35, near the town of Crescent City, Del Norte County; and restoration of the land to its natural condition to the satisfaction of the Commission. (PRC 5284.1) (A 1; S 4) (Staff: B. Terry, J. Fabel)

EXTERNAL AFFAIRS
GRANTED LANDS

C88 CITY OF NEWPORT BEACH (APPLICANT): Consider approval of the proposed establishment of a Newport Harbor Capital Fund (Harbor Fund) to fund Newport Harbor capital improvements and maintenance activities within Newport Harbor located within legislatively-granted sovereign land in the City of Newport Beach, Orange County. (G 09-02) (A 74; S 37) (Staff: S. Guerrieri)

C89 CITY OF LOS ANGELES (APPLICANT): Consider approval of the proposed resolution of the Port of Los Angeles, pursuant to Public Resources Code Section 7060, relating to an agreement for oil exploration in the Wilmington Oil Field located within legislatively-granted sovereign land in the City of San Pedro, Los Angeles County. (G 05-04) (A 70; S 28, 35) (Staff: S. Guerrieri)

C90 CITY OF NEWPORT BEACH (APPLICANT): Consider approval of an amended lease for the Balboa Bay Club in Newport Harbor located within legislatively-granted sovereign land in the City of Newport Beach, Orange County. (G 09-02) (A 74; S 37) (Staff: S. Guerrieri)

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LEGISLATION AND RESOLUTIONS

C91 CALIFORNIA STATE LANDS COMMISSION: Consider supporting state legislation that would declare that the State of Nevada has agreed to repeal its 2011 statutory provisions requiring its withdrawal from the Tahoe Regional Planning Compact and would revise the Bi-State Compact to require that the Agency's regional plan reflects economic conditions and the economic effects of regulation on commerce. (SB 630, Pavley) (A & S: Statewide) (Staff: S. Pemberton) 6

V. INFORMATIONAL

92 THE FOLLOWING ITEM IS INFORMATIONAL ONLY AND WILL BE DISCUSSED AND ACTED UPON IN A CLOSED SESSION:
CALIFORNIA STATE LANDS COMMISSION: Notification that, in closed session, a discussion will take place and instruction will be given to staff regarding negotiations over amendments to and assignment of various oil and gas leases of state lands (PRCs 735, 3120, 3242 and 3314) currently held by Venoco, Inc. Negotiating parties: Venoco, Inc., State Lands Commission; Under negotiation: price and terms.

VI. REGULAR CALENDAR

93 THE STATE LANDS COMMISSION (PARTY): Request authority for Executive Officer to enter into agreement to support the development of a feasibility study to examine the use of shore-based reception and treatment facilities for the management of discharged ballast water in California. (W 9777.234, W 9777.290, W 9777.295, C2013-13) (A & S: Statewide) (Staff: N. Dobroski, D. Brown) 21

94 THE STATE LANDS COMMISSION (PARTY): Consider approval of the Legislative Report titled "2013 Assessment of the Efficacy, Availability and Environmental Impacts of Ballast Water Treatment Systems for Use in California Waters." (W 9777.234, W 9777.290) (A & S: Statewide) (Staff: N. Dobroski, G. Gregory) 52

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VII PUBLIC COMMENT	76
VIII COMMISSIONERS' COMMENTS	98
IX CLOSED SESSION: AT ANY TIME DURING THE MEETING THE COMMISSION MAY MEET IN A SESSION CLOSED TO THE PUBLIC TO CONSIDER THE FOLLOWING PURSUANT TO GOVERNMENT CODE SECTION 11126:	98

A. LITIGATION.

THE COMMISSION MAY CONSIDER PENDING AND POSSIBLE
LITIGATION PURSUANT TO THE CONFIDENTIALITY OF
ATTORNEY-CLIENT COMMUNICATIONS AND PRIVILEGES PROVIDED
FOR IN GOVERNMENT CODE SECTION 11126(e).

1. THE COMMISSION MAY CONSIDER MATTERS THAT FALL UNDER
GOVERNMENT CODE SECTION 11126(e)(2)(A):

State of California, acting by and through the State
Lands Commission v. Venoco, Inc.

Seacliff Beach Colony Homeowners Association v. State
of California, et al.

State of California, acting by and through the State
Lands Commission v. Singer

State of California, acting by and through the State
Lands Commission v. Crockett Marine Services, et al.

Defend Our Waterfront v. California State Lands
Commission, et al.

The Melton Bacon and Katherine L. Bacon Family Trust,
et al. v. California State Lands Commission, City of
Huntington Beach

SLPR, LLC, et al. v. San Diego Unified Port District,
State Lands Commission

San Francisco Baykeeper v. State Lands Commission

City of Los Angeles v. Great Basin Unified Air
Pollution Control District et. al.

City of Los Angeles v. California Air Resources Board,
et. al.

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California State Lands Commission v. Edward L.
Clark Jr.

Everardo Acevedo, et al. v. Jorge A. Diaz, et al.

2. THE COMMISSION MAY CONSIDER MATTERS THAT FALL
UNDER GOVERNMENT CODE SECTION 11126(e)(2)(B) or (2)(C).

B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS.
THE COMMISSION MAY CONSIDER MATTERS THAT FALL UNDER
GOVERNMENT CODE SECTION 11126(c)(7) - TO PROVIDE
DIRECTIONS TO ITS NEGOTIATORS REGARDING PRICE AND
TERMS FOR LEASING OF REAL PROPERTY.

1. Consider and provide instructions to negotiators
regarding negotiations over amendments to and
assignment of various oil and gas leases of state
lands (PRCs 735, 3120, 3242 and 3314) currently held
by Venoco, Inc. Negotiating parties: Venoco, Inc.,
State Lands Commission; Under negotiation: price and
terms.

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1 P R O C E E D I N G S

2 ACTING CHAIRPERSON GARLAND: I'll call this
3 meeting of the Commission to order. All the
4 representatives of the Commission are present.

5 I'm Chris Garland, the Lieutenant Governor's
6 designee. I'm joined today by the State Controller's
7 Deputy Controller, Alan Gordon, and Karen Finn
8 representing the Director of Finance.

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

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

21 Today, we'll hear requests and presentations
22 concerning the leasing, management, and regulation of
23 those public sovereign and school land property interests,
24 and the activities occurring or proposed thereon.

25 The first item of business will be adoption of

1 the minutes from the Commission's May 23rd, 2013
2 teleconference meeting. Before we go there, we have an
3 explanation of how the voting will proceed today, so from
4 our executive Director.

5 EXECUTIVE OFFICER LUCCHESI: Yes, because both
6 Constitutional offices are being represented by
7 alternates, only one of the alternates can vote. Finance
8 can always vote.

9 ACTING CHAIRPERSON GARLAND: Thank you. So with
10 that --

11 ACTING COMMISSIONER GORDON: As they do on
12 everything.

13 (Laughter.)

14 ACTING CHAIRPERSON GARLAND: Yes. May I have a
15 motion to approve the minutes.

16 ACTING COMMISSIONER GORDON: So moved.

17 ACTING COMMISSIONER FINN: I'll second.

18 ACTING CHAIRPERSON GARLAND: Having a motion and
19 a second, those in favor say aye?

20 (Ayes.)

21 ACTING CHAIRPERSON GARLAND: And we have a
22 unanimous -- or, yes, it's been unanimously adopted
23 technically.

24 (Laughter.)

25 ACTING CHAIRPERSON GARLAND: The next order of

1 business is the Executive Officer's report.

2 Ms. Lucchesi, may we have the report.

3 EXECUTIVE OFFICER LUCCHESI: Yes. I just have
4 three short items I would like to mention.

5 First, I wanted to highlight the format of the
6 new agenda for the Commission meeting, identifying the
7 continuation of rent items to be acted upon by the
8 Executive Officer, pursuant to the Commission's adopted
9 delegation of authority just at last -- at the meeting in
10 April. So it provides notice to the public about the
11 actions that I will be taking per the Commission's
12 delegation of authority.

13 Second, as you may have heard, the Brooklyn Basin
14 Transaction, also known as the Oak to Ninth Project,
15 closed escrow a couple weeks ago on June 10th. The State
16 Lands and its staff and the Attorney General's office have
17 been involved in the title settlement and land exchange
18 side of this transaction to facilitate development at the
19 site since 2003.

20 At full development, the Public Trust lands
21 involved will be remediated and improved to provide more
22 than 30 acres of parks and open space immediately adjacent
23 to the Oakland waterfront, and will result in the
24 renovation of two recreational marinas.

25 And Joe and I, in particular, spent many years

1 working on this personally, so we're very excited to see
2 that transaction close and, to be honest, in the grand
3 scheme things, 10 years is not a long time on things we
4 work on.

5 (Laughter.)

6 EXECUTIVE OFFICER LUCCHESI: And Third I also
7 want to acknowledge that the State Lands Commission is
8 celebrating its 75th anniversary this month. Specifically
9 it was created on June 11th, and we had an exhibit of
10 about four panels in the Capitol Rotunda acknowledging and
11 Celebrating the Commission's successes over these 75
12 years. We have also information on our website about this
13 anniversary, and we also have a legislative resolution
14 passed by both the Senate and the Assembly acknowledging
15 and celebrating the Commission's 75th anniversary. So I
16 just want to acknowledge this, since this is the June
17 meeting.

18 And that concludes my Executive Officer's report.

19 ACTING CHAIRPERSON GARLAND: Thank you.

20 The next order of business will be adoption of
21 the consent calendar items, C1 through 90. I believe we
22 may have something to pull though, so Ms. Lucchesi, if
23 would you, can you indicate any removed items?

24 EXECUTIVE OFFICER LUCCHESI: Yes. Items C06,
25 C39, C47, C58, C62, C69, C86, and C90 are removed from the

1 agenda and will be considered at a later time. Item C34
2 will be moved to the regular item, because we have an
3 individual here who would like to comment on that item.

4 ACTING COMMISSIONER GORDON: I would like to
5 move -- sorry. I'd like to move adoption of the consent
6 calendar with the exception of Items 06, 39, 47, 58, 62,
7 69, 86, and 90, which will be put over. And then item 34,
8 which will be put on regular business calendar for later
9 today.

10 ACTING COMMISSIONER FINN: And then can I ask,
11 Item 91, which is action to support legislation, will
12 we --

13 EXECUTIVE OFFICER LUCCHESI: We're taking that up
14 just next.

15 ACTING COMMISSIONER FINN: Okay. Thank you. So
16 just through 90 we're talking, right?

17 EXECUTIVE OFFICER LUCCHESI: Yes, just through
18 90.

19 ACTING COMMISSIONER FINN: Okay. Then I will
20 second the motion.

21 ACTING CHAIRPERSON GARLAND: Excellent. Is there
22 anyone in the audience who wishes to speak on an item
23 that's still on the consent calendar?

24 Thank you.

25 So we'll take these up as a -- as indicated in

1 the motion, we'll take these up for a single vote. We
2 have a motion and a second.

3 So all in favor?

4 (Ayes.)

5 ACTING CHAIRPERSON GARLAND: And the consent
6 items, as indicated, are approved.

7 The next item is -- on the calendar is C91. Ms.
8 Lucchesi, is C91 going to remain on the agenda?

9 EXECUTIVE OFFICER LUCCHESI: No, it will be
10 pulled from this agenda.

11 ACTING CHAIRPERSON GARLAND: Excellent.

12 EXECUTIVE OFFICER LUCCHESI: It will be heard at
13 another time.

14 ACTING CHAIRPERSON GARLAND: Thank you. The next
15 item of business is the regular calendar. And why don't
16 we start with the pulled item C34.

17 May we have the staff presentation.

18 PUBLIC LAND MANAGER LEE: Good morning,
19 Commissioners. Should I sit?

20 ACTING CHAIRPERSON GARLAND: Yes, please.

21 EXECUTIVE OFFICER LUCCHESI: Whatever you're most
22 comfortable with.

23 PUBLIC LAND MANAGER LEE: All right. My name is
24 Ninette Lee. And I'm a Public Land Manager with the
25 Commission's Land Management Division. I'm here to

1 present information on calendar item 34.

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

4 PUBLIC LAND MANAGER LEE: This item recommends
5 authorization a lease between the Commission and the
6 applicant, Copyright Services Limited, for the use of
7 State Lands for an existing pier, boat lift, and two
8 mooring buoys at Lake Tahoe adjacent to the applicant's
9 lakefront parcel. And I just have two slides of photos.

10 This one shows the pier. And there are three
11 mooring buoys adjacent to the applicant's parcel. So the
12 applicant is requesting approval for a third mooring buoy
13 adjacent to its lake-front parcel, in addition to the
14 pier, boat lift, and two mooring buoys.

15 As a brief background, the first lease between
16 the Commission and the applicant was issued in 1958. And,
17 at that time, staff was unaware of the lease offshore of
18 the lessee's lake-front parcel. In 1982, the Commission
19 authorized the applicant's request for a lease for three
20 existing mooring buoys along with the pier. Upon
21 expiration of that lease, the Commission authorized a new
22 five-year lease in 1993 for the pier and three buoys.

23 In October of 1993, staff conducted a site
24 inspection and observed four mooring buoys offshore of the
25 applicant's parcel. Staff informed the applicant by

1 letter that two of the buoys must be removed in order to
2 comply with the Tahoe Regional Planning Agency ordinances.
3 It was at this time that staff had started to actively
4 participate with TRPA, and other agencies with presence at
5 Lake Tahoe, to improve coordination and efficiency when
6 reviewing applications for shore zone projects and
7 existing improvements.

8 TRPA had informed Commission staff that its
9 ordinances allowed no more than two buoys per private
10 lake-front parcel. Therefore, staff was directed by
11 management to bring leases in conformance with TRPA
12 ordinances.

13 In 1994, the applicant confirmed that the two
14 buoys had been removed, and in the same year the
15 Commission approved a lease amendment removing the third
16 buoy as an authorized improvement. The last --

17 ACTING COMMISSIONER GORDON: Can I stop you right
18 there. So three total were removed to where we're down to
19 one?

20 PUBLIC LAND MANAGER LEE: No. So there were four
21 buoys out there, and they removed two buoys, but the
22 fourth buoy wasn't authorized under the lease. The third
23 one was. So what the Commission staff did is they amended
24 the lease to exclude that third buoy as an authorized
25 improvement. So they were down to two buoys at that time.

1 And it was staff's understanding that they had removed two
2 buoys, so they only had two buoys adjacent to its parcel.

3 ACTING COMMISSIONER GORDON: Okay.

4 PUBLIC LAND MANAGER LEE: So the last most recent
5 lease for the pier and two buoys was issued in 1998. In
6 the current lease application, the applicant provided a
7 copy of a buoy permit issued by TRPA in March 2010 for
8 three mooring buoys adjacent to the lake-front parcel.

9 ACTING COMMISSIONER FINN: Can I interrupt?

10 I'm sorry. So that TRPA authorized three again?

11 PUBLIC LAND MANAGER LEE: Right.

12 ACTING COMMISSIONER FINN: Okay.

13 EXECUTIVE OFFICER LUCCHESI: This was under their
14 new ordinances adopted in 2008.

15 PUBLIC LAND MANAGER LEE: Yeah, right.

16 EXECUTIVE OFFICER LUCCHESI: And then Ninette
17 will take it from there.

18 ACTING COMMISSIONER FINN: All right.

19 PUBLIC LAND MANAGER LEE: So, yeah, like Jennifer
20 said, this permit was issued under the Grandfather Clause
21 of the new shore zone ordinances adopted by TRPA in
22 October 2008.

23 In 2010, the TRPA buoy permits, issued as a
24 result of the adoption of the 2008 TRPA ordinances, were
25 found to be invalid by the U.S. District Court. The

1 court's decision was later upheld in the Ninth Circuit
2 U.S. Court of Appeals

3 ACTING COMMISSIONER GORDON: Can you stop. I
4 just want to make sure I'm tracking this all the way. So
5 TRPA gives an extra buoy. Who brought the lawsuit against
6 the TRPA authorized third buoy?

7 EXECUTIVE OFFICER LUCCHESI: Well, it was a
8 number of environmental groups that challenged the
9 ordinances as a whole.

10 ACTING COMMISSIONER GORDON: Okay. That's what
11 I'm trying to -- so it wasn't this specific, it was the
12 entire TRPA new ordinance in 2010 -- 8, '08 that was now
13 ruled invalid by the District Court. Did it go up to
14 appeal? Is this -- this is --

15 EXECUTIVE OFFICER LUCCHESI: Yes.

16 ACTING COMMISSIONER GORDON: Okay. All right.

17 PUBLIC LAND MANAGER LEE: All right. So the
18 effective TRPA shore zone ordinances have reverted to
19 those regulations in place prior to October 2008. And
20 these regulations do not have provisions for
21 grandfathering. Therefore, staff advised the applicant
22 that authorization of the third mooring buoy could not be
23 recommended because of the conflict with TRPA's current
24 code. Staff has also determined that because all but two
25 mooring buoys were supposed to have been removed in 1994,

1 the third buoy should not have qualified under the
2 grandfather clause in TRPA's 2008 ordinances.

3 ACTING COMMISSIONER GORDON: So let me again -- I
4 just want to make sure before we get too far down the
5 line. So -- all right. So the third buoy was supposed to
6 have been removed a long time ago. The property owners
7 apparently did not remove it. Then filed to have that
8 grandfathered -- the -- essentially, the trespass buoy as
9 a grandfather under the ordinance that was then ruled
10 invalid anyway.

11 PUBLIC LAND MANAGER LEE: Right.

12 EXECUTIVE OFFICER LUCCHESI: Correct.

13 ACTING COMMISSIONER GORDON: Okay.

14 PUBLIC LAND MANAGER LEE: So it was staff's
15 understanding that the buoy -- that that third buoy had
16 been removed and there was a letter from the lessee, the
17 applicant.

18 ACTING COMMISSIONER GORDON: Okay. I think I'm
19 tracking it now.

20 PUBLIC LAND MANAGER LEE: Okay. As a result,
21 staff has included a provision in the proposed lease
22 requiring removal of the third buoy by July 1st of this
23 year.

24 So staff -- I'm available to answer anymore
25 questions you may have. And a representative for

1 Copyright Services is present and would like to address
2 the Commission.

3 ACTING COMMISSIONER GORDON: Let's hear from
4 Copyright.

5 ACTING CHAIRPERSON GARLAND: Yeah.

6 PUBLIC LAND MANAGER LEE: There's one last photo
7 just showing the pier.

8 ACTING CHAIRPERSON GARLAND: Excellent. We've
9 got a request to speak from Jan Brisco. Come forward.
10 Good to see you.

11 MS. BRISCO: Thank you. Jan Brisco on behalf of
12 Mr. and Mrs. Peer, Copyright Services Limited.

13 You know, 10 years is not a long time, except
14 when you're dealing with shore zone, in which case, 30
15 years isn't a long time. Mr. And Mrs. Peer had wanted to
16 be here today and we had asked for a continuance on this
17 item, so that they could be represented. And it was only
18 yesterday that we learned we could not continue this item,
19 so we're here sort of without a formal presentation for
20 PowerPoint.

21 Let me try to explain to you sort of what
22 happened between '93 and 2008. At that time, we were
23 trying to come up and develop an ordinance. When Ninette
24 said TRPA's ordinances required two buoys, that's under
25 their design standards, as if you were a vacant parcel

1 without any buoys at all, then your design standard would
2 be two buoys.

3 However, TRPA's ordinances since 1987 - and I
4 have a copy of the code section here if you want to review
5 it - actually do authorize legally existing structures.
6 Any structures in place that are considered legally
7 existing may remain. They may be not conforming, but they
8 are allowed to remain.

9 So that --

10 ACTING COMMISSIONER GORDON: Is your argument
11 that a buoy is a structure?

12 MS. BRISCO: That is correct. Under the Code of
13 Ordinances, it is defined as such.

14 ACTING CHAIRPERSON GARLAND: And are you arguing
15 that it's legally existing, even though it was in
16 violation of the terms of the lease that they signed?

17 MS. BRISCO: At that time, we were having this
18 conversation with all of the agencies. And rather than
19 jeopardize their overall lease, they agreed to comply with
20 that, knowing that at the time, because in all of the
21 leases back at that time, there was a condition, a special
22 provision, in the leases that said at such time at TRPA
23 decides on a mooring program, then you can come back. And
24 that was sort of our agreement with staff. Although,
25 loose, we were agreeing that, look, we're not going to go

1 out there and enforce against buoys until TRPA comes up --
2 TRPA was the pivotal agency in the quest for authorizing
3 what we consider legally existing buoys.

4 There are only -- I'm sorry?

5 ACTING COMMISSIONER GORDON: I want to be sure I
6 understand this. So a lease was signed in '93 requiring
7 the removal. So you signed that lease?

8 MS. BRISCO: That's correct.

9 ACTING COMMISSIONER GORDON: So there's some kind
10 a parol agreement that you're arguing, that even though
11 you signed it, there was some legally enforceable parol
12 agreement that would say you could have it there anyway?

13 MS. BRISCO: In '93, there was no active
14 requirement that only two buoys be placed on a property.
15 The owner, at the time, did not realize that ramification
16 of they had three authorized for many, many years. It was
17 legally existing. And so when the State Lands came out
18 and said well, you've got four, instead of requiring
19 removal of that fourth, and we don't even know that
20 it's -- they said it wasn't theirs, but they had it
21 removed, that -- and go back to the three buoys authorized
22 under the lease, the owner felt they didn't have any
23 option to -- well, you know, at some point in time, TRPA
24 is going to get their act together. They didn't feel they
25 had any challenge at that time with the Commission.

1 You can imagine getting a letter from the State
2 Lands Commission. It is a very daunting thing for a
3 couple like Mr. And Mrs. Peer.

4 ACTING COMMISSIONER GORDON: Any kind of written
5 disclaimer, you know, a signing statement of some kind
6 that would indicate that that was your understanding at
7 the time?

8 MS. BRISCO: Well, I have probably three or four
9 years worth of emails going back and forth that we all
10 sort of agreed to this. And I could look at -- bring
11 those back and talk about -- and I don't know if,
12 Jennifer, you were involved at that time. We were working
13 with Paul Thayer and he was looking at the staff. We
14 didn't go out and enforce against any of these others. It
15 was really a holding pattern. Everything was in a holding
16 pattern until TRPA got their act together.

17 ACTING COMMISSIONER FINN: What does that mean
18 got their act together?

19 MS. BRISCO: To come up with a shore zone
20 ordinance that once and for all looked at how we were
21 going to authorize legally existing buoys, and that was
22 the October 2008 ordinance.

23 ACTING CHAIRPERSON GARLAND: I'm going to extend
24 your time, but I'd like to ask Jennifer to step in here.

25 EXECUTIVE OFFICER LUCCHESI: Yeah. Well, I just

1 want to clarify that it was in 1998 that her clients
2 signed the lease authorizing two buoys and a pier. And
3 that lease expired in 2007, October 2007, then the new
4 TRPA ordinances came in in 2008. And during that time, we
5 did not receive an application or some time received an
6 application for a new lease. But during that same time,
7 the TRPA ordinances were ruled invalid.

8 And so I just want to kind of back up just
9 from -- so I'm not clear on what kind of agreements were
10 had between TRPA staff and your clients and that sort of
11 thing. But what I want to back up to is the fact that our
12 leases require, and legitimately so, that the lessee
13 comply with all other applicable regulations and laws.

14 And so where we're at, I mean understanding that
15 TRPA has had some challenges that they've been facing
16 lately, the current ordinances in effect right now do not
17 allow for more than two buoys.

18 What I think I heard Jan propose were that well,
19 it's possible maybe more than two buoys are allowed under
20 a totally separate set of the ordinances if you have a
21 certain interpretation of those ordinances.

22 This is frankly pretty new to us, and it's our
23 understanding that TRPA has not taken a position on that,
24 at this time, about whether the legal non-conforming
25 existing structures would apply to the buoys. Those have

1 typically been applied to piers. So we don't have
2 anything in writing. We have had some conversations with
3 TRPA staff about this, and they are not willing, according
4 to them, to deviate from their current practices nor put
5 anything in writing on this.

6 ACTING CHAIRPERSON GARLAND: Is there anything
7 you'd like to respond to before we get to comments?

8 MS. BRISCO: Yes, I just wanted to let you know
9 that in fact, according to TRPA's code -- and perhaps we
10 need to continue this so we could have more discussion at
11 staff level, and that would be fine with us. At the very
12 least, I think the fact that TRPA permitted three buoys in
13 2008, because that was -- we were going to come back and
14 do that, that they had been legally existing at one time,
15 we don't feel that this owner should be deprived of that
16 third structure that had been under lease that should have
17 been under lease. TRPA, I would respectfully disagree
18 with Executive Officer on the interpretation, because I
19 have the code sections, they haven't gone out and enforced
20 against anyone else. And there are only 35 properties
21 around the entire lake that actually have a third buoy.
22 That's very, very unusual.

23 In fact, some people had four buoys and five
24 buoys. But the ordinances that were adopted that we
25 expect to come back next year, and all we're asking for

1 here is a placeholder to authorize the structure, because
2 they -- when they got their permit from TRPA, they assumed
3 they had the permit for the third buoy. They had complied
4 otherwise all those years ago.

5 We're just here to make sure that when you take
6 away a legally existing structure, you know, you should do
7 so with clear understanding of what that means, and
8 certainly, we would consider that a taking. And all we
9 want to do is authorize what has been legally existing on
10 this property and nothing more.

11 Thank you.

12 ACTING CHAIRPERSON GARLAND: I'm going to ask if
13 either of my colleagues have questions.

14 ACTING COMMISSIONER GORDON: I'm actually -- the
15 substance of this I don't think we can get to, because
16 under our -- under our statutes, we must comply with TRPA
17 regs. We can only authorize a lease based on what TRPA is
18 authorizing. So if this were tearing down a home or even
19 a pier, I might feel very differently, but these buoys for
20 us, at this point in time, to require removal just -- my
21 understanding, tell me if I have anything wrong here, is
22 to essentially detach the buoy from the lake bed. And
23 there wouldn't be any significant harm, if at a later
24 time, TRPA changes and you just reattach the buoy to the
25 lake bed.

1 So I'm inclined to go along with staff. And
2 frankly I'm much more on the procedural issue of letting
3 you folks work this out with TRPA, and whatever TRPA
4 authorizes, whether two or three, at that point in time,
5 our lease can comply with what the TRPA regs are.

6 Mr. Rusconi, do you have any response to that?
7 Does counsel?

8 DEPUTY ATTORNEY GENERAL RUSCONI: I think that
9 the proper way to proceed, if you want to issue a lease
10 today, is that you have to issue it only for two. And
11 that if TRPA then, at some future point, allows more than
12 that, the lessee could come in and ask for an amendment to
13 authorize that third lease.

14 ACTING COMMISSIONER GORDON: That's my
15 inclination at this point too. Well, let me have you guys
16 respond to one thing. What would be the harm suffered by
17 the property owners should we go with that path?

18 MS. BRISCO: We don't have a problem with that.
19 That's sort of what we thought we were doing when we got
20 three permitted from TRPA. And so I think we certainly
21 want to be in compliance with both TRPA and with the State
22 Lands. What we want to do is we want to have the
23 opportunity, so that we're not coming back to you next
24 year when TRPA comes back and says okay we're going to go
25 ahead and acknowledge that third buoy. As long as when

1 that happens, we can come back to staff and amend our
2 lease to include that third buoy, that's completely fair
3 and we're fine with that, as long as that -- thank you.

4 EXECUTIVE OFFICER LUCCHESI: I just want to
5 clarify one thing. And maybe I can clarify with Mary, is
6 when we are -- it's not just detaching the buoy from the
7 anchor. When we ask for it to be removed, it's removed
8 from the lake bed.

9 MS. BRISCO: Right. We will remove --

10 EXECUTIVE OFFICER LUCCHESI: -- and that's --

11 MS. BRISCO: Excuse me. We will remove the
12 anchoring device until such time as it's authorized.

13 ACTING CHAIRPERSON GARLAND: All right. It
14 sounds like we've come to resolution that's consistent
15 with the actions that this Commission has taken on several
16 buoys. Unfortunately, I -- you know, you can add your
17 client's name to a growing list of folks who are unhappy
18 with TRPA. Unfortunately, we are in a position to be --
19 kind of have our hands tied.

20 So I'd like to move forward, if there's no other
21 comments from staff or from Ms. Brisco.

22 MS. BRISCO: Fine.

23 ACTING CHAIRPERSON GARLAND: Excellent. In that
24 case, we'll entertain a motion.

25 ACTING COMMISSIONER GORDON: Let's be sure what

1 the -- the motion is to authorize a lease for two buoys.

2 EXECUTIVE OFFICER LUCCHESI: I think if you read
3 the staff recommendation, that is consistent with what you
4 your wishes are.

5 ACTING COMMISSIONER GORDON: All right. Then I
6 will make a motion to adopt the staff recommendation for
7 two buoys at the present time.

8 ACTING COMMISSIONER FINN: And I'll second.

9 ACTING CHAIRPERSON GARLAND: It's been moved and
10 seconded. And I'd like to make it clear for you and your
11 clients that at such time as the changes, those -- the
12 expectation is you'll come back and have discussions with
13 the staff to amend the lease.

14 Thank you, Ms. Brisco.

15 MS. BRISCO: Thank you.

16 ACTING CHAIRPERSON GARLAND: Moved and seconded.

17 All those in favor?

18 (Ayes.)

19 ACTING CHAIRPERSON GARLAND: Opposed?

20 This measure passes. Thank you so much.

21 ACTING COMMISSIONER GORDON: Thank you for
22 coming.

23 ACTING CHAIRPERSON GARLAND: That brings us to
24 the first Regular Item, which is 93, which is a request
25 to -- of the authority -- is to request authority of the

1 Executive Officer to enter into an agreement to support
2 the development of a feasibility study for -- to examine
3 the use of shore-based reception and treatment facilities
4 for the management of discharged ballast water in
5 California.

6 May we have the staff presentation.

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

9 MARINE INVASIVE SPECIES PROGRAM MANAGER DOBROSKI:

10 Good morning, Mr. Chairman and Commissioners. My
11 name is Nicole Dobroski, and I am the Marine Invasive
12 Species Program Manager.

13 I'm here today to request authority for the
14 executive officer to enter into agreement to support a
15 feasibility study of shore-based ballast water treatment
16 in California.

17 In 2006, the legislature passed the Coastal
18 Ecosystems Protection Act, which established California's
19 performance standards for the discharge of ballast water.
20 One of the methods by which vessels may comply with these
21 standards is to discharge ballast to a shore-based
22 reception facility. Unfortunately, there are currently no
23 shore-based facilities in California or the United States
24 that are designed to treat non-indigenous species in
25 ballast water.

1 Some previous research has examined the
2 feasibility of shore-based ballast water treatment in
3 California and at a few select ports in the United States,
4 but these studies have been limited in scope. Therefore,
5 additional research is necessary to focus in detail on the
6 potential of shore-based ballast water treatment to meet
7 the needs of vessels operating in California that will be
8 required to meet California's performance standards for
9 the discharge of ballast water.

10 The Public Resources Code mandates that the
11 Commission identify and conduct any other research
12 determined necessary to carry out the requirements of the
13 Division. In order to meet the mandate, staff has
14 determined that the current information gap regarding
15 shore-based ballast water treatment must be addressed.

16 Staff proposes that the Commission fund a study
17 to investigate the feasibility of shore-based ballast
18 water treatment and reception facilities in California.
19 Given the scope of the issue and the importance of the
20 findings to the regulated community and concerned
21 stakeholders, it has been recommended that the study be
22 managed by an independent third party, which would issue
23 the Request for Proposals, award the contract, and
24 facilitate review of the final report.

25 Staff reviewed and consulted with nine research

1 groups, joint powers authorities, and non-profits in order
2 to select the most qualified project manager. Ultimately,
3 we received two proposals from organizations and selected
4 the Delta Stewardship Council as the preferred project
5 manager based on experience, budget, and most importantly
6 their focus on independent scientific review of the final
7 product.

8 Staff proposes that the Commission fund the Delta
9 Stewardship Council for up to \$500,000 from the Marine
10 Invasive Species Control Fund to support project
11 management costs and funds for the contractor to complete
12 the study. The development of the study is critical for
13 the implementation of California's performance standards
14 for the discharge of ballast water in order for the
15 Commission to continue to move expeditiously towards the
16 elimination of the discharge of non-indigenous species
17 into California.

18 Thank you.

19 ACTING CHAIRPERSON GARLAND: Thank you for your
20 presentation. Any questions of the presenter before we go
21 to comments?

22 We have a growing list of comments on this and
23 the next item.

24 ACTING COMMISSIONER FINN: Maybe I'll just hold
25 my questions as people come and present and --

1 ACTING CHAIRPERSON GARLAND: I know that we may
2 need you as people present to potentially answer
3 questions. Can we add her to the dais?

4 (Laughter.)

5 ACTING COMMISSIONER GORDON: Don't let the power
6 go to your head.

7 (Laughter.)

8 ACTING CHAIRPERSON GARLAND: All right.

9 (Laughter.)

10 ACTING CHAIRPERSON GARLAND: As we set that up
11 said -- you've got a strange definition of power.

12 (Laughter.)

13 ACTING CHAIRPERSON GARLAND: As we set that up,
14 I'd like to ask Mr. Kolb --

15 EXECUTIVE OFFICER LUCCHESI: Cohen?

16 ACTING CHAIRPERSON GARLAND: No, Kolb from Sierra
17 Club of California.

18 Lawrence. You have something for us. If you can
19 just give it to our --

20 ACTING COMMISSIONER GORDON: Kim, I think he's
21 got something for you.

22 ACTING CHAIRPERSON GARLAND: If you have -- just
23 as we're getting this, done if you have information for
24 the Commissioners, as you present to us, if you wouldn't
25 mind please giving it to Kim in advance, so that she can

1 get it around to us. That would have much appreciated.

2 And, Mr. Kolb, you're on the clock.

3 MR. KOLB: I'm Larry Kolb. I'm representing
4 Sierra Club, California. I am a civil engineer.

5 Thirty-some year employee with the Water Quality Control
6 Board in Oakland, so I know this building a little bit.

7 I wanted to say that Sierra Club California
8 supports the idea of a study. And we think that
9 shore-site treatment may well be a viable option, but we'd
10 like -- we agree with the staff that a study is a great
11 idea. I think one of the big issues in anything to do
12 with marine terminals and standards for ballast water is
13 enforcing -- enforceability. Can you tell what they're
14 doing and determine if something goes wrong?

15 And that's one of the advantages of shore-side
16 treatment that is probably an important consideration,
17 because if the shippers are not using their on-board
18 facilities, you have to ask the question, is anybody going
19 to be able to tell?

20 And I am -- I spent 30 years in implementing the
21 federal Clean Water Act with permits and inspections and
22 self-monitoring. And that's a system that pretty much
23 works. And, to me -- and I admit I'm not a marine
24 terminal expert, by any means, but I sort of wonder how
25 it's going to be possible to have ship board that's

1 working under a stopwatch when they get into port. I
2 mean, they're in a hurry to get things done. They have a
3 lot of things to do. And the people who would be
4 implementing these treatment systems on-board would be
5 cranking something up that's been dormant, getting it
6 going, hopefully doing it right. And, to me, that -- I
7 can see potential for trouble on that kind of thing.

8 So, on the other hand, we certainly understand
9 the concerns of the shippers. They don't want to pay
10 twice, once for on-board stuff, and then once for their
11 share of...

12 The last thing I wanted to say was that, to me,
13 it seems reasonable while a study is going forward, to
14 have a moratorium on the schedule. On the other hand, I
15 think it would be ideal if it was a defined moratorium,
16 two years or something, rather than just open-ended.

17 My experience has been that when you have an
18 open-ended moratorium, time has a way of flying. So
19 defining the term I think would be helpful as well.

20 Thank you.

21 ACTING CHAIRPERSON GARLAND: Thank you, sir.

22 The next speaker is Marc Holmes, the Program
23 Director from The Bay Initiative. And then just so you're
24 preparing, David Bolland would be up next.

25 MR. HOLMES: Thank you, Chairman Garland and

1 Commissioners. My name is Marc Holmes. I'm Program
2 Director for The Bay Institute, and I served on the
3 advisory committee for ballast water that resulted in the
4 recommendation to the legislature to enact the standards
5 that were ultimately adopted in 2006. I also served from
6 2003 through 2009 as a Senate appointee to the CALFED
7 Bay-Delta Authority.

8 I'm here to speak in support of this item. This
9 is the result of some intense discussions, challenging
10 discussions, that were hosted and led by Commissioner
11 Gordon. And I'd like to express our gratitude for his
12 dedication and work to that, and think that we have a good
13 outcome here.

14 So thank you very much.

15 ACTING COMMISSIONER FINN: Can I ask you a
16 question. Sorry.

17 ACTING CHAIRPERSON GARLAND: If you wouldn't --

18 ACTING COMMISSIONER FINN: You were kind of the
19 person I was looking for then. If you were back in the
20 days of this legislation, at the time it was being
21 considered, was there known -- did we know there was no
22 technology at that time for onshore treatment?

23 MR. HOLMES: It's slightly more complex than
24 that. We knew there was a technology for on-shore
25 treatment that you could treat ballast water in existing

1 plants, and it would effectively address -- meet the
2 standards.

3 The challenge was that there was nothing designed
4 specifically to get the ballast water from ships to
5 existing plants. And there were some problems with the
6 use of existing plants and salt water, so the question was
7 raised about what you need to construct dedicated plants
8 for ballast water treatment. It's one of the things that
9 the study will examine.

10 ACTING COMMISSIONER FINN: Okay. Thank you.

11 ACTING CHAIRPERSON GARLAND: Thank you.

12 MR. HOLMES: Thank you.

13 ACTING CHAIRPERSON GARLAND: Mr. Bolland. And
14 then after Mr. Bolland will be Marc Holmes. Oh, no, we
15 just did Marc. Oh, I got two for you. You also want to
16 speak on 94.

17 MR. BOLLAND: Thank you, Commissioner Garland,
18 other Commissioners. My name is David Bolland with the
19 Association of California Water Agencies. And we also
20 supported the 2006 legislation. We are concerned about
21 ecosystem impacts, specifically of invasive species,
22 particularly in the Delta, but near coastal waters in
23 general.

24 I also served on the technical advisory committee
25 way back, and we support the performance standards. We

1 recognize that there's some promise in shore-based
2 technology, there's some issues of cost and management, of
3 course, that have been brought up and probably will be
4 brought up in the reports. And we think that the study
5 will be a great opportunity for us to look at that again
6 in more detail, and compare it with all the work that's
7 been done on the ship-based technologies and do a good job
8 of comparing and contrasting the pros and cons. So we
9 think this is a good public policy move and we support the
10 study.

11 Thank you.

12 ACTING CHAIRPERSON GARLAND: Thank you.

13 Next up is John, PMSA.

14 MR. BERGE: Thank you, Mr. Chairman and
15 Commissioners. My name is John Berge. And I'm the Vice
16 President with the Pacific Merchant Shipping Association.
17 We represent many of the shipping companies regulated
18 under this provision.

19 I'm here to speak in qualified support of staff's
20 proposal to encumber the invasive species funds, funds
21 generated -- or fees generated by our industry to perform
22 the study of shore-based treatment. I think staff has
23 done an excellent job in addressing input from all the
24 various stakeholders, developing the scope and framework
25 of the study. And Commissioner Gordon has, I think, done

1 a great job in kind of guiding that process.

2 I should point out though that we personally do
3 not believe that shore-based treatment is a viable
4 solution in the long run for logistical and economic
5 reasons, and I think that probably comes as no surprise to
6 you.

7 I'd like to point out, as some people have
8 already mentioned, that under existing federal law, ships
9 discharging ballast water in U.S. waters, including
10 California, will be installing and using the Coast Guard
11 approved treatment systems that represent best available
12 technologies. This will occur regardless of the direction
13 that California takes.

14 So, for us, also requiring shore-based treatment
15 as a parallel system on top of the federal requirement
16 essentially establishes a direction no other State in the
17 nation or no other country that we know of is pursuing,
18 and I think further puts California in a difficult
19 competitive situation.

20 However, that being said, we do welcome the
21 study, and the policy debate that that will generate. We
22 believe that the results of that study will reach similar
23 conclusions and hopefully support our position. So thank
24 you very much.

25 ACTING CHAIRPERSON GARLAND: I'd actually, before

1 you go, like to -- so you are -- you and your -- or your
2 member are in support of us approving a study, even though
3 you don't necessarily believe the outcome of the study
4 will -- could go against you or, at a minimum, may wind up
5 proving that your position, at this point, is correct that
6 it's not a feasible outcome. And I'd just like to say
7 thank you for that, because I know its your members who
8 pay into this fund. And the fact that you're willing to
9 let the science speak and allow us to have that debate
10 says a lot about the leadership of your organization and
11 I'd like to thank you.

12 MR. BERGE: Yeah, absolutely. Thank you very
13 much.

14 ACTING CHAIRPERSON GARLAND: We'll see you back
15 for 94.

16 And, finally, Andrew Cohen, Director of the
17 Center for Research on Aquatic Bioinvasions.

18 Mr. Cohen, thank you.

19 DR. COHEN: Thank you. My name is Andrew Cohen.
20 I'm a marine and aquatic biologist. And I've been working
21 on invasions and ballast water issues for about 20 years.
22 I served on the panel that developed the California
23 standards and I've served as a technical advisor to the
24 Lands Commission staff since then.

25 I want to first say thank you to Commissioner

1 Gordon, to Executive Director Lucchesi, and to the staff
2 who worked on this project in particular Nicole Dobroski
3 and Chris Brown. I think over the last year an enormous
4 amount of progress has been made in developing this study,
5 developing the scope of work. And I appreciate that we're
6 going to manage this through a third party, and that
7 you've selected an excellent choice as the third-party
8 manager. And I want to recognize that, as well as the
9 substantial increase in funds that have been provided for
10 us.

11 My interest in this -- in the study here is the
12 ship-board treatment at this point does appear to be the
13 best available or perhaps the only available way that the
14 State Lands Commission can implement the laws. And so
15 it's important that there an effective -- an effective
16 study of it be done, that is of the highest technical and
17 scientific integrity and that it's done as expeditiously
18 as possible.

19 And I have three areas of concern in regard to
20 that. The first one is a bit of dilemma in that my --
21 yes.

22 ACTING CHAIRPERSON GARLAND: I'm going to
23 interrupt you just briefly, you're now speaking about
24 on-board ship-board. We're dealing with the study on
25 off -- on onshore right now, not -

1 DR. COHEN: Did I say shore on board? I meant to
2 say shore-based. I may have misspoken.

3 ACTING CHAIRPERSON GARLAND: Good, so we're on
4 point.

5 DR. COHEN: This is the shore-based study, and
6 it's -- as I said, I'm thankful for the progress that has
7 been made. It's an terribly important study to be done
8 and has to be done in the right way.

9 And my three remaining areas of concern are
10 these. The first is a bit of a dilemma, because it's a
11 concern that, as Commissioner Gordon and Commissioner
12 Garland are aware, that we have information that appears
13 to show that the ship-board study, which I know is the
14 next item, that the ship-board study does not accurately
15 represent the data that has been done on testing these
16 systems. And that because that data is inaccurate
17 throughout that report, the conclusions are not right.

18 And so the concern is that if the State Lands
19 Commission goes ahead and issues a report at this time,
20 which is not based on accurate data, and has incorrect
21 conclusions about ballast water treatment, that it will
22 be -- that that will potentially compromise the integrity
23 of any study that they try to conduct, even through a
24 third party at that point.

25 ACTING CHAIRPERSON GARLAND: And the engagement

1 of the third party doesn't --

2 DR. COHEN: It helps.

3 ACTING CHAIRPERSON GARLAND: -- address that
4 address that concern for you? Are you certain that there
5 is some kind of undue influence between the State Lands
6 and the third -- independent third party?

7 DR. COHEN: The concern I'm expressing here is
8 based on having worked for many consulting firms and done
9 contracts of this type in the past. And there are many
10 fine, engineering, other consulting firms such as might be
11 involved in this, but they do like to try and figure out
12 what the funders want and give it to them, as anybody
13 would.

14 And the first thing the contractor is going to do
15 is read the State Lands Commission reports on ballast
16 water technology. And if those come to conclusions that
17 are not correct, which are not based on accurate data,
18 then my concern is that that will affect the integrity of
19 the port. And the dilemma is that, of course, that's the
20 next item on the agenda, the issue of the report.

21 ACTING CHAIRPERSON GARLAND: And I appreciate
22 that you have two more points that you'd like to make, but
23 your time is up.

24 Before we get to that, are you calling into
25 question the integrity of the third party that we're

1 engaging?

2 DR. COHEN: No.

3 ACTING CHAIRPERSON GARLAND: Because what you
4 just said is your experience is that the third party will
5 give us what we -- what they think we want.

6 DR. COHEN: I wasn't talking about --

7 ACTING CHAIRPERSON GARLAND: That would call into
8 question the integrity of the scientific community that
9 we're dealing with.

10 DR. COHEN: I wasn't talking about the
11 third-party administrator.

12 ACTING CHAIRPERSON GARLAND: I'd like to ask
13 staff to --

14 MARINE INVASIVE SPECIES PROGRAM MANAGER DOBROSKI:

15 May I state that Dr. Cohen is the one that
16 recommended that we go with the Delta Stewardship Council.
17 And one of the key reasons we chose the Delta Stewardship
18 Council is because of their focus on independent
19 scientific review of the final product. So there will be
20 an independent body of scientists reviewing the final
21 report. I think that keeps --

22 ACTING COMMISSIONER FINN: They have an
23 independent science panel.

24 MARINE INVASIVE SPECIES PROGRAM MANAGER DOBROSKI:
25 Yes. I think that keeps us about as independent

1 as it can possibly get.

2 ACTING CHAIRPERSON GARLAND: Excellent. Thank
3 you. If you would, because I asked so many questions, I'd
4 like to extend to you the ability to get to your last two
5 points if you wouldn't mind getting to them quickly.

6 DR. COHEN: I will. Although, I'm not sure that
7 you characterized my concern. It was not at all with the
8 Delta Science -- with that third-party administrator. I
9 was talking about the ultimate firm that might be doing
10 the work, and the influence, not of staff, but of the
11 report that would be issued.

12 ACTING CHAIRPERSON GARLAND: So your concern is
13 that the Delta folks won't have the ability to choose a
14 contractor that you believe will give us a study that is
15 free of bias? So you're not impugning the Delta folks.
16 You're impugning the folks they might hire.

17 DR. COHEN: No, I don't think I'm saying that
18 either. I'm saying in the real world people are
19 influenced by the positions that their funders take. All
20 of us are under that influence. We struggle to deal with
21 it in the scientific world, and not give in to that, but
22 we do look to that. And frankly everybody does, whenever
23 they're hired by somebody.

24 ACTING COMMISSIONER GORDON: I'm going to --

25 DR. COHEN: So that was my concern. I don't feel

1 like I need to go on about it. I just wanted to make sure
2 it was clear.

3 ACTING COMMISSIONER GORDON: I'm going to
4 actually cut in right here real quickly, which is just to
5 state for the record that -- and either of the two
6 Commissioners please interrupt me. I mean, I don't think
7 we have any preexisting bias as to where this thing is
8 supposed to go.

9 So we -- as the three parties that are voting for
10 the funding, the idea that the contractor would have some
11 direction that we are -- that they believe we are
12 following is just -- I think it's inaccurate. I have no
13 clue -- I mean, I've spoken to Mr. Berge and Mr. Schott.
14 I know the position of the industry and the ports. I've
15 heard from the Sierra Club and the Natural Resources
16 Defense Council.

17 I don't think any of us know where this thing
18 goes, because what's pretty clear, and one of the reasons
19 that you have been incredibly successful in pushing us
20 towards doing this study, is the fact that the existing
21 data is at least 10 years old. We don't know what it
22 shows. We wouldn't be spending \$500,000 if we thought we
23 already knew the answer.

24 This is not a rubber stamp report. I mean, I
25 have been troubled from the beginning, as I worked on

1 this, over the fact that the on-board systems don't seem
2 to work. And if there were an alternative -- and I've
3 been searching now for over two years to try to find that
4 alternative. If it turns out that shore-based is
5 feasible, and gets us where we need to go, and the
6 contacts I've had with folks from the State Water Board,
7 they seem to believe that the technology exists, so it's
8 going to come down to feasibility from a financial
9 standpoint, as one commissioner, I think I'll speak for
10 the other two, we're completely open to that idea.

11 So I'm not quite sure where a contractor would
12 get any idea that there is any pre-ordained direction that
13 we want this thing to go.

14 DR. COHEN: I want to make clear that I'm not, in
15 anyway, questioning the integrity of the State Lands
16 Commission staff, the third-party manager, or the firm
17 that ultimately may do the work, but shall I explain what
18 the concern is?

19 ACTING CHAIRPERSON GARLAND: Yes. Then please
20 explain the first concern, because it sounds to me like
21 we've gotten to a point where you've raised a concern and
22 now backed off of the concern. So is this a concern, or
23 what is the reason for this concern? Because it sounds
24 like now you've backed off. It's not a problem with the
25 staff. It's not a problem with the Commissioners. It's

1 not a problem with the third party that we've -- that, at
2 your suggestion, we've engaged, and it's not a problem
3 with the ultimate contractor. So what is the actual
4 concern here with your first concern?

5 DR. COHEN: My concern is the impending issuing
6 of a report, which -- on ballast water technology, which
7 does not reflect the actual data -- the actual test data
8 on ballast water technology and comes to conclusions that
9 are not supported by the date. It's that report that I
10 fear, and based on my experience suspect, might influence
11 the way the ultimate contractor thinks about this.

12 ACTING CHAIRPERSON GARLAND: You're now
13 contradicting yourself for a third time. So why don't you
14 move on --

15 DR. COHEN: I don't believe I am.

16 ACTING CHAIRPERSON GARLAND: -- to the next two
17 issues.

18 The next two issues.

19 DR. COHEN: The next issue that I'm concerned
20 about is that the RFP -- that, you know, this is, as near
21 as I can tell, intend to be a technical assessment of the
22 issue of shore-based treatment, but the RFP provides
23 for -- as it's currently drafted, provides for continuing
24 involvement by stakeholders. We've had an enormous amount
25 of stakeholder input to the scope of work over the past

1 year.

2 Initially, there was a concern about having
3 adequate input. My sense is that those were initially
4 concerned. The ports -- my conversations with them. I
5 don't know if Tim Schott will be here to address it
6 himself, but his basic opinion was, you know, we've had
7 more than enough. This is gone on long enough. We should
8 get on with the study. My concern is if there's
9 continuing stakeholder involvement in terms of further
10 scoping by stakeholders, in terms of review of reports as
11 they come up, that it will tend to politicize what should
12 be a purely technical assessment.

13 And so I would just recommend against that.

14 ACTING CHAIRPERSON GARLAND: And your third?
15 I'll ask staff to respond when you finish with your third.

16 DR. COHEN: My third concern is about cost.
17 There's been a very substantial increase in the amount of
18 funding for this, but I don't see that it's been developed
19 and any assessment of what these -- the many tasks in the
20 scope of work will actually end up taking. I've tried to
21 go through the exercise. We talked about doing this --
22 proposed doing this in these meetings with Commissioner
23 Gordon about looking at the past study that was done,
24 seeing how much that was covered by the current and
25 assessing it forward. We came up with estimates of

1 between \$480,000 and \$785,000 for that.

2 John Berge recently suggested that an element in
3 that scope of work that was put in essentially at his
4 request could be removed. That might drop the cost
5 \$30,000 to \$50,000. I'm not sure, but we can look at the
6 estimate that I had put together.

7 But it suggests that it's going to be somewhat
8 more than the roughly \$425,000 to \$450,000 that apparently
9 would be available to do the scope of work, when you
10 consider what the third-party administrator will take and
11 what some of the other -- the stakeholder meetings that
12 they are continued would take.

13 And so it seems to me we're closing in on the
14 ballpark, but they're not -- we're not quite there. And I
15 would recommend -- ask that -- I would like to provide you
16 with that estimate. I would like you to ask -- and I'm
17 not saying it's the right estimate, or that we've got the
18 right numbers, because frankly we had to guesstimate a
19 bunch of this stuff, but I would ask you to take a look at
20 it, take a look at the methodology and consider it as you
21 go forward to come up with the cost.

22 ACTING CHAIRPERSON GARLAND: Thank you so much.
23 I appreciate you spending the extra time in answering
24 questions. And we'll see you back on 94, I'm sure.

25 Staff, I would like to get your input on some of

1 the things we just heard.

2 MARINE INVASIVE SPECIES PROGRAM MANAGER DOBROSKI:

3 Sure. Regarding involvement of the stakeholders,
4 the RFP as written was written per Commission procedures,
5 but the RFP, as will be issued, will come from the Delta
6 Stewardship Council. So ultimately, the procedures for
7 how they issue it will be dependent on the Delta
8 Stewardship Council's procedures.

9 As they have indicated to us, they wish to keep
10 the stakeholders informed, and will continue to do so, so
11 that they are aware of the process, but they don't have
12 any intention of basing decisions on the entire process on
13 stakeholder comments. I mean, the most important part is
14 just keeping everyone informed of what's going on. We can
15 make sure that is written into the contract with them.

16 Regarding the -- does that address --

17 ACTING CHAIRPERSON GARLAND: That addresses that
18 comment.

19 MARINE INVASIVE SPECIES PROGRAM MANAGER DOBROSKI:

20 Regarding the cost estimates, we have not
21 received any written information as Dr. Cohen just
22 presented, regarding those estimates. At times, they did
23 state that they would look into additional costs, but we
24 were never provided with specific information that, you
25 know, this would be cost based on these reasons. So we

1 based the 500,000 on there have been support level studies
2 that have been done, so we looked at the number of hours
3 associated with the development of those studies. We
4 looked at the rates of environmental contractors that have
5 worked for the State in the past. We looked at the number
6 of hours associated with the development of environmental
7 impact reports as this may be on similar scope, although
8 we realize that, you know, it's not a perfect example.

9 And based on that, and the budget that we have
10 available, we have gone forward with up to \$500,000.
11 Certainly, if there was a need for more money, we could
12 come back to the Commission and request more.

13 ACTING CHAIRPERSON GARLAND: Thank you.
14 Commissioner Gordon, I know you wanted to make a comment.

15 ACTING COMMISSIONER GORDON: Let me start with a
16 more general comment, and this is for everyone who has
17 worked on this. I've done, in the course of my career,
18 lots and lots of negotiations, more than I can count. And
19 the parties revolved, from the industry side, from the
20 government side, the State Water Board, NGOs, and the
21 staff at the State Lands Commission, I think did as good a
22 job I have ever seen of sitting down, discussing their
23 agreements, their disagreements, and working towards a
24 final product that has remarkable buy-in, both on the
25 report and on this RFP.

1 So I would like to commend -- everybody keeps
2 giving me some credit. All I really did was sit there at
3 the head of the table and let you folks work out your
4 issues, and I think you guys did a fantastic job,
5 considering how strongly the positions were felt by all
6 parties. It was government at its best. Frankly, all of
7 you gave on some things, and all of you got some things
8 that were important.

9 And I think that the final product represents
10 something you can all be proud of, you know, so often
11 nowadays in the public sphere compromise is viewed as
12 somehow giving up your core values. And I think here
13 everyone's core values were represented in the final
14 product, and it was a better product, because none of had
15 revealed the wisdom as to what the proper direction was
16 going in. So I think you all did a marvelous job in
17 putting out both the report and the RFP.

18 Specifically with regard to the choice of the
19 Delta Stewardship Council and their Science Advisory
20 Board, for full disclosure when I was with the Senate, I
21 wrote the statute that created both of those entities.
22 And so you will all have a little bit of faith in this,
23 the model we used was given to us by the National Science
24 Foundation. And we worked very closely with the folks at
25 the water -- at The Watershed Institute at UC Davis in

1 putting together what we thought would be a body that
2 would be able to use scientific data and drive public
3 policy conclusions based on that data, which we thought
4 was the best model and the best way to use scientists.

5 I have complete faith that the folks over there,
6 headed by Chairman Isenberg, will have the ability to do
7 that without political influence. Though, if the sense
8 that politics is involved means we have to take into
9 account what the costs of this will be and do a
10 cost-benefit analysis based on the future of viability of
11 the ports and the shipping industry, as well as balancing
12 California's environmental interests, that's a good thing.
13 And I think that the Delta Stewardship Council is uniquely
14 positioned to be an arbiter and to make sure that the
15 science is done right.

16 And again, I want to commend Nicole and her staff
17 for getting to a place where that was who they chose to do
18 the final work. So with that, I will say that will be
19 enough for me. Thank you all very much.

20 ACTING CHAIRPERSON GARLAND: We do have one more
21 speaker, but I want to first associate myself with the
22 comments by Alan, about all the players in this. This has
23 been a difficult issue for all of us for two years. And I
24 want to particularly thank you, Alan, for stepping up and
25 taking the lead on this, and working with all the parties.

1 And while you may characterize it as just sitting at the
2 head of the table, we wouldn't be here without your help,
3 so thank you for that.

4 ACTING COMMISSIONER GORDON: Thank you.

5 ACTING CHAIRPERSON GARLAND: And then finally on
6 this issue, Tim Schott.

7 MR. SCHOTT: Thank you, Commissioners. Tim
8 Schott on behalf of the California Association of Port
9 Authorities, which is comprised of the State's 11
10 commercial publicly-owned ports.

11 I'd first like to take issue with Mr. Gordon's
12 statement. Sitting at that head of the table is a lot
13 more than sitting at the head of the table. So we really
14 very much appreciate his efforts and long-term efforts,
15 the Commission's interest in this, staff's diligent work
16 and Ms. Lucchesi's leadership on the issue.

17 We're kind of in the position of saying let's
18 rock and roll. Let's get the study done. We did the
19 original study back in 2000, our Association did, through
20 a small assistance grant with CalEPA. That was a \$25,000
21 grant. We put in probably a like amount in terms of
22 in-kind contribution, but no additional cash. And we know
23 that that was a cursory look at the issue.

24 So we appreciate the willingness and the moving
25 forward with this. We're nervous about it. We're very

1 nervous about it, and we believe that the stakeholders
2 should remain involved, not in a decision-making capacity.
3 And I think, frankly, watching all of these exchanges and
4 talking with staff and Mr. Gordon and others about it, I
5 think a lot of it was semantics. And the way things were
6 phrased in emails frankly. I don't think that we are
7 looking for a role in making those decisions. Certainly
8 there are port staff and there are staff with the carriers
9 and environmental folk, and water quality folk who should
10 be consulted, who have expertise that needs to be
11 consulted. But we're not talking about the stakeholders
12 having a role in making those decisions or directing the
13 report.

14 Simply staying informed and making sure that the
15 folks who are conducting the study know how to get to
16 those people with the expertise.

17 With that, thank you very much.

18 ACTING CHAIRPERSON GARLAND: Thank you.

19 All right. Anymore questions for the staff on
20 this?

21 Okay. I would like to make one comment before we
22 get to the staff recommendations, which, depending on --
23 if I'm voting, I'm in favor of. Although, Alan did so
24 much work on this, I think we should let him vote, but I'm
25 on the record as supporting it. I do want to ask one

1 question of the Director, and that's that the -- Executive
2 Officer, excuse me. We are today authorizing up to
3 \$500,000 for the study to be done.

4 I think there are valid concerns about the cost
5 of the study. Do we have enough? Is it too much? And
6 while I don't want to at all impede us moving forward
7 quickly on this, I would like to ask that the
8 Commissioners be kept up-to-date and be given and
9 apprised of what the actual costs are going to be, and
10 have some input on that in approving the ultimate study
11 once we know what those costs are going to be, so that we
12 understand exactly what we're approving.

13 EXECUTIVE OFFICER LUCCHESI: So would -- is it
14 the pleasure of the Commission to add a recommendation to
15 staff's recommendation that would report -- direct staff
16 to report back to the Commission for budget approval prior
17 to the award of contract to a contractor by the Delta
18 Stewardship Council or would you like to just be kept
19 up-to-date individually or during the Executive Officer's
20 report?

21 ACTING CHAIRPERSON GARLAND: And I just, for
22 fiscal prudence, I would prefer the first option, but
23 since I'm not voting, one of you are going to have to make
24 that an official request of the Chair.

25 EXECUTIVE OFFICER LUCCHESI: And I can restate if

1 very specifically for you.

2 ACTING COMMISSIONER GORDON: I would defer to the
3 Finance on this.

4 ACTING COMMISSIONER FINN: Could you state it
5 again?

6 EXECUTIVE OFFICER LUCCHESI: So the additional
7 recommendation to be added to the three recommendations
8 already in the staff report is to direct staff to report
9 to the Commission for budget approval prior to award of
10 contract to a contractor by the Delta Stewardship Council
11 and transfer of funds by the Commission.

12 ACTING COMMISSIONER FINN: I would just ask a
13 question. Is that logically possible? Timing-wise,
14 would we hold it up, you know, based on the schedule of
15 meetings and such?

16 EXECUTIVE OFFICER LUCCHESI: And, you know, in
17 all practicality there is the risk of some delay, but
18 we're talking about a month. And we are talking about a
19 significant amount of money being expended on this study,
20 you know, up to half a million dollars, potentially
21 more if the Commission would -- wants to authorize
22 additional monies.

23 ACTING COMMISSIONER FINN: Okay. So it the will
24 to -- do you want to have that checked in?

25 ACTING CHAIRPERSON GARLAND: Yes.

1 ACTING COMMISSIONER FINN: I'm fine with that.

2 Last question. Is there a requirement in the RFP
3 of a time frame that this has to be completed or will it
4 be just listening to what the contractors propose?

5 MARINE INVASIVE SPECIES PROGRAM MANAGER DOBROSKI:

6 At this time, there is not a time limit, but once
7 the funds are encumbered, we have two years to pay it out
8 otherwise we would have to push it into another year.

9 So it should be --

10 ACTING COMMISSIONER FINN: You're assuming a
11 couple of years, okay.

12 MARINE INVASIVE SPECIES PROGRAM MANAGER DOBROSKI:

13 It should be able to be completed in that time.
14 And we can certainly add that timeline -- or request the
15 Delta include a timeline and report.

16 ACTING COMMISSIONER FINN: Okay.

17 EXECUTIVE OFFICER LUCCHESI: And we can report
18 that back to the Commission as well.

19 ACTING COMMISSIONER FINN: Okay.

20 ACTING CHAIRPERSON GARLAND: Okay. So --

21 ACTING COMMISSIONER FINN: Okay. With that, then
22 I would support that.

23 ACTING CHAIRPERSON GARLAND: Okay. So we're
24 going to -- the motion would be for the three
25 recommendations, plus the addition of what the Executive

1 Officer just laid out.

2 ACTING COMMISSIONER FINN: To report back at the
3 next -- at the most efficient Board meeting before
4 awarding the contract.

5 EXECUTIVE OFFICER LUCCHESI: Yes.

6 ACTING COMMISSIONER GORDON: And I'll second that
7 motion.

8 ACTING CHAIRPERSON GARLAND: We have a motion and
9 a second.

10 Those in favor?

11 (Ayes.)

12 ACTING CHAIRPERSON GARLAND: We have adopted Item
13 93.

14 I'm going to ask here, since we've been going for
15 an hour, if anybody needs a quick break?

16 ACTING COMMISSIONER FINN: I'm fine.

17 ACTING COMMISSIONER GORDON: I'm fine.

18 ACTING CHAIRPERSON GARLAND: Let's keep going.

19 Thank you.

20 Next up on the agenda is regular item 94.

21 (Laughter.)

22 ACTING CHAIRPERSON GARLAND: Oh, you could have
23 stayed at the dais.

24 (Laughter.)

25 ACTING CHAIRPERSON GARLAND: May we have the

1 staff presentation.

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

4 MARINE INVASIVE SPECIES PROGRAM MANAGER DOBROSKI:

5 Yes, you may.

6 Again, I am Nicole Dobroski, the Marine Invasive
7 Species Program Manager.

8 Today, we're here to request approval of the
9 legislative report, "2013 Assessment of the Efficacy,
10 Availability, and Environmental Impacts of Ballast Water
11 Treatment System for Use in California Waters".

12 As I mentioned previously, in 2006, the
13 legislature passed the Coastal Ecosystems Protection Act,
14 which established performance standards for the discharge
15 of ballast water, and required the Commission to implement
16 them via regulation. Regulations were adopted in 2007,
17 including a phased-in implementation schedule between 2010
18 and 2016 based on a vessel's ballast water capacity and
19 year of construction.

20 The Coastal Ecosystems Protection Act also
21 requires the Commission to prepare or update reports to
22 the legislature assessing the efficacy, availability, and
23 environmental impacts of ballast water treatment
24 technologies to meet the performance standards. And the
25 exact language from the statute is on the screen.

1 If technologies to meet the standards are
2 determined to be unavailable, then the report shall
3 include an assessment of why not.

4 Reports are due 18 months prior to each of the
5 scheduled implementation dates for the standards. And
6 previous reports were approved by the Commission in 2007,
7 2009, and 2010.

8 The report before you today was initially brought
9 to the Commission for approval in October of 2012. At the
10 October meeting, the Commission requested that staff
11 revise the report to ensure that the report conclusions
12 more thoroughly reflected system performance variability
13 and uncertainty regarding the availability of ballast
14 water treatment systems to meet California's performance
15 standards for the discharge of ballast water.

16 Staff has worked with the State Controller's
17 Office and representatives from the Pacific Merchant
18 Shipping Association, the Western States Petroleum
19 Association, The Bay Institute, the California Association
20 of Port Authorities, the San Francisco Estuary
21 Partnership, the California State Water Resources Control
22 Board, the Cruise Lines International Association, Maersk,
23 ENVIRO Management, and Dr. Andrew Cohen to revise the
24 report, which is now presented to the Commission for
25 approval.

1 The report examines four management strategies
2 and technologies for vessels to comply with the standards,
3 including retention of all ballast water on board, use of
4 potable water as ballast, discharge to a shore-based
5 ballast water reception facility, or use of a ship-board
6 ballast water treatment system.

7 While almost 80 percent of voyages to California
8 retain all ballast water on board, vessels may need to
9 de-ballast due to operational or safety concerns, and thus
10 would need a method of ensuring that discharged ballast is
11 in compliance with the standards.

12 Potable water may not be an option for many
13 vessels due to the volume of water needed for ballasting
14 and potential costs. Thus, some form of ballast water
15 treatment will be required for the majority of vessels
16 operating in California.

17 Two main platforms for ballast water treatment
18 are shore-based ballast water reception and treatment
19 facilities and ship-board ballast water treatment systems.

20 Currently, there are no shore-based ballast water
21 treatment facilities in California or the U.S., and thus
22 this option is not currently available to the regulated
23 community to comply with California standards. As
24 previously discussed, staff is securing the services of a
25 third-party manager to develop a Request for Proposal to

1 produce a report examining the feasibility of shore-based
2 treatment in California.

3 Staff reviewed 75 ballast -- ship-board ballast
4 water treatment systems for this analysis. The available
5 performance data for land-based and ship-board testing of
6 treatment systems is reviewed in the report, including a
7 thorough transparent discussion of the methods and
8 reasoning behind staff's interpretation and presentation
9 of the data for each of the organism size classes in
10 California's standards.

11 Based on that data, staff concludes that no
12 ship-board ballast water treatment systems are currently
13 available to meet all of California's performance
14 standards for the discharge of ballast water.

15 In light of the lack of currently available
16 options for discharging vessels to comply with
17 California's performance standards, staff recommends that
18 the legislature amend Public Resources Code section
19 71205.3 to delay implementation of the standards until
20 such time that technologies can be deemed available to
21 meet the standards.

22 This delay is an adaptive approach which will
23 provide time for additional data to be collected on
24 ship-board treatment system installation and performance
25 and for the shore-based feasibility study to be completed

1 while continuing to move the State towards elimination of
2 the discharge of non-indigenous species into the waters of
3 the State.

4 Thank you.

5 ACTING CHAIRPERSON GARLAND: Thank you for your
6 presentation. I do want to raise one concern, and it goes
7 back to something someone said earlier, and many of you
8 have heard me say this before, on behalf of the Lieutenant
9 Governor, we like the idea of California being the point
10 of the sword on environmental issues, and on issues in
11 general. And we appreciate the -- what we're trying to do
12 here and fully support combating invasive species.

13 Part of the recommendation to the legislature was
14 vague in terms of timing. And I would like to, when we do
15 eventually go to the legislature -- when staff goes to the
16 legislature, I would like to see us try and come up with a
17 reasonable time frame over some metric to suggest to the
18 legislature, not just ask for a blank -- or a blanket
19 exemption postponing this, because as we know, many times
20 when it comes to industry and innovation and science, many
21 times it's the deadline that we set that drives that
22 innovation, you know, whether it's going to the moon by
23 the end of the decade or any number of others.

24 So I would like to see us make a slightly more
25 specific recommendation to the Legislature on timing, if

1 that's doable?

2 With that, do either of the other Commissioners
3 have questions for the staff before we get to the public
4 comment?

5 ACTING COMMISSIONER GORDON: No.

6 ACTING COMMISSIONER FINN: No, not right now.

7 ACTING CHAIRPERSON GARLAND: Okay. Well, if you
8 wouldn't mind joining us back on the dais again. We have
9 a -- we're now going to start referring to them as the
10 usual suspects, because I believe everybody who spoke on
11 93 wants to speak on 94.

12 And we'll start again with David Bolland, and
13 next will be Marc Holmes.

14 MR. BOLLAND: Thank you, Commissioners. I
15 appreciate the opportunity to speak. My name again is
16 David Bolland with the Association of California Water
17 Agencies.

18 And I just wanted to underscore the fact that we
19 did support the legislation. We do support the standards.
20 Many of the issues that have been discussed about the need
21 for balancing of environmental regulations and
22 environmental protection are something that we keenly feel
23 as an industry, water -- public water agencies recognize
24 the need for some strong studies to support the kind of
25 environmental regulations that we'd like to have, that are

1 aspirational in California sometimes.

2 We do understand the technology gap, in terms of
3 ship-board treatment. And we support the study, as we
4 just discussed. We support also the postponement. We
5 recognize the fact that we don't -- you know, we aren't
6 able to enforce this and implement this at the current
7 time, and that it's really important to see at least what
8 we can do on the shore-based side, and probably continue
9 to allow for enhancement of technologies on the ship-board
10 side as well, as we recognize this is an international
11 issue, and that technology is not always driven by
12 California.

13 So with all that said, I think we also want to
14 support a definite period, as opposed to an indefinite
15 moratorium. And we would request that you direct staff to
16 come back with a reasonable period. It was discussed a
17 defined, say, two-year period was discussed by one of the
18 speakers previously, maybe five years.

19 You know, I guess this is a judgment call. And
20 obviously the staff will probably have a better sense
21 about what can be done in the time frame. We recognize
22 the fact the report itself will take at least a year, and
23 then there will be a need for some assessment of the
24 findings. So a reasonable time frame, and then explicitly
25 communicating that to the legislature.

1 And that's my contribution here. Thank you.

2 ACTING CHAIRPERSON GARLAND: Thank you, sir.

3 Have a good weekend.

4 MR. BOLLAND: You too.

5 ACTING CHAIRPERSON GARLAND: Mr. Holmes and then
6 Karen McDonald -- McDowell, excuse me.

7 MR. HOLMES: Thank you, Chairman Garland and
8 Commissioners. Marc Holmes again. And I'm glad that you
9 raised the issue of the indefinite time frame. You see on
10 my speaker's card that I indicated that we here to speak
11 in opposition, and that's only for one reason, because
12 there's a surprise in this, and that's the indefinite
13 moratorium.

14 The group that got together agreed on a two-year
15 moratorium. And it was our understanding that at the end
16 of the two years, that that study would be in from on
17 shore-based items, we could review that. And it may be
18 necessary, at that point, to further extend the moratorium
19 to allow implementation devices to be developed.

20 But it was never the intent to repeal the
21 existing schedule that's in statute for exactly the reason
22 that you described. I would suggest that we don't need to
23 go back and have a conversation about how long the
24 moratorium should be. Everybody agreed on two years
25 already. As I say, this was a bit of a surprise, and I

1 think it's going to be problematic if it remains in there.

2 So with that, I would support this.

3 The last thing I would like to say is that I have
4 to echo my colleague Dr. Cohen's comments about concerns
5 about the scientific analysis in the report. We've had
6 extensive conversations with Commissioner Gordon, with the
7 Executive Officer Lucchesi pointing out precisely what our
8 concerns are. They're complex, and some of them were
9 resolved, but others would not be.

10 That's not going to stand in my way of endorsing
11 this, but, as Dr. Cohen suggested to you, and I think I
12 can say accurately, that this was his point, the concern
13 is not about anybody's integrity, but the quality of the
14 analysis in the report that will mislead on several points
15 that need to be scrutinized closely. It was not an
16 intentional misleading. It was the difference of opinion
17 about how data should be interpreted and the quality of
18 the data. So the report remains a concern for that
19 reason.

20 I thank you all very much for your time.

21 ACTING CHAIRPERSON GARLAND: Thank you. It's not
22 often we get to flip somebody from opposition to
23 support --

24 (Laughter.)

25 ACTING CHAIRPERSON GARLAND: -- without having to

1 have an argument.

2 MR. HOLMES: Qualified. Qualified.

3 (Laughter.)

4 ACTING CHAIRPERSON GARLAND: Qualified support.

5 Absolutely.

6 (laughter.)

7 ACTING CHAIRPERSON GARLAND: You have a great
8 weekend.

9 Karen McDowell in -- ooh, this is in opposition
10 too. Maybe we can get a support. And then John Berge
11 after that.

12 DR. McDOWELL: Yes. My name is Karen McDowell
13 with the San Francisco Estuary Partnership. I'm a Ph.D.
14 and marine ecologist and environmental planner. As you
15 know, the San Francisco Estuary Partnership is part of the
16 National Estuary Program, and one of the most invaded
17 systems in the world. And we've been participating along
18 with the process, because we're very interested in
19 prevention.

20 So we recognize that the Commission staff has
21 gone above and beyond to work with the stakeholders to
22 incorporate the comments to improve the report. We agree
23 with the technology assessment and the conclusions of the
24 current -- that current technologies cannot meet the
25 standard. And because of that, we also support the need

1 for an abeyance on the enforcement standards.

2 However, the previous drafts recognize there was
3 a two-year time limit on that abeyance. And basically, we
4 can't support the latest changes without changing the
5 timeline. And beyond that, we do support the current
6 report with the exception of having no timeline in the
7 report.

8 We need to move forward with the development of a
9 more robust ballast program, and we must create timelines
10 to address the issue.

11 We also strongly encourage, not just the
12 shore-side feasibility study, but current development on
13 the compliance protocols, which would allow for testing --
14 more accurate testing of the systems to get down to the
15 California standard or to detection limits. Both of the
16 feasibility study and the continuation of looking at the
17 compliance protocols will help us answer key questions.

18 And I think within a two-year time frame, we
19 should have the answers to some of those key questions.
20 And frankly, the answer might be that shore-side treatment
21 isn't feasible, at least in the near term, and we can't
22 meat the standard, and maybe there's some interim thing
23 that needs to go on.

24 I'm not sure. It will be interesting to see the
25 results of these reports, but we encourage the

1 development, both of looking at the shore-side treatment
2 and the continued expediency work looking at the
3 ship-board treatment also.

4 ACTING COMMISSIONER GORDON: Dr. McDowell, in
5 your opinion, is there a forum right now that is working
6 on developing those compliance protocols, because that --
7 the disagreement between some members of the scientific
8 community and members of the regulated community seemed to
9 be, in my opinion, a lot over those compliance protocols,
10 what they could show, what they wouldn't show, and how to
11 interpret the data.

12 Are we moving in the right direction in
13 developing that? Because it strikes me that a parallel
14 course to -- in the right time frame for developing the
15 shore-side analysis would also require us to get to the
16 end of that two years with a good compliance protocol, so
17 we won't have these issues in the future.

18 DR. McDOWELL: I think we are moving in the right
19 direction with the compliance protocols. And I know that
20 the Commission staff has been working closely with the
21 EPA's ETB program and the Coast Guard to match closely
22 with what their protocols are. Although, obviously, the
23 standards are lower, and so they'll differ slightly. And
24 Nicole might be able to provide more detail on those.

25 MARINE INVASIVE SPECIES PROGRAM MANAGER DOBROSKI:

1 Both the International Maritime Organization, the
2 Coast Guard, and the EPA are working on the development of
3 compliance protocols, more Coast Guard than EPA. But
4 certainly the timeline would synch up with the feasibility
5 study.

6 DR. McDOWELL: And there's still going to be -- I
7 mean, there is some, you know, technical issues I think
8 with the way the standard was written that no one realized
9 when it was first done. So it's complex, but I think
10 we're moving in the right direction, and we need to move
11 on all fronts, because nobody knows what the answers are.

12 ACTING COMMISSIONER GORDON: Thank you for that.

13 ACTING COMMISSIONER FINN: Just a clarification.
14 So your only concern is just that there's no specific
15 timeline?

16 MS. McDOWELL: Yes. My only concern is that
17 there's no time frame.

18 ACTING CHAIRPERSON GARLAND: Thank you, and have
19 a great weekend.

20 John Berge and then Dr. Cohen and then finally
21 again Tim Schott.

22 MR. BERGE: Thank you Mr. Chairman and
23 Commissioners. Again, John Berge with Pacific Merchant
24 Shipping Association. I should point out that it feels
25 much more comfortable to finally be on the support side of

1 this issue --

2 (Laughter.)

3 MR. BERGE: -- after several years. And I know
4 it's been a lot of hard work for everybody, so I
5 appreciate that.

6 We do welcome the report's conclusion that there
7 are no treatment systems available. And this is
8 consistent with the findings of other State governments,
9 U.S. EPA, its Science Advisory Board, the National
10 Maritime Organization, the U.S. Coast Guard. So we view
11 that as a positive step.

12 And we also welcome the report's recommendation
13 that the legislature act to delay the implementation
14 schedule. Essentially, we do have a conflict between the
15 statute's mandate of using best available technology and
16 what those technologies can achieve.

17 But I do want to point out that in terms of one
18 aspect of the report we must respectfully disagree with,
19 and that is that there's a suggestion that the challenges
20 to meeting the California standard primarily reside in the
21 lack of detection methods or protocols.

22 It's absolutely true that detection methods are
23 insufficient to confirm the ability to meet California's
24 standards. And that's something that's been recognized
25 and was just commented on. However, we should note that

1 existing detection methods already demonstrate high
2 failure rates in meeting those standards. Logic dictates
3 that more rigorous detection methods can only find
4 similar, if not greater, failure rates.

5 So I think it's clear that at least for the near
6 term, these systems are probably not going -- on-board
7 systems are not going to be reaching the California
8 standard. And that's something we're just going to have
9 to deal with at some point.

10 This should come as no surprise to you. My
11 solution to this is that we would recommend that the
12 legislature adjust the standards and implementation
13 schedule to harmonize with the Coast Guard and the EPA.
14 This allows ships calling multiple jurisdictions
15 throughout the world, throughout the country to be
16 regulated in a harmonized fashion. And this is a position
17 we've held I think since the beginning of this process.

18 The only last thing I'd like to point out is that
19 in regards to Commissioner Gordon's comment about these
20 systems not working, I think it's fair to say these
21 systems do work. They actually achieve essentially a four
22 log or 10,000 time reduction in the number of organisms
23 that are coming out of ballast water. So it's not as if
24 these things are just failing in terms of achieving any
25 kind of environmental protection.

1 The fact of the matter is they're just not
2 reaching that point of the California standards. And so
3 those systems will be put on board the ships, as I
4 mentioned earlier. We will be achieving and benefiting
5 from those environmental protections, regardless of the
6 directions we eventually choose.

7 And thank you all for your help. If there's any
8 questions?

9 ACTING CHAIRPERSON GARLAND: Any questions for
10 Mr. Berge?

11 ACTING COMMISSIONER FINN: No. No, thank you.

12 ACTING CHAIRPERSON GARLAND: Thank you.

13 Mr. Cohen -- Dr. Cohen, excuse me.

14 DR. COHEN: Thank you. As I indicated earlier,
15 my one concern with this report is about its technical
16 accuracy at this point, of the draft report. I first
17 looked at this at the request of Chris Scianni when he was
18 acting manager of the program last summer. And as a
19 technical advisor, he asked me to look at the report.

20 What I found is that the report presented data
21 based on the tests that had been done of these treatment
22 systems to test compliance with IMO standards. And what I
23 found was when I looked at the actual test reports, the
24 data were different from what was being presented in the
25 State Lands Commission report on a large scale.

1 So that, for example, for one of the treatment
2 systems that had been characterized by the previous
3 reports as one of the best performing systems, that out of
4 62 that -- the report said that in 62 trials in total it
5 had demonstrated the ability to comply with California's
6 performance standards. But when we looked at the test
7 reports, it had actually met California standards in only
8 five of those trials. In 34, the tests were invalid. In
9 four cases in which the report says that it demonstrated
10 compliance with California standards, there were no tests
11 done. And in 17 cases, they -- it failed to meet
12 California standards by large margins. And so this kind
13 of pattern exists across all of the data reported. And
14 because of that, I believe that the conclusions of the
15 report are incorrect as well.

16 These remain my concerns. Now, I've offered back
17 with Chris and then repeatedly with other staff and all
18 the way up to the Executive Director at times, and in the
19 meetings with Commissioner Gordon, to sit down with staff
20 and go through these data. And if I was wrong, they could
21 show me where I was wrong, but if not, then they could fix
22 the problem.

23 Those offers were never taken up. John Berge and
24 I did finally bring this data to Commissioner Gordon about
25 two months ago and to Chris Garland last week. At the

1 time, it seemed like you found the presentation
2 convincing, but, of course, you had only heard my
3 presentation of it, and not other information you might
4 have heard from staff.

5 I had thought that I was -- after talking to
6 Chris, that I was going to be here to present that
7 information and see what staff's response would be. I
8 learned yesterday that wouldn't happen, but -- and I was
9 told it wouldn't happen because staff had demonstrated
10 that information we brought forward was incorrect. The
11 analysis we brought forward was incorrect.

12 And my request, at this point, is we actually
13 take a look at that and staff show me, and show the other
14 people here who've seen this information and found it
15 convincing, why it's incorrect show us why -- what seems
16 to be very clear that the test report data is not being
17 accurately represented in the current report. And I don't
18 know why. I'm not suggesting any reason, any intent, or
19 anything like that. I want to be very clear with that.
20 It's just the data appears to be wrong.

21 ACTING CHAIRPERSON GARLAND: Thank you.

22 Any questions fore this speaker?

23 Okay. Thank you for your time.

24 DR. COHEN: We're not going to get the
25 explanation of why this is wrong?

1 ACTING CHAIRPERSON GARLAND: Let me ask a very
2 simple question of staff. And your speaking time has
3 concluded. Is staff confident in the data being presented
4 in this report is correct?

5 MARINE INVASIVE SPECIES PROGRAM MANAGER DOBROSKI:

6 We're confident in our analysis. We've spent
7 time, spent putting additional information into this last
8 draft of the report to clearly layout why we made the --
9 presented the data as we did. We're not saying that
10 necessarily that Dr. Cohen is wrong. We're saying that
11 there are different ways of interpreting data just as
12 there are different ways of interpreting the law for legal
13 analysis. We chose a certain tack. We clearly laid out,
14 for transparency purposes, why we chose that tack, and we
15 stand by our analysis.

16 ACTING CHAIRPERSON GARLAND: Thank you.

17 DR. COHEN: We're never going to get an
18 explanation, in that case?

19 ACTING CHAIRPERSON GARLAND: That sounded like a
20 reasonable explanation to me. Thank you for your time.
21 Have a great weekend.

22 Any other concerns by the Commission?

23 ACTING COMMISSIONER GORDON: I'd make a motion to
24 adopt the report.

25 CHIEF COUNSEL MEIER: One more speaker.

1 ACTING COMMISSIONER GORDON: One more speaker.

2 ACTING CHAIRPERSON GARLAND: Oh, that's right.

3 I'm sorry.

4 Tim Schott. Sorry.

5 MR. SCHOTT: No problem, Commissioners. Tim
6 Schott on behalf of the California Association of Port
7 Authorities again.

8 It's been a long time coming. We thank staff and
9 we thank the Commission for continuing to work with
10 everybody on this -- on this report. I think that our
11 members, while recognizing it may not be perfect, are in
12 the position of feeling that we need to continue to move
13 forward. And we hope that as we consider the standard
14 going forward and figure out how to meet it in the long
15 term, that we recognize that the ports are facing a
16 competitive marketplace that we have not seen in the past,
17 and we think it's a critical component of everybody's
18 considerations, and hope that we'll continue to consider
19 that here at the State Lands Commission and at the State,
20 in general.

21 Thank you.

22 ACTING CHAIRPERSON GARLAND: Commissioner Gordon.

23 ACTING COMMISSIONER GORDON: Yeah. I just --
24 here's where I see us at this point in time. I think the
25 report very accurately states that there are no current

1 on-board systems that meet the California standards.

2 It is -- how the data is interpreted with regard
3 to which tests and compliance protocols is up for debate,
4 but I am completely confident that what is in the report
5 today serves the purpose of the report, which is to reach
6 the conclusion that we cannot implement these standards
7 based on the systems that are out there.

8 The report indicated -- we know that we need to
9 look at onshore and see how that might work. And we
10 recognize that we need an abeyance of the existing statute
11 for two years while we move forward.

12 So while scientists, in good faith, can debate
13 what the existing data shows, the conclusions that all
14 parties have reached, which are that these systems that
15 exist cannot meet California standards, are very clearly
16 stated in the report. And by taking Marc Holmes
17 recommendation and others, and Dr. McDowell, that we put a
18 time certain of two years on the statutory change that we
19 will ask the legislature for, I think we will continue to
20 drive the debate -- not the debate, but will drive the
21 technology. That companies that are out there working on
22 this will know that if they can meet that very strict
23 standard in the future, that this Commission will be in a
24 position to mandate the use of that technology going
25 forward.

1 So at least for this Commissioner, I am very
2 comfortable with the report the way it currently reads.
3 It serves its purpose. It is a analysis of where the
4 systems are today. And I don't think it can be
5 misinterpreted by anybody who is reading it, which had
6 been my ongoing concern about previous drafts.

7 So again, I think all of the parties that worked
8 on this got to a place where the report will serve a
9 useful function. And for this Commissioner I am ready to
10 vote for the staff recommendation with the amendment that
11 there be a two-year request in the legislative -- that in
12 the legislation going forward that we going to bring --
13 that we are going to propose that there be a two-year
14 abeyance of the existing enforcement.

15 ACTING COMMISSIONER FINN: I'm fine with that.
16 I'm kind of in an awkward position here, in that the
17 director normally doesn't support legislation. So if we
18 could -- at this point in time, but I understand what
19 we're talking about, and so if I can, you know what I'm
20 saying is, do this in a way that doesn't show --

21 ACTING COMMISSIONER GORDON: Support for
22 legislation.

23 ACTING COMMISSIONER FINN: Yeah.

24 ACTING CHAIRPERSON GARLAND: Yeah. I think the
25 way to go here, and I think that's the reason why in the

1 staff recommendations for the actual motion, there is no
2 legislative language there. I think the easiest way for
3 us to do this would be for us to adopt the recommendations
4 and then direct the staff to move forward on legislation.

5 ACTING COMMISSIONER FINN: That would be fine.

6 ACTING COMMISSIONER GORDON: Thank you.

7 Let me restate my motion. I would move to adopt
8 the staff recommendation. And let's cut it at that right
9 there.

10 ACTING COMMISSIONER FINN: At that, okay.

11 ACTING CHAIRPERSON GARLAND: Okay. We have a
12 motion. Do I have a second?

13 ACTING COMMISSIONER FINN: With that would, I
14 would second.

15 ACTING CHAIRPERSON GARLAND: We have a second.

16 Those in favor?

17 (Ayes.)

18 ACTING CHAIRPERSON GARLAND: I can't vote here,
19 but I would like it on the record that we are in favor of
20 this.

21 (Laughter.)

22 ACTING COMMISSIONER GORDON: If you could vote?

23 ACTING CHAIRPERSON GARLAND: If I could vote.

24 ACTING COMMISSIONER GORDON: And then we would
25 like to direct the Executive Director that in drafting

1 legislation that it take into account the conversation
2 that was held here today, and the recommendation of all
3 the parties in the room that there be a time certain of
4 two years in the legislation.

5 EXECUTIVE OFFICER LUCCHESI: Will do.

6 ACTING CHAIRPERSON GARLAND: And just on that
7 point, one final thing from me, which would be to -- there
8 are a lot of advocates in this room and a lot of
9 organization that have excellent advocates working in this
10 building. And I would like to suggest that if you could
11 support us, not just here, but Ms. Pemberton and her work
12 inside this building. It would be great if the advocates
13 would join with her when we do go to the legislature to
14 get these changes, that would be much appreciated.

15 And with that, we are -- that's the end of the
16 regular calendar.

17 Do we have any other -- it's public comment now.

18 EXECUTIVE OFFICER LUCCHESI: Yes. It's public
19 comment now. And I believe we have about five speakers.

20 ACTING CHAIRPERSON GARLAND: Oh, we've had more
21 show up. Here we go.

22 So Jeff Carothers followed by Alison Madden, and
23 then Wendy Stone.

24 Welcome, Mr. Carothers.

25 MR. CAROTHERS: Thank you. Appreciate your time.

1 My name is Jeff Carothers. I'm an oceanographer from a
2 company called Fugro West.

3 We are involved mainly in earth sciences, both on
4 and offshore. More specifically, my group makes maps of
5 the ocean floor and also what's below the ocean floor to
6 the soils and characterizes the soils below the ocean
7 floor.

8 The subject I wanted to address today to the
9 Commission is of -- is concerning the geophysical survey
10 permits that the State Lands issues for companies as my
11 own to work in State waters.

12 We received a letter from staff on Ms. Lucchesi's
13 letterhead in March 11th saying that a new CEQA document
14 is being prepared that looks at these offshore surveys
15 acoustic parameters on marine wildlife. The letter also
16 states that until this process has been completed and the
17 staff has analyzed the data, and the report, no further
18 geophysical permits would be issued.

19 The latest -- the letter quotes it would be
20 March, around the summer of 2013 for public comment
21 period. We haven't seen it yet. Although, I know the
22 original plan was much earlier in the year. February was
23 the first thing we heard. This has been in progress for a
24 while.

25 Our concern is that the -- all the permits expire

1 September 30th, which means companies like mine will not
2 be able to survey along on the ocean after September 30th
3 until staff completes their acceptance of the new CEQA
4 documents, and has taken that public. I think -- and we
5 believe time is running out.

6 Last month, we submitted -- we were not -- the
7 letter stated dated we -- they would not process any
8 permits, but we are allowed to submit permits. So we
9 submitted a permit with a letter stating our concern that
10 we'd like to have interim permits until this State thing
11 is settled, that all the documents -- CEQA documents have
12 been prepared.

13 There is some precedence here. Fugro -- we went
14 ahead and submitted our plan, and a lot of our work has to
15 do with the State. It's for the State. The Commission --
16 and we believe the Commission has a legal obligation to
17 issue us an interim permit in instances such as this. It
18 was affirmed by the courts in the case of Meridian Ocean
19 Systems versus California State Lands Commission, 1990.

20 In that case, the court held that surveyors, like
21 Fugro West, are entitled to interim permits pending the
22 Commission's completion of the Final Environmental CEQA
23 document. Without that, we basically have to stop work
24 orders September 30th. We cannot work anymore.

25 This leads to a lot of different things. And my

1 time is running out here, but our basic thing is to
2 request an interim permit until this is all sorted out, so
3 we can continue working. I've got kids to feed.

4 Also, many companies -- many boats use the same
5 equipment we do. Fisherman have the same type of
6 equipment we have, commercial fishermen, big ships,
7 tankers, freighters, the people you're talking about with
8 the ballast water. They use sonar, forward looking sonars
9 for obstacle avoidance. We do not want a tanker or a
10 freighter hitting something, but they're allowed to go
11 into State waters using basically the same equipment we
12 use without a permit or anything. So unless the State
13 cannot single us out as a professional survey company when
14 we're using the same equipment all the commercial
15 fisherman are using, the pleasure boaters.

16 So anyway, the bottom line is I appreciate your
17 time. We would ask for a interim permit if staff cannot
18 get the permits issued by September 30th.

19 ACTING CHAIRPERSON GARLAND: I appreciate you
20 bringing this to our attention. And while this is not on
21 the agenda for any action today, I would like to hear from
22 staff and then -- before we move on in public comment.

23 EXECUTIVE OFFICER LUCCHESI: Well, first, why
24 don't I have Cy Oggins our Chief of our Environmental and
25 Planning unit describe where we are in the process for the

1 MND. And as he's making his way up here, as background,
2 the Commission has been operating under a 1984 -- 1984
3 Mitigated Neg Dec. We have been wanting to adopt a new
4 Mitigated Neg Dec, one that is more timely. However, we
5 have not had the funding to do so. We were recently
6 granting the funding by the Ocean Protection Council and
7 we have started the process for a new MND.

8 During that process, we also decided, because of
9 the significance of these types of activities, to have
10 that MND peer reviewed. In light of the letter from
11 Fugro, we have decided to speed up the process. And
12 instead, we were going to issue -- or send out the
13 draft -- the administrative draft of the MND to this
14 independent peer-review panel. And then after getting
15 results from that, then release it to the public.

16 In light of the concerns about the timeliness, we
17 have decided to proceed with those efforts in parallel.
18 So at the same time we're sending it out to the
19 peer-review panel, we are also sending it out to the
20 public for public comment, and -- with the hopes that that
21 could speed up the process.

22 But at this time -- and I sympathize greatly with
23 the position that Fugro and other companies are in, but at
24 this time, staff is not comfortable, from a legal
25 position, to bring an interim permit when we're in the

1 process of completing a new Mitigated Neg Dec under CEQA.

2 ACTING COMMISSIONER GORDON: What's the time
3 frame for the Mitigated Neg Dec at this point?

4 EXECUTIVE OFFICER LUCCHESI: I defer to Cy on
5 this.

6 ENVIRONMENTAL PROTECTION AND MANAGEMENT DIVISION
7 CHIEF OGGINS: Good morning, Commissioners. My name is Cy
8 Oggins. I'm Chief of Environmental Planning.

9 The current schedule is to release the document
10 in early July. We -- due to the complexity of the issues
11 and the public comment that was received on the seismic
12 survey for PG&E we have planned a 45-day public review
13 period to give the public a little more opportunity to
14 speak, to provide comments, instead of the normal 30-day.

15 So it looks like we would be done with a peer --
16 with the public review and, as Jennifer said, the peer
17 review in mid to late August. So it would be un -- right
18 now, not be able to take it to the Commission meeting in
19 August.

20 And if I could just -- Jennifer provided a really
21 good summary of what has happened on the project. But if
22 I could just add that when the Commission did get the
23 funding from the Ocean Protection Council, there were
24 several speakers who attended that meeting before the
25 Ocean Protection Council voted to approve the funding, who

1 really requested this peer review by the Ocean Science
2 Trust. So we feel it is a very critical component of what
3 we bring to the Commission.

4 Thank you.

5 ACTING CHAIRPERSON GARLAND: And I appreciate
6 that, and actually agree with the idea that peer review is
7 essential. But from what I'm hearing now -- and I'm
8 sorry, I'm going to ask you to jump back in here, sir --
9 Mr. Carothers -- September 30th is when yours --

10 MR. CAROTHERS: September 30th all permits are
11 finished. They're up for renewals on September 30th. We
12 do not believe this peer review, public comment period,
13 and it also states in the letter the Commission must --
14 until or unless the Commission adopts the new document,
15 Neg Dec, we don't know what the means, "unless or until".
16 I mean, does that mean that this could go on for years and
17 I'm out of business?

18 That's my concern.

19 ACTING CHAIRPERSON GARLAND: I would say that the
20 answer -- I'm not a lawyer, don't play one on TV.

21 (Laughter.)

22 ACTING CHAIRPERSON GARLAND: But I'm going to ask
23 one of our three -- or actually four attorneys, I don't
24 think that's what we mean by that.

25 ACTING COMMISSIONER GORDON: You're insulted.

1 ACTING CHAIRPERSON GARLAND: I don't think that's
2 what we mean by less and until, but --

3 CHIEF COUNSEL MEIER: Mark Meier, Chief Counsel.

4 We have to preface that as unless and a -- or
5 until, because we cannot presuppose what the Commission is
6 going to decide. It's entirely up to the Commission.

7 We believe that staff will -- that the staff will
8 bring a good document that the Commission can use, but
9 it's at the Commission's discretion whether or not to
10 adopt it.

11 ACTING COMMISSIONER GORDON: When is our next
12 hearing scheduled after this?

13 EXECUTIVE OFFICER LUCCHESI: August 21st, I
14 believe. And then after that, we're in October.

15 ACTING COMMISSIONER GORDON: Mr. Carothers, your
16 company -- or do you have any ballpark as to how many
17 businesses affected by this particular situation.

18 MR. CAROTHERS: Let me give you one example.
19 There's about -- I think Cy or Ms. Lucchesi would know,
20 seven or eight permit holders right now of various sizes.
21 This is a fairly small companies, average probably 20
22 employees each, so there are a couple hundred people
23 maybe.

24 Let me show you one instance of where this will
25 have a major impact. I talked to Corps of Engineers.

1 They're dredging San Diego Harbor. Okay, and this is what
2 they do normally. They take the disposal material move it
3 offshore, create a berm, in this particular one we're
4 bidding right now for the surveys. Create an offshore
5 berm off Imperial Beach in San Diego.

6 They're very clever at the Corps. They know that
7 that berm will eventually wash up and replenish the beach.
8 Well, as it stands right now, this will be happening in
9 September -- or October, nobody can survey that berm. We
10 won't know how big it is, if they've got enough sand in
11 the right place or anything. So this is -- this is -- and
12 I'm confused why we're even in the mineral resource
13 management, why we're even talking to them, because we
14 don't do mineral resources. That's not our job. We study
15 habitat, marine habitat, and things like that.

16 We actually have a job scheduled to start late
17 September -- if you'll indulge me for another second
18 here -- of the San Francisco Bay. And it's being
19 funded -- it's supposed to start in late September or
20 early October. It's being funded by the State of
21 California, the Ocean Protection Council, and the State
22 Coastal Conservancy. They don't seem to have a problem
23 with the survey.

24 ACTING COMMISSIONER GORDON: And you've got a
25 contract to begin that work?

1 MR. CAROTHERS: Yes, we do. And we can't unless
2 we get --

3 ACTING COMMISSIONER GORDON: And I'm assuming it
4 would probably be a liquidated damages clause in that
5 contract if the State were not able to perform?

6 MR. CAROTHERS: I don't think there's LDs in that
7 one, but there -- you know, the idea is that people that
8 are funding this are the same people that are wanting the
9 study done.

10 And let me say one more thing, if you don't mind.
11 Just indulge me one more second. We have no problem with
12 a new MDec. We don't. We think it's necessary as well.

13 Okay. The problem I see is the timing of it. If
14 September 30th comes and all the -- pardon me, the
15 political part hasn't been worked out, we're shut out.
16 We've got to stop work orders. We cannot work. We cannot
17 help the Corps with their project. I've talked to the
18 Corps and they're concerned. I'm going to meet Sunday
19 with the new Pacific Division Head of the Corps of
20 Engineers and kind of explain this to him for the future
21 dredging projects, but it's series.

22 ACTING COMMISSIONER GORDON: So let me see if
23 where we are right now. So, Cy, if you guys get your work
24 done and have the 45-day public comment period, you can be
25 back before us at our August 20th?

1 ENVIRONMENTAL PROTECTION AND MANAGEMENT DIVISION
2 CHIEF OGGINS: No, we would miss the August meeting. We
3 want to be sure that we respond to public comments, and
4 that we incorporate those comments into the document that
5 we bring to the commission. Plus, we have our noticing
6 requirements to do proper notice before the Commission
7 meeting.

8 ACTING COMMISSIONER GORDON: So we do have --
9 then how many days is the public -- is the notice before,
10 if we were to hold a special meeting in September?

11 EXECUTIVE OFFICER LUCCHESI: Ten days.

12 ACTING COMMISSIONER GORDON: So we've really got
13 up until about September, let's say, 19th to get this
14 done, and then notice a special meeting, so that we can
15 come and, if the Neg Dec is finished, adopt it, correct?

16 EXECUTIVE OFFICER LUCCHESI: That's correct.

17 ACTING COMMISSIONER GORDON: Which is, at this
18 point in time, from what I'm hearing from counsel, it's
19 really the only thing that we can do. We are not --
20 legally, we would be -- have problems if we gave the
21 interim permits. So that's not an option for us.

22 Sir, let me say, at least from this
23 Commissioner's perspective, and I think I'm seeing nodding
24 over here, that we will come back in September assuming we
25 have this thing all set up, and we'll do special hearing,

1 so that we can get this thing done so that you folks are
2 not put out of business.

3 MR. CAROTHERS: And I appreciate that. That's
4 our main concern. Like I said, we're not against the new
5 CEQA document. We just want to be able to continue to
6 work.

7 ACTING COMMISSIONER GORDON: And thanks for
8 coming before us.

9 MR. CAROTHERS: I appreciate it.

10 ACTING COMMISSIONER GORDON: I'm glad you brought
11 this issue before us. And it's now on the radar, and we
12 will do everything we can to make sure that it's taken
13 care of.

14 MR. CAROTHERS: Thank you. I appreciate your
15 time.

16 ACTING COMMISSIONER GORDON: Thank you, sir.

17 ACTING CHAIRPERSON GARLAND: Have a great
18 weekend.

19 Our next three -- four public comments are Alison
20 Madden, Wendy Stone, Buckley Stone, and Eric Pease.

21 Ms. Madden, good to see you again.

22 MS. MADDEN: Hi. Thank you.

23 ACTING CHAIRPERSON GARLAND: You may proceed.

24 MS. MADDEN: Okay. So Happy 75th to the
25 Commission, not personally.

1 (Laughter.)

2 MS. MADDEN: I'm here to advocate that on day 61
3 there's a current 60-day notice of breach at Pete's
4 Harbor. And I'd like the State to terminate the leases on
5 day 61. And the reason why is not out of spite or ill
6 will, but really to take control and to take charge. I
7 think without a strong arm, without a strong position, the
8 parties aren't going to be able to come together and work
9 this out the way the Commission wants to globally.

10 I think you know your charge, which under the PRC
11 is to act in the best interests of the people of the State
12 of California, not one landlord, one tenant, one developer
13 or even one city. And the harbor has taken the prior
14 position that some input by the SLC has been a command to
15 dismantle and blockade docks, which I think almost no one
16 else agrees with.

17 We think that the wholesale abandonment has
18 compromised or at least put the docks at risk and is
19 causing waste, which even justifies unlawful detainer
20 against the harbor. So one of the remedies under the
21 lease is to repossess the slough and to take immediate
22 possession without notice upon expiration of that 60 days.

23 And the reason I would advocate this is just to
24 keep all options preserved. Other speakers will speak in
25 more detail, but right now there is a security fence with

1 a chain, a lock, armed guards, and barbed wire around the
2 facility.

3 I would like to say that you would not be
4 interfering with property rights, because the general plan
5 of Redwood City enacted in 2010 after much public input
6 said we're going to keep the harbor and the liveaboards,
7 which can be operated within BCDC guidelines. So you
8 would not be harming any reasonable investment-backed
9 expectation.

10 Also, I would like to move on to the next issue,
11 which is the easement. There's an easement in the lease.
12 It says it's for the State. However, in the PRC, it's
13 clear that the State's easements are for access by the
14 public. And right now while there is an effective lease,
15 I believe the public can't be blocked out by this barbed
16 wire, which, by the way, is probably contrary to code in
17 Redwood City, and we're having them call us back now.

18 So we think the public should be able to move to
19 and among the docks. People are used to going down there
20 with dogs and bikes, and they're being met by armed guards
21 at this time.

22 The third thing I'd like to talk about is comity,
23 which is -- the Attorney General often argues in the
24 cases. The legal jargon is prior resort, preliminary
25 jurisdiction, prior jurisdiction, to defer, to refer, to

1 abstain, exhaust, election, all of those. But all of that
2 side, when you wade through it, what it is, it's an
3 argument that there is a specialized agency, and in this
4 case, it's the State Lands Commission, with expertise.
5 And here, you know, you have your 75th anniversary here.

6 We think it would be a good precedent. There's
7 Judge Buchwald of the Superior Court in San Mateo County,
8 who's really a judge's judge. And he clerked for the
9 Supreme Court and he's been on the bench for quite some
10 time.

11 He gave the unlawful detainer a four-day hearing,
12 four-day trial. And he is having a special hearing on
13 July 1st. He's given a special notice invitation for a
14 representative of the SLC to attend. We would not -- we
15 would want that to be neutral and just to state really the
16 position of staff and the Commission to date, to not take
17 a side, to not be intervening in one case. But really,
18 what he has done is looked at the entire picture.

19 The test that I think the Attorney General runs
20 into a lot is whether you are adjudicatory, but there's no
21 Supreme Court precedent for the fact that you have to be
22 an adjudicatory body. We think it would be a good
23 precedent. There would be a case number to refer to that
24 a very competent and thoughtful judge -- Oh, I'm sorry.

25 I argued for a full stay -- I'll wrap it up. I

1 argued for a full stay, but he actually did stay entry of
2 his judgment in order to give the SLC a time to appear.
3 And I said you're quasi-everything. You're clearly
4 quasi-executive, adjudicatory. I think you hold hearings.
5 You determine property rights. You can issue cease and
6 desists. So I think you have every power that there is
7 under the Government to act, and so we'd really love to
8 see you there.

9 ACTING CHAIRPERSON GARLAND: Thank you.

10 Wendy stone.

11 MS. STONE: Hi. I'm Wendy stone from Pete's
12 Harbor.

13 So going after Allison, there's really nothing
14 left to say, except --

15 (Laughter.)

16 MS. STONE: -- IBID, and thanks for listening to
17 us. It's so difficult to see barbed wire, armed guards,
18 and everybody being turned away right now, especially
19 before July 4th. It's sad. I don't want to see Pete's
20 Harbor closed, no matter what's going to happen after
21 this. And if we're gone or whatever, that's one thing,
22 but we've stayed. There's four of us left now, and
23 they're trying to get rid of us like crazy.

24 I don't think of us as just people that are being
25 stubborn. I think of us as people that are representing

1 the people and the public of California. This place
2 should stay a marina. It really should. And I don't
3 think some huge development should be put on there by
4 these guys from Denver. I've seen their stuff. It's not
5 pretty, and I don't think it's going to work there anyway
6 on a landfill.

7 Anyway, just want to say hope somebody shows up
8 July 1st, because we could use your help, not that you're
9 going to be biased, of course.

10 Anyway. Thank you.

11 ACTING CHAIRPERSON GARLAND: Thank you, Wendy.
12 Have a great weekend.

13 MS. STONE: Thank you.

14 ACTING CHAIRPERSON GARLAND: Buckley Stone.

15 MR. STONE: I'm back.

16 (Laughter.)

17 ACTING CHAIRPERSON GARLAND: Welcome back.

18 MR. STONE: Thank you.

19 ACTING COMMISSIONER GORDON: It wouldn't be a
20 meeting without you.

21 ACTING CHAIRPERSON GARLAND: It wouldn't be a
22 meeting without you.

23 (Laughter.)

24 MR. STONE: Well, I think we're living in false
25 imprisonment. I'm almost sure we could get a writ of

1 habeas corpus, almost sure.

2 Over the weekend, they put up eight-foot chain
3 linked fences and barbed wire across the top. And now we
4 have armed guards 24/7. So when we leave, the guard has
5 to let us out. And when we come back, we have to show
6 them our ID to get in.

7 ACTING COMMISSIONER GORDON: It's kind of like
8 living in a gated community.

9 (Laughter.)

10 ACTING CHAIRPERSON GARLAND: The value just went
11 up.

12 (Laughter.)

13 MR. STONE: I think we're going to call it Pete's
14 Penitentiary. It's like an interment camp. It's really
15 scary.

16 And so I'm talking to the city about that,
17 because it turns out that on private property barbed wire
18 is not allowed. For commercial places, you know, that's
19 different, but anyway.

20 We're here to encourage you to come. Please come
21 to Redwood City on July 1st. Judge Buchwald has sent you
22 an invitation. And it's not to interfere with boaters
23 against Paul or a development. You know, it's not about
24 us. It's about the judge. Judge Buchwald has done
25 something that's going to go in the books. A standard UD

1 shouldn't take more than four hours. You know, it's to
2 protect the landowner -- or landlord, you know, get rid of
3 a bad tenant, get him back in business, and keep going.

4 We have been seeing this judge for -- you know,
5 we're heading on 12 hours, and he's like, wow, you know.
6 So he has really opened the door for discussion about the
7 unique circumstances here at Pete's. And what's unique
8 about it, as you know, but I will reiterate, is that it's
9 publicly deeded property. It's a beautiful place for a
10 marina. It's been well kept, and, you know, it's just --
11 it's almost dreamy, because it's so in the right place.

12 It's your property. It's our property. And
13 seriously, kids, dogs -- I mean, what's supposed to happen
14 at the 4th of Julys, people come in with their lawn chairs
15 and barbecues, and kids and frisbees and dogs. And
16 everybody waits, because the barge is right out there and
17 is going to light off the fire works.

18 There's only one way in and one way out, okay.
19 So I called the fire department, said is this okay with
20 you? They came down there. They whittled their way
21 through the gate. Right behind them, there is Jeep
22 Boardwalk. There's a whole bunch of auto dealers. And
23 they park along there with the car carriers and unload
24 them.

25 And then they used to go down to Pete's, turn

1 around and go out. All of these car carriers came in
2 behind the fire engine. And suddenly he couldn't turn
3 around, which meant he had to back up all the way back up
4 Bair Island. You know, this huge, you know -- and the
5 fire truck was stuck inside. And it was like that's what
6 I was talking about.

7 And so what's going to happen is unless somebody
8 puts up a huge sign before people get off the freeway that
9 says, "Don't go to Pete's for Fireworks", there's going to
10 be hundreds of cars coming down there and being turned
11 around. And I talked to one of the security guards there,
12 and I said, "You know what's going to happen on the 4th?"
13 He goes, "Yes, I've been security for five years here
14 during, you know, when everybody comes in, fireworks go
15 off, and it takes them two hours to leave".

16 You know, it's an event. And this time, they're
17 going to be faced with armed guards, and barbed wire, and
18 Stalag 19. I mean, it's just going to be a mess.

19 We're asking you to come down and help Judge
20 Buchwald, help him make a decision on what's best or which
21 course should be followed, please. All right.

22 ACTING CHAIRPERSON GARLAND: Thank you for your
23 comment. Have a great weekend, Buckley.

24 MR. STONE: Thank you for your guys help. I sure
25 appreciate it.

1 ACTING CHAIRPERSON GARLAND: And then finally we
2 have Eric Pease. Welcome, Mr. Pease.

3 MR. PEASE: Good day.

4 Hello, and thanks for having me here. I am also
5 one of the last remaining tenants at Pete's Harbor and the
6 only tenant in the outer harbor, okay.

7 I was here in February, and I had commented on
8 everybody being terrorized into leaving, and that has not
9 changed. With the addition of the eight to ten-foot
10 fencing and the barbed wire, they're continuing their
11 policy of terror against the people that are still there.
12 I would think their money would be better spent in trying
13 to fulfill the precepts that you have dictated to them to
14 keep the lease going the way it's supposed to be and have
15 public access. They are spending money hand over fist to
16 prevent that, rather than to comply with that.

17 So my -- I have friends, family members,
18 associates, including my son has been questioned by an
19 armed guard coming out of the bathroom. He's 16 years
20 old. He didn't want to spend Father's Day with me because
21 his father lives in a gulag.

22 (Laughter.)

23 MR. PEASE: It's sad -- it's so sad, it's comical
24 on its face. I've been around. I've done security work.
25 There's no reason for the type of attitude this one

1 individual has. She's either getting bad legal advice or
2 doesn't care.

3 I have to listen to my landlord. I lived at a
4 condominium complex. There's homeowner's association
5 rules. If you don't follow them, you're gone.

6 She is not following the rules. Please, please,
7 don't extend her lease for any given reason. She doesn't
8 care about the public. I've seen -- she's turning away
9 guests. I mean, I'm allowed to have a guest. I still
10 live there. I haven't had a court date assigned. I'm not
11 under a court order to leave. And she's turned away
12 guests of mine. She's actually happened by happenstance
13 to be outside while a guest of mine came up and she
14 basically said you can't come in.

15 I'm shocked. I'm just shocked. Please, don't
16 extend this woman's lease. She doesn't care about the
17 public access to the marina, irregardless of the holiday.
18 The people can't walk their dogs. People can't play with
19 their kids. People don't come down to fly kites anymore.
20 It's a ghost town, and she's just terrorizing the town.
21 She just -- it's sad on its face.

22 And I see that my time is almost up. And please,
23 if there's a God in heaven, don't extend this woman's
24 lease. Please come and talk to the judge on the 1st, and,
25 without taking any sides, explain to them what you would

1 like to see happen with your property. It's not her
2 property. She spouts out that it's her property and
3 she'll do what she wants, but it's not. It's yours, and
4 she's not doing what you're asking her to do.

5 Thank you.

6 ACTING CHAIRPERSON GARLAND: Thank you, sir. You
7 have a good weekend.

8 MR. PEASE: Thank you.

9 ACTING CHAIRPERSON GARLAND: Do any of the
10 Commissioners have any on other comments for open session?

11 In that case, that concludes the open meeting.
12 We'll now adjourn into closed session and we'd ask the
13 public to please leave the room.

14 Thank you.

15 (Off record: 12:00 PM)

16 (Thereupon the meeting recessed
17 into closed session.)

18 (Thereupon the meeting reconvened
19 open session.)

20 (On record: 1:08 PM)

21 ACTING CHAIRPERSON GARLAND: All right. We've
22 come back in from closed session. Executive Officer, is
23 there anything to report from the closed session in open
24 session?

25 EXECUTIVE OFFICER LUCCHESI: No.

1 ACTING CHAIRPERSON GARLAND: No. In that case, I
2 will entertain a motion to adjourn.

3 ACTING COMMISSIONER GORDON: So moved.

4 ACTING COMMISSIONER FINN: I'll second.

5 ACTING CHAIRPERSON GARLAND: And all in favor?

6 (Ayes.)

7 ACTING CHAIRPERSON GARLAND: We are adjourned.

8 (Whereupon the California State Lands

9 Commission meeting adjourned at 1:08 PM)

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1 C E R T I F I C A T E O F R E P O R T E R

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

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

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

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

15 IN WITNESS WHEREOF, I have hereunto set my hand
16 this 5th day of July, 2013.

17
18
19
20 
21
22

23 JAMES F. PETERS, CSR, RPR

24 Certified Shorthand Reporter

25 License No. 10063