

MEETING
STATE OF CALIFORNIA
LANDS COMMISSION

STATE CAPITOL
ROOM 447
SACRAMENTO, CALIFORNIA

MONDAY, DECEMBER 2, 2013
2:02 P.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

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

Mr. Michael Cohen, Director of Finance, represented by Ms. Karen Finn

STAFF:

Ms. Jennifer Lucchesi, Executive Officer

Mr. Mark Meier, Chief Counsel

Mr. Brian Bugsch, Chief, Land Management Division

Mr. Colin Connor, Assistant Chief, Land Management Division

Mr. Chris Scianni, Senior Environmental Scientist

ATTORNEY GENERAL:

Mr. Joe Rusconi, Deputy Attorney General

ALSO PRESENT:

Ms. Jan Brisco, Tahoe Lakefront Owners' Association

Mr. Frank Coats

Mr. Robert Dugen, representing Bernard Atkinson

Mr. Anthony Evans

Ms. Carol Ross Evans

Mr. David Hansen

Mr. Michael Hooper

A P P E A R A N C E S C O N T I N U E D

ALSO PRESENT:

Ms. James Kay, Little Beaver Land Company

Mr. Gregg Lien

Mr. Bill Lyons, Meeks Bay Vista Property Owners'
Association

Mr. Greg Price

Mr. Ross Robinson

Ms. Kathleen Stephens

Mr. Ron Stephens

I N D E X

	PAGE
I 2:00 P.M. - OPEN SESSION	1
II CONFIRMATION OF MINUTES FOR THE MEETING OF SEPTEMBER 20, 2013	2
III EXECUTIVE OFFICER'S REPORT	2

Continuation of Rent Actions to be taken by the
CSLC's Executive Officer pursuant to the
Commission's Delegation of Authority:

- Southern California Edison Company (Lessee):
Continuation of rent at \$663 per year for a
General Lease - Right-of-Way Use, located on
State Lieu land in San Bernardino County
(PRC 2507.2)
- Southern California Edison Company (Lessee):
Continuation of rent at \$100 per year for a
General Lease - Right-of-Way Use, located on
State Lieu land in San Bernardino County
(PRC 3392.2)
- Verizon California, Inc., known as GTE
California, Inc. (Lessee): Continuation of
rent at \$100 per year for a General Lease -
Right-of-Way Use, located on State school
land in San Bernardino County (PRC 4242.2).
- Timothy Grubb (Lessee): Continuation of rent
at \$100 per year for a General Lease -
Right-of-Way Use, located on State school
land in Shasta County (PRC 6807.2).
- AT&T Corp., a wholly-owned Subsidiary of SBC
Communications, Inc. (Lessee): Continuation
of rent at \$684 per year for a General Lease -
Right-of-Way Use, located on State school
land in San Bernardino County (PRC 7264.2).

I N D E X C O N T I N U E D

PAGE

- CPN Pipeline Company (Lessee): Continuation of rent at \$1,527 per year for a General Lease - Right-of-Way Use, located between the city of Martinez to the city of Sacramento, Honker and Suisun Bays, Contra Costa and Solano Counties; Roaring River, Grizzly Slough, and Montezuma Slough, Solano County; and the Sacramento River in Yolo and Sacramento Counties (PRC 5107.1).
- CPN Pipeline Company (Lessee): Continuation of rent at \$690 per year for a General Lease - Right-of-Way Use, located in the Sacramento River between Brannan Island and Montezuma Hills near the city of Rio Vista, Solano County (PRC 8450.1).
- Jeffery Point, LLC (Lessee): Continuation of rent at \$3,361 per year for a General Lease - Recreational Use, located at 9846 Pilot Circle, near Brockway, Placer County (PRC 8131.1).
- David A. Ohlson (Trustee) et al: Continuation of rent at \$1,611 per year for a General Lease - Recreational Use, located adjacent to 5520 and 5540 West Lake Blvd, Homewood, Placer County (PRC 4409.1).
- Larkspur Shores Homeowners Association (Lessee): Continuation of rent at \$0 pursuant to Public Resources Code Section 6503.5 for a General Lease - Recreational Use, located on sovereign land in Corte Madera Creek, adjacent to 635 South Eliseo Drive, Greenbrae, Marin County (PRC 5549.9).
- Dan E. and Nancy E. Luttrell (Trustees): Continuation of rent at \$257 per year for a General Lease - Recreational Use, located in Lake Tahoe adjacent to 5428 North Lake Blvd, near Carnelian Bay, Placer County (PRC 3538.1).

I N D E X C O N T I N U E D

PAGE

IV CONSENT CALENDAR C01-C116

14

THE FOLLOWING ITEMS ARE CONSIDERED TO BE
NON-CONTROVERSIAL AND ARE SUBJECT TO CHANGE AT
ANY TIME UP TO THE DATE OF THE MEETING.

LAND MANAGEMENT DIVISION
NORTHERN REGION

- C01 THOMAS H. BREDT AND POLLY WALKER BREDT AS
CO-TRUSTEES OF THE BREDT 1993 LIVING TRUST
(APPLICANTS): Consider application for a
General Lease - Recreational Use, of sovereign
land located in Lake Tahoe, adjacent to 8645
Beach Lane, near Tahoma, El Dorado County; for an
existing pier, boathouse, and two mooring buoys
previously authorized by the Commission, and an
existing boat lift and boat hoist not previously
authorized by the Commission. (PRC 3868.1;
RA# 05213) (A 5; S 1) (Staff: G. Asimakopoulos)
- C02 LEE M CHESNUT, TRUSTEE OF THE CHESNUT FAMILY
TRUST DATED FEBRUARY 2, 1994 (APPLICANT):
Consider application for a General Lease -
Recreational Use, of sovereign land located in
Lake Tahoe, adjacent to 5500 West Lake Boulevard,
near Homewood, Placer County; for an existing
pier, boat lift, and two mooring buoys. (PRC
6798.1; RA# 06613) (A 1; S 1)
(Staff: G. Asimakopoulos)
- C03 CHARLOTTE P. (SHIRLEY) MENCARINI, TRUSTEE OF
THE MENCARINI FAMILY TRUST, DATED JULY 29, 1998
(APPLICANT): Consider application for a General
Lease - Recreational and Protective Structure
Use, of sovereign land located in the Sacramento
River, adjacent to 3563 Garden Highway, near the
city of Sacramento, Sacramento County; for an
existing uncovered floating boat dock, gangway,
dolphin, piling, 3/8-inch cable, and bank
protection. (PRC 5376.1; RA# 00813) (A 7; S 6)
(Staff: G. Asimakopoulos)

I N D E X C O N T I N U E D

PAGE

- C04 TERRENCE L. CASHEN (LESSEE); PETER VINCENT MCNALLY (APPLICANT): Consider acceptance of a lease quitclaim deed for Lease No. PRC 7737.9, a General Lease - Protective Structure and Recreational Use, and an application for a new General Lease - Recreational and Protective Structure Use, of sovereign land located in Georgiana Slough, adjacent to 421 West Willow Tree Lane, near the city of Isleton, Sacramento County; for an existing single-berth uncovered floating boat dock with boat lift, gangway, walkway, four pilings, and bank protection. (PRC 7737.1; RA# 05113) (A 11; S 3) (Staff: G. Asimakopoulos)
- C05 CPN PIPELINE COMPANY (APPLICANT): Consider application for a General Lease - Right-of-Way Use, of sovereign land located in the San Joaquin River between Jersey Island and Welga Island, adjacent to Assessor's Parcel Numbers 158-0030-008 and 027-010-005, near the city of Antioch, Sacramento and Contra Costa Counties; for an existing 8-inch diameter natural gas pipeline. (PRC 3768.1; RA# 13111) (A 8; S 15) (Staff: R. Boggiano)
- C06 PALMERO LLC, DBA DELTA SHORES RESORT AND MARINA (LESSEE): Consider the revision of rent to Lease No. PRC 2610.1, a General Lease - Recreational Use, of sovereign land located in the Mokelumne River, near the city of Isleton, Sacramento County; for an existing recreational accommodation dock with 43 open berths. (PRC 2610.1) (A 15; S 5) (Staff: R. Boggiano)
- C07 PACIFIC GAS AND ELECTRIC COMPANY (LESSEE): Consider revision of rent to Lease No. PRC 8777.1, a General Lease - Right-of-Way Use, of sovereign land located in the Mokelumne and Consumnes Rivers, near the city of Elk Grove, Sacramento and San Joaquin Counties; for an existing 24-inch diameter welded steel natural gas pipeline and four slurried deactivated 8-inch diameter pipelines. (PRC 8777.1) (A 10, 15, 26; S 1, 14) (Staff: R. Boggiano)

I N D E X C O N T I N U E D

PAGE

- C08 HUMBOLDT REDWOOD COMPANY, LLC (APPLICANT): Consider application for a General Lease - Right-of-Way Use of sovereign land located in the Eel River, adjacent to Assessor's Parcel Numbers 205-061-004 and 205-341-019, near the town of Scotia, Humboldt County; for placement and use of a seasonal bridge crossing. (W 26569; RA# 27011) (A 1; S 2) (Staff: R. Boggiano)
- C09 FORESTAR (USA) REAL ESTATE GROUP, INC. (LESSEE): Consider revision of rent to Lease No. PRC 4813.1, a General Lease - Industrial Use, of sovereign land in the San Joaquin River, adjacent to 2301 Wilbur Road, near the city of Antioch, Contra Costa and Sacramento counties; for a non-operational maintenance pier, two dolphins, a 42-inch diameter water intake pipeline, one 18-inch diameter and one 26-inch diameter discharge pipeline and diffusers, and a 36-inch diameter effluent pipeline. (PRC 4813.1) (A 10; S 7) (Staff: R. Boggiano)
- C10 GRAHAM OWEN AND KACIE OWEN (APPLICANTS): Consider application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in the Sacramento River, adjacent to 4251 Garden Highway, near the city of Sacramento, Sacramento County; for an existing single-berth floating boat dock, gangway, two pilings, three-pile dolphin, and boat lift previously authorized by the Commission; and bank protection not previously authorized by the Commission. (PRC 4947.1; RA# 30012) (A 5, 9; S 6) (Staff: R. Boggiano)
- C11 PACIFIC GAS AND ELECTRIC COMPANY (APPLICANT): Consider application for a General Lease - Right-of-Way Use, of sovereign land located in various waterways, near various cities, in various counties, for the continued use and maintenance of existing less-than-60 kV electric distribution lines, fiber-optic cables, and related facilities. (PRC 6205.1; RA# 05812) (A & S: Statewide)(Staff: V. Caldwell)

I N D E X C O N T I N U E D

PAGE

- C12 23240 HIGHWAY 1, LLC (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Tomales Bay, adjacent to 23115 and 23240 Highway 1, near Marshall, Marin County; for an existing pier, boat slip, boathouse, and sundeck not previously authorized by the Commission. (W 26570; RA# 27611) (A 10; S 2) (Staff: R. Collins)
- C13 TAHOE GRAVITY RESEARCH INSTITUTE, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY (APPLICANT): Consider application for a General Lease - Recreational Use of sovereign land located in Lake Tahoe, adjacent to 3374 Edgewater Drive, near Tahoe City, Placer County; for two existing mooring buoys. (PRC 8269.1; RA# 25912) (A 1; S 1) (Staff: M.J. Columbus)
- C14 ALFRED E. MOORE, JR. AND JOANNE L. MOORE, TRUSTEES, OR ANY SUCCESSOR TRUSTEE OF THE ALFRED E. MOORE, JR. AND JOANNE L. MOORE REVOCABLE TRUST, DATED JUNE 27, 1997 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 8823 Winston Way, near Meeks Bay, El Dorado County; for two existing mooring buoys. (PRC 8502.1; RA# 05913) (A 5; S 1) (Staff: M.J. Columbus)
- C15 KENT B. WILLIAMS AND CATHERINE E. WILLIAMS, AS TRUSTEES OF THE KENT AND CATHERINE WILLIAMS 2007 TRUST UNDER TRUST AGREEMENT DATED JULY 31, 2007 (ASSIGNORS); JOHN M. CUROTTO AND BREE A. CUROTTO (ASSIGNEES): Consider application for the assignment of Lease No. PRC 5664.9, a Recreational Pier Lease, of sovereign land located in Lake Tahoe, adjacent to 6203 North Lake Boulevard, near Tahoe Vista, Placer County; for an existing pier, boat lift, and two mooring buoys. (PRC 5664.9; RA# 02613) (A 1; S 1) (Staff: M.J. Columbus)

I N D E X C O N T I N U E D

PAGE

- C16 JAMES L. MORRIS (APPLICANT): Consider application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in Georgiana Slough, adjacent to 14800 Race Track Road, near the city of Walnut Grove, Sacramento County; for construction of an uncovered floating boat dock, two pilings, one two-piling dolphin, metal gangway, utility conduits to accommodate electric, water, and irrigation lines, and bank protection. (W 26707; RA# 00613) (A 8; S 4) (Staff: M.J. Columbus)
- C17 JOHN M. KELLY, AS TRUSTEE OF THE JOHN M. KELLY REVOCABLE TRUST, DATED MARCH 31, 1997; JOHN M. KELLY AS TRUSTEE OF THE JOHN M. KELLY EXEMPT GENERATION-SKIPPING TRUST UNDER THE PAUL B. KELLY REVOCABLE TRUST, DATED NOVEMBER 2, 1981; JOHN M. KELLY, JR.; ELIZABETH K. D'AMBROSIA, AND MATTHEW F. KELLY (APPLICANTS): Consider application for a General Lease - Recreational Use of sovereign land located in Lake Tahoe, adjacent to 3390 Edgewater Drive, near Tahoe City, Placer County; for an existing pier, boathouse with boat lift, and two mooring buoys. (PRC 3346.1; RA# 05713) (A 1; S 1) (Staff: M.J. Columbus)
- C18 PETER F. SNOOK AND JUDITH L. SNOOK, AS TRUSTEES OF THE SNOOK FAMILY REVOCABLE TRUST, DATED APRIL 11, 2000 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 4688 North Lake Boulevard, near Carnelian Bay, Placer County; for an existing pier, boathouse, and two mooring buoys previously authorized by the Commission; and an existing boat lift and a sundeck with stairs not previously authorized by the Commission. (PRC 1617.1; RA# 24810) (A 1; S 1)(Staff: M.J. Columbus)

I N D E X C O N T I N U E D

PAGE

- C19 JOANNE C. TAYLOR OR HER SUCCESSOR(S) AS TRUSTEE OF THE JOANNE C. TAYLOR TRUST CERTIFIED UNDER AGREEMENT DATED JUNE 29, 1993; JOANNE C. TAYLOR AND CARRIE HUGHES TAYLOR, CO-TRUSTEES OF THE CARRIE HUGHES TAYLOR TRUST UNDER THE WILL OF EDWARD H. TAYLOR; BRUCE C. TAYLOR AND LINDA R. TAYLOR, TRUSTEES OF THE BRUCE AND LINDA TAYLOR FAMILY TRUST DATED NOVEMBER 27, 2002; JEFFREY EDWARD TAYLOR; AND STEPHEN BRUCE TAYLOR (APPLICANTS): Consider application for a General Lease - Recreational Use of sovereign land located in Lake Tahoe, adjacent to 2580 West Lake Boulevard, near Homewood, Placer County; for an existing pier previously authorized by the Commission, and two existing mooring buoys not previously authorized by the Commission. (PRC 5560.1; RA# 16410)(A 1; S 1) (Staff: M.J. Columbus)
- C20 RONALD L. JENNY AND JANE E. JENNY, CO-TRUSTEES OF THE JENNY FAMILY TRUST DATED MARCH 4, 2002 (LESSEES/APPLICANTS): Consider termination of Lease No. PRC 4954.9, a Recreational Pier Lease, and an application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 5360 North Lake Boulevard, near Carnelian Bay, Placer County; for the proposed expansion of an existing pier, removal of an existing boat lift and installation of a new boat lift, and one existing mooring buoy previously authorized by the Commission, and an additional existing mooring buoy not previously authorized by the Commission. (PRC 4954.1); RA# 31012) (A 1; S 1) (Staff: M.J. Columbus)
- C21 PAMELA KVALHEIM AND CRAIG WAGNER (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in the Petaluma River adjacent to 45 Havenwood Road, city of Novato, Marin County; for an existing raised walkway, storage shed, decks, dock, access ramp, and an uncovered floating dock. (PRC 3507.1; RA# 33212) (A 10; S 2) (Staff: K. Foster)

I N D E X C O N T I N U E D

PAGE

- C22 LIZ GRAHAM AND GREG GRAHAM (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in the Petaluma River adjacent to 104 Harbor Drive, city of Novato, Marin County; for existing raised walkways, a boathouse, landing pad, access ramp, and two uncovered floating boat docks. (PRC 3540.1; RA# 16211) (A 10; S 2) (Staff: K. Foster)
- C23 ANNA YOUNG, TRUSTEE OF THE ANNA YOUNG TRUST DATED APRIL 21, 1997; CATTARINA BIRGITTA VAN DEN TOORN, AS TRUSTEE OF THE CATTARINA BIRGITTA VAN DEN TOORN SEPARATE PROPERTY TRUST DATED DECEMBER 2, 2002; AND LINNEA ALBERTA BONDOC, TRUSTEE OF THE LINNEA ALBERTA BONDOC SEPARATE PROPERTY TRUST DATED DECEMBER 2, 2002 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in the Petaluma River adjacent to 55 Havenwood Road, city of Novato, Marin County; for an existing raised walkway, access ramp, and an uncovered fixed boat dock. (PRC 3582.1; RA# 11511)(A 10; S 2) (Staff: K. Foster)
- C24 TERENCE ROBERT BUNTON AND PAULINE ELIZABETH BUNTON, TRUSTEES OF THE TERENCE AND PAULINE BUNTON REVOCABLE TRUST DATED SEPTEMBER 11, 2001 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in the Petaluma River adjacent to 39 Bridge Road, city of Novato, Marin County; for an existing raised walkway and an uncovered fixed dock. (PRC 5274.1; RA# 32012) (A 10; S 2) (Staff: K. Foster)
- C25 SAN PAN BAY HOMEOWNERS ASSOCIATION (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Corte Madera Creek adjacent to 517-533 Larkspur Plaza Drive, city of Larkspur, Marin County; for an existing walkway, anchor lines, and a floating boat dock. (PRC 4867.1; RA# 32712) (A 10; S 2) (Staff: K. Foster)

I N D E X C O N T I N U E D

PAGE

- C26 JAMES L. KOURETAS (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in the Sacramento River, adjacent to 7446 Pocket Road, city of Sacramento, Sacramento County; for two existing two-pile dolphins, stabilizer bar, and one dolphin. (PRC 4917.1; RA# 00913) (A 9; S 6)(Staff: W. Hall)
- C27 R.T. NAHAS COMPANY, A CALIFORNIA CORPORATION; RONALD C. NAHAS, SUCCESSOR TRUSTEE UNDER THE NAHAS REVOCABLE TRUST U/D/T DECEMBER 30, 1985; RONALD C. NAHAS; ROBERT W. NAHAS; RANDALL E. NAHAS; RACHELLE (SHELLY) N. ALDEAN AND ROBIN N. STEVENSON (LESSEES); JOHN STUMPF AND RUTH STUMPF, TRUSTEES OF THE STUMPF FAMILY TRUST (APPLICANTS): Consider acceptance of a quitclaim deed for Lease No. PRC 4066.1, a General Lease - Recreational Use, and an application for a new General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 1870 North Lake Boulevard, near Tahoe City, Placer County; for an existing pier, boat lift, and two mooring buoys. (PRC 4066.1; RA# 02713) (A 1; S 1) (Staff: W. Hall)
- C28 GRANT M. INMAN AND SUZANNE B. INMAN, CO-TRUSTEES OF THE INMAN 2012 IRREVOCABLE CHILDREN'S TRUST U/A/D DECEMBER 13, 2012 (APPLICANTS): Consider application for a General Lease - Recreational Use of sovereign land located in Lake Tahoe, adjacent to 8841 Rubicon Drive, Rubicon Bay, El Dorado County; for an existing pier, boathouse, boat lift, and two mooring buoys. (PRC 3669.1; RA# 27812) (A 5; S 1) (Staff: W. Hall)
- C29 HAROLD M. MESSMER, JR. AND MARCIA N. MESSMER, TRUSTEES OF THE MESSMER FAMILY TRUST DATED 10/1/93 (APPLICANTS): Consider an application for a General Lease - Recreational Use of sovereign land located in Lake Tahoe, adjacent to 4420 North Lake Boulevard, Carnelian Bay, Placer County; for an existing pier, boat lift, and one mooring buoy previously authorized by the Commission, and an existing boat hoist, wood

I N D E X C O N T I N U E D

PAGE

marine rail, and one mooring buoy not previously authorized by the Commission. (PRC 4315.1; RA# 37710) (A 1; S 1) (Staff: W. Hall)

- C30 UNION BANK OF CALIFORNIA, NATIONAL ASSOCIATION, A NATIONAL BANKING ASSOCIATION, AS TRUSTEE UNDER THAT CERTAIN DECLARATION OF TRUST BY GEORGE A. POPE DATED DECEMBER 30, 1935 (LESSEE): Consider revision of rent to Lease No. PRC 5505.1, a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 9800 Brockway Springs Drive, near Kings Beach, Placer County; for a pier, boathouse, three boat hoists, sundeck with stairs, and two mooring buoys. (PRC 5505.1)(A 1; S 1) (Staff: W. Hall)
- C31 FREDERICK G. ROSE AND BARBARA RYAN ROSE, TRUSTEES OF THE FREDERICK G. ROSE AND BARBARA RYAN ROSE REVOCABLE LIVING TRUST, DATED JUNE 16/97 (APPLICANTS): Consider application for a General Lease - Recreational Use of sovereign land located in Donner Lake, adjacent to 14578 South Shore Drive, near the town of Truckee, Nevada County; for an existing pier and boathouse with sundeck and stairs. (PRC 8321.1; RA# 10812) (A 1; S 1)(Staff: W. Hall)
- C32 ERNEST E. PESTANA AND IRENE PESTANA (LESSEES); IRENE PESTANA AND MICHAEL J. KELLY, JR., CO-TRUSTEES OF THE SURVIVOR'S TRUST ESTABLISHED UNDER THE PESTANA 1986 FAMILY TRUST AGREEMENT DATED MAY 15, 1986, AS AMENDED (APPLICANTS): Consider termination of Lease No. PRC 7107.1, a General Lease - Recreational Use, and an application for a new General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 5570, 5588, and 5590 North Lake Boulevard, near Carnelian Bay, Placer County; for an existing pier, two boathouses, one boat hoist, one boat lift, and two sundecks with stairs. (PRC 7107.1; RA# 28511) (A 1; S 1) (Staff: W. Hall)

I N D E X C O N T I N U E D

PAGE

- C33 MATTHEW GNAGY (ASSIGNOR); STEVE CHADARIS AND JANNINE CHADARIS (ASSIGNEE): Consider application for the assignment of Lease No. 7991.9, a General Lease - Recreational and Protective Structure Use, of sovereign land located in the Sacramento River, adjacent to 10005 Garden Highway, near Verona, Sutter County; for an existing single-berth covered dock, four pilings, gangway, two electrical boxes, water line, and bank protection. (PRC 7991.9; RA# 01113) (A 7; S 6) (Staff: W. Hall)
- C34 SERENE PROPERTIES, LLC (APPLICANT): Consider application for a General Lease - Recreational Use of sovereign land located in Lake Tahoe, adjacent to 2200 North Lake Boulevard, Tahoe City, Placer County; for two existing mooring buoys.(PRC 8510.1; RA# 05513) (A 1; S 1) (Staff: W. Hall)
- C35 GERHARD WAGNER AND MARILYN J. WAGNER; AND NATALIE PAINE (APPLICANTS): Consider application for a General Lease - Recreational Use of sovereign land located in the Sacramento River, adjacent to 17370 Grand Island Road, near Walnut Grove, Sacramento County; for an existing fishing pier and gangway. (PRC 4764.1; RA# 28012) (A 11; S 3) (Staff: W. Hall)
- C36 MARVIN M. MCSWAIN AND PATRICIA MCSWAIN, TRUSTEES OF THE MARVIN M. MCSWAIN AND PATRICIA MCSWAIN TRUST DATED APRIL 13, 2007 (APPLICANTS): Consider application for a General Lease - Recreational Use of sovereign land located in the Sacramento River, adjacent to 11035 State Highway 160, near Hood, Sacramento County; for an existing floating boat dock, pilings, and gangway previously authorized by the Commission, and an existing storage shed not previously authorized by the Commission. (PRC 8495.1; RA# 02913) (A 9; S 6) (Staff: W. Hall)

I N D E X C O N T I N U E D

PAGE

- C37 FRANK SLOOTMAN AND BRENDA SLOOTMAN, TRUSTEES OF THE SLOOTMAN LIVING TRUST DATED SEPTEMBER 8, 1999 (LESSEES); JARLOSLAW GLEMOCKI, OR HIS SUCCESSOR(S), TRUSTEE UNDER REVOCABLE TRUST AGREEMENT DATE AUGUST 24, 2001, AS AMENDED (APPLICANT): Consider termination of Lease No. PRC 8250.9, a General Lease - Recreational Use, and application for a new General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 5090 West Lake Boulevard, near Homewood, Placer County; for two existing mooring buoys. (PRC 8250.1; RA# 07413) (A 1; S 1) (Staff: W. Hall)
- C38 CITY OF WEST SACRAMENTO (APPLICANT): Consider application for a General Lease - Public Agency Use, of sovereign land located in the Sacramento River, adjacent to 20079 Riverfront Street, city of West Sacramento, Yolo County; for an existing pier and pilings. (PRC 1987.9; RA# 06313) (A 8; S 4) (Staff: W. Hall)
- C39 PACIFIC GAS AND ELECTRIC COMPANY (LESSEE): Consider an amendment of Lease No. PRC 8856.1, a General Lease - Right-of-Way Use, of sovereign land located in the Sacramento River, adjacent to Sutter County Assessor's Parcel Number 35-330-020 and Yolo County Assessor Parcel Number 057-050-03, north of the city of Woodland, Sutter and Yolo Counties; to extend the construction deadline date. (PRC 8856.1; RA# 04813) (A 3,4; S 3,4) (Staff: N. Lee)
- C40 DAVID SCHNEIDER (APPLICANT): Consider recission of approval of a General Lease - Dredging, to dredge material from legislatively-granted sovereign land with minerals reserved, located in the North Humboldt Bay Channel, in the city of Eureka, Humboldt County. (W 25543; RA# 24912) (A 7; S 2) (Staff: D. Oetzel)

I N D E X C O N T I N U E D

PAGE

- C41 WILLIAM E. BITTNER AND NANCY G. BITTNER, CO-TRUSTEES UNDER REVOCABLE TRUST DATED SEPTEMBER 5, 1990 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 3675 Idlewild Way, near Homewood, Placer County; for an existing pier and mooring buoy. (PRC 3850.1; RA# 14511) (A 1; S 1) (Staff: S. Paschall)
- C42 ROLAND A. VON METZSCH AND CHRISTINE WENTE VON METZSCH, TRUSTEES OF THE CHRISTINE AND ROLAND VON METZSCH FAMILY TRUST DATED OCTOBER 11, 2010; AND ERIC P. WENTE, TRUSTEE OF THE CHRISTINE AND ROLAND VON METZSCH 2012 IRREVOCABLE TRUST (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 2220 Sunnyside Lane, near Tahoe City, Placer County; for an existing pier, open-sided boathouse, and two mooring buoys previously authorized by the Commission, and two existing boat hoists not previously authorized by the Commission. (PRC 5598.1; RA# 14512)(A 1; S 1) (Staff: S. Paschall)
- C43 COLLEEN KIMBALL, TRUSTEE OF THE SURVIVOR'S TRUST OF THE KIMBALL FAMILY TRUST DATED JANUARY 2, 2003, AND COLLEEN KIMBALL, TRUSTEE OF THE DECEDENT'S TRUST OF THE KIMBALL FAMILY TRUST DATED JANUARY 2, 2003 (LESSEE): Consider correction to exhibits in prior authorization of a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 6918 Pomina Avenue, near Tahoma, Placer County; for two existing mooring buoys. (W 26702; RA# 00512) (A 1; S 1) (Staff: S. Paschall)
- C44 JOHN A. LAMBETH AND CARSON LAMBETH (APPLICANTS): Consider application for a General Lease - Recreational and Protective Structure Use, of sovereign land adjacent to 33912 South River Road, located in the Sacramento River, near the city of Clarksburg, Yolo County; for the construction of a boat dock, covered slip, four steel-tubed concrete filled pilings, gangway,

I N D E X C O N T I N U E D

PAGE

water and power utilities, and bank protection.
(W 26700; RA# 00613) (A 4; S 3)
(Staff: J. Sampson)

- C45 DONALD THAD CLARK, TRUSTEE OF THE DONALD THAD CLARK TRUST, DATED JUNE 12, 2009 (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in the Sacramento River, adjacent to 208 First Street, city of Isleton, Sacramento County; for four existing pilings and ramp previously authorized by the Commission; and two existing debris diverters and two floating boat docks not previously authorized by the Commission. (PRC 5378.1; RA# 10204) (A 8; S 4)
(Staff: J. Sampson)
- C46 TRACIE L. CONE (APPLICANT): Consider application for a General Lease - Protective Structure Use, of sovereign land located in the Sacramento River, adjacent to 7115 Garden Highway, near the city of Sacramento, Sacramento County; for existing bank protection. (PRC 5493.9; RA# 27012) (A 2; S 5)(Staff: J. Sampson)
- C47 SMALLS CREEK, LLC, A NEVADA LIMITED LIABILITY COMPANY (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 853 Stateline Avenue, city of South Lake Tahoe, El Dorado County; for an existing pier previously authorized by the Commission, and an existing boat lift and one mooring buoy not previously authorized by the Commission. (PRC 7857.1; RA# 25711) (A 5; S 1)(Staff: M. Schroeder)
- C48 CHRISTOPHER D. WHITE AND KRISTINE F. WHITE (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 99 Chipmunk Street, near Kings Beach, Placer County; for two existing mooring buoys not previously authorized by the Commission. (W 26677; RA# 26912) (A 1; S 1)
(Staff: M. Schroeder)

I N D E X C O N T I N U E D

PAGE

- C49 JAMES HAROLD RICHARDSON, IV AND KIMBERLY PAULSON RICHARDSON, TRUSTEES OF THE 2006 RESTATEMENT OF THE RICHARDSON FAMILY TRUST DATED JULY 26, 2006 (APPLICANTS): Consider application for a General Lease - Recreational Use of sovereign land located in Lake Tahoe, adjacent to 3280 Edgewater Drive, near Tahoe City, Placer County; for two existing mooring buoys not previously authorized by the Commission. (W 26526; RA# 15911) (A 1; S 1)(Staff: M. Schroeder)
- C50 BRADLEY A. GEIER AND CATHY C. GEIER, TRUSTEES OF THE GEIER FAMILY TRUST DATED MAY 8, 2003 (APPLICANTS): Consider application for a General Lease - Recreational Use of sovereign land located in Lake Tahoe, adjacent to 2750 West Lake Boulevard, near Tahoe City, Placer County; for two existing mooring buoys not previously authorized by the Commission. (W 26668; RA# 23212)(A 1; S 1) (Staff: M. Schroeder)
- C51 WALTER W. FRESE AND WENDY T. FRESE, TRUSTEES OF THE FRESE FAMILY TRUST OF 1996 U.D.T. DATED JULY 16, 1996 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 130 Sierra Terrace Road, near Tahoe City, Placer County; for two existing mooring buoys. (PRC 8444.1; RA# 20712) (A 1; S 1) (Staff: M. Schroeder)
- C52 JEFFREY S. HINES AND BARBARA A. HINES, AS TRUSTEES OF THE JEFFREY AND BARBARA HINES REVOCABLE TRUST (APPLICANTS): Consider application for a General Lease - Recreational Use of sovereign land located in the Sacramento River, adjacent to 10451 Garden Highway, near Verona, Sutter County; for the construction of an uncovered single-berth floating boat dock, gangway, and three pilings. (PRC 6103.1; RA# 33812) (A 3; S 4) (Staff: M. Schroeder)

I N D E X C O N T I N U E D

PAGE

- C53 JAMES PATRICK BAKER AND ELIZABETH R. BAKER, AS TRUSTEES OF THE JAMES PATRICK BAKER AND ELIZABETH R. BAKER FAMILY TRUST U/A/D SEPTEMBER 16, 2010 (APPLICANTS): Consider rescission of approval of Lease No. PRC 3094.1, a General Lease - Recreational Use, and an application for a new General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 8797 Rubicon Drive, near Rubicon Bay, El Dorado County; for an existing pier previously authorized by the Commission, and two existing mooring buoys not previously authorized by the Commission. (PRC 3094.1; RA# 04113) (A 5; S 1) (Staff: M. Schroeder)
- C54 C. FRED TONEY AND JOAN F. TONEY, TRUSTEES OF THE TONEY TRUST, DATED DECEMBER 28, 1998 (LESSEES); JOHN R. CHRISTENSEN (APPLICANT): Consider termination of Lease No. PRC 8405.9, a Recreational Pier Lease, and an application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 100 Sierra Terrace Road, near Tahoe City; Placer County; for two existing mooring buoys. (PRC 8405.1; RA# 04413) (A 1; S 1) (Staff: M. Schroeder)
- C55 JON E. MARING AND TAMARA MARING (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 6460 North Lake Boulevard, near Tahoe Vista, Placer County; for an existing pier and two mooring buoys. (PRC 5563.1; RA# 05813) (A 1; S 1) (Staff: M. Schroeder)
- C56 THE LANDING HOMEOWNERS ASSOCIATION (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Corte Madera Creek, Greenbrae, Marin County; for a floating boat dock and walkway previously authorized by the Commission, and an existing gangway and two pilings not previously authorized by the Commission. (PRC 4673.1; RA# 2313) (A 10; S 2) (Staff: D. Simpkin)

I N D E X C O N T I N U E D

PAGE

- C57 CALIFORNIA DEPARTMENT OF TRANSPORTATION (LESSEE): Consider application for an amendment to Lease No. PRC 1766.9, a General Lease - Public Agency Use, of sovereign land located in the Feather River, along Highway 99 near Nicolaus, Sutter County; to extend the expiration date for the use of the temporary construction area associated with the construction of a bridge. (PRC 1766.9; RA# 04713) (A 3; S 1) (Staff: B. Terry)
- C58 OWENS PIER, LLC (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 664 Olympic Drive, near Tahoe City, Placer County; for an existing pier, boat lift, and two mooring buoys not previously authorized by the Commission. (W 1124.89; RA# 08911) (A 1; S 1) (Staff: B. Terry)
- C59 THE REGENTS OF THE UNIVERSITY OF CALIFORNIA (APPLICANT): Consider application for a General Lease - Public Agency Use, of sovereign land located in Lake Tahoe, El Dorado and Placer Counties; for five existing research buoys previously authorized by the Commission, and one additional existing research buoy not previously authorized by the Commission. (PRC 6190.9; RA# 35012)(A 5, 1; S 1, 1) (Staff: B. Terry)
- C60 NATHANIEL GOLDHABER AND MARILYN K. GOLDHABER, CO-TRUSTEES OF THE GOLDHABER REVOCABLE TRUST U/A/D 11/11/2005 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 9818 Lake Street and 77 Speedboat Avenue, near Kings Beach, Placer County; for an existing pier, boat hoist, boathouse with a boat lift, and two mooring buoys. (PRC 3659.1; RA# 11011) (A 1; S 1)(Staff: B. Terry)
- C61 CALIFORNIA PACIFIC ELECTRIC COMPANY, LLC (LESSEE): Consider revision of rent to Lease No. PRC 944.1, a General Lease - Right-of-Way Use, of sovereign land located in Lake Tahoe, adjacent to Assessor Parcel Numbers 018-041-04 and 018-060-05, Emerald Bay, El Dorado County; for a

I N D E X C O N T I N U E D

PAGE

submarine electrical power cable and an inoperable submarine electrical power cable. (PRC 944.1) (A 5; S 1)(Staff: B. Terry)

- C62 CARNELIAN BAY GROUP L.P., A CALIFORNIA LIMITED PARTNERSHIP (LESSEE); G. CRAIG SULLIVAN AND MAUREEN O'BRIEN SULLIVAN, TRUSTEES OF THE CRAIG AND MAUREEN SULLIVAN LIVING TRUST DATED MAY 27, 1992 (APPLICANTS): Consider termination of Lease No. PRC 5401.1, a General Lease - Recreational Use, and an application for a new General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 5526 North Lake Boulevard, near Carnelian Bay, Placer County; for an existing pier previously authorized by the Commission; and removal of an existing boat lift, installation of a new boat lift, an adjustable catwalk alteration, and one existing mooring buoy not previously authorized by the Commission. (PRC 5401.1; RA# 31711) (A 1; S 1) (Staff: B. Terry)
- C63 FRANK BERLOGAR III AND BARBARA BERLOGAR (LESSEES); JOSEPH P. COLMERY AND LAURIE W. COLMERY (APPLICANTS): Consider termination of Lease No. PRC 8624.9, a Recreational Pier Lease, and an application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 632 Olympic Drive, Tahoe City, Placer County; for two existing mooring buoys. (PRC 8624.1; RA# 34212) (A 1; S 1) (Staff: B. Terry)
- C64 ROCKY RIDGE PROPERTIES OWNERS ASSOCIATION (APPLICANT): Consider termination of Lease No. PRC 3955.1, a General Lease - Recreational Use, and an application for a new General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 180 Sierra Vista Road, near Tahoe City, Placer County; for an existing pier, 19 mooring buoys, and two marker buoys previously authorized by the Commission, and 12 existing mooring buoys and boat hoist not previously authorized by the Commission. (PRC 3955.1; RA# 19110) (A 1; S 1) (Staff: B. Terry)

I N D E X C O N T I N U E D

PAGE

CENTRAL REGION

- C65 ALEXANDER HILDEBRAND AND BARBARA F. HILDEBRAND, AS TRUSTEES OF THE HILDEBRAND FAMILY TRUST, ESTABLISHED PURSUANT TO THAT CERTAIN TRUST AGREEMENT, DATED MARCH 1, 1995 (LESSEES); MARY KATHLEEN HILDEBRAND AS TRUSTEE OF THE MARY KATHLEEN HILDEBRAND REVOCABLE TRUST (APPLICANT): Consider termination of Lease No. PRC 2511.1, General Lease - Right-of-Way Use, and an application for a new General Lease - Right-of-Way Use, of sovereign land located in the historic and current bed of the San Joaquin River, adjacent to 23443 Hays Road, near the city of Manteca, San Joaquin County; for an existing earth fill access road with a steel-framed wooden deck and a nine-foot culvert. (PRC 2511.1; RA# 29612) (A 12; S 14) (Staff: G. Asimakopoulos)
- C66 DEAN GIANNETTO (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in the Calaveras River, adjacent to 2881 Calariva Drive, near the city of Stockton, San Joaquin County; for an existing covered floating boathouse, gangway, and four pilings. (PRC 7338.1; RA# 35412) (A 13; S 5) (Staff: G. Asimakopoulos)
- C67 APPLGATE PROPERTIES, INC., A NEVADA CORPORATION (LESSEE); NEW HOPE LANDING MOBILE HOME PARK, LLC (APPLICANT/SUBLESSOR); J&H PROPERTY MANAGEMENT INC. (SUBLESSEE): Consider termination of a Lease No. PRC 6726.1, a General Lease - Commercial Use; an application for a new General Lease - Commercial Use; and approval of a sublease of sovereign land located in the Mokelumne River, adjacent to 13945 West Walnut Grove Road, near the town of Thornton, San Joaquin County; for an existing commercial marina known as New Hope Landing, consisting of two boat docks, two gangways, and bulkhead previously authorized by the Commission, and an existing launch ramp not previously authorized by the Commission. (PRC 6726.1; RA# 35612)(A 8, 15, 26; S 5, 14) (Staff: R. Boggiano)

I N D E X C O N T I N U E D

PAGE

- C68 CALIFORNIA GAS GATHERING, INC. (APPLICANT): Consider application for a General Lease - Right-of-Way Use, of sovereign land located in the San Joaquin River, near Dos Palos, in Fresno and Madera counties; for an existing 8-inch diameter natural gas pipeline. (PRC 7681.1; RA# 21812) (A 5, 31; S 12, 16)(Staff: R. Collins)
- C69 SAN JOAQUIN COUNTY (APPLICANT) AND PACIFIC GAS AND ELECTRIC COMPANY (SUBLESSEE): Consider an application for a General Lease - Public Agency Use, of sovereign land located in the bed of the San Joaquin River at Airport Way, near the town of Vernalis, San Joaquin County; for an existing bridge; and an endorsement of a sublease. (PRC 3229.1; RA# 32612) (A 13; S 5) (Staff: W. Hall)
- C70 EAST BAY REGIONAL PARK DISTRICT (APPLICANT): Consider a consistency determination with Public Trust Exercise 5 for the Albany Beach Restoration and Public Access Project within the city of Albany, Alameda County. (PTE 5) (A 15; S 9) (Staff: G. Kato)
- C71 CITY OF PALO ALTO (LESSEE): Consider application for an amendment to Lease No. PRC 7348.9, a General Lease - Public Agency Use, of filled sovereign lands located in Byxbee Landfill and adjacent to Mayfield Marsh, city of Palo Alto, Santa Clara County; to include Phase IIC closure of the landfill. (PRC 7348.9; RA# 08313) (A 24; S 13) (Staff: G. Kato)
- C72 MHC NAC, INC. (APPLICANT): Consider application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in the San Joaquin River and Walthall Slough, adjacent to 703 East Williamson Road, near the city of Manteca, San Joaquin County; for an existing boat launch ramp in Walthall Slough and bank protection in the San Joaquin River and Walthall Slough. (PRC 6061.1; RA# 26010) (A 12; S 5, 14) (Staff: N. Lavoie)

I N D E X C O N T I N U E D

PAGE

- C73 RECLAMATION DISTRICT NO. 2037 (APPLICANT): Consider application for a General Lease - Public Agency Use, of sovereign land located in Disappointment Slough, between Bishop Tract and Rindge Tract, near the city of Stockton, San Joaquin County; for an existing bridge crossing with attached boater safety lights. (PRC 2849.9; RA# 04011) (A 13; S 5) (Staff: N. Lavoie)
- C74 MOBIL PACIFIC PIPELINE COMPANY (APPLICANT): Consider termination of Lease No. PRC 7772.1, a General Lease - Right-of-Way Use and an application for a new General Lease - Right-of-Way Use, of sovereign land located in the Salinas River, five miles northwest of the town of Bradley, Monterey County; for two existing non-operational steel pipelines (one 12-inch diameter and one 4-inch diameter). (PRC 7772.1; RA# 24012) (A 30; S 17) (Staff: D. Simpkin)
- C75 EXXONMOBIL OIL CORPORATION (APPLICANT): Consider application for a General Lease - Right-of-Way Use, of sovereign land located in the Salinas River, five miles northwest of the town of Bradley, Monterey County; for an existing non-operational 6-inch diameter steel natural gas pipeline. (PRC 5538.1; RA# 23912) (A 30; S 17) (Staff: D. Simpkin)
- C76 SOUTH BAY YACHT CLUB (APPLICANT): Consider application for a General Lease - Commercial Use, of sovereign land located in the Guadalupe River, near the town of Alviso, Santa Clara County; for docking and moorage facilities. (PRC 3979.1; RA# 12212) (A 25; S 10) (Staff: D. Simpkin)
- C77 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 of Owens Lake, Inyo County; for the construction and operation of a 500-kilowatt solar demonstration project. (W 26685; RA# 29112) (A 34; S 18) (Staff: D. Simpkin)

I N D E X C O N T I N U E D

PAGE

SOUTHERN REGION

- C78 CITY OF SOLANA BEACH (APPLICANT): Consider application for a General Lease - Public Agency Use, of sovereign land located in the Pacific Ocean, in the city of Solana Beach, San Diego County; for the deposition of up to a maximum of 150,000 cubic yards of sand annually at Fletcher Cove under the City of Solana Beach Opportunistic Beach Fill Program. (PRC 7938.9; RA# 28812) (A 76; S 38)(Staff: K. Foster)
- C79 CITY OF DEL MAR (APPLICANT): Consider application for a General Lease - Public Agency Use, of sovereign land located in the Pacific Ocean, near the ends of 9th to 12th Streets, city of Del Mar, San Diego County; for the preservation of wooden piling remnants from the historic Casa Del Mar Hotel Bathhouse and an adjacent saltwater bathing pool. (PRC 7233.9; RA# 34112) (A 78; S 39) (Staff: K. Foster)
- C80 THE REGENTS OF THE UNIVERSITY OF CALIFORNIA (APPLICANT): Consider application for a General Lease - Public Agency Use, of sovereign land located in San Diego Bay, in the city of San Diego, San Diego County; for an existing wharf, riprap, portions of a fixed pier, and appurtenant structures not previously authorized by the Commission; the demolition of the existing wharf, portions of a fixed pier, and appurtenant structures; the construction, use, and maintenance of a new wharf, portions of a fixed pier, and appurtenant structures along the same alignment; riprap repair and limited sediment removal along the shoreline; and minor vessel repairs, maintenance, and vessel refueling. (W 26504; RA# 26412) (A 78; S 39) (Staff: K. Foster)

I N D E X C O N T I N U E D

PAGE

- C81 SANTA BARBARA COUNTY FLOOD CONTROL DISTRICT (APPLICANT): Consider application for a General Lease - Public Agency Use, of sovereign land located in the Goleta Slough watershed, and the Pacific Ocean, adjacent to Goleta Beach County Park, Santa Barbara County; for the continued periodic dredging for flood control purposes of a combined maximum of up to 200,000 cubic yards (cy) of sediment annually from San Pedro Creek, San Jose Creek, Atascadero Creek, and Goleta Slough; and the placement of up to 200,000 cy of sediment annually in the surf zone at the west end of Goleta Beach County Park. (PRC 7763.9; RA# 12410) (A 37; S 19) (Staff: K. Foster)
- C82 OPTICACCESS LLC (APPLICANT): Consider application for a General Lease - Right-of-Way Use, of sovereign land located in the Pacific Ocean offshore from Morro Bay to Santa Barbara, San Luis Obispo and Santa Barbara Counties; for an existing fiber optic cable. (PRC 8168.1; RA# 22112) (A 35, 37; S 17, 19) (Staff: A. Franzoia)
- C83 DEL JUNCO CHILDREN'S INVESTMENTS, LLC (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in the Main Channel of Huntington Harbour, adjacent to 16592 Somerset Lane, Huntington Beach, Orange County; for an existing dock, access ramp, and cantilevered deck. (PRC 3170.1; RA# 05013) (A 72; S 34) (Staff: A. Franzoia)
- C84 TERRY DEDEAUX AND CHRISTINE M. DEDEAUX, TRUSTEE OF THE TERENCE DEDEAUX FAMILY TRUST (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in the Main Channel of Huntington Harbour, adjacent to 3542 Venture Drive, Huntington Beach, Orange County; for an existing dock, access ramp, and cantilevered deck. (PRC 5245.1; RA# 06213) (A 72; S 34) (Staff: A. Franzoia)

I N D E X C O N T I N U E D

PAGE

- C85 MARTIN LIVING TRUST (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in the Midway Channel of Huntington Harbour, adjacent to 3532 Gilbert Drive, Huntington Beach, Orange County; for an existing dock, access ramp, and cantilevered deck. (PRC 3857.1; RA# 09108) (A 72; S 34) (Staff: A. Franzoia)
- C86 TINH NGUYEN AND LAM-QUYNH NGUYEN (APPLICANTS): Consider application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in the Main Channel of Huntington Harbour, adjacent to 16651 Carousel Lane, Huntington Beach, Orange County; for an existing dock, access ramp, cantilevered deck, and bulkhead protection. (PRC 8259.1; RA# 03913) (A 74; S 37)(Staff: A. Franzoia)
- C87 THOMAS C. AND VICTORIA HUTTON (APPLICANTS): Consider application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in the Main Channel of Huntington Harbour, adjacent to 16701 Carousel Lane, Huntington Beach, Orange County; for an existing dock, access ramp, deck, and bulkhead protection previously authorized by the Commission and an existing cantilevered deck with partial roof not previously authorized by the Commission. (PRC 8257.1; RA# 26812) (A 72; S 34) (Staff: A. Franzoia)
- C88 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, 23808 Malibu Road, Los Angeles County. (W 24665) (A 41; S 23) (Staff: D. Simpkin)
- C89 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, 24052 Malibu Road, Los Angeles County. (W 24665) (A 41; S 23) (Staff: D. Simpkin)

I N D E X C O N T I N U E D

PAGE

- C90 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, 25438 Malibu Road, Los Angeles County. (W 24665) (A 41; S 23)
(Staff: D. Simpkin)
- C91 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, 23316 Malibu Colony Drive, Los Angeles County. (W 24665) (A 41; S 23)
(Staff: D. Simpkin)
- C92 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, 23354 Malibu Colony Drive, Los Angeles County. (W 24665) (A 41; S 23)
(Staff: D. Simpkin)
- C93 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, 28884 Cliffside Drive, Los Angeles County. (W 24665) (A 41; S 23)
(Staff: D. Simpkin)
- C94 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, 22716 Pacific Coast Highway, Los Angeles County. (W 24665) (A 41; S 23)
(Staff: D. Simpkin)
- C95 RECREATIONAL LAND INVESTMENTS, INC. (APPLICANT): Consider termination of Lease No. PRC 3570.1, a General Lease - Recreational Use, and an application for a new General Lease - Recreational Use, of sovereign land located in the Main Channel of Huntington Harbour, adjacent

I N D E X C O N T I N U E D

PAGE

to 17011 Bolero Lane, Huntington Beach, Orange County; for an existing dock, access ramp, and cantilevered deck.

(PRC 3570.1; RA# 32512) (A 72; S 34)
(Staff: D. Simpkin)

- C96 EVERINGHAM BROTHERS BAIT COMPANY (APPLICANT): Consider application for a General Lease - Commercial Use, of sovereign land located in San Diego Bay, San Diego County; for the temporary relocation and operation of two bait barges. (W 26622; RA# 06812) (A 78; S 39)
(Staff: D. Simpkin)

- C97 PACIFIC GAS AND ELECTRIC COMPANY (APPLICANT): Consider application for a General Lease - Protective Structure Use, of sovereign land located in the Pacific Ocean within the intake cove, Diablo Canyon Power Plant, San Luis Obispo County; for a salp bubble curtain pilot project. (W 26674; RA# 35312) (A 35; S 17)
(Staff: D. Simpkin)

SCHOOL LANDS

- C98 GEYSERS POWER COMPANY, LLC (LESSEE): Consider revision of rent to Lease No. PRC 8090.2, a General Lease - Right-of-Way Use, of lieu land located in Section 33, Township 11 North, Range 8 West, MDM, near Middletown, Sonoma County; for an unpaved access road known as Pine Flat Road. (PRC 8090.2)(A 4; S 1) (Staff: C. Hudson)
- C99 PACIFIC GAS AND ELECTRIC COMPANY (LESSEE): Consider revision of rent to Lease No. PRC 6794.2, a General Lease - Right-of-Way Use, of lieu land located in Section 33, Township 11 North, Range 8 West, MDM, near Middletown, Sonoma County; for an unpaved access road known as Pine Flat Road. (PRC 6794.2)(A 4; S 1)
(Staff: C. Hudson)

I N D E X C O N T I N U E D

PAGE

C100 BROSAMER & WALL, INC. (APPLICANT): Consider application for a General Lease - Industrial Use, of approximately 0.82 acres of State school lands located in Section 36, Township 9 South, Range 13 East, SBM, north of Niland, Imperial County; for an unimproved parking area surrounded by a chain link fence. (W 26714; RA# 06113) (A 80; S 40) (Staff: J. Porter)

MINERAL RESOURCES MANAGEMENT

C101 CALIFORNIA STATE LANDS COMMISSION (APPLICANT): Consider approval of qualifying miles for subventions to cities and counties for fiscal year 2013-2014, Orange, Los Angeles, Ventura, and Santa Barbara Counties. (W 4848.1, W 4848.3, W 4848.4, W 4848.5, W 4848.6, W 4848.8) (A 35, 54, 67; S 19, 27, 35) (Staff: N. Heda, D. Brown)

C102 CITY OF LONG BEACH (APPLICANT): Consider acceptance of the Final Report and Closing Statement for 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, H. Rassamdana)

C103 ROSETTA RESOURCES OPERATING LP AND CALIFORNIA STATE LANDS COMMISSION (PARTIES): Authorize final settlement with Rosetta Resources Operating LP of an audit claim and all other matters pertaining to Oil and Gas Lease No. PRC E-415.1, previously held by Rosetta Resources Operating LP and assigned to Vintage Petroleum LLC, Contra Costa, San Joaquin, Sacramento, and Solano Counties. (PRC 415.1) (A 8, 11, 15; S 2, 5, 7) (Staff: S. Meshkati, P. Nabavi)

C104 OXY USA INC. (LESSEE/OPERATOR): Consent to the pooling of State Oil and Gas Lease Nos. PRC 163.1, PRC E-392.1, PRC 425.1 and PRC 426.1, Huntington Beach Oil Field, Offshore Orange County. (PRC 163.1, PRC E-392.1, PRC 425.1 and PRC 426.1) (A 72, 74; S 34, 37) (Staff: M. LeClair)

I N D E X C O N T I N U E D

PAGE

C105 TOWNE EXPLORATION COMPANY, LP (APPLICANT):
Consider acceptance of the full Quitclaim Deed of
a negotiated subsurface (no surface use) Oil and
Gas Lease No. PRC 7542.1, Isleton Gas Unit,
Sacramento County. (PRC 7542.1)
(A 8,10,15,17; S 4,5,7) (Staff: N. Heda)

C106 FOOTHILL ENERGY LLC (APPLICANT): Consider
acceptance of the full Quitclaim Deed of a
negotiated subsurface (no surface use) Natural
Gas Lease No. PRC 8988.1, Sacramento River near
Grimes, Colusa and Sutter Counties. (PRC 8988.1)
(A 2; S 4) (Staff: N. Heda)

MARINE FACILITIES
ADMINISTRATION

C107 CALIFORNIA STATE LANDS COMMISSION, IN ITS
CAPACITY AS THE KAPILOFF LAND BANK TRUSTEE:
Consider expenditure from the Kapiloff Land Bank
Fund Authorizing Payment of \$105,806.51 to Aera
Energy LLC for Non-Oil Contamination Remediation
for the Bolsa Chica Lowlands Restoration Project,
Orange County. (W 25306) (A 67; S 35)
(Negotiator: J. Trout, P. Griggs, D. Brown)

LEGAL

C108 OFFICE OF COMMUNITY INVESTMENT AND
INFRASTRUCTURE, SUCCESSOR AGENCY TO THE SAN
FRANCISCO REDEVELOPMENT AGENCY (APPLICANT):
Consider application for a General Lease -
Public Agency Use of filled tide and submerged \
lands within Candlestick Point, City and County
of San Francisco, for archaeological
investigation and surcharging.(AD 557, W 26279,
G11-00.7, G11-01) (A 13; S 3)
(Staff: G. Kato, K. Colson)

C109 CALIFORNIA STATE LANDS COMMISSION (PARTY):
Consider directing staff to develop an
educational guideline document describing the
State's laws and policies on the public's rights
to access the State's navigable waterways. (A &
S: Statewide)(Staff: J. Lucchesi)

I N D E X C O N T I N U E D

PAGE

- C110 JAMES BRADLEY JONES AS TRUSTEE OF THE J.B. JONES TRUST DATED MAY 20, 2009 AND CALIFORNIA STATE LANDS COMMISSION (PARTIES): Consider the execution of a Land Exchange, resolving title to real property along the southern boundary of the Cosumnes River Preserve, Sacramento County. (AD 346) (A 9; S 5) (Staff: E. Milstein)
- C111 CALIFORNIA STATE LANDS COMMISSION (PARTY): Consider authorization for the staff of the California State Lands Commission to remove and dispose of a derelict vessel, the Polaris (USCG # 511032), illegally occupying state lands in San Pablo Bay at the entrance to the Carquinez Strait, offshore of Lone Tree Point at Josephs Marina in the City of Rodeo, Contra Costa County. (W 26728) (A 15; S 5) (Staff: P. Pelkofer)
- C112 CALIFORNIA STATE LANDS COMMISSION (PARTY): Consider authorization for the staff of the California State Lands Commission to dispose of vessels illegally occupying state granted lands and impounded during the cleanup of the Oakland/Alameda Estuary, Alameda County. (W 26701) (A 18; S 9)(Staff: P. Pelkofer)

EXTERNAL AFFAIRS
GRANTED LANDS

- C113 CITY OF EUREKA (APPLICANT): Consider approval of the form of a lease agreement between the City of Eureka and Chevron Products Company for existing petroleum import/export facilities on granted sovereign land within the City of Eureka, Humboldt County pursuant to Chapter 1095, Statutes of 1978. (G 04-02) (A 2; S 2) (Staff: J. Fabel)
- C114 CITY OF REDONDO BEACH (APPLICANT): Consider authorization of amendments to an existing Agreement regarding the Harbor Center Project and Kincaid's Restaurant Lease located within legislatively granted sovereign lands in the City of Redondo Beach, Los Angeles County. (G 05-07) (A 66; S 28) (Staff: S. Scheiber)

I N D E X C O N T I N U E D

PAGE

C115 CITY OF LONG BEACH (APPLICANT): Consider approval of the proposed expenditure of tidelands oil revenue funds, in an amount not to exceed \$18,120,000 by the City of Long Beach for capital improvement projects located within legislatively-granted sovereign land in the City of Long Beach, Los Angeles County. (G 05-03.10) (A 70; S 28, 33) (Staff: S. Scheiber)

C116 CITY OF NEWPORT BEACH (APPLICANT): Consider approval of the proposed expenditure of tidelands funds, in an amount not to exceed \$3,061,000 by the City of Newport Beach for capital improvement projects located within legislatively-granted sovereign land in the City of Newport Beach, Orange County. (G 09-02) (A 74; S 37) (Staff: S. Scheiber)

LEGISLATION AND RESOLUTIONS

V INFORMATIONAL

117 CALIFORNIA STATE LANDS COMMISSION (APPLICANT): Staff Report on the monitoring of possible subsidence, Long Beach Unit, Wilmington Oil Field, Los Angeles County. (W 16001, W 10443) (A 54, 55; S 27, 28) (Staff: R. B. Greenwood)

VI REGULAR CALENDAR

118 CALIFORNIA STATE LANDS COMMISSION (PARTY): Consider acceptance of the Legislative Report entitled "California's Marine Invasive Species Program and the United States Federal Programs That Manage Vessels as Vectors of Nonindigenous Species: A Comparison of the Relative Effectiveness at Reducing the Risk of Nonindigenous Species Introduction From Maritime Shipping Activities." (W 9777.234) (A & S: Statewide) (Staff: C. Scianni, G. Gregory)

16

I N D E X C O N T I N U E D

PAGE

119	CALIFORNIA STATE LANDS COMMISSION (PARTY): Consider proposed amendments to Sections 1900, 2002, and 2003 of Title 2, Division 3, Chapter 1 of the California Code of Regulations, relating to Definitions, Categories of Leases or Permits, and Rental. (W 26535) (A & S: Statewide) (Staff: C. Connor, S. Haaf)	27
VII	PUBLIC COMMENT	130
VIII	COMMISSIONERS' COMMENTS	138
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:	138
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. Crockett Marine Services, et al. Seacliff Beach Colony Homeowners Association v. State of California, et al. State of California, acting by and through the State Lands Commission v. Singer 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	

I N D E X C O N T I N U E D

PAGE

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.

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

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.

Adjournment 139

Reporter's Certificate 140

P R O C E E D I N G S

CHAIRPERSON NEWSOM: Are we all ready?

Mic turned on. I have to turn it on. There it is. All right. I'll call the meeting of the State Lands Commission to order. All the representatives of the Commission are present. I'm Lieutenant Governor Gavin Newsom. I'm joined today by Alan Gordon and Karen Finn representing the Director of Finance. For those, the benefit of the audience -- I've tried to not say this in the past, but I've been admonished that I've broken my duty.

(Laughter.)

CHAIRPERSON NEWSOM: We have some obligation of sorts, I guess called tradition. And I'm supposed to tell you what the hell this Commission does. But it doesn't seem that many of you are going to be impressed by what I'm saying, but I'll say it.

We manage State property interests in over five million acres of land, including mineral interests. Specifically, very specifically, this Commission has jurisdiction in filled and unfilled tide and submerged lands, navigable -- easy for you to say, hard for me to say -- waterways and State school lands. The Commission also has responsibility in the prevention of oil spills in marine oil terminals and offshore oil platforms and the

1 prevention of, introduction of marine invasive species in
2 the California marine waters.

3 Today, we'll hear requests and presentations
4 concerning the leasing, management, regulation of these
5 public sovereign and school land property interests, and
6 activities occurring or proposed thereon. Clearly written
7 by an attorney.

8 The first item of business is the adoption of the
9 minutes of the Commission's last regular scheduled meeting
10 on September 20th, 2013.

11 May I have a motion to approve the minutes.

12 ACTING COMMISSIONER GORDON: So moved.

13 ACTING COMMISSIONER FINN: Second.

14 CHAIRPERSON NEWSOM: And seconded. Without
15 objection, we will approve those minutes.

16 They've been unanimously adopted. The next order
17 of business is, as tradition, the Executive Director's or
18 Officer's report.

19 EXECUTIVE OFFICER LUCCHESI: There you go.

20 I'll ask in advance for some patience. I do have
21 a lot to report before the year's end.

22 First, I wanted to just briefly mention our
23 current CEQA documents being circulated right now. In
24 October and November 2013, Commission staff completed and
25 released three draft CEQA documents, two Draft EIRs, and

1 one Mitigated Negative Declaration. The first one
2 involves the Amorco Marine Oil Terminal Lease Project.
3 Tesoro Refining and Marketing Company has applied for a
4 new 30-year lease for the continued operations of its
5 Amorco marine oil term in the City of Martinez. This
6 marine oil terminal is an unloading facility associated
7 with the Tesoro's onshore Golden Eagle Refinery.

8 The second document is a Mitigated Neg Dec for
9 the Port Costa Wharf Deconstruction Project. Phillips 66
10 Company is proposing to remove remnant structures
11 associated with a currently non-operational marine oil
12 terminal wharf located in the Carquinez Strait in Contra
13 Costa County. And it also proposes to terminate its lease
14 for the marine oil terminal with the Commission.

15 The last environmental document currently being
16 circulated for public review is a project by Venoco for a
17 lease recommissioning project. Venoco is proposing to
18 restart oil and gas production from an existing shore zone
19 oil and gas well located below the bluffs of the Sandpiper
20 Golf Course in the City of Goleta, Santa Barbara County.
21 The well has been shut in since 1994 when Mobil operated
22 the oil and gas lease. Venoco was assigned the lease in
23 1997. The use of hydraulic fracturing or fracking of
24 this -- of the operations there is not proposed as a part
25 of this project.

1 Staff anticipates that three projects and their
2 associated final CEQA documents will be presented to the
3 Commission for consideration in the first quarter of 2014.

4 ACTING COMMISSIONER FINN: Can I ask a question?
5 I'm sorry. You mentioned fracking. And it dawns on me,
6 how is the Commission staff addressing these fracking
7 concerns as we get new development requests from our
8 leasees, is that something you can answer?

9 EXECUTIVE OFFICER LUCCHESI: Yes, of course. As
10 new information comes to light about the potential
11 environmental effects that large scale unconventional
12 hydraulic fracturing activities have caused in certain
13 locations throughout the United States, Commission staff
14 has been addressing these concerns as they relate to
15 offshore California oil and gas production when evaluating
16 new oil development plan proposals by the Commission's
17 lessees.

18 Specifically, when a lessee applies to the
19 Commission for approval of a new oil and gas development
20 plan, an EIR is always prepared. Commission staff have
21 begun asking our lessees when they submit their oil and
22 gas development plan for consideration by the Commission
23 whether they intend to hydraulically fracture the
24 formation surrounding their wells.

25 If a lessee responds that they do intend to

1 hydraulically fracture wells to induce greater
2 permeability in the formation, Commission staff takes the
3 position that those activities must be fully analyzed in
4 the EIR process consistent with CEQA.

5 If a lessee responds that they do not intend to
6 hydraulically fracture the formation, like the Venoco's --
7 like Venoco's project, the EIR highlights that fracking is
8 not being analyzed, because the lessee's proposed plan
9 expressly states that they do not intend to fracture the
10 formation.

11 Any Commission certification of the EIR and
12 subsequent approval of the development plan would
13 functionally prohibit the lessee from hydraulically
14 fracturing the formation unless the lessee agrees to
15 additional environmental review regarding the impacts and
16 the Commission approves the modification to the
17 development plan.

18 Through this process, Commission staff has
19 developed a process to ensure that lessees cannot fracture
20 a given formation under any new development plan without
21 notifying the Commission and undertaking environmental
22 review.

23 ACTING COMMISSIONER FINN: Okay. And then -- so
24 staff, I'm assuming, are in contact with Department of
25 Conservation in reviewing the regs to help inform our

1 lessees?

2 EXECUTIVE OFFICER LUCCHESI: That's correct. We
3 have a close working relationship with DOGGR and with the
4 Department of Conservation, and we are currently reviewing
5 their proposed regs in accordance with the rule-making
6 process.

7 ACTING COMMISSIONER FINN: Thank you.

8 EXECUTIVE OFFICER LUCCHESI: Next, I want to
9 update the Commission on our lease database conversion.
10 Work on the Commission's State Lease Information Center
11 database conversion is continuing. Staff, working with
12 consultants, have completed a majority of the
13 configuration work and have begun data conversion.

14 User acceptance testing will begin this month.
15 While we're still within budget, the schedule has been
16 extended to a mid-January go live date to accommodate the
17 availability of staff and the consultants over the
18 holidays and to ensure adequate time is available for
19 testing and verification. But like I said, we plan to go
20 live mid-January.

21 CHAIRPERSON NEWSOM: Well done.

22 EXECUTIVE OFFICER LUCCHESI: I want to mention
23 three consent items of note for the Commission and for the
24 public. The first one is Item 103. As part of the
25 Commission's approval of the assignment of an oil and gas

1 lease and for evolving certain lands and mineral interests
2 located in Contra Costa, San Joaquin, Sacramento, and
3 Solano counties from Rosetta to Vintage in 2011,
4 Commission staff has conducted a financial exit audit of
5 Rosetta.

6 As part of that audit and the subsequent
7 negotiations that ensued, Commission staff is recommending
8 that the Commission authorize a final settlement of all
9 outstanding claims with Rosetta that includes a \$450,000
10 payment from Rosetta to the Commission. I want to
11 acknowledge the significant settlement of the audit claims
12 and the hard work and diligence of our staff Shahed
13 Meshkati and Parvin Nabavi of our Mineral Resources
14 Management Division, and Jessica Rader of our Legal
15 Division as well as the Rosetta team in negotiating
16 finalizing this settlement.

17 The second item is Item 109. This is an item
18 relating to public access to our navigable waterways and
19 tide and submerged lands. The public policy of protecting
20 and promoting access to the State's navigable waterways is
21 embodied in California's Constitution, statutes, and
22 common law. As progress marches on in California's
23 population increase, there is a need for reiteration of
24 public rights, clarification of State policy asserting
25 such rights, and a multi-faceted approach involving

1 education and assistance in establishing appropriate
2 access facilities to the State's coastline and inland
3 navigable waterways.

4 The State Lands Commission has long been the
5 State agency responsible for protecting the public's
6 rights to the State's waterways. As the State agency
7 entrusted to manage these lands and waterways, the
8 Commission is uniquely situated to protect the people's
9 rights in and to the these priceless resources.

10 Staff, in this item, is recommending that the
11 Commission direct staff to create and educational
12 guideline document that summarizes the State of the law in
13 California regarding public use of the State's waterways,
14 and public rights of access to them.

15 This document, when finalized and disseminated,
16 will provide a useful educational tool for the general
17 public and interested parties as well as local and State
18 agencies in understanding the importance of public rights
19 to access California's waters.

20 Finally, Item 112, this deals with an Oakland
21 estuary enhancement project within Alameda County.
22 Abandoned and derelict vessels are a pervasive
23 environmental and public safety problem in coastal and
24 inland waterways of California. Commission staff is
25 actively involved in various efforts to remove these

1 abandoned and derelict vessels from the San Francisco Bay
2 and Delta waterways. In fact, on almost every Commission
3 agenda there is at least one item that involves removing
4 an abandoned or derelict vessel from the State's
5 waterways.

6 Item 112 relates to a joint federal, state, and
7 local effort to clean up and enhance the Oakland estuary
8 by removing nearly 40 abandoned and sunken vessels, marine
9 debris, and other navigational hazards, from numerous
10 locations along the waterway using funds from Cal Recycle,
11 the EPA, and also funds from the settlement of 2011 Cosco
12 Busan spill.

13 In particular, staff is asking the Commission for
14 authorization to dispose of eight of these vessels that
15 have been impounded and have either not been claimed or
16 the Coast Guard has determined that the vessel is
17 unseaworthy. This is again just another example of the
18 Commission and its staff's participation in these efforts
19 to clean up our waterways.

20 The last couple items I want to mention have to
21 do with retirements. I want to take a moment to express
22 our appreciation for the work of two federal employees who
23 worked for our federal mineral counterpoints at the Bureau
24 of Ocean and Energy Management. Mr. Armen Voskanian and
25 Mr. Harold Syms will retire next month in January after

1 more than two decades of public service with the federal
2 government.

3 Mr. Voskanian and his supervisor, Mr. Syms, have
4 been very helpful in assisting and participating with
5 Commission staff on many significant present and past
6 offshore mineral projects of the State, and federal mutual
7 interests. Their contributions have involved resource
8 evaluations, maximizing oil production and revenues from
9 federal offshore fields which the State receives a share,
10 and joint technical studies of fields within both State
11 and federal waters.

12 Through the close working relationship and
13 cooperation we share with the Bureau of Ocean and Energy
14 Management, particularly the contributions of Mr.
15 Voskanian and Mr. Syms have contributed significant
16 benefit to the State Lands Commission and to our mission
17 to protect the interests of our natural resources for the
18 people of California.

19 The Commission will be experiencing three
20 retirements by the end of the year of significant -- of
21 staff members that have significantly contributed to the
22 Commission's efforts over the past 10 to 25 years.

23 The first person I want to mention is Mr. Bob
24 Shilland who's been with the Commission for over 20 years.
25 He's been the operations supervisor for our Marine

1 Facilities Division since July 2010. He retired as a
2 Lieutenant Commander in the U.S. Coast Guard in the marine
3 safety field and holds an MBA from the University of North
4 Florida. During his time with the Commission, Bob
5 coordinated several successful prevention first symposia,
6 wrote our Division's outreach brochure and monthly
7 newsletters and facilitated several process action teams
8 and filled in as Acting Assistant Division Chief over a
9 long period in 2011.

10 Our Marine Facilities Division and the Commission
11 will miss Bob's sense of humor, which he has used numerous
12 times over many years to spice up our meetings and
13 gatherings, which is very important considering we're
14 dealing with engineering standards and marine oil
15 terminals, and we'll take any help we can get.

16 The next staff member I want to mention is Alex
17 Reid. Alex has been with our marine -- Mineral Resources
18 Management Division for over 25 years. He's retiring as a
19 reservoir engineer, and he is basically the Commission's
20 and the Administration's Department of Finance go-to guy
21 for oil and gas revenue forecasting. He has the most
22 experience with the Long Beach unit tidelands down in Long
23 Beach and he was also instrumental in finalizing --
24 negotiating and finalizing the West Wilmington OWPA deal
25 between Oxy, the city and the State a couple years ago.

1 He is -- you may remember meeting him during
2 those times. He was at many of those meetings with the
3 Commission, but he is an extremely easy to work with and
4 reliable person. But most of all, anyone who comes
5 across, he is extremely calm. He has just this sense to
6 bring any kind of level of negotiations down to a very
7 calming reasonable environment. And we will surely miss
8 him in that.

9 Last, but definitely not least, I would also like
10 to recognize the retirement of one of our managers in the
11 Commission's Land Management Division. Mary Hays, who
12 many of the folks in this room have dealt with over the
13 years, will be retiring later this month after 13 years
14 with the State Lands Commission.

15 After a long and successful career as a
16 residential appraiser in the private sector, Mary joined
17 the Commission in November 2000 as a Public Land
18 Management Specialist. Mary quickly moved up into the
19 management realm and has overseen the jurisdiction,
20 leasing, and management activities for northern California
21 and the Delta since 2007.

22 Because she's spent much of her youth at Lake
23 Tahoe, Mary has provided the Commission and its staff with
24 invaluable knowledge, history, and insight of that area.
25 Mary has shown a passion for her work which will be

1 greatly missed.

2 I want to acknowledge and thank Bob and Alex and
3 Mary for their many years of dedicated service to the
4 Commission and the State and to thank them for all their
5 important contributions, not only to the Commission's
6 mission and programs, but also to the State Lands
7 Commission family and culture. They all truly made the
8 Commission a better place to work for all that have worked
9 with them on a daily basis.

10 CHAIRPERSON NEWSOM: And Jennifer are they here?

11 EXECUTIVE OFFICER LUCCHESI: Mary is here.

12 CHAIRPERSON NEWSOM: Stand, Mary?

13 (Applause.)

14 CHAIRPERSON NEWSOM: Thank you.

15 EXECUTIVE OFFICER LUCCHESI: And I believe Bob
16 and Alex are probably watching the webcast.

17 (Laughter.)

18 CHAIRPERSON NEWSOM: All right. Thank you Bob
19 and Alex.

20 EXECUTIVE OFFICER LUCCHESI: Yes. Thank you.
21 That concludes my Executive Officer's report.

22 CHAIRPERSON NEWSOM: You guys have any questions
23 or comments?

24 ACTING COMMISSIONER FINN: No. Thank you.

25 CHAIRPERSON NEWSOM: Great. Thank you for the

1 report.

2 Next item for business is -- microphone -- the
3 adoption of the consent calendar. And we've got a modest
4 hundred or so items.

5 ACTING COMMISSIONER GORDON: Move adoption.

6 CHAIRPERSON NEWSOM: Move adoption with, I
7 imagine, Ms. Lucchesi, some consideration of things we
8 will pull --

9 EXECUTIVE OFFICER LUCCHESI: Yes, thank you.

10 CHAIRPERSON NEWSOM: -- from the agenda. Which
11 items do you have in mind?

12 EXECUTIVE OFFICER LUCCHESI: We are going to
13 remove C18, C57, C69, C83, C96, C110, and C113. We are
14 going to remove those from the agenda altogether, and they
15 will be considered at a later time.

16 ACTING COMMISSIONER FINN: Okay. So not even
17 today?

18 EXECUTIVE OFFICER LUCCHESI: Not today.

19 ACTING COMMISSIONER GORDON: So move adoption of
20 the calendar absent numbers 18, 57, 69, 83, 96, 110 and
21 113.

22 CHAIRPERSON NEWSOM: It's been moved.

23 ACTING COMMISSIONER FINN: And I will second.

24 CHAIRPERSON NEWSOM: Second. And so we'll move
25 that forward. Those items now adopted.

1 And we will then move to the regular agenda and
2 just agenda. And just Jennifer, 103, 109, 112, that was
3 just information generally, you didn't want those items
4 pulled, obviously, from the consent calendar.

5 EXECUTIVE OFFICER LUCCHESI: That's correct, yes.

6 CHAIRPERSON NEWSOM: But you were just generally
7 updating.

8 EXECUTIVE OFFICER LUCCHESI: That's correct.

9 CHAIRPERSON NEWSOM: And just before we -- well,
10 excuse me, before we move the item formally, is there
11 anyone who wished to speak to any of the items on the
12 consent calendar?

13 Fabulous. Then we will officially move those
14 items.

15 Now, we'll move onto the regular agenda. So
16 we've got these items. And you don't need an extended
17 period of time. I know everyone is here for 119. I'm
18 cognizant. Not all of you, but -- so I want to be
19 respectful of that, but also respectful of moving some of
20 these other items before we get to 119 just so we can get
21 some of you out of here on your way.

22 You want to go 18 first and then move forward
23 with these?

24 EXECUTIVE OFFICER LUCCHESI: Yes. We only have
25 two items on the regular agenda 118 and 119. I suspect

1 that 118 will take just a couple of minutes, five minutes.

2 CHAIRPERSON NEWSOM: Perfect. And I don't have
3 any -- so is it -- why don't you -- good. So let's begin
4 with 118.

5 EXECUTIVE OFFICER LUCCHESI: Okay. Chris Scianni
6 of our Marine Invasive Species Program of our Marine
7 Facilities Division will make a brief presentation on this
8 legislative report.

9 (Thereupon an overhead presentation was
10 presented as follows.)

11 SENIOR ENVIRONMENTAL SCIENTIST SCIANNI: Thank
12 you. As Jennifer said, my name is Chris Scianni. And I'm
13 -- first I should say good afternoon, Mr. Chair and
14 Commissioners. I'm a Senior Environmental Scientist, and
15 for one more month the acting manager of the Marine
16 Invasive Species Program. And I'm going to be presenting
17 Item 118 and asking for you to consider the acceptance of
18 the legislative report entitled California's Marine
19 Invasive Species Program and the United States federal
20 programs that manage vessels as vectors of non-indigenous
21 species.

22 --o0o--

23 SENIOR ENVIRONMENTAL SCIENTIST SCIANNI: So I
24 wanted to start by just highlighting the legislative
25 mandate that requires us to produce this report, and it's

1 not on -- go ahead.

2 And that comes from Public Resources Code 71271.
3 And I typically don't like slides like this that have a
4 lot of text on them, but I thought it was important for
5 you guys to see the specific requirement and the narrow
6 focus of this report. And so I'll paraphrase by just
7 saying that the purpose of this is to -- we're required to
8 produce this report because there are programs at the U.S.
9 Coast Guard and the U.S. EPA that are similar enough to
10 ours to trigger this report that was placed into the
11 statute back in 1999. And the report is required to
12 compare the federal programs to our program to look at the
13 relative effectiveness of the three programs -- there's a
14 Coast Guard program, there's a U.S. EPA program and our
15 program -- their relative effectiveness reducing the
16 introduction of non-indigenous species into California.

17 And specifically to recommended repeal of our
18 program only if it's determined that the federal programs
19 are equally or more effective at implementing and funding
20 effective controls on the release of aquatic invasive
21 species into California.

22 --o0o--

23 SENIOR ENVIRONMENTAL SCIENTIST SCIANNI: So the
24 report itself has seven different chapters. We have an
25 introduction that talks about the impacts and the risks of

1 non-indigenous species, the important role that vessels
2 play in -- as a vector of moving those species around the
3 world. Talk about California's Marine Invasive Species
4 Program, as well as the programs at the federal level at
5 the U.S. Coast Guard and the EPA.

6 And then three chapters comparing all of these
7 programs, in general, and specifically for biofouling and
8 ballast water management.

9 Next, please.

10 --o0o--

11 SENIOR ENVIRONMENTAL SCIENTIST SCIANNI: And so I
12 just wanted to highlight some of the main findings of this
13 report. First, there are several critical management gaps
14 that currently exist at the federal level that are filled
15 by us here in California, by the California program.

16 The one that I wanted to highlight -- well, first
17 off, there are several exemptions from federal
18 requirements for certain types of vessels that we fill
19 here in California. So the first one I wanted to touch on
20 was an exemption from any sort of ballast water management
21 or reporting requirements for vessels that travel within
22 the same captain of the port zone.

23 And so this figure here is showing us the
24 different captain of the port zones within California.
25 And the top one is San Francisco captain of the port zone,

1 ballast water as a vector for moving these species.

2 And so any program like ours that is serious
3 about reducing the risk of the species coming in from --
4 related to shipping activities needs to account for both
5 ballast water and biofouling. And so all three of the
6 programs that we're looking at here do have biofouling
7 management requirements in place currently, but they all
8 essentially require the removal of organisms on a regular
9 basis.

10 And in California, the legislature defined
11 regular basis as any -- any one of three different
12 definitions. But because it's defined here in California,
13 it means it's an enforceable requirement. Whereas, at the
14 federal level, regular basis is left ambiguous and
15 basically is unenforceable because of that.

16 Regardless, all of those requirements are
17 reactive in nature and they require the removal of the
18 organisms once they become established on the ship. And
19 that type of reactive management isn't necessarily aligned
20 with programs like ours or the Coast Guard's or the EPA's
21 that are preventative in nature. And so the legislature
22 here in California in 2007 required us to develop
23 comprehensive biofouling management requirements. And
24 we're going through the process right now of developing
25 those.

1 To our knowledge, the federal government -- the
2 federal programs aren't going through that sort of process
3 to develop comprehensive biofouling management.

4 --o0o--

5 SENIOR ENVIRONMENTAL SCIENTIST SCIANNI: The last
6 one we wanted to talk about was vessel vector research.
7 All three programs do recognize the importance of targeted
8 research to answer specific questions that are necessary
9 for implementing or developing these types of policies.

10 And we all support and fund ballast water
11 research that is complementary and collaborative in
12 nature. One area that the federal government is not
13 putting resources towards is biofouling management
14 research. And that's one area where, because we are
15 developing these regulations, we have specific questions
16 that need to be answered, and so we're putting resources
17 towards answering those questions. And to our knowledge,
18 the U.S. Coast Guard nor the EPA are doing the same.

19 --o0o--

20 SENIOR ENVIRONMENTAL SCIENTIST SCIANNI: And then
21 the final slide is basically the staffing and the
22 expertise and the different resources that we have
23 available to us here in California versus those at the
24 federal level. All three programs do have similar policy
25 administration and data management components.

1 However, we feel that our program stands apart,
2 because of our field operations and outreach. We're
3 mandated by the legislature to inspect 25 percent -- at
4 least 25 percent of the about nine to ten thousand vessel
5 arrivals per year. And we go out on those inspections and
6 prioritize those boardings based on a risk-based approach.

7 Our inspectors have about 11 years of experience
8 doing ballast water inspections here in California, and
9 they spend about one to two hours going out on board these
10 vessels and talking to the crews, teaching them the rules
11 here in California, explaining to them any questions that
12 they have, answering any questions they have, and
13 assessing compliance.

14 And conversely, the Coast Guard has inspections
15 where they conduct inspections once per year on these
16 vessels for a variety of reasons, including ballast water
17 management requirements in place at the Coast Guard and
18 with the EPA. And so they're -- they typically spend
19 about 10 to 15 minutes out of a multi-hour inspection
20 dealing with ballast water management. So there isn't
21 really the time that we spend to answer questions and make
22 sure that that outreach is provided to those vessels.

23 Funding sources. Our program is funded through a
24 fee that's assessed on vessels on a per arrival basis. So
25 there's a steady fee -- a steady source of fees -- of

1 funds for our program to carry out the specific
2 legislative mandates that we have. I think federal level,
3 the Coast Guard and the EPA programs are funded through
4 congressional appropriations. And so they're subject to
5 budget battles and sequestration and government shutdowns
6 and things like that. And so it's less stable obviously.

7 And then finally, we have biological monitoring
8 was set up as an important component of our program. And
9 that's carried out by the California Department of Fish
10 and Wildlife. They conduct regular monitoring of the
11 coast and ports to identify new invasions and essentially
12 to look at the success of the policies that we are
13 implementing here in California.

14 And although there are monitoring that go on at
15 the federal level for a variety of purposes, there aren't
16 any specific monitoring programs set up to assess the
17 success of those programs at the EPA and Coast Guard.

18 --o0o--

19 SENIOR ENVIRONMENTAL SCIENTIST SCIANNI: And then
20 finally, the specific question that we were tasked with
21 answering was are the federal programs equally or more
22 effective at implementing and funding effective controls
23 on the release of aquatic invasive species into the waters
24 of the State?

25 And the short answer is no. We've talked about

1 some of the management gaps that are present at the
2 federal level that we feel here in California to reduce
3 the risk in those areas where we would be left at a
4 greater risk if our program wasn't in place. We have
5 different expertise and resources. And primarily, the
6 inspections that we -- that take place here in California
7 to -- that are associated with our program do provide that
8 outreach to the vessels, and are an important component of
9 what we do here in California.

10 And the last point is with the programs like
11 this, it's important to look at it from whether it's
12 better, it's more appropriate to have a statewide versus a
13 nationwide approach to this. California has its own
14 specific traffic patterns and levels of management for the
15 vessels that come up here. We have our own water bodies
16 that have different properties than water bodies in the
17 Great Lakes or the Gulf coast or the Atlantic coast. And
18 so those patterns do differ from state to state and broad
19 federal programs may not be specifically targeted to the
20 risk here in California -- to reduce the risk in
21 California that programs that are designed to take into
22 account those local risks.

23 So I do you want to point that over the life of
24 our program, we have worked cooperatively with the Coast
25 Guard and with the U.S. EPA. And we continue to work well

1 with them and collaborate with them when we can on
2 projects and on sharing data.

3 CHAIRPERSON NEWSOM: Where is PMSA now on all of
4 this?

5 SENIOR ENVIRONMENTAL SCIENTIST SCIANNI: I'm not
6 sure if they're -- are they here today? They did provide
7 a letter.

8 CHAIRPERSON NEWSOM: They did a letter, which I
9 read just briefly. But in terms -- because I remember the
10 trajectory of these discussions, usually the audience was
11 filled with folks with strong opinions about this not -- I
12 think -- I think you guys have made a lot of progress is
13 the point.

14 And so I'm hopeful that, outside of this letter,
15 they're feeling more confident and comfortable that we're
16 trying to avoid as many redundancies as possible and
17 address those gaps.

18 EXECUTIVE OFFICER LUCCHESI: That's definitely
19 our goal. And I think the fact that Mr. Berge with PMSA
20 wrote a letter instead of showing up and opposing the
21 report says a lot. And we have been engaged both on the
22 ballast water front and the biofouling front to engage
23 PMSA, CAPA, and all the other stakeholders in terms of
24 developing and moving the programs forward in a way that
25 we can all live with.

1 CHAIRPERSON NEWSOM: Yeah. Well done. Candidly,
2 I remember in Oakland or something I never thought we'd be
3 here. So I want to compliment all of you for making this
4 kind of progress. I think it's, you know, an example of
5 listening and collaborating, and getting us to this point.

6 And that said I, of course, haven't asked anyone
7 outside -- you know, I know people are supposed to read
8 it. You all may be here for that and be surprising that
9 you're not here for 119 and have a different opinion. And
10 I'll ask anyone if they're here to discuss that item. But
11 is there any other comments from --

12 ACTING COMMISSIONER GORDON: Of course, I'd kind
13 of like to reiterate what the Lieutenant Governor just
14 said. I started on this Commission two and a half years
15 ago. And this room would have been filled with industry
16 opposition on biofouling and ballast water. And having
17 sat in on all the negotiating sessions, it really is
18 remarkable that we're here and you're doing this report,
19 and it's almost a consent item.

20 There's no industry opposition. It's really a
21 wonderful example of a regulator listening to the
22 regulated community, working with them in a way that both
23 protects California's environment and takes into account
24 the economic considerations of the decisions you're
25 making.

1 So I really do want to congratulate you and your
2 staff. I think you've done a fantastic job getting us
3 here, and I truly hope we will continue in this vein on
4 the subject area.

5 SENIOR ENVIRONMENTAL SCIENTIST SCIANNI: Thank
6 you.

7 CHAIRPERSON NEWSOM: All those nice words, now
8 let me see if anyone is here to oppose.

9 (Laughter.)

10 CHAIRPERSON NEWSOM: Is that -- I don't have any
11 filled out forms, but I just want to make sure we didn't
12 miss anybody. Is anyone here to speak on 118?

13 So we'll close public comment and sort of
14 reiterate what was said. And so just hats off to all of
15 you and the entire staff. Job well done. And with still
16 considerations of this now being a work in progress as we
17 move forward and do the real work of application and
18 implementation.

19 So thank you.

20 EXECUTIVE OFFICER LUCCHESI: Thank you.

21 CHAIRPERSON NEWSOM: Is there a motion to approve
22 118?

23 ACTING COMMISSIONER GORDON: So moved.

24 ACTING COMMISSIONER FINN: I'll second.

25 CHAIRPERSON NEWSOM: And without objection, we'll

1 move that item.

2 EXECUTIVE OFFICER LUCCHESI: Thank you.

3 CHAIRPERSON NEWSOM: Thank you.

4 Now, to Item 119.

5 EXECUTIVE OFFICER LUCCHESI: That's right. Brian
6 Bugsch who is the Chief of our Land Management Division
7 will be giving the presentation on this item. Before he
8 begins, I just want to kind of set the stage for these
9 regulation. Brian will go into a lot of the details about
10 what these proposed amendments to our current regulations
11 do and how they'll be implemented.

12 But I want to just highlight the fact that the
13 Commission -- as you mentioned in your opening remarks,
14 Mr. Chair, the Commission manages a significant amount of
15 land throughout the State of California for many, many
16 different purposes and activities, some of which are
17 recreational piers and docks and buoys, but there are a
18 significant amount of leases for wetlands, open space,
19 marine oil terminals, commercial marinas, hotels. You
20 name it, there are a number of different types of uses
21 that are occurring on State property that the Commission
22 issues leases for and manages those leases for. These
23 regulations apply to all of those, not just any particular
24 type of lease or any particular area.

25 So with that, I want to introduce Brian Bugsch

1 our Chief of our Land Management Division who will be
2 giving the presentation on this item.

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

5 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Good
6 afternoon, Commissioners

7 CHAIRPERSON NEWSOM: All yours Brian.

8 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Thank
9 you.

10 Good afternoon, Commissioners --

11 CHAIRPERSON NEWSOM: We want to see the same kind
12 of consensus we just saw on the last item.

13 (Laughter.)

14 EXECUTIVE OFFICER LUCCHESI: A lot of pressure.

15 LAND MANAGEMENT DIVISION CHIEF BUGSCH: I don't
16 have any control over that, I'm sorry.

17 (Laughter.)

18 LAND MANAGEMENT DIVISION CHIEF BUGSCH: I'm the
19 Chief of the Land Management Division. As Jennifer
20 mentioned, I'm here to present the staff report on
21 Calendar Item C -- 119, the proposed update and amendment
22 to the Commission's surface leasing regulations.

23 --o0o--

24 LAND MANAGEMENT DIVISION CHIEF BUGSCH: The
25 Commission's surface leasing regulations are contained in

1 Sections 1900 through 2004 of Articles 1 and 2, Title 2,
2 Chapter -- or Division 3, Chapter 1 of the California Code
3 of Regulations.

4 --o0o--

5 LAND MANAGEMENT DIVISION CHIEF BUGSCH: The
6 proposed amendments are to section 1900 of Article 1,
7 which deals with definitions, and sections 2002/2003 of
8 Articles 2 -- or of Article 2. And these sections deal
9 with leasing or other uses of public lands and rentals
10 respectively.

11 --o0o--

12 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Before we
13 jump into the proposed regulations, a little background on
14 what led us to the proposed regulations, a little
15 background on what led us to the proposed changes may be
16 helpful.

17 First of all, the sections that are -- we're
18 proposed to modify were last amended in 1992. The minimum
19 rents within those were updated in 1982. So those just
20 need revision, but one of the things that mainly got us
21 there was our -- the Bureau of State Audits August 2011
22 report contained a specific recommendation to revise the
23 \$0.02 per diameter inch per lineal foot rent setting
24 method that we used for pipelines in section 2003. So we
25 thought while we were there, we would just clean this up

1 for clarity and for transparency.

2 CHAIRPERSON NEWSOM: Brian, and just the '92
3 amendments again were non-release -- I mean, were
4 non-financial related, is that it, minimum rents?

5 LAND MANAGEMENT DIVISION CHIEF BUGSCH: I don't
6 what exactly was updated specifically in that. Most of
7 these are just routine regulations. Yeah, they weren't --

8 CHAIRPERSON NEWSOM: Generically updated. Got
9 it.

10 --o0o--

11 LAND MANAGEMENT DIVISION CHIEF BUGSCH: This is a
12 timeline of our regulatory process. We began it with the
13 Notice of Proposed Rule-Making when we filed that with the
14 Office of Administrative Law on January 18th of this year.
15 Then we went out for a 45-day public comment period that
16 ended on April 15th. We had a public hearing on April
17 16th. During that process, we had over 300 comments.

18 CHAIRPERSON NEWSOM: And I'm sorry to interject,
19 the public hearing was held where?

20 CHAIRPERSON NEWSOM: At our offices in
21 Sacramento.

22 CHAIRPERSON NEWSOM: So it was here.

23 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Correct.

24 And so we got a lot of comments. We made some
25 revisions to the regulations, out it out for another

1 15-day, which ended on November 19th. And we're here
2 today speaking with you with all those revisions included.
3 Our deadline for submitting it to OAL is February 1st. So
4 we need to get our Final Statement of Reasons filed with
5 them by then, and then they have 30 days to review and
6 then the regulations will become effective 30 days -- or
7 after that.

8 ACTING COMMISSIONER FINN: I'm sorry. Can I ask,
9 what happens -- this deadline, what happens if it's not
10 filed by February 1st?

11 LAND MANAGEMENT DIVISION CHIEF BUGSCH: We'd have
12 to start all over again.

13 ACTING COMMISSIONER FINN: Start all over again.

14 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Yeah.

15 CHAIRPERSON NEWSOM: And just -- and one public
16 hearing here as opposed -- I mean, so Jennifer your point
17 is this impacts the entire state and all these other
18 things. Did we reach out to other -- I mean, it's one
19 thing up here in Sacramento, but did we go down to
20 southern California and did we go, I mean, to northern
21 California?

22 EXECUTIVE OFFICER LUCCHESI: We did not. We held
23 one public hearing. However, what we sent our proposed
24 rule-making notices to all of our lessees in the whole
25 State, and they -- your -- anybody who made comment could

1 comment written, whether by letter, by fax, by email, or
2 could show up in public -- and show up at the public
3 hearing and testify.

4 Like we've been talking about this entire meeting
5 is the State has a number. You know, manages lands
6 throughout the state. Having -- being able to hold public
7 hearings consistent with the rule-making process set by
8 the APA and -- the Administrative Procedures Act and the
9 Office of Administrative Law within the time period that
10 we're allotted to finalize is a significant effort that
11 includes a lot of staff resources and monetary resources
12 that frankly we just thought would be better used
13 elsewhere.

14 Sacramento was a centralized location. And like
15 I said, we -- a number of our staff, specifically our
16 Assistant Chief of our Land Management Division, could be
17 reached directly on any questions that any of the public
18 may have on these proposed regulations. And you could
19 submit comments written or show up at a public comment
20 period. So there were multiple ways you could submit your
21 comments.

22 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Yeah.
23 And the written or the oral didn't make any difference.
24 There's no preference one over the other for those.

25 CHAIRPERSON NEWSOM: Right.

1 EXECUTIVE OFFICER LUCCHESI: And I will say --

2 LAND MANAGEMENT DIVISION CHIEF BUGSCH: And that
3 public date was out there at the beginning of the 45 day
4 comment period.

5 CHAIRPERSON NEWSOM: Right.

6 EXECUTIVE OFFICER LUCCHESI: I will say that
7 separate, completely separate from the rule-making effort
8 here, we have gone to various locations in the State
9 including Huntington Harbor, the Colorado River, and the
10 Rio Buena Vista residential community up to Lake Tahoe to
11 Sandy Beach along the Carquinez Strait and conducted
12 public meetings to inform the public about the Commission,
13 its jurisdiction, its authority, its leasing practices,
14 the process you go through. And these are public meetings
15 that last anywhere between two and three hours that we
16 send a number of staff to, so that people -- including
17 attorneys, including our surveyors, so that people can
18 interact and engage with our staff on a more personal
19 level, on a more case-by-case level.

20 CHAIRPERSON NEWSOM: But on broader issues, not
21 specific to this?

22 EXECUTIVE OFFICER LUCCHESI: Not specifically to
23 the regulations, and this rule-making process, because
24 there's very strict requirements that we as the body
25 promulgating these regulations have to follow, but I will

1 say, and I think Brian will get to this or will highlight
2 it is, these proposed amendments to our regulation --
3 these proposed regulations do not change the Commission's
4 practice, that it has been conducting and leasing and
5 managing its lands for a number of years.

6 So there shouldn't be -- so we're not proposing
7 anything new. And we're doing in these regulations is
8 codifying, making it -- clarifying and making it more
9 transparent the process by which the Commission and its
10 staff process these lease applications and the terms
11 underwhich the Commission may consider leasing these lands
12 for.

13 ACTING COMMISSIONER GORDON: Jennifer did you
14 have any -- were any of these public meetings up at Lake
15 Tahoe to discuss the new -- where the issue of the new law
16 passed by the legislature and what the Commission was
17 intending to do with regard to the regulations would have
18 been part of those meetings?

19 EXECUTIVE OFFICER LUCCHESI: Not necessarily the
20 intention on the regulations, but we did participate in a
21 public meeting up in Lake Tahoe in 2011 -- in June 2011.

22 LAND MANAGEMENT DIVISION CHIEF BUGSCH: 2012.

23 EXECUTIVE OFFICER LUCCHESI: 2012. Excuse me,
24 June 2012, where I participated as the Chief Counsel then,
25 Brian, our Chief of Land Management, Colin, our Assistant

1 Chief, and then Mary Hays all participated in kind of a
2 presentation and question and answer with a room full of
3 interested parties on the Commission's leasing practices.

4 At that time, we had not necessarily made the
5 decision to pursue the rule-making process, but we had
6 talked about everything from the Commission's
7 jurisdiction, its leasing practices, its rent methodology,
8 and its approaches to processing applications involving
9 lands at Lake Tahoe.

10 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Yeah.
11 One thing you guys can probably appreciate that's been
12 difficult to convey is that this -- this is a regulatory
13 process as well. So once we entered that, we couldn't
14 respond specifically on that. We will, as part of the
15 final statement of reasons, to every comment that's come
16 in. We've tried to address this, but it has to stay
17 within the regulatory process, because if we get into
18 that, then we're not treating everybody in that process
19 equally, and we could be in violation of some of the
20 administrative procedures acts, and other things along
21 those lines.

22 We've -- you know, we take input at the public
23 hearing. We weren't responding to those comments. We
24 were taking the input. And I think we addressed the
25 majority of those, as you'll see, in our 15-day period

1 that shows that we were listening to all those comments
2 and input that were coming in.

3 CHAIRPERSON NEWSOM: All right. Well, then
4 example that.

5 (Laughter.)

6 --o0o--

7 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Well,
8 there's many reasons for updating them. Most of them I've
9 covered all already. But the first was the response to
10 the BSA audit was what kind of initiated it all. But
11 second of all, when we got in there, as I'll show you a
12 little bit later, the transparency and clarity, it was
13 very confusing the way the regs were organized, so we
14 tried to make it a little bit more clear and transparent,
15 so it would be more easily read.

16 Also another thing that kind of hit was the
17 passage of Chapter 585 of the statutes of 2011, which was
18 SB 152 as it's more commonly known, which required the
19 Commission to charge rent for all rec pier leases -- or
20 piers and buoys. And so that made some sections obsolete.
21 It also changed some other things, so we were trying to
22 address that in our regulations as well.

23 --o0o--

24 LAND MANAGEMENT DIVISION CHIEF BUGSCH: So in
25 section 1900, we changed some of the definitions that are

1 listed there. We added these definitions to the
2 regulations, sovereign lands, CPI, along with the
3 adjustment formula for the CPI and impact area.

4 --o0o--

5 LAND MANAGEMENT DIVISION CHIEF BUGSCH: In
6 Section 2002, we kind of added categories and reorganized
7 things to reflect what we did. Again, it hadn't been
8 changed since 1992. So there was nothing in there
9 addressing dredging leases. We also eliminated some
10 obsolete categories of leases.

11 As I mentioned, SB 152 there was a recreational
12 pier permit in there that we were no longer being issued.
13 And we combined actually that with what would have been
14 covered with that and the non-income producing and do our
15 general lease recreational, which you see all the time on
16 the Commission meetings, and then we also reformatted.

17 --o0o--

18 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Section
19 2003, we made the change to -- updated the \$0.02 per
20 diameter inch per lineal foot. We raised it by the CPI
21 from when it was last changed. So it's up to \$0.05 per
22 diameter inch per lineal foot. So we can hopefully check
23 that box of our audit thing, and they'll maybe leave us
24 alone, but who knows.

25 (Laughter.)

1 LAND MANAGEMENT DIVISION CHIEF BUGSCH: We also
2 updated the minimum rents. The minimum rents now range
3 from 125 to 600. And we also added a provision in there,
4 so we -- they don't get outdated again and we can update
5 them every five years.

6 --o0o--

7 LAND MANAGEMENT DIVISION CHIEF BUGSCH: We
8 codified the use of the California CPI. We included a
9 reasonable impact area, the right to charge for that, and
10 then included the right for an annual administrative fee.

11 --o0o--

12 LAND MANAGEMENT DIVISION CHIEF BUGSCH: This
13 slide shows an example of -- on the left is the way that
14 they look under the current regulations. So you can see
15 how it's kind of hard to read and pick out where the
16 minimum rents are for which specific kind of lease. So
17 they were regrouped like that. On the right, it shows how
18 we -- how it looks in the proposed regulations, so it's
19 much clearer. You can find immediately what the minimum
20 rents are.

21 --o0o--

22 LAND MANAGEMENT DIVISION CHIEF BUGSCH: As I
23 mentioned, during the public comment -- the initial public
24 comment period, we had more than 300 public comments. The
25 majority of those came in the form letters from Lake

1 Tahoe. The main concerns that we deduced from those are
2 listed there below. On the slide, the definition of
3 sovereign lands, annual administrative fee, the appraised
4 value of the lease land and the impact area. And as we go
5 forward, I'll address all those, and then tell you what
6 we've done in our revisions to try and address those.
7 We've addressed three of the four of those.

8 --o0o--

9 LAND MANAGEMENT DIVISION CHIEF BUGSCH: First
10 sovereign lands. One of the concerns was that a lot of
11 the letters said it was a land grab, because we put a
12 reference to the Public Trust easement in the definition.
13 There was no intention to do that. It was a bit confusing
14 the way it read. So we didn't think that that was needed
15 for this, so we removed the reference to the Public Trust
16 easement. We also changed the mean high tide line to the
17 ordinary high water mark, which is the more legally
18 preferred definition. So that's how it reads.

19 --o0o--

20 LAND MANAGEMENT DIVISION CHIEF BUGSCH: That was
21 that change. Going onto the administrative fee. Most of
22 the comments and concerns came from recreational pier
23 owners that we were going to charge another fee on top of
24 our application fee and other things. There was never any
25 intention to do that, so we clarified that. And we

1 limited it to three of our more complex lease categories,
2 general lease, commercial, industrial, and right of way.

3 And those are -- the primary intention of this
4 was to for the more complex leases, maybe like a master
5 lease for our pipelines where we have a lot of boundary
6 work, and it was going to take thousands of dollars to
7 kind of address this during the life of the lease that
8 we'd have to expend a lot of State resources.

9 Again, the audit kind of referred to that, that
10 we should be recovering our costs. So in order to address
11 that, we thought that this was necessary. But again, I
12 think that we aren't going to be using this on a lot of
13 leases.

14 EXECUTIVE OFFICER LUCCHESI: Just to add onto
15 that, again this -- in response to comments, we narrowed
16 the scope of the Commission's ability to charge an
17 administrative fee. So the commercial use is an
18 industrial use and right-of-way leases. So in addition to
19 the example that Brian said about the likelihood that
20 Commission staff will have to conduct boundary work during
21 the life of a complex pipeline lease, we also, in our more
22 complex leases like for marine oil terminals, or other
23 types of industrial or commercial uses, we may have to
24 conduct mitigation monitoring that's required as part of
25 the CEQA document that was adopted for that particular

1 project, or typically we -- on those complex large scale
2 types of leases, we conduct appraisals every five or every
3 10 years pursuant to the terms of the lease. And so this
4 would cover staff time associated with that mitigation
5 monitoring, appraisal work, that sort of thing.

6 Again, the scope is limited to these commercial
7 industrial leases, not to a recreational pier or dock
8 lease. And this is for those kind of complex staff
9 intensive types of leases.

10 CHAIRPERSON NEWSOM: Okay.

11 --o0o--

12 LAND MANAGEMENT DIVISION CHIEF BUGSCH: The next
13 area was the appraised value of the leased land. We had
14 revised the language just to make it read better. And we
15 didn't realize that it was -- there was no intention to
16 change any meaning in that. It was commented that that
17 kind of changed the meaning of it, so we changed it back
18 to what it is in the existing regulations, and as it's
19 been, so there's actually no change at all to this section
20 from the current regulations.

21 --o0o--

22 LAND MANAGEMENT DIVISION CHIEF BUGSCH: And then
23 the impact area. As described in the proposed
24 regulations, impact area means a reasonable area beyond
25 the footprint of the actual facilities or improvements

1 occupying State land. It is intended to reflect the
2 additional and temporary use, as well as the impacts to
3 public access of State land for the docking of vessels and
4 maintenance of the facility or other uses.

5 For clarification, we have only applied the
6 impact area to the docks and piers. We have not applied
7 the impact area to buoys. For instance, the rent for a
8 buoy at Lake Tahoe already includes a 25 foot swing
9 radius. So we're not proposing to overlay an impact area
10 on top of that. The buoy rent is currently fixed at \$377
11 per buoy as agreed to by the Commission at the May 2012
12 Commission meeting. And this rate is not impacted by
13 these regulations.

14 ACTING COMMISSIONER GORDON: Brian, can I ask you
15 one question backing off one second, because I know my
16 boss had a question? Where did the nine percent of the
17 lease value of the land, where did that nine percent
18 number come from?

19 LAND MANAGEMENT DIVISION CHIEF BUGSCH: It
20 started at a lower level earlier on, but it's been in the
21 regulations for years. It was, I think at some point, at
22 like an eight percent. And then in 1981, I think, '82, it
23 was revised to nine percent.

24 ACTING COMMISSIONER GORDON: Okay. So this isn't
25 changing anything.

1 LAND MANAGEMENT DIVISION CHIEF BUGSCH: So it's
2 been in there for 30 years.

3 ACTING COMMISSIONER GORDON: The nine percent
4 number is an ongoing accepted value?

5 EXECUTIVE OFFICER LUCCHESI: That's correct.

6 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Yeah, and
7 we use this around the -- this is only --it's one method
8 of a basket of methods for us to charge rent. And as you
9 know, we have all kinds of different leases. And so this
10 would be to establish -- we use this in some areas. We
11 don't use this usually at -- for a recreational. We'll
12 use benchmarks as you're aware of, but, you know, certain
13 areas some ag leases or other things we might be using
14 this method

15 EXECUTIVE OFFICER LUCCHESI: Commercial
16 industrial use, we will typically use this.

17 ACTING COMMISSIONER GORDON: Okay.

18 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Okay.
19 Impact areas also known as use areas have been used by the
20 Commission staff and included in leases authorized by the
21 Commission for many, many years. As a matter of fact, you
22 may recall that the impact area was discussed extensively
23 at the January 2012 and the May -- or May 2012 Commission
24 meetings in connection with the Lake Tahoe benchmark.

25 Prior to the passage of SB 152, chapter 585 of

1 the statutes of 2011, rent was only charged for impact
2 areas to lessees that did not qualify for rent-free
3 leases, which was a relatively small number.

4 Now, with the new law in effect, the impact area
5 and the rent for the impact area will become part of every
6 new lease and every existing lease when it becomes time to
7 renew it. So in short, the inclusion of the impact area
8 in the proposed regulations is simply a codification of an
9 existing practice that the Commission has consistently
10 endorsed over a period of 20 -- over the past 20 years.

11 That concludes my presentation, and as always
12 staff is available to answer questions.

13 CHAIRPERSON NEWSOM: All right. There will be a
14 lot of questions I imagine -- but I imagine folks are
15 eager to speak.

16 But first.

17 ACTING COMMISSIONER GORDON: Brian, can you point
18 me to the specific statutory language that authorizes the
19 charge impact area. I want to have that in front of me
20 because I think that's going to be about 90 some odd
21 percent of the comments that we're going to get today. So
22 I'd like to see what statute we are looking at.

23 EXECUTIVE OFFICER LUCCHESI: May I?

24 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Yeah.

25 EXECUTIVE OFFICER LUCCHESI: Chapter 585 statutes

1 of 2011, SB 152 requires that the Commission charge
2 reasonable -- fair reason -- fair market rental rates for
3 all recreational piers and buoys. And that's conditioned
4 on what the local conditions are. So that's one element
5 of authority.

6 The other authority is in Public Resources Code
7 6301 that basically gives the Commission broad discretion
8 in managing the State's Trust -- public Trust Lands. So
9 it's those two combined that give the Commission the
10 authority to charge rent -- fair market rental value for
11 recreational piers and buoys and other types of use
12 activities on State property along with a reasonable
13 impact area surrounding that.

14 ACTING COMMISSIONER GORDON: Okay. So just the
15 one follow-up question would be, before we begin the
16 public testimony, so what is the -- I am going to
17 pre-suppose from the letters that we're going to have a
18 whole lot of negative comments with regard to the impact
19 area. Can you give me -- I understand reasonable value.
20 That's what you're basing it in. Reasonable is obviously
21 one of those wonderful legal words that has lots of
22 meanings. But can you tell me -- give me your best
23 defense.

24 I've read all the letters. The letters
25 essentially say, look, a lot of us rescue people. We

1 allow people to climb on our piers. You know, the public
2 is not excluded from these areas. These are public areas.
3 We have swimmers. We have boaters, et cetera. Tell me,
4 from the staff's perspective, the strongest argument as to
5 why we should charge for the impact areas?

6 EXECUTIVE OFFICER LUCCHESI: It's two-fold. One
7 is that it's a use area. So these piers are built for the
8 docking and mooring of vessels, and for -- or other water
9 craft. So it's a use area coupled with the -- these
10 facilities pose basically a deterrent to the public's use
11 of these waterways and to access to them.

12 So it's two-fold to a certain extent. When --
13 and I understand that there are different perspectives on
14 this. But a kayak or swimmer that is navigating along the
15 shoreline of Lake Tahoe, let's say, will stay clear of a
16 recreational pier or dock that is located on State
17 property at a certain extent, because of the perceived
18 deterrent that they may feel for getting too close to what
19 they may perceive as private property.

20 ACTING COMMISSIONER GORDON: Thank you.

21 CHAIRPERSON NEWSOM: You want to add?

22 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

23 I would just add that also -- depending on where
24 you're at in the State, certain waterways the vessel will
25 always be at the dock. It's not taken out. So you have

1 the footprint of the facilities and then the dock. Let's
2 say it's in the Delta, that vessel can be anchored or
3 moored right there year-round, so the public can't use
4 that area underneath it.

5 CHAIRPERSON NEWSOM: Right. That's not
6 necessarily the case in Lake Tahoe. And therein lies the
7 difficulty of a standardized regulation versus a
8 customized regulation.

9 EXECUTIVE OFFICER LUCCHESI: But our -- if I may
10 just add to that. Our practice has been that for that
11 impact area in Lake Tahoe, and this is where the chapter
12 585 language really comes into play, because it's -- the
13 Commission is supposed to take into account local
14 conditions. So the example that Colin just spoke on what
15 occurs in the Delta versus what may occur in Huntington
16 Harbor is very different than what occurs in Lake Tahoe,
17 and there's a -- there's a very significant seasonal use
18 there. So staff and the Commission's practice over the
19 years has been to charge 50 percent for that impact area
20 because of the seasonal use in Tahoe.

21 CHAIRPERSON NEWSOM: In Tahoe, right.

22 EXECUTIVE OFFICER LUCCHESI: Which is different
23 than Huntington Harbor or the Delta where boats are more
24 there year-round.

25 ACTING COMMISSIONER GORDON: And the 50 percent

1 of use is ongoing with the new regulations?

2 EXECUTIVE OFFICER LUCCHESI: That's correct.

3 ACTING COMMISSIONER FINN: And I just have
4 another question -- a couple questions. Are there other
5 locations like Lake Tahoe that have a similar issue or
6 concern or is it just Lake Tahoe?

7 And second of all, are there other types of
8 leases we have that have impact areas or is it only piers?

9 EXECUTIVE OFFICER LUCCHESI: With your first
10 question, I am not sure if we received comments from other
11 parts of the state about the impact area concept.

12 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:
13 Yes, we received, I would say, about two or three
14 from other -- from people in other parts of the state
15 other than Lake Tahoe.

16 CHAIRPERSON NEWSOM: Which begs -- you know, we
17 were just joking, is anyone here not from Lake Tahoe?

18 (Laughter.)

19 CHAIRPERSON NEWSOM: Well, but still you're hear
20 to speak on this, but there are a few of you. Okay, good.

21 CHAIRPERSON NEWSOM:

22 ACTING COMMISSIONER FINN: So Delta, the rivers,
23 the issues is the same, but we didn't get any concerns
24 from those areas.

25 EXECUTIVE OFFICER LUCCHESI: We got maybe a

1 handful.

2 ACTING COMMISSIONER FINN: One or two.

3 EXECUTIVE OFFICER LUCCHESI: And, I'm sorry?

4 ACTING COMMISSIONER FINN: Is there any type of
5 land leases that have a similar impact area or is it just
6 water piers?

7 EXECUTIVE OFFICER LUCCHESI: Well, I think in
8 terms of identifying that as an impact area, the
9 recreational piers and docks are most applicable to that.
10 However, in our marine oil terminal leases or any larger
11 wharf commercial types of uses, we have included in our
12 leases preclusion areas, or use areas. We just term them
13 differently depending on the type and the actual
14 facilities and activities happening at those facilities.

15 CHAIRPERSON NEWSOM: Is that 10 foot impact area
16 consistent with other recreational pier uses outside of
17 Lake Tahoe?

18 EXECUTIVE OFFICER LUCCHESI: Yes.

19 CHAIRPERSON NEWSOM: Why did we determine 10 foot
20 versus whatever?

21 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

22 The vessels, the actual impact area, if you've
23 got a very large vessel, say 50 or 70 feet, it's going to
24 be -- the actuality is it's -- that vessel is going to be
25 wider than 10 feet. This gets back to what would be a

1 more or less standardized size.

2 If a vessel is 20 feet long, you'd probably have
3 about an eight to 10 feet width. So we've just kind of
4 gone along with that practice. We done cater the use area
5 to the size of a potential vessel. We don't know.

6 CHAIRPERSON NEWSOM: Okay. So I imagine that
7 will come up. Well, why don't we just dive right in.
8 We're going to have better questions when we hear from all
9 of you. And we will get to your concerns. I've got a
10 number of speakers cards that have been filled out.
11 Anyone that hasn't filled one out that wishes to speak, it
12 would be great to get you to fill one out. I'll start
13 with Jan Brisco and we'll move to Bill Lyons and Anthony
14 Evans.

15 And then there will be a clock there, green,
16 yellow, and red. Red, as you're all I'm sure familiar,
17 suggests time is up, and there are people behind you
18 getting angry.

19 (Laughter.)

20 CHAIRPERSON NEWSOM: So be as respectful to folks
21 behind you as you possibly can. And Jan we'll start with
22 you.

23 MS. BRISCO: Well, thank you very much. We
24 appreciate the opportunity. I'm Jan Brisco, the executive
25 director with Tahoe Lakefront Owners' Association. And,

1 you know, I think we can blame the legislature for this,
2 and not blame the Commission.

3 When 152 --

4 CHAIRPERSON NEWSOM: Thank you for starting
5 there.

6 MS. BRISCO: You're welcome. When 152 was
7 enacted, you know, those rent-free leases, and many
8 hundreds of them, you know, just sort of -- everyone just
9 sort of woke up to the fact that now we're going to be
10 paying for these, not just our structure but then this
11 nebulous 10 foot area. That's really what we're here
12 today to talk about. We appreciate staff's making some
13 adjustments and clarifications in the regulation. They
14 have been wonderful to work with. They have been very
15 responsive.

16 In fact, when we had our several hundred lake
17 front owners over 4th of July weekend a couple years ago,
18 they sent the staff to really -- you know, we asked them
19 to come, they came, and they took a lot of questions and
20 were on the hot seat. So thank you for that.

21 CHAIRPERSON NEWSOM: That's great.

22 MS. BRISCO: We're really asking you to either
23 take this back for reconsideration to work on a solution.
24 Really, the impact area does not make sense for private
25 recreational piers. It may make sense in areas where

1 you're docking a boat full time, industrial certainly,
2 commercial absolutely. That's where the public really
3 doesn't have that right.

4 But, you know, a lot of these lakefront owners
5 who are here today maybe you can raise your hands. You
6 know, we have a number of people who may not speak today,
7 but want you to know how important this issue is that
8 there has been no justification in the research we've done
9 as to why it is actually being charged at Lake Tahoe.

10 We know that that area is available to boaters.
11 They boat up to, around, under. You know, if you spend a
12 day on the lake, you'd see that. So I don't know which
13 boaters your Executive Officer is referring to.
14 Certainly, that's not our experience being owners at the
15 lake.

16 We still provide that safe harbor to the boating
17 public. We do rescue people. There are times when you
18 just get tired out there and you've just got to hang onto
19 a pier or to a buoy to really just take a rest and then
20 continue your paddling or your whatever it is you're doing
21 on Lake Tahoe.

22 We are an aid to navigation. We keep boats in
23 safe waters. We are not a deterrent to the boating
24 public. In fact, people come in very close to take
25 pictures and to look and look at the boats and the piers

1 and the houses. It is a recreational activity that people
2 enjoy on the lake.

3 When we were working with the legislature,
4 Pavley, to really look at this 152, they looked at this
5 making sure that it was fair. And no time did the State
6 Lands Commission testify to any of the legislative
7 committees that this would include an impact area. They
8 talked about the structures themselves. We think it needs
9 to be fair. We agree. Based on local conditions, sure,
10 we've got about a three-month window to do our boating
11 activities at Lake Tahoe. We are subject to a fluctuating
12 reservoir.

13 Sometimes it's high and dry where you're charging
14 for this impact area. So we really wanted to make sure
15 that you had the full understanding. We've submitted
16 written comments fully. I know my time is up.

17 Please exempt private recreational piers at Lake
18 Tahoe from this regulation, and this practice. And we
19 certainly appreciate your time today.

20 And these are the 300 or so comments you've
21 received. I have a copy if you'd like to look at them.

22 (Laughter.)

23 CHAIRPERSON NEWSOM: I appreciate that. Thank
24 you.

25 (Applause.)

1 CHAIRPERSON NEWSOM: Bill and then again Anthony
2 Evans after Bill.

3 MR. LYONS: Well, thank you, Mr. Chairman, for
4 the opportunity to speak today. I'm Bill Lyons. I reside
5 at 10555 Maze Boulevard, Modesto. And my family has owned
6 a cabin at Meeks Bay for approximately 45 years. I'm
7 currently the president of the Meeks Bay Vista Property
8 Owners Association. The area includes over 100 cabins and
9 lots. We are a nonprofit public benefit association.

10 First, I'd like to acknowledge the efforts of
11 your staff and the courtesy that they've extended to me
12 throughout this complex issue.

13 I'd especially like to thank Brian and Jennifer
14 for their openness. However, I do have some concerns
15 related to the notice and timing of the public hearing.
16 I'm not sure that staff has met -- I'm sure that staff has
17 met the intent of the law. Yet, 10 days notice to review
18 and fully understand the modified regulations over the
19 Thanksgiving holidays appears to be extremely aggressive,
20 and truly puts a burden on the public stakeholders and
21 interested parties. I personally received written notice
22 on November the 21st and an email on November the 22nd at
23 2:30 p.m.

24 As the former Secretary of the Agriculture under
25 the Davis Administration, with a full understanding of the

1 needs for public input, may I respectfully request the
2 Commission to hear testimony, take in the public comments
3 both written and oral, and continue the decision process
4 until the stakeholders and the public have additional time
5 to review the draft regs.

6 If the Commission does decide to move ahead
7 though, the Meeks Bay Vista Property Owners Association
8 would, one, urge the Commission to direct staff to modify
9 the regulation to clarify that leases for private
10 recreational structures will not be -- have an impact area
11 fee.

12 Two, urge the Commission to direct staff to
13 remove the CPI index on private recreational structures.
14 These private structures are not commercial ventures,
15 which could raise the rent or fee to cover the CPI
16 increase.

17 Three, urge the staff to recognize the natural
18 impediments of the unique Lake Tahoe area. Piers and
19 buoys, rocks, shallow water, the winter weather all
20 impact -- severely impact the usage of these structures.
21 I think it needs to be reasonable and people have to
22 understand the seasonal impacts of Lake Tahoe.

23 And finally, four, urge the Commission to direct
24 staff to recognize the public benefit that is provided to
25 distressed swimmers, damaged boats, and really a potential

1 escape for forest fires for the public.

2 I want to thank you again on behalf of the Meeks
3 Bay Property Owners Association for the opportunity to
4 express our opinion, both as stakeholders and eventually
5 the fee payers.

6 I think, if I could make one other
7 recommendation, it would be extremely helpful, as a
8 private owner and also the president of an association, to
9 actually have an example of what it's going to cost an
10 individual with a pier and buoys, because when my members
11 contact me and say what is going to be the impact, it's
12 very difficult for me to run the numbers.

13 An example would be I just learned about the 50
14 percent discount at Lake Tahoe, and I haven't seen that.
15 I may have missed it. But is it 50 percent on the
16 existing 325 on a buoy, so that gets halved? I know my
17 members don't know that. Anyway, I'd like to thank you
18 for the opportunity.

19 Questions?

20 CHAIRPERSON NEWSOM: Good. Thanks, Bill.

21 Jennifer, why don't we just jump right into that
22 clarification.

23 EXECUTIVE OFFICER LUCCHESI: Okay. The
24 clarification on the 50 percent and also just a general
25 fiscal impact or monetary impact from the rents.

1 Generally speaking, it's very hard to generalize
2 the amount of rent that a particular homeowner may pay,
3 because it is -- the benchmark for recreational piers is
4 currently at \$0.79 a square foot. So it depends on how
5 much of your pier from the ordinary low water mark
6 waterward is occupying State property. So you times \$0.79
7 times the amount of square footage occupy State property
8 below low water.

9 The buoys are a fixed rate at \$377 per buoy. The
10 impact area -- oh, thank you. The impact area and -- the
11 50 percent to reflect the seasonal use of not only the
12 lake from a public access deterrent perspective, but also
13 a use for docking vessels and other watercraft along your
14 pier, the 50 percent is to account for that. And that's
15 applied only to the impact area, because your pier and
16 your buoys are occupying State property for the entire
17 year.

18 So I can appreciate how frustrating it is not to
19 have a set number for every single upland owner that may
20 have a recreational pier and buoys out on the lake.
21 However, it's very difficult because it's a purse -- it
22 depends on how much of your pier is occupying State
23 property, how many numbers of buoys. But, in general,
24 we're talking -- this is very general -- between \$1,500 a
25 year and \$3,000 a year.

1 MR. LYONS: If it would be possible, a generic
2 example would be very helpful.

3 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Yeah,
4 just to explain to you up there on that chart right there,
5 this is something that Commissioners may remember, we had
6 this kind of chart at the -- when we were discussing the
7 benchmark discussion back in June of 2012. But on there
8 we used an example there of a dock that's 1,500 square
9 feet, I think. The use area with two buoys.

10 CHAIRPERSON NEWSOM: Eleven hundred, but close.

11 LAND MANAGEMENT DIVISION CHIEF BUGSCH: So that's
12 a standard pier size with two buoys. And it came out to
13 \$2,800.

14 MR. LYONS: But that has not been provided to the
15 it stakeholders.

16 LAND MANAGEMENT DIVISION CHIEF BUGSCH: This was
17 discussed at our June Commission meeting. I think we
18 brought it up again when we went up to Tahoe in June of
19 last year.

20 MR. LYONS: But it hasn't been sent out to the
21 stakeholders.

22 EXECUTIVE OFFICER LUCCHESI: That's correct. It
23 has never been mailed out. However, this particular slide
24 and this concept of rent, the benchmark to be applied up
25 at Lake Tahoe, the impact area, all those were discussed

1 at numerous Commission meetings, and this is all -- can be
2 located on our website.

3 MR. LYONS: Thank you.

4 ACTING COMMISSIONER GORDON: Jennifer, can I just
5 clarify one thing. When we're talking about the impact
6 areas, we are solely talking about the piers, correct? I
7 see this whole thing.

8 EXECUTIVE OFFICER LUCCHESI: That's correct.

9 ACTING COMMISSIONER GORDON: But if you were to
10 separate out the pier -- excuse me, if you separate out
11 the buoy, the buoy is a set rental rate. There is no
12 impact area on the --

13 EXECUTIVE OFFICER LUCCHESI: Correct.

14 CHAIRPERSON NEWSOM: I mean, there is --

15 CHAIRPERSON NEWSOM: There is, but it's covered.

16 ACTING COMMISSIONER GORDON: It's covered. It's
17 covered by the set rate, so it doesn't --

18 EXECUTIVE OFFICER LUCCHESI: That's correct.

19 ACTING COMMISSIONER GORDON: So the one buoy,
20 regardless of where it is, set rate, \$377.

21 CHAIRPERSON NEWSOM: Twenty foot radius.

22 EXECUTIVE OFFICER LUCCHESI: Twenty-five foot.

23 CHAIRPERSON NEWSOM: Five.

24 ACTING COMMISSIONER GORDON: Yes. Twenty foot
25 radius. So that doesn't go up or done. That's not being

1 discounted. That is 377 set rate.

2 EXECUTIVE OFFICER LUCCHESI: That's correct.

3 ACTING COMMISSIONER GORDON: So the discount area
4 is applying to the impact area on the pier, so you've got
5 the per square foot rate for the actual pier. Then you
6 take 10 feet around it, and on that 10 feet you are
7 discounting 50 percent on Lake Tahoe.

8 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Right.
9 As you look at that slide right there, it shows -- I can't
10 read it from here, but yeah, 1,150 square feet. The
11 10-foot use area around that would be 2,887. And so then
12 the 50 percent would be discounted off of that 2,887.

13 CHAIRPERSON NEWSOM: Okay.

14 LAND MANAGEMENT DIVISION CHIEF BUGSCH: And
15 again, let me just reiterate that these regulations as
16 they're staying aren't going to change what -- if
17 something goes to the Commission today on consent and
18 these were approved tomorrow, and we brought that same
19 item back, the rent would not change on that. It wouldn't
20 be affected by these regulations. We're not going to
21 change our practice, in any way, from what we're currently
22 changing.

23 EXECUTIVE OFFICER LUCCHESI: Unless the
24 Commission directs us.

25 (Laughter.)

1 CHAIRPERSON NEWSOM: Well, thanks, Bill.

2 EXECUTIVE OFFICER LUCCHESI: And the other thing
3 I just want to mention --

4 CHAIRPERSON NEWSOM: Mr. Evans, take a seat. As
5 we keep talking -- oh, right here. Get to the mic.
6 You've been patient.

7 And Jennifer, please.

8 EXECUTIVE OFFICER LUCCHESI: Our staff is
9 extremely access accessible by phone, in person, by email,
10 by letter. So -- and in response to the comment about
11 wanting to have some sort of estimate of any particular
12 landowner's lease rental rate for a particular pier and
13 buoys, it's as easy as picking up a phone and just
14 providing our staff with some basic square footage numbers
15 and we can have a dialogue on very generally about what it
16 will take.

17 Of course, that's subject to change based on the
18 lease application and actually boiling down on the
19 specifics of the proposed lease Application -- on the
20 lease Application. But generally speaking, our staff is
21 extremely accessible and can work with an applicant to
22 determine kind of ahead of time, you know, what would be
23 generally staff's recommendation with regard to their
24 specific site and specific situation

25 ACTING COMMISSIONER GORDON: Jennifer, is there

1 generally any conflict over -- I mean, I'm picturing a
2 dock and pier that extends land side from private property
3 well out into the lake. Is there generally any dispute
4 over where the low water mark is that where you're going
5 to start charging the rate?

6 EXECUTIVE OFFICER LUCCHESI: No, because that's
7 been clarified and decided by the California Supreme
8 Court.

9 ACTING COMMISSIONER GORDON: Okay. Thanks. That
10 makes that easy.

11 CHAIRPERSON NEWSOM: All right. Mr. Evans,
12 you're up. And following just Carol Ross Evans and
13 Michael Hooper.

14 MR. EVANS: Before I start my time, Jennifer it's
15 nice to see you. Mary, congratulations. She was a
16 delight to work with.

17 Nick Castner sent you this, via a fax, and I
18 don't know if the Commissioners have had an opportunity to
19 see it, but --

20 EXECUTIVE OFFICER LUCCHESI: Kim, can pass them
21 around to the Commissioners.

22 MR. EVANS: I have one -- I need the last one.

23 EXECUTIVE OFFICER LUCCHESI: Here, I'll give them
24 mine.

25 MR. EVANS: If I can just read this letter. It's

1 very short. It's from Nick Castner who's just -- I'll
2 just read.

3 CHAIRPERSON NEWSOM: And Mr. Evans, just if you
4 can grab that mic and get it more directly. Thank you

5 MR. EVANS: This is a gentleman who has been
6 president two year and vice president and the staff knows
7 Nick Castner.

8 He's the actual key contact for the two
9 homeowners associations, North and South Pier Association
10 at Rubicon Bay. Total number of homeowners -- and he's
11 the key contact person with regard to anything that
12 happens with State Lands Commission. He's worked with
13 them doing the buoy leases so on and so forth. Great guy.
14 And I'm going to read a letter that's very complimentary
15 to you and your staff.

16 He says, "I write as a 25-year homeowner in
17 the Rubicon Tahoe Owners development at Lake
18 Tahoe. RTO is a community located on Rubicon Bay
19 which consists of approximately 270 homeowners.
20 We maintain two beaches, two piers and two buoy
21 fields with 95 buoys. In the last 12 months I've
22 served two terms as President -- 12 years, two
23 terms as president, two as vice-president, buoy
24 director, and more relevantly as the designated
25 liaison with California State Lands Commission.

1 "In 2003, I worked with both Jim Frey and
2 Barbara Dugal, and more recently in 2011 with
3 Ninette Lee to conclude our two most recent
4 leases. My experience for those 12 years has
5 been very positive. I've consistently found
6 members of your staff cordial, knowledgeable,
7 professional, and even empathetic within the
8 constraints of bureaucratic protocol."

9 (Laughter.)

10 MR. EVANS: "However..." -- last paragraph
11 -- "...I feel compelled to express my strong
12 objection to the manner with which number 119 on
13 the December 2 agenda has been handled. There
14 has been no direct effort made to communicate
15 with stakeholders regarding the impact of 119.
16 It is impossible to know whether this -- that
17 this is through oversight or design, but it
18 suggests never to obviate organized discussion
19 and dissent by stakeholders.

20 "I believe it is inappropriate for the
21 Commission to proceed on 119 until the
22 stakeholders can be intelligently involved in the
23 discussion. You should, at a minimum, postpone
24 the hearing if your intent is to act in good
25 faith.

1 "Respectfully, Nicholas Castner."

2 Absolutely a marvelous guy. He loves the lake
3 and he had no knowledge of this whatsoever. And the
4 middle association -- homeowners association buoy field
5 and pier board of director John Lemon. You've dealt with
6 John Lemon. I called him on Thursday, and I said, do you
7 know that this meeting is taking place today? I implored
8 him to try and be here or somebody from their association.
9 I think somebody is here. Had no knowledge of it.

10 So this is a pivotal thing with regard to the
11 gavel by you at the table that impacts us, not just today,
12 but tomorrow and the next day. My pier doesn't expire for
13 many years, because I just did it with Mary. And she was
14 wonderful. I signed a lease that you wouldn't sign. For
15 five years my -- this the three minutes for Nick Castner.

16 CHAIRPERSON NEWSOM: Yes, it goes quickly.

17 MR. EVANS: You know, we have a lease, but the
18 second five years you have no idea what the lease is.
19 There's no way to quantify it. You wouldn't sign that
20 lease. I've done business with the State of California.
21 To not have a formula for the lease for the second five
22 years is beyond my comprehension. I wouldn't let you, if
23 I was your representative, and I'm in real estate.

24 So there you go. Thanks, Nick. Thank you.

25 And may I begin my three minutes.

1 CHAIRPERSON NEWSOM: Let's break all the rules
2 once, and quickly three minutes. And then we'll be
3 respectful of the others.

4 MR. EVANS: Absolutely.

5 CHAIRPERSON NEWSOM: And just know this any
6 letters we get, we do read. And so you don't have to
7 necessarily read those words. You can just provide that,
8 but I'll break it.

9 MR. EVANS: Thank you so much.

10 I've actually made bullet points and my wife
11 timed me, so I'm going to start right now.

12 Applying a Consumer Price Index adjustment to a
13 private pier buoy lease is unfair and inappropriate. You
14 saw by the previous example that the people that had the
15 pipeline lease had a \$0.02 rate, and then the CPI took
16 over and it went to \$0.05.

17 Well, if you're charged \$2,800 for your pier, and
18 the next thing you know it's -- just do the math. It's
19 very imposing and it's scarier than hell to people my age
20 that have worked all their life to have what we have, and
21 we take care of that lake too.

22 Using a CPI adjustment is customary in commercial
23 leases but never with residential leases. Private
24 recreational piers and buoys are associated with
25 residences or homeowners associations, not businesses. A

1 private pier and buoy has no revenue generating capability
2 to cover increased rents, let alone the ever-increasing
3 costs of insurance and maintenance.

4 And, of course, the lease requires me to carry
5 and extra a million dollars in the area between the high
6 and low water mark for the public to be able to go over
7 and on and so on around my pier, but that's a premium.
8 It's an extra cost in addition to the rent.

9 Private recreational piers and buoys should be
10 excluded from a CPI adjustment. As a side note, the
11 10-year lease we're required to sign set a term -- and
12 I've already gone over that with you as far as what we had
13 to sign and it has no -- in no way to quantify the last
14 five years.

15 We believe the impact area is a flawed policy
16 based on invalid assumptions. It is unjustified and
17 unwarranted. It appears staff is trying to back-door this
18 policy into the regulations for private piers and buoys
19 with no authority. The comment was you've been doing it
20 for 20 years. Not with us. We haven't had it ever, until
21 last year. So going from \$350 to \$2,800 a year is pretty
22 serious. And on buoys it was \$35 a year. Now, it's \$377
23 a year.

24 It appears staff -- so pier does not create an
25 impact to public access beyond its footprint. Please

1 refer to the pictures in our letter. I sent a letter to
2 you on December 22nd and I know that you've read it. You
3 can see in color that people go under our pier, around our
4 pier. And the public can and does kayak, swim and use the
5 10-foot zone around the perimeter and under our pier. So
6 do we.

7 But we don't use boats. We don't do anything
8 that's not similar to what somebody else is doing. And
9 Mary I know you can -- you know you only use the last 30
10 feet and only on the cat walk to let people on and off.
11 You never tie your boat up to a pier. Even on a calm day,
12 it's going to get -- somebody goes by out there, and big a
13 big boat has a -- you know, the tour boats, and the waves
14 come rushing, you're going to tear up your pier. You're
15 going to tear up your boat, kayak and anything else. We
16 deny tie onto other parts of our pier.

17 The entire purpose of a pier is to safely access
18 a boat, but staff wants to charge extra rent for an impact
19 area, if you actually use a pier for this purpose.
20 Temporarily tying up a boat to a pier to allow passengers
21 safely aboard and boat -- a boat, most certainly is a use
22 contemplated in the lease of the pier structure. We
23 should not be charged extra for this use.

24 Moreover, in the low water years, many piers are
25 not usable at all. So we'd be paying for a non-existing

1 impact area. The logical extension of this impact area
2 concept would be to apply it to every boat, canoe, kayak,
3 paddle board, raft, swimmer that enters the water at Lake
4 Tahoe, because they temporarily occupy the lake surface.
5 It's a distinction without a difference, and it is an
6 unsupportable premise.

7 You may be interested in knowing if staff has not
8 provided examples that we're paying more rent for the
9 unwarranted and unjustified impacted area, than we're
10 paying for the area occupied by the pier, which counsel so
11 adequately told us at the meeting we're only occupying a
12 pier -- you know, the pillars, 10.77 square feet on the
13 land below it.

14 They say well, we have the air rights. And I
15 accept they have the air rights. I've done leases like
16 that. But just the footprint of the leasehold property,
17 not an impact area.

18 A pier that extends 120 feet from a low water
19 mark with six foot causeway and a 10 foot by 30 foot
20 pierhead occupies 840 square feet at the \$0.79 per square
21 foot. The 10-foot impact area around the pier and the
22 pier totals 2,840 square feet at \$0.39. That calculates
23 to 663 for the pier and 1,107 for the impact area. That's
24 nearly twice as much for an empty lake surface, which the
25 public can freely access, than the rent on the pier.

1 CHAIRPERSON NEWSOM: All right. I'm losing all
2 credibility, Mr. Evans, all credibility.

3 MR. EVANS: Okay. We urge the --

4 CHAIRPERSON NEWSOM: We're getting close to the
5 10-minute --

6 MR. EVANS: We urge, at a minimum, that you
7 reject the impact area and CPI adjustment for private
8 recreational piers and buoys on Lake Tahoe. Most
9 beneficially, that you direct staff to work with
10 stakeholders to develop a rent structure that recognizes
11 all the public benefits to navigation that private
12 recreational piers and buoys continue to provide for all
13 eases.

14 And I thank you. I thank you all. I truly do.
15 Sorry that I was excessive.

16 CHAIRPERSON NEWSOM: Thank you. No, I appreciate
17 it.

18 (Applause.)

19 CHAIRPERSON NEWSOM: Carol. And After Mrs.
20 Evans -- Ms. Evans, we have Michael Hooper.

21 Thank you.

22 ACTING COMMISSIONER GORDON: Jennifer, quick
23 question. What efforts were made to contact the various
24 landowners and community association owners to have
25 knowledge of this hearing?

1 EXECUTIVE OFFICER LUCCHESI: Of the State Lands
2 Commission? There's two efforts. There were two public
3 noticing efforts involved in these regulations. The first
4 one is under the umbrella of the rule-making process set
5 forth by the Administrative Procedure Act -- Procedures
6 Act under the Office of Administrative Law. There's a
7 very strict prescribed noticing, comment period, what the
8 agency can engage and cannot engage with during that
9 public commenting period time with respect to the
10 regulations.

11 So there -- and we adhere to all the rules
12 associated with those timelines and the noticing
13 requirements, including the initial 45-day comment period.
14 We revise the regulations based on comments received
15 during that public comment period time, and those went out
16 for another 15-day period -- comment period to all of
17 those -- all of our lessees.

18 The second kind of noticing umbrella is that of
19 the State Lands Commission meetings, which are all
20 publicly noticed, placed on our website. Those who wish
21 to be on our email list and have indicated so are notified
22 via email or they're notified by physically mailing the
23 agenda at their request.

24 We complied with all of the requirements for
25 noticing this meeting. In fact, I just -- this is a

1 compliment of our staff. As far as I can remember, we
2 noticed the agenda for this meeting significantly earlier
3 than the 10-day noticing period. We noticed it 18 days
4 before, which in governmental agencies, that's a
5 significant time period.

6 We also posted all of our agenda items two weeks,
7 14 days, before the meeting today. That's a huge
8 improvement over past meetings and past years. So I can
9 appreciate the frustration that individuals or entities
10 were not aware of the Commission meeting. And I am sorry
11 for that, but we thought -- we sent out notices to
12 everyone on our mailing list. It was posted on our agenda
13 in a significant amount of time before the meeting.

14 CHAIRPERSON NEWSOM: All right. Well, we'll --

15 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Let me
16 just add to that that we did -- I think we were debating
17 whether or not we were going to bring this to this meeting
18 or not, if we were going to have another one, if we had
19 time. At the moment, we decided that we were going to try
20 and get this on the agenda, we contacted Jan Brisco, who
21 spoke first here, immediately and let her know so she
22 could let her membership know within a -- I mean within an
23 hour of when we decided when we were going to do it.

24 And then we did send an email out I want to say
25 it was like the 21st. And we mailed out to other people

1 to notify them before the holidays here that this meeting
2 was going to happen. So we tried to make an effort where
3 we could.

4 CHAIRPERSON NEWSOM: It's the right question.
5 Look, I get all of that. And it sounds like you went
6 above and beyond, but you know as you have all but
7 acknowledged, government's bar of notice often is low.
8 And, you know, the fact is it is the holidays. The fact
9 is it's a Monday after a holiday weekend, and this is a
10 permanent hit of sorts. And so I get it. You know, I
11 mean -- you know, we have what, till February 1st. It
12 doesn't we have a lot of meetings left here --

13 EXECUTIVE OFFICER LUCCHESI: That's correct.

14 CHAIRPERSON NEWSOM: -- the way this Commission
15 works, but we have time, if indeed we choose to have time.

16 EXECUTIVE OFFICER LUCCHESI: That's correct.

17 CHAIRPERSON NEWSOM: And, you know, these things
18 are important because they're clarifying, and people then
19 are noticed and we get letters. But I think it's the
20 right question and I appreciate both points of view. And,
21 you know, I'm one that likes -- I love seeing people. I
22 love public comment, but oftentimes, like the last item,
23 when you don't see as many people, it means we've sort of
24 made the kind of progress where we're all feeling a little
25 bit better about each other, and not convinced yet we're

1 there.

2 But that said, we're not even halfway through
3 public comment. And perhaps we'll hear some wonderful
4 things and supportive comments about 119.

5 But Ms. Evans I suspect you're not going to be
6 one of them.

7 MS. EVANS: You're very astute.

8 Mr. Chair and members, Carol Evans, also a Tahoe
9 resident, full-time resident. I apologize. My husband
10 wasn't supposed the ad lib or he wouldn't have gone over
11 this three minute allotted time.

12 (Laughter.)

13 MR. EVANS: A couple comments before I get to my
14 prepared comments. One is it would have been very nice
15 for leaseholders and stakeholders to have been aware of
16 the June 2012 meeting or May 2012, whenever it was, when
17 these benchmarks were established. We had no idea that
18 was going on. That would have been I think very
19 informational for the Commissioners and for staff to have
20 had a dialogue prior to that -- those decisions being
21 made.

22 Also, there's the question asked about the State
23 statute referenced to the impact area. I wanted to point
24 out that staff said that it refers to market value for a
25 rent. There is no reference to market value. The

1 language of the statute says local conditions and local
2 fair annual rental values. It has nothing to do with
3 market as far as the statute is concerned.

4 And one other thing I wanted to point out was
5 that staff is available to talk to, but you need to be
6 aware if you're working on a lease and you're calling with
7 questions to staff, you are charged for the staff time
8 that you spend talking to them on the phone or in the
9 Commission's office, and it does add up. We just went
10 through that last year.

11 CHAIRPERSON NEWSOM: Is that true, Jennifer?

12 EXECUTIVE OFFICER LUCCHESI: We charge -- we
13 charge fees for processing your application, so there's an
14 initial deposit that you make, and the time that staff
15 spends processing your application, including going back
16 and forth with the applicant to clarify the particular use
17 is charged against that initial deposit. For any amount
18 that's not used by staff is refunded to the applicant

19 CHAIRPERSON NEWSOM: Thank you for that.

20 Interesting.

21 MS. EVANS: I'd like to take this opportunity to
22 remind Commissioners that prior to 2012, State law
23 actually encouraged the construction of private piers on
24 State waters. Intent language in Chapter 43 statutes of
25 1977 stated, "It is therefore the intent of the

1 legislature in providing for rent-free private
2 recreational piers to encourage members of the public to
3 construct such piers at no cost to the State upon
4 navigable lakes, rivers, and streams of this State".

5 This may help you understand why owners of
6 private recreational piers and buoys who relied on this
7 law and the assurance of rent-free status feel they have
8 been betrayed and blind-sided. I understand it wasn't
9 you. It was the legislature, but that's the background.

10 Nothing has physically changed to alter the
11 recognized public benefit of our piers and buoys. It can
12 only be concluded that the reasonable for this law change
13 was to generate revenue for the State general fund.
14 Innocent law-abiding private pier and buoy owners are
15 being forced to help payoff the State's debt. We have a
16 right to be angry.

17 There is authority however in Section 2003(d)(4)
18 in the regulations before you today where the Commission
19 at its sole discretion to discount or waive rent if it
20 determines that a significant regional public benefit is
21 provided. January Brisco referenced the public benefit.
22 And I'll just note that piers and buoys provide a
23 geographic reference to the shoreline, water depth and
24 possible lake bottom hazards. They help define the TRPA
25 600-foot no wake zone. They provide assistance to

1 distressed boaters, sinking vessels, and temporary safe
2 mooring from dangerous weather and water conditions. They
3 provide an observation point and first response location
4 for responding to maritime and water recreation
5 emergencies.

6 In addition, the area between the buoys and the
7 shoreline creates a much safer swimming, kayaking,
8 canoeing, and paddle boarding environment for all lake
9 users. The safe area for recreational users only exists
10 by virtue of the existence of private buoys and piers.

11 Every lakefront owner with a pier or buoy can
12 tell of numerous rescue incidents. And you may be hearing
13 some of those. We've been involved in them ourselves.
14 We've also made avail of other people's empty buoys when
15 we've been away from home and caught by high winds and
16 unexpected high waves. But rather than recognizing that
17 private piers and buoys provide a temporary safe mooring,
18 we are instead being penalized for continuing to provide
19 this public benefit.

20 Finally, piers and buoys are the safest place to
21 evacuate in case of a forest fire for pier owners, for
22 their neighbors and for their upland neighbors. Our fire
23 chief repeats the same message every year, if there's a
24 forest fire use your piers and boats, do not get in your
25 car and add to the danger and congestion of an evacuation.

1 In conclusion, we understand the need for a
2 change in the rent regulations to reflect the change in
3 State law, but these proposed regulations before you today
4 are unfair, burdensome, and inefficient. We are certain a
5 better outcome for all would have resulted from an
6 opportunity for stakeholders to work collaboratively with
7 State Lands staff in development of these amendments prior
8 to them starting the clock on the rule-making process.

9 We urge you not to adopt these amendments as
10 drafted as they pertain to private recreational piers and
11 buoys on Lake Tahoe, and direct staff to work with
12 Stakeholders to develop a fair and reasonable rent
13 structure.

14 CHAIRPERSON NEWSOM: All right. Thank you very
15 much, Ms. Evans.

16 (Applause.)

17 CHAIRPERSON NEWSOM: Jennifer.

18 EXECUTIVE OFFICER LUCCHESI: I just want to
19 comment on the last speaker -- one of the last speaker's
20 comments in terms of where the rental revenue generated
21 from the Lake Tahoe leases are going. And, in fact -- and
22 I'm not sure if members of the audience are aware, but the
23 Governor recently signed SB 630, which has been chaptered
24 762 relating to the California Nevada Compact.

25 And as part of that new law, all rental income

1 from surface leases at Lake Tahoe are to be deposited, not
2 in the general fund, but in the Lake Tahoe Science and
3 Lake Improvement account, which will establish a bi-state
4 science-based advising counsel for near-shore
5 environmental improvement program projects.

6 And that was something -- I believe that was
7 spearheaded by the Tahoe Conservancy. So all the rental
8 income that's generated from the lake goes back into lake
9 improvement projects.

10 CHAIRPERSON NEWSOM: Outstanding.

11 Mr. Hooper. Michael, where are you, followed by
12 Greg Lien, if I have the pronunciation correct.

13 MR. HOOPER: Thank you for the opportunity to
14 speak. I'd like to ask a question if it doesn't charge
15 against my time. I don't want to go over.

16 CHAIRPERSON NEWSOM: I'm not sure -- I've broken
17 every rule, but I'm now going to have to get tough. So
18 ask the question, and we'll try and incorporate it in.

19 MR. HOOPER: The question is specifically is the
20 answer to the question you asked Governor -- excuse me,
21 Commissioner. And it was two to three respondents out of
22 the roughly 300 letters written were out of the area of
23 Lake Tahoe. And my question really is were they noticed?
24 Were the stakeholders noticed?

25 I personally got one mailed piece of document.

1 I've asked for email notice. I have not received it.

2 CHAIRPERSON NEWSOM: You're down in Carmichael.

3 MR. HOOPER: I'm in Carmichael, correct.

4 CHAIRPERSON NEWSOM: Got it.

5 EXECUTIVE OFFICER LUCCHESI: We sent notices of
6 the proposed rule-making to all of our current lessees.
7 As you can imagine, it's very difficult for us to
8 ascertain who may be a potential lessee that has not -- we
9 don't have their contact information.

10 We sent thousands of notices to all of our
11 current lessees. We also posted notifications on our
12 website. And if I may just add one more thing, we have
13 also been updating the Commission throughout the year
14 during my Executive Officer's report on the progress being
15 made on the proposed rule-making efforts.

16 CHAIRPERSON NEWSOM: Yeah, that's true.

17 ACTING COMMISSIONER FINN: And then the renewals
18 and such that have been coming forward these last few
19 meetings, haven't they been taking in consideration this
20 impact area?

21 EXECUTIVE OFFICER LUCCHESI: Yes, absolutely.
22 Like we've said before, these proposed changes to the
23 regulations don't actually change the Commission's
24 practice.

25 ACTING COMMISSIONER FINN: Right, right, right.

1 That's a good point.

2 EXECUTIVE OFFICER LUCCHESI: It's again to
3 provide clarification, certainty, transparency in staff's
4 practices in terms of recommending proposed leases to the
5 Commission.

6 CHAIRPERSON NEWSOM: Mr. Hopper.

7 MR. HOOPER: I propose that the notice given to
8 other shareholders in other -- or stakeholders in other
9 parts of the state would have resulted in far more than
10 two or three, given the proportion of California and Lake
11 Tahoe.

12 I think that was -- that speaks well of Jan
13 Brisco's opportunity to bring us all together. And quite
14 frankly, that has been my source of information and update
15 on this.

16 I'm concerned with, number one, being the -- the
17 buoy issue. My buoy is basically used for, you know, when
18 my dock is unusable we are able to use the buoy. Okay,
19 and, you know, we don't -- we don't have our -- we don't
20 have but one boat. It's typically in a lift. And so
21 we're using an application of the usage area of 10 feet
22 around our dock is, number one, a 20-foot boat -- I have
23 yet to see a boat 20 feet long that's 10 feet wide and
24 that's the application that we're looking at here.

25 The other application of 50 percent, I think that

1 if you go to Tahoe before Memorial Day and the week after
2 Labor Day, you'll see that the 50 percent rule is far less
3 than 50 percent. The boats are replaced by buoys, and
4 that's a concern I have.

5 The 70-foot boat that we heard from staff, if
6 they're -- besides the paddle boats up there, I really
7 don't know of anybody that I know that has a 70-foot or
8 even close to that. And that's the kind of concern I have
9 is to what is being applied to this formula.

10 I concur with Mr. Evans on the CPI index. You're
11 using revenue producing in an environment of value, when
12 in fact our lease does not allow us to produce revenue.
13 We can't rent out our buoy or our pier.

14 And the other point is, is the nine percent
15 appraised value, I'm concerned with that in the sense that
16 we specifically have what's commonly referred to as a
17 split lake front. In other words, the road separates our
18 home from our pier. And so the appraised value of that
19 particular call it sovereign land is certainly different
20 than that of a -- you know, of say one of the homes that
21 are, you know, more serene.

22 And finally, I think it's appropriate to
23 reference the fact that Nevada, according to my friends,
24 we're looking at a comparison of their piers of \$50 per
25 year on this same type of fee. And that's basically all I

1 had, sir.

2 CHAIRPERSON NEWSOM: Appreciate that. Thank you
3 very much.

4 Greg followed by David -- and my apologies I
5 can't read this, but I think Hansen.

6 ACTING COMMISSIONER GORDON: Jennifer, I have one
7 other question. Was any consideration given to going with
8 some kind of graduated process of getting up to full value
9 on these leases? I mean, not having looked at specific
10 numbers, we're going from very, very low, almost nothing,
11 to several thousand immediately. Was any consideration
12 given to going -- you know, kind of stepping it up over
13 the course of five years and getting to the full value at
14 the end of say a five-year period, rather than starting
15 going from \$50 a year to \$3,000 a year?

16 EXECUTIVE OFFICER LUCCHESI: We -- that's a
17 tricky subject, because the legislature was very clear and
18 didn't build that graduated step into SB 152.

19 Now, there have been situations where we have
20 worked with individual lessees if they're having financial
21 difficulties meeting the obligation of their lease.
22 However, if -- and that's in terms of number of payments
23 per year, whatever we can do from a payment situation, we
24 try and work with our lessees.

25 However, if we were to graduate up to a five-year

1 period, we would have to recapture that amount of rent
2 that we had forgiven in that number of years to make the
3 State whole at the end of the lease term. That's not only
4 to be consistent with Chapter 585, SB 152, but it's also
5 to be consistent with, and not to violate the State
6 Constitutional prohibition on the gifting of public
7 property.

8 ACTING COMMISSIONER GORDON: All right. Thank
9 you.

10 EXECUTIVE OFFICER LUCCHESI: And that's -- you
11 know, that's a good point to make that we're talking about
12 is public property. And this is not a tax or a fee, this
13 is rent being charged for the occupation, use of public
14 property.

15 MR. LIEN: My name is Gregg Lien. I'm an
16 attorney from Tahoe City where I've had my sole law
17 practice for the last 34 years. I want to thank the
18 staff, in particular Colin Connor who's been very, very
19 accessible and very, very responsive in my conversations
20 with him, as has the rest of the staff over the years.

21 I think, you know, most of us in the room have
22 had good working relationships. But it doesn't change the
23 fact that we do have differences. And much of it, I
24 think, comes from a desire to try to look for some kind of
25 a balance. And you had just mentioned working with people

1 economically. And as I've heard others say, California is
2 really a tail of two economies, where you've got Lake
3 Tahoe being that microcosm of -- well, among my friends,
4 thinking of ourselves as the middle class. We call it
5 poverty with a view these days, because the middle class
6 has been so destroyed.

7 And many people aren't Silicon Valley rich people
8 that own these lakefront lots. They've been in the family
9 for many, many years, and they're hanging on. These are
10 significant rents. And the way you have it structured
11 right now, there's pretty broad brackets around the range
12 where these rents could ultimately be imposed. Right now,
13 I think you're trying to center in on a fairly reasonable
14 area, trying to hit the sweet spot searching for that. I
15 appreciate that. But having worked in this business for
16 nearly 35 years, I can tell you it's -- you know, I heard
17 this first from somebody who worked for the AG's office,
18 you know, make sure that the writing is there. Make sure
19 it's there, because sooner or later it will catch up with
20 you. And I think that's the case here, we need to be
21 very, very careful about what we do.

22 I guarantee you, talking about ratcheting up this
23 rent, that if all of the rents were changed today up to
24 the levels even at the sweet spot you're currently
25 proposing, there would be people lined up outside this

1 door and down the hall, because the word really hasn't
2 gotten out yet.

3 So I really think we need to do a little bit more
4 work to kind of narrow down the bumpers. Again, not that
5 we're mistrustful. We enjoy working collaboratively with
6 you, but it's just prudent. And again, putting this off
7 on the legislature isn't really what happened here. The
8 Commission had a legislative agenda. I attended your
9 hearings when you talked about your legislative agenda.
10 You planned to go for rents. You went to the legislature
11 and asked them for rents, and you got rents.

12 Where they go? I'm pleased to hear that some of
13 it will come back.

14 I'll end with a final concern. I see I'm running
15 out of time. In section 2003(d)(4) and (5) you talk about
16 one of the things that you can consider in determining
17 which rent method should apply, and then reading down (4)
18 and (5), it says, "...whether the land proposed to be
19 leased has been classified as environmentally significant,
20 pursuant to Resources Code...", and so, which by the way,
21 that's still a very vague area.

22 And then number (5), "...the monetary value or
23 actual potential environmental damage anticipated from an
24 applicant's proposed use". So in other words, the money
25 that's going now back to study Lake Tahoe may determine

1 some sensitivity that may, in fact, come back and indicate
2 an even higher rent. And, of course, the big battleground
3 for the last 30 years has been, you know, if you're in
4 significant spawning habitat, is that really a problem,
5 even though the studies have again and again and again
6 said piers are a benefit not a burden, as many people have
7 said before.

8 I'll conclude with that. And again the thrust of
9 my comment is let's get a little more time to get some
10 bumpers around this, so we don't have quite such an area
11 of vagueness. Thank you very much for your time.

12 CHAIRPERSON NEWSOM: All right. I appreciate
13 that.

14 David Hansen and then Ron Stephens followed by
15 Kathleen Stephens.

16 MR. HANSEN: Good afternoon, Commissioners. I
17 appreciate the opportunity to provide my comments. I
18 apologize for my handwriting there. My name is David
19 Hansen. I'm a community association manager for six
20 community associations. They're all lakefront properties,
21 with piers are situated.

22 I attest the imposition of a fee for an impact
23 area around piers and buoys, or just piers has been
24 clarified today, at Lake Tahoe is unwarranted.

25 I've been a community association manager for 28

1 years. I represent 510 residents. Contrary to California
2 State Lands Commission staff attestations, the impact
3 areas do not intimidate or dissuade the public from
4 availing themselves of the opportunity to recreate on Lake
5 Tahoe. In fact, piers are used as safe refuge for
6 kayakers, paddle boarder, canoers and swimmers.

7 The Commissioners should be made aware that
8 activities involving temporary docking and maintenance of
9 piers are so minimal as to exert little to no impact on
10 public access.

11 A 10-minute loading and unloading rule for power
12 and sailing boats is enforced, and then only on the
13 catwalks on the end of the piers where we manage during
14 the entire boating season.

15 At Tahoe Tavern, Chambers Landing, Tavern Shores,
16 Star Harbor and Brockway Springs, that's the rule that we
17 enforce. Those recreating on the lake, include swimmers,
18 kayakers, and paddle boarders have free and unfettered
19 access to the impact areas and avail themselves the
20 opportunity to confine their activities to pier and buoy
21 field areas, which are more safe owing to the reduced
22 speed requirements placed on power vessels. Please note
23 the use season for these buoy fields is four months of the
24 year, representing impacts to the public waters for
25 approximately one-third of the calendar year.

1 The public actually benefits from the maintenance
2 and operations in place on piers and buoy fields.
3 Certified life guards and pier attendants are positioned
4 on several of the piers we manage during the entire summer
5 season and often provides sanctuary to boaters with
6 displaced -- disabled craft and render aid to swimmers,
7 kayakers, and paddle boarders who are not -- who are in
8 distress.

9 Local emergency responders use these piers as
10 staging areas in reacting to emergency events within
11 several miles of the piers and buoy fields. If the annual
12 fee imposed by the State Lands Commission on these
13 associations reaches a level too onerous to fund, the good
14 samaritan first-responder staffing would be curtailed and
15 the services would suffer from the absence of these
16 services.

17 As a full-time resident at Lake Tahoe, I believe
18 my day-to-day experience and witness to events taking
19 place along the north and west shores of the lake is
20 credible in terms of what actually takes place within the
21 defined impact areas.

22 I'm also an avid paddle boarder. Rarely does one
23 see a swimmer or paddle boarder or kayaker venture outside
24 the safe confines of the pier areas and buoy fields. The
25 suggestion or assertion that the public is discouraged

1 from entering and exiting impact areas to recreate near
2 buoy fields and piers is a complete fabrication advised
3 for the transparent attempt to impose yet another fee on
4 what are already exponentially increased fees to maintain
5 piers and buoys at Lake Tahoe.

6 And just one example. I manage Tahoe Tavern. It
7 has a very large pier. It's 950 feet long. We're
8 revising our lease agreement this year, coming year. The
9 total expense to maintain that pier and the buoy fields
10 will go from something like \$1,300 to \$50,000. The impact
11 area represents somewhere around \$8,000. And that's all
12 we're debating today, I think.

13 I appreciate the chance to provide my comments.

14 CHAIRPERSON NEWSOM: Thank you. I appreciate it.
15 Thank you.

16 (Applause.)

17 CHAIRPERSON NEWSOM: Ron. Again Ron and Kathleen
18 Stephens followed by Ross Robinson.

19 MS. STEPHENS: Well, I'm not Ron.

20 CHAIRPERSON NEWSOM: You don't look like Ron, but
21 I'm not here to judge. I've got --

22 (Laughter.)

23 MS. STEPHENS: The good husband I have is
24 allowing me to go first.

25 CHAIRPERSON NEWSOM: Fabulous.

1 MS. STEPHENS: Some of my remarks might be -- are
2 redundant, but if you'll allow, I'd just like to read my
3 statement.

4 Hi. My name is Kathleen Stephens, and I am 65
5 years old, and I want to tell you my Tahoe story.

6 Excuse me.

7 A few years before I was born, my grandmother, my
8 grandfather -- gosh, I'm sorry. I'm not used to this.

9 My grandmother, my grandfather bought a little
10 piece of property on a relatively unknown lake called
11 Tahoe. This little dream property -- I'm going to need
12 more than three minutes.

13 (Laughter.)

14 MS. STEPHENS: I didn't -- it's three minutes
15 without crying.

16 CHAIRPERSON NEWSOM: The good news is not many
17 people watch us on TV, so you should be okay.

18 MS. STEVENS: This little dream property was
19 where they camped each summer setting up their tent just
20 like the Washoe did. This tent was their summer home. No
21 running water, no electricity, no phone, or insulation,
22 just the beauty of the mountains, and the lake.

23 After several summers of camping, the year I was
24 born, they were able to build a small summer-only cabin
25 with electricity and running water, but still no phone or

1 insulation. A few years later, they built a pier. This
2 was at the time when land was cheap and it was a difficult
3 time to even get up the mountain.

4 I remember Tahoe when you couldn't see a single
5 light across the lake at nighttime. I remember when our
6 road dead-ended and was just dirt. I remember we couldn't
7 come up in the winter because there was no heat and
8 because our little dirt road was never cleared. I
9 remember when I could not see any other cabins on our
10 street. I remember seeing the high-rise casinos being
11 built at South Lake Tahoe. I remember when we pumped our
12 drinking water directly from the lake. I remember our
13 septic tank. I remember sleeping in a tent all summer
14 long because our cabin was too small to house the
15 grandchildren.

16 I remember hours of fun with no television, and
17 phone, and we still don't even have a television. I
18 remember every evening after supper meeting my
19 neighborhood friends on our dirt road to play kick the can
20 until the sunset.

21 My story is not that much different from theirs.
22 Their grandparents camped on their piece of property, then
23 built modest summer cabins, cared for their land and
24 enjoyed the lake. They and their children, our mothers
25 and our fathers, were just regular middle class Americans

1 with common jobs. Many were school teachers, because that
2 way they could spend the whole summer at the lake. Many
3 worked summer jobs around the lake to help make ends meet.

4 My grandfather was a farmer, and my father was a
5 junior high school teacher, and I'm married to a teacher.
6 Yes, I remember old Lake Tahoe. Much has changed in 65
7 years. Many of the changes are increased expenses that
8 make it difficult for the grandchildren of the original
9 owners to meet.

10 In fact, the way that fees and taxes are
11 increasing, it seems that the original homeowners and
12 middle class will be forced to leave Lake Tahoe, and only
13 the new extremely wealthy will be able to own property at
14 the lake. I have seen the beginnings of this change and I
15 hope that it can be stopped.

16 Before increasing fees on us, I ask that you
17 consider the ultimate result of fees that the common
18 homeowner cannot meet. Before increasing fees on us, I
19 ask that you consider the way in which it is done. When I
20 sent a letter expressing my concern about the pier, the
21 response that I got back was that if I didn't like it, I
22 could take out my grandfather's pier. That statement
23 hurt.

24 Before increasing fees on us, I ask that you
25 consider the reasonings that you are giving for the

1 increase. For example, it has been stated that our piers
2 are a psychological barrier to the public. Where did this
3 information come from?

4 Surely all the people enjoy floating and boating
5 under my grandfather's pier were not surveyed because if
6 they were, I am positive they would say that they were
7 under his pier because it was a cool thing to do. Why
8 else would so many people be under there?

9 Before increasing fees on us, I ask that you
10 consider all the variables associated with each individual
11 pier, like the length of the pier to reach navigable water
12 and the surrounding rocks that make only a small portion
13 of the pier usable for tethering a boat, also the long
14 cold seasons when boats are actually not on the lake.

15 This morning I could not see one single boat on
16 the lake when I looked out there. Also, the fact that we
17 cannot generate any income from our piers. Well,
18 obviously, you are aware of all these concerns, especially
19 after today, but I ask that you thoughtfully consider all
20 these factors. It just does not seem right that all piers
21 and all pier owners are considered equal. We are not.

22 So please extend the time for your decision so
23 that all of us can be heard, the new Tahoe landowners and
24 the Tahoe landowners who grew up at the lake and do not
25 have the wealth to pay such exorbitant fees.

1 Thank you.

2 CHAIRPERSON NEWSOM: Thank you very much.

3 (Applause.)

4 CHAIRPERSON NEWSOM: Ron. The first standing
5 ovation in the back.

6 And Ron, I'm getting tough. Now, I'm seriously
7 going to get tough on the red light. You don't really
8 believe me, I understand, for good reason. But I'll at
9 least mention it, when that red goes on, I'm going to
10 mention it. So that's how tough I'm getting, but there's
11 still so many speakers And I do want to be respectful.
12 You have a big commute it sounds like, a lot of you. So,
13 please.

14 MR. STEPHENS: Thank you, Commissioners. I'm Ron
15 Stephens. I'm 67 years old. Begin, my career is a
16 teacher. I went into the Army leaving my wife and
17 firstborn son at home to return back to teaching. And the
18 reason that -- and also a native Californian, a California
19 son. A long time taxpayer to the state and we love this
20 state.

21 My concern, as I face retirement right now, is
22 how I address these new proposed fees, because it is quite
23 significant in terms of a dramatic change. I was looking
24 at the original document on our pier in 1954. In those
25 days, it was \$5 for your permit fee and \$25 for the

1 10-year lease. I was also looking at what the cost of a
2 dollar was in '54 compared to 2013, and that's \$8.54.
3 This means that with a cost of living increase, if we were
4 to file a fee for a new permit today, it would be about 43
5 dollars. And if we were looking at a 10-year lease, it
6 would be about \$215 for the 10-year lease.

7 And so really what we're looking at now is
8 something is that basically a 500 percent increase just in
9 the request to file for the pier, based on those dollars.
10 And then, of course, with some of the new proposed
11 taxation, it is bordering, if we are looking at 2,800 to
12 3,000 a year, that's bordering on a 3,000 percent
13 increase.

14 For me, you know, I've worked a lot of years to
15 get to the point where we could enjoy the property to pass
16 it along to our children. And these kinds of severe costs
17 place all of us at risk, in terms of how we prepare for an
18 unexpected future, because it's almost like the rules of
19 the ball game have changed.

20 And so I certainly believe that there is a need
21 for much more public comment, and consideration to review
22 what is, in fact, reasonable. And I do understand it's
23 necessary for the State to raise appropriate money, but
24 this seems to go beyond, at least what I consider,
25 reasonable limitations.

1 I would propose a resolution-wise that we
2 continue with the current rates of leasing, which I guess
3 there has not been a lease fee before, but I would like
4 for the Commission to consider grandfathering all current
5 pier lessees right now, because this is like a change in
6 the rules of the ball game that dramatically affects our
7 future.

8 Thank you.

9 CHAIRPERSON NEWSOM: Thank you for your comments.

10 (Applause.)

11 CHAIRPERSON NEWSOM: Ross Robinson followed by
12 Greg Price.

13 MR. ROBINSON: First of all, losing Mary Hays is
14 going to be a big loss. I think the brightest thing I've
15 heard today -- Ross Robinson. I own a house 3990 North
16 Lake Boulevard on the water. I've been up there over 30
17 years. And one of the things that really gets to me is
18 this word exclusivity. And when I came to Lake Tahoe, the
19 comments were made where you would go there to spend your
20 family -- take my word, the hardware stores are closing.
21 The attorneys are leaving. The dentists can't make a
22 living. The restaurants are closing. We have people
23 building these monstrous houses. They use it two weeks of
24 the year, and they're gone.

25 So world at Tahoe is changing. So if the State

1 of California, which I don't think is that way, wants to
2 continue to see Tahoe develop that way, that's what's
3 happening.

4 The brightest thing I've heard today came out of
5 Jan Brisco's mouth, which was basically we will work with
6 each homeowner and their situation.

7 I have a little rock crib pier built in 1939. If
8 I followed this formula, of which I can't get around on
9 the left side of my pier, I can't get around on the right
10 side of my pier, so I'm -- today I'm speaking for myself
11 in some respect. There's currently eight inches of
12 waterfront in front of my pier. So as of August, I
13 couldn't even put a boat in front of my pier. So we have
14 a lot of piers that have individual situations that need
15 to be addressed. Maybe I'm a little more realistic and
16 know how broke this state is or could or could not be, and
17 we need to generate revenue, but I think we need to look
18 at this in a more practical. And I'm almost going to be
19 done.

20 I had to work with the State of California
21 because I had two easements, State of California, going
22 down my driveway. So I met with those people twice to sit
23 and workout with what they were going to do with the front
24 of my property when they decided to change the streets for
25 a drainage ditch, 18 inches in diameter that flows into

1 the Lake Tahoe.

2 I've had nobody come to my house to physically
3 look at my pier, to look at my problem as to how you're
4 going to tax me. If you follow that formula, it is not
5 going to work. It is not right.

6 So, for me today, the most important thing is
7 this is so huge of an issue when you hear the emotional
8 part, and that's really real, that we need to push this
9 meeting way beyond February. We need to get much closer
10 to really what's taking place with these piers and Lake
11 Tahoe.

12 And I think that's -- I did pretty good.

13 CHAIRPERSON NEWSOM: Well done. Well done.

14 (Applause.)

15 MR. ROBINSON: Please, think about Lake Tahoe.

16 CHAIRPERSON NEWSOM: Thank you.

17 ACTING COMMISSIONER GORDON: Jennifer, pursuant
18 to the law as written, would we have any ability, for want
19 of a better word, to bifurcate the fee structure. Say, if
20 one wanted to have one fee structure based on the size of
21 the home attached to pier and another one where you would
22 say if the home were a thousand square feet, we would do X
23 rate, if it were 500 square feet a different rate, if it
24 were 5,000 square feet, a higher rate?

25 EXECUTIVE OFFICER LUCCHESI: No. No. Let me

1 back up a little bit. The regulations to address some of
2 the comments by the last speaker, and that permeated, I
3 think, through a number of commenters, the regulations are
4 set up to address the Commission's broad mandate to manage
5 a number of acres, millions of acres of land throughout
6 the entire state for a variety of different uses.

7 The regulations are set up to give the Commission
8 the most flexibility, the most discretion from a basket
9 full of tools, depending on the particular application for
10 the use of a particular piece of property, because every
11 piece of property is unique. And so one -- even though in
12 Lake Tahoe or Huntington Harbor, you have a number of
13 similarly situated folks, they still have individual
14 unique site specific issues with their property, and the
15 Commission, through these regulations that have been --
16 excuse me -- that the Commission has been able to use for
17 a number of years, still exist today. And it's up to the
18 Commission's discretion, in terms of picking which type of
19 rental methodology to use for any particular use or piece
20 of property how to review that rent at certain terms of
21 the lease.

22 Now, in terms of utilizing the size of a
23 particular house on the upland property, our -- the
24 statute and the way land is typically managed is to base
25 rent on the land value, so that's kind of -- you exclude

1 the improvements on that upland land value. So when we're
2 talking about nine percent of the leased land, we're
3 talking about what's the value of that land underneath,
4 not necessarily the improvements on that property.

5 And so it would be -- we're not really reflecting
6 the land value if we were using the value of the home
7 improvement on the upland to determine a rental value. In
8 addition to that, one of the slides that we showed earlier
9 that was utilized a lot at previous Commission meetings
10 when talking about the Lake Tahoe benchmark, when we're
11 looking at different types of ways that's currently
12 available to the Commission, with or without these
13 regulations in terms of how you may want to assess rent
14 for these types of uses, using anything other than the
15 benchmark, aside -- you know, setting aside a flat fixed
16 rate, results in an enormous increase in the rent.

17 And so using the benchmark methodology for these
18 types of areas like Tahoe or the Delta or Huntington
19 Harbor, from a staff's perspective, and I think this was
20 confirmed by the Commission in 2012, is really a
21 reasonable way to approach assessing rent that's
22 consistent with the law, that requires a fair annual
23 rental rate to be applied based on local conditions, stays
24 consistent without completely gouging the lessee. I'm not
25 sure if I answered your question.

1 ACTING COMMISSIONER FINN: Because I don't think
2 the upland property would have a corresponding value to
3 the land that we're renting, which is in the lake, I think
4 is what you're saying. I mean, that wouldn't make --

5 EXECUTIVE OFFICER LUCCHESI: Well, I'm -- what
6 I'm saying is the size of the upland improvement, the home
7 or whatever, is upland does not have a relation to the
8 value of the land that's being leased.

9 ACTING COMMISSIONER FINN: Right. Right. So it
10 would be hard, I think, to gauge. But maybe along the
11 same lines in what -- I don't know if it was one of the
12 speakers spoke, does the Commission have any ability to
13 do or to consider an individual situation when they come
14 in for a lease renewal?

15 EXECUTIVE OFFICER LUCCHESI: It has the ability
16 to make considerations with any particular lease
17 consistent with the law, in terms of specific terms that
18 allow for some graduated rental payment that then is
19 captured at the end of the lease, that is something the
20 Commission can do. Any other discounting in the rent in a
21 fair annual rent would be inconsistent with SB 152.

22 ACTING COMMISSIONER FINN: I was just again
23 responding to somebody who said that they didn't even have
24 access to their pier could that -- would the specific --
25 could staff go out, observe that, make some --

1 EXECUTIVE OFFICER LUCCHESI: Yes.

2 ACTING COMMISSIONER FINN: That's what I was
3 trying to think --

4 EXECUTIVE OFFICER LUCCHESI: I'm sorry, yes.

5 ACTING COMMISSIONER FINN: -- some individual
6 consideration for an individual landowner's particular
7 situation.

8 EXECUTIVE OFFICER LUCCHESI: Of course, yes. I
9 wasn't completely clear on the specific impediments to
10 accessing that individual's pier from one side or the
11 other. But, for example, if there was a bolder there, you
12 know, naturally, we would not recommend that the
13 Commission authorize a lease that includes an impact area
14 around that bolder, because that's a naturally occurring
15 impediment deterrent.

16 ACTING COMMISSIONER FINN: Okay.

17 EXECUTIVE OFFICER LUCCHESI: So, of course,
18 whenever we receive a lease application, we consider the
19 individual aspects of that particular site, that
20 particular use when forming a recommendation for the
21 Commission.

22 And just to kind of add onto that, the
23 Commission, of course, acts on these lease applications in
24 a public meeting. And if the staff gets anything wrong or
25 there needs -- the applicant would like some additional

1 clarification to be provided to the Commission, of course,
2 they're always welcome to add that perspective.

3 CHAIRPERSON NEWSOM: We've got just two more
4 speakers. Greg, you've been sitting patiently. It's not
5 your first time here.

6 MR. PRICE: It isn't.

7 CHAIRPERSON NEWSOM: Welcome back.

8 MR. PRICE: Thank you. I think I take
9 responsibility because ours was one of the first leases
10 that came up after the law came about, and we met in
11 Emeryville in January of 2012. So I take personal
12 responsibility for Mary's retirement.

13 (Laughter.)

14 MR. PRICE: I'm thankful for her compassion and
15 knowledge, but we may have worn her out.

16 (Laughter.)

17 MR. PRICE: So I found this wonderful quote.
18 There are two kinds of people, those who finish what they
19 start, and so on.

20 (Laughter.)

21 MR. PRICE: So I'm here hopefully to finish what
22 I've started, and I certainly address many issues at the
23 staff and Commission have addressed. But the impact area
24 is one that just is wrong.

25 CHAIRPERSON NEWSOM: Greg, tell me this is a two

1 and a half minute slide presentation.

2 MR. PRICE: I'm not going to go over the slides
3 that have already been addressed, but there was a question
4 about the size. The impact area, in our case, accounts
5 for 250 percent of the size of our pier. So it's in
6 excess of the actual pier. This was in 2009. You can't
7 access it. In fact, even today, we can't access it. This
8 is an older photo just because of where the water is.

9 --o0o--

10 MR. PRICE: A lot of these have been discussed,
11 but this one I thought I'd put up just to give a
12 comparison. There were some numbers that have been
13 brought out comparing California and Nevada. This is my
14 understanding of what they are. I couldn't find any rent
15 calculations on the State Lands website, so that might be
16 a recommendation I can put forward, because I don't see
17 it. I can't find it at all.

18 But just I'm a native Californian and I love my
19 state, but this seems excessive compared to what's
20 happening on the other side of the lake, I mean an order
21 of magnitude excessive. So there's that.

22 The other thing is that certainly local
23 conditions, I think staff interpreted that as market
24 conditions were taken into account for the pier square
25 footage, but certainly no consideration for the diminished

1 use during three quarters of the year when you can't use
2 it.

3 So I think that should be considered as well.
4 There certainly have been a lot of discussions about
5 seasonal usage, and the 50 percent discount our for
6 seasonal usage, but that same seasonal usage doesn't apply
7 anywhere else, just to the impact area.

8 And the question that I have for Jennifer. I'm
9 not sure if State Lands manages any buildings on land, but
10 is there a precedent for charging for the impact of a
11 building or the rent for the shadow that a building
12 represents? I mean, I couldn't find any past experience
13 where that happens. I mean, do you happen to know?

14 EXECUTIVE OFFICER LUCCHESI: You know, I'm not --
15 we do lease land for -- we do lease filled land. Off the
16 top of my head I can't think of a particular lease that
17 surrounds specifically a building. We usually lease a --

18 MR. PRICE: Just the footprint.

19 EXECUTIVE OFFICER LUCCHESI: No. No. That's
20 what I'm saying. I'm not aware of a lease that just
21 leases the footprint of a single building or a number of
22 buildings. It's all a large or a significant area of
23 property that has buildings on it.

24 MR. PRICE: But the idea of having an impact that
25 the building presents, there's no precedent for that?

1 EXECUTIVE OFFICER LUCCHESI: I am not aware of
2 that being specifically called out on filled lands.

3 MR. PRICE: Okay. So I would just ask, again,
4 and I made this point two years ago, it seems that
5 commercial applications were applied to residential uses.
6 So certainly if you have a gas dock or a marina or
7 loading, there's certainly a different usage of the pier,
8 boats park there all the time, than residential. And
9 my -- would ask -- there was already a consideration that
10 the staff has made for the annual administrative fees for
11 commercial, industrial, et cetera. Perhaps, the same type
12 of logic could be applied here, and the impact area, and
13 just look at commercial use versus residential use for the
14 impact area.

15 And then also just make this simple and easy. I
16 mean, I spent quite a bit of time trying to figure out the
17 formulas and the benchmarks. I was a local expert, but
18 fortunately that has left my brain. But trying to explain
19 the impact area, it doesn't make any sense. And it
20 doesn't sound like there's precedent for it.

21 CHAIRPERSON NEWSOM: All right. Good. We'll get
22 to that. We'll incorporate all those thoughts, but first
23 I want to complete -- close out public comment. So we
24 have one additional speaker. And if you haven't filled
25 out a form, please do. It's Robert Dugen, I believe that

1 was here for Bernard Atkinson.

2 Mr. Dugen.

3 MR. DUGEN: Well done. Well pronounced from my
4 less than stellar penmanship.

5 Thank you. Lieutenant Governor Newsom,
6 Commissioners, thank you for the opportunity to be here
7 today. I'm here on behalf of my father-in-law who's a
8 lakefront owner, and has been since I've known him, since
9 I began dating his daughter some 30 plus years ago. I had
10 the good fortune of representing Lake Tahoe, and Lake
11 Tahoe interests for 15 years throughout the 80s and 90s,
12 including 10 years working for the state legislators that
13 represented Lake Tahoe.

14 I also got to work with within legislator's
15 Leslie's and Laird's offices during the whole Sierra
16 Nevada Conservancy thing. I'm certainly one that believes
17 in appropriate regulation in order to provide for the
18 whole reason you're here, right, the common benefit.
19 Unfortunately, I'm here to oppose the whole impact area
20 concept. I'm sure that there's some well-intended
21 justification, but as I learned during my legislative
22 service, sometimes that can be based on complete fallacy
23 of perspective.

24 I'll give you 30 years of perspective. Thirty
25 years ago my father-in-law purchased a home that had been

1 built around the turn of the century with pier and a boat
2 house. He rebuilt it, cashed in everything when he
3 retired and built that. And I don't know who the State
4 believes is keeping Tahoe blue, but it's those landowners.

5 They're the ones that are out there. I know,
6 because my kids have been doing it since I've had them
7 cleaning up all the garbage and all the junk that gets
8 left along the lake in the public access areas. I
9 certainly worked for the legislature when the State Lands
10 Commission was pulling fences that were run all the way
11 into the lake. I don't know -- there's a few of you here
12 that will remember that.

13 We supported that because we shouldn't be
14 restricting access in that nature. But when you look at
15 the comparison between Nevada and California, Nevada
16 doesn't provide access to the lake along the privately
17 owned areas. They just don't. I've been on the lake 30
18 years. We do. California does, and California has worked
19 hard for that public access.

20 And I know across my father-in-law's property,
21 the public is there and we clean up after them every
22 weekend we're there. I think that the whole impact area
23 concept was probably a good idea until you look at the
24 lake and who lives there and who's paying it. I concur
25 with many of the comments that were raised earlier by

1 several of the other testifiers. But your lake owners are
2 the ones that are cleaning up the lake. Your lake owners
3 are the ones that are providing for the public benefit and
4 the public access, not the state.

5 And when the state does, it does a great job. I
6 helped make a couple of those parks along north shore. We
7 helped make that happen, but the whole impact area concept
8 is a fallacy. It's going to price the middle class right
9 out of the lake, and you'll have two groups that use the
10 lake, those that impact the lake and the super rich that
11 are only there a couple of weeks a year that do everything
12 they can to prevent access to the lake. Those, like my
13 family, that ensure access to the lake -- and we meet new
14 people every weekend we're there, summer and winter.
15 Yeah, my kids go out there and build snowmen, meet kids
16 that are walking around the lake that don't have a home
17 there, have a great time. Our dogs play together,
18 which -- I don't know if there's a leash law down there,
19 but it's amazing even dogs get along at the lake.

20 This kind of regulation is going to prevent that
21 from happening. This kind of regulation on the impact
22 area is going to have a severe impact on the owners that
23 are there that are retired that are actually caring for
24 our jewel, Lake Tahoe. Thank you for the opportunity to
25 come testify today.

1 CHAIRPERSON NEWSOM: Appreciate it. Thank you.

2 (Applause.)

3 CHAIRPERSON NEWSOM: Is there anybody else here
4 that didn't fill out a card. So we'll close public
5 comment.

6 MR. COATS: I filled out a card, sir.

7 CHAIRPERSON NEWSOM: Did you -- it's for whatever
8 reason I didn't get it. So come on up, introduce yourself
9 and we'll figure out what happened.

10 Oh, we had two just general public comments on
11 this item. Was it on this item you wished to speak?

12 MR. COATS: No, it was not on this item.

13 CHAIRPERSON NEWSOM: Oh, excuse me on this item.
14 Yeah, thank you. You'll be heard from. Thanks for your
15 patience, by the way.

16 So on this item, anyone else?

17 We'll close public comment.

18 All right. Well, Jennifer, I mean, where do we
19 begin?

20 EXECUTIVE OFFICER LUCCHESI: Would you like me to
21 summarize? Try to?

22 CHAIRPERSON NEWSOM: Do your best, and then we'll
23 try to sort of -- you know, jump in everybody. I've got
24 sort of a list of questions, if you don't cover them, but
25 yeah. Be pointed in your response to some of what you've

1 heard.

2 EXECUTIVE OFFICER LUCCHESI: Well, I think that
3 what we've heard, the majority of the comments and the
4 concerns are raised around the impact area. I think that
5 the sticker shock, if you will, about the impact area
6 really flows from SB 152, and the requirement of the
7 Commission to charge rent for all recreational piers, but
8 that -- the Commission doesn't have control over that.
9 That's something the legislature has directed.

10 The impact area element of the Commission's
11 practices, although it has been part of its practices for
12 some time, it is, at this time, particularly since we are
13 proposing amendments to our regulations, if there was a
14 change to the impact area, this would be the time to do
15 it.

16 I think staff stands by the fact that the impact
17 area constitutes not only the use of the pier, but also it
18 has a deterrent effect on public access. But I think what
19 you've also heard is that there are different perspectives
20 on that. And that is somewhat subjective depending on who
21 you talk to.

22 In terms of options for the Commission moving on
23 from here, there are a number of different options. The
24 first option is to adopt staff's recommendation and
25 approve the regulations as proposed. That would mean that

1 we would move forward with the regulatory process and
2 submit all of our required information to the Office of
3 Administrative Law by February 1st.

4 Another option is that if the Commission had any
5 specific directions with regard to any of the proposed
6 amendments, and in particular with the impact area, staff
7 would -- in terms of how to address that in the
8 regulations, staff could move forward with that, develop
9 language to encompass what the Commission's direction is.

10 The process from that would be to go out for
11 another 15-day public comment period pursuant to the
12 Administrative Procedures Act. We would then need to,
13 after that public comment period ended, come back to the
14 Commission, schedule a special meeting in January for the
15 Commission to consider the new proposed regs in order to
16 give the Commission an opportunity to adopt those regs, so
17 we could submit the regulations to OAL by the February 1st
18 deadline.

19 Now, the last option, and this is the option that
20 is least favored by staff, is to wholesale deny the
21 amendments as proposed, and start the process over again.

22 Again, the --

23 (Applause.)

24 CHAIRPERSON NEWSOM: Thanks, everybody.

25 EXECUTIVE OFFICER LUCCHESI: It sounds like the

1 impact area is of prime concern to the folks that have
2 commented here. However, the motivation and the need to
3 update our regulations stems from a purpose, you know,
4 much different from the Lake Tahoe homeowners. This is a
5 recommendation by the Bureau of State Audits. We have to
6 reflect amend our regulations to reflect current law.

7 And, as you saw, the last time the Commission
8 amended its regulations was 20 years ago -- 20 plus years
9 ago. It's time to update these amendments -- you know,
10 aside from the impact area, update these to provide more
11 clarity, more transparency to the Commission's practices.

12 So those are -- generally, those are the three
13 options to the Commission. If the Commission was
14 interested in pursuing a middle ground and talk about
15 different options to the impact area, I'm ready to discuss
16 that as well.

17 And I'm happy to answer any other specific
18 questions that may have been raised by the commenters or
19 raised in your own mind based on the comments.

20 CHAIRPERSON NEWSOM: Good. Well, I've got a
21 number. Curious, just your thoughts at this stage of the
22 discussions.

23 ACTING COMMISSIONER GORDON: Here's mine. And
24 this may be a little bit rambling, though I think I have
25 expressed this to you before. Unlike most of the people

1 in the audience, I'm not a native Californian. But I
2 think as a lot of converts, I came here and I made it home
3 30 years ago.

4 And I remember when I first moved here from
5 outside New York. And one of the reasons I left New York
6 City was regular people could no longer afford to live
7 there. I moved to San Francisco, and San Francisco --

8 CHAIRPERSON NEWSOM: You got the hell out of
9 there quickly.

10 (Laughter.)

11 ACTING COMMISSIONER GORDON: Yeah. San Francisco
12 was also a city that, at that time, had a very strong
13 working class blue collar component. And as the years
14 have gone by, that -- and a lot of these people, whether
15 they were firemen or teachers or people or common laborers
16 had summer places at Lake Tahoe when I first got here and
17 that's when I first went to the lake.

18 I am much concerned, as is my boss, as the years
19 have gone by, over this bifurcation of California's
20 society into a very wealthy enclave, and met a lot of
21 people that are struggling.

22 And as I try to go through this, I'm torn,
23 because we do have this law that came from the
24 legislature. And one option -- I spent 25 years in the
25 Senate -- is we could go back to the Legislature and say

1 you didn't get this right. I'm not advocating that, but
2 if there's no way to make this thing seem equitable, that
3 is an option.

4 I'm concerned because there was a time, not all
5 that long ago, when Tahoe was a place where regular people
6 vacationed. And it is becoming another playground of the
7 very wealthy. And a lot of the folks are being priced out
8 of it.

9 And I keep -- as by my questions you can tell, I
10 keep looking for some way that folks who have been there
11 and are not very wealthy can stay. I mean, that's been
12 kind of the directions I've gotten from the Controller.

13 I'm not that concerned about somebody with a
14 million dollar home going from, you know, a \$500 lease to
15 a \$2,600 lease. I am concerned with a retired school
16 teacher facing the same increase. If the statute doesn't
17 allow us -- and I understand, one of the things we do on
18 this Commission is we have to be very belt and suspenders,
19 as an old boss of mine used to say, to make sure we aren't
20 making gifts of public funds. That's what the
21 Constitution requires, and that's what we have to watch
22 out for all the time.

23 That said, I am very concerned that the way we're
24 doing this, this sort of one size fits all, will price a
25 lot of people out. That when they get that sticker shock

1 bill, we will cause a huge hardship for people who can't
2 afford it. And I keep trying to find some way to do this
3 in a way that that's not going to happen. And I don't
4 know what that is. I don't have any answers at this point
5 in time. But the way we've done this, and it manifests
6 itself in the impact area.

7 But the bigger question is someone who's been
8 paying -- and granted, I mean I very strongly support, as
9 does my boss, this idea that, you know, people have been
10 getting a benefit from the State for a long time. We
11 haven't charged them rent. I read that. You know my
12 first job when I got on this Commission was to read that
13 BSA audit, which was incredibly critical, that we were
14 not -- we were not generating the revenue that we were
15 supposed to generate from the State's lands, and we were
16 instructed to change that.

17 And I don't know where to go with this thing. I
18 don't. I'm very torn as to what we need to do here today,
19 and I'm ready to listen to my two colleagues.

20 CHAIRPERSON NEWSOM: But I like your sentiment,
21 so that gives me some comfort. Where are you on this?

22 ACTING COMMISSIONER FINN: This is difficult.
23 All these people that are here, I've been told I am the
24 great grandchild of the -- of one of the homesteaders of
25 Lake Tahoe. My family is the longest continuous land

1 owning family in Lake Tahoe, so I have sympathy for
2 everybody here. Our land does not have a pier. So I
3 don't have the direct issue that they have, but I have
4 sympathy. And everything that the two of you have said I
5 agree with.

6 You're right, the land -- the pier owners have
7 had a benefit for many years that I don't believe they all
8 realize they have. And I'm glad that we at least bringing
9 up that issue, and realizing that they have had a benefit
10 and there is something to pay for. Notwithstanding that,
11 this impact area is a little hard to digest. I
12 understand, and I wish there was something we could do,
13 you're right, to find some middle ground to help do that.
14 And that's kind of where I was going with does each
15 individual landowner have the ability -- or, excuse me,
16 rent lessee would they have the ability to come and, for
17 lack of a better word, negotiate. I don't want to say
18 anything to the staff, but that would just be a tremendous
19 burden or will that -- is that what, in actuality, they
20 can do?

21 DEPUTY ATTORNEY GENERAL RUSCONI: I'm going to
22 inject something here. You have a great deal of
23 discretion as to how you structure these rents, whether
24 you want to have an impact area or whether you don't want
25 to have an impact area. However, for reasons I'd rather

1 go into in closed session, if Bill Gates has 1,000 square
2 foot pier, and a retiring teacher has 1,000 square foot
3 pier, they have to be treated the same.

4 ACTING COMMISSIONER FINN: Sure. That's a good
5 point.

6 CHAIRPERSON NEWSOM: So, well let me -- so a
7 couple thoughts. Just since you all gave your bio, I love
8 that. I didn't know about your connections. You know, my
9 father grew up -- you know he was up in Placer County most
10 of his life, but previous to that up in Lake Tahoe right
11 there in Truckee as an attorney, ran the hold Swensen's
12 ice cream part time there. The good old days. At least
13 from his son's perspective, that was the greatest thing in
14 the world.

15 And so I've spent most of my life up in the area.
16 So I appreciate all the sentiment. And, boy, I appreciate
17 all the concern around the Gatsby Curve that's occurring
18 in this State. And all of that's legit and real. And I
19 think we heard some compelling testimony. And by the way,
20 thank you all for taking the time to be here.

21 I'm also concerned, not because you didn't do an
22 extraordinary job and extra work reaching out, but I'm
23 always worried about the holidays. I just am. That there
24 would be a lot more people here if it weren't a Monday
25 after Thanksgiving. And there are a lot of folks that

1 don't know about this, whether you know they may have
2 received something in the mail. But, you know, it's just
3 life goes on, and they don't necessarily notice these
4 things. But now there's some focused attention, so I'm
5 concerned about that as well.

6 I like your middle option, just as a sort of
7 direction. But we've got to now clarify what that means.
8 I don't know, 10 feet? You know, if it was nine feet, it
9 has an impact. If it was seven feet, then all of a sudden
10 those costs drop. I'm not convinced of the 10. Always
11 round numbers concern me, you know not nine not eleven.

12 And, you know, there was an argument 20 feet. I
13 don't know even know a 20-foot boat that's 10 feet wide.
14 And most folks aren't up there with 30 or 4- foot boats.
15 So I think there's an area for some movement.

16 Second, you know, some people say it's three
17 months that we're up there using our piers, some said it
18 was four months. You know, I don't know what the right
19 answer is, so I look at the discount rate. Is it 50
20 percent? Fifty percent is that a six-month you're
21 assuming people are using it, half the time. Is it -- can
22 we knock it -- if we knocked it down, it has a substantial
23 impact in terms of costs et cetera.

24 The larger idea of the impact fee period, I get
25 that. I mean, you know, in some ways this would have been

1 cleaner just to include in the fundamental pier question,
2 but, you know, God Bless we didn't do that. And I
3 understand the residual issues and impacts elsewhere up
4 and down the state and the importance of updating these
5 regs.

6 I'm not -- to the extent it matters, this is just
7 one person, the safety issues are compelling generally,
8 but not in this case in terms of the impact question. The
9 piers themselves as a safety vessel and mechanism, I think
10 those are important. I just -- to the extent we continue
11 this conversation, I would emphasize in terms of
12 persuading me other aspects of this, because that, to me,
13 is an acceptable point of view. It's not, from my
14 perspective, in dispute.

15 The impact costs impacting the ability for
16 someone to maintain the pier perhaps is an extension the
17 argument one can make. But beyond that, I just caution
18 over-indulgence, at least from my perspective on that
19 argument.

20 If there's a way for you to go back and consider
21 the size of the radius of the impact area in question to
22 consider true seasonality with a discount that is more
23 appropriate to the seasons up there -- though one could
24 question this season as an extension of summer -- and
25 perhaps come back with something that considers other

1 aspects of what we heard, open this up for another 15 days
2 to get more feedback and comments, and come back with a
3 special meeting in January. I think you'll be the Chair
4 at the time, your boss. I think he'd be more than willing
5 to do that. I think that would be a good option.

6 EXECUTIVE OFFICER LUCCHESI: May I suggest -- so
7 what I'm hearing is that there are -- you have mentioned
8 two options to amend the language regarding the impact
9 area. I think there's a third one too. And I would like
10 to, if it's at all possible, leave this meeting with
11 specific direction, because that will help us be able to
12 refine language that then can go out to public comment,
13 and we can come back with very specific language that we
14 have gone through the regulatory process in January to the
15 Commission.

16 And it really comes down to a timing issue. Now,
17 if that's not something that the Commission would like to
18 do, at this point, that's fine. Just understanding that
19 we will likely not meet our February 1st deadline.

20 And that's fine.

21 CHAIRPERSON NEWSOM: And the substantive
22 consequence of that is?

23 EXECUTIVE OFFICER LUCCHESI: The subsequent
24 consequence is that we would have to start the entire
25 process all over again, so it would take another year --

1 CHAIRPERSON NEWSOM: Yeah, don't let that happen.

2 EXECUTIVE OFFICER LUCCHESI: -- to get to this
3 point. So we -- you talked about -- you suggested that
4 maybe a change in the discount percentage to the impact
5 area, the size of the impact area, maybe reducing it or
6 make it more accurate. The third option is -- and this is
7 where I thought most of the comments were focused on was
8 the deterrent effect on public access that is perceived as
9 being very subjective.

10 The other option is to assess not an impact area,
11 but a use area. So that -- those parts of the piers that
12 are clearly associated with docking and mooring of boats
13 or other water craft, and that's -- that would be a use
14 area that additional -- the lease premises would include
15 an additional rent that would be subject to some seasonal
16 discount would be applied, potentially.

17 Now, with that said, I have to mention that there
18 will be significant reduction in the rent, as many people
19 testified to. And staff is not denying that, that the
20 impact area does constitute a large portion of the rent.
21 But the ultimate consequence of that is less money will go
22 back into Lake Tahoe, because like I mentioned, according
23 to a bill all the rental revenue is to go back into
24 improving the lake.

25 ACTING COMMISSIONER GORDON: Jennifer, let me see

1 if I understand you then, so rather than -- what you've
2 just talked about, rather than a one-size-fits-all, you've
3 got a pier, we do a 10-foot impact area. We would almost
4 be doing -- or maybe -- let me remove the word "almost".
5 We would be moving this is to I have a pier, here's the
6 per square foot, then I have a boat, and I will give some
7 kind of documentary evidence over the size of the boat,
8 and we will then charge you a use area for the boat based
9 on a certain month's of year.

10 EXECUTIVE OFFICER LUCCHESI: Actually, I would
11 clarify that and it would be where there was a catwalk,
12 let's say, and we're trying to pull up the slide that
13 shows an example of an impact area. So where there's the
14 existing catwalk on that picture, we would go -- oh,
15 there's two there. Well, anyway. Where you see the
16 existing catwalk we would go out 10 feet there and bound
17 it. That would be the use area.

18 Everything else that's not associated with where
19 the catwalk is, or the catwalks are, there would not be an
20 impact area assigned to that.

21 ACTING COMMISSIONER GORDON: Would we have the
22 ability, under the law, to just charge for the use of a
23 boat, not use an impact area, but say I've got a boat that
24 is 20 square feet, we charge you an additional 20 square
25 feet?

1 EXECUTIVE OFFICER LUCCHESI: Yes, I believe the
2 Commission would have that authority. From a staff
3 perspective, that is extremely hard to enforce and verify,
4 because then they could add a second boat.

5 ACTING COMMISSIONER GORDON: Yeah, I'm just
6 trying to figure out --

7 ACTING COMMISSIONER FINN: And that's kind of
8 where I -- this use area was where I was kind of thinking
9 is it would be a more unique situation.

10 ACTING COMMISSIONER GORDON: Individual pier kind
11 of a thing.

12 ACTING COMMISSIONER FINN: Individual pier by
13 pier situation.

14 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Yeah,
15 another thing, is those areas are specifically designed
16 for the docking and mooring of boats. So if we restrict
17 it to that to where there's a catwalks, where there's boat
18 hoists, where there's cleats. I mean, they're identified
19 areas of the pier.

20 EXECUTIVE OFFICER LUCCHESI: We could verify that
21 with aerial photos.

22 CHAIRPERSON NEWSOM: I like it so much, I have --
23 it begs the question, why didn't we consider this in the
24 first place?

25 EXECUTIVE OFFICER LUCCHESI: Well, the reason is

1 because of practice. And like we -- let me back up.
2 Staff has been, and the Commission has been, going along
3 with this practice for many years, decades, of an impact
4 area. It was well vetted through a number of Commission
5 meetings back in 2012. I have been advising the
6 Commission that the time to make a wholesale kind of
7 policy change --

8 CHAIRPERSON NEWSOM: So you're blaming us.

9 (Laughter.)

10 EXECUTIVE OFFICER LUCCHESI: No, no, no, no, no.

11 CHAIRPERSON NEWSOM: I hear you Jennifer. God
12 bless you.

13 (Laughter.)

14 EXECUTIVE OFFICER LUCCHESI: I'm blaming me. I'm
15 sorry.

16 (Laughter.)

17 CHAIRPERSON NEWSOM: No, that's all right. Blame
18 us.

19 EXECUTIVE OFFICER LUCCHESI: But instead of doing
20 it on a case-by-case basis, which would, I think, increase
21 kind of vulnerability to the Commission's decisions, the
22 regulation mechanism is the best way to make these kinds
23 of changes, and we knew this was coming, this decision
24 point would be coming.

25 And this is the -- we think this is the most

1 efficient and effective way to make those changes in
2 practice.

3 ACTING COMMISSIONER FINN: And just in deference
4 to our attorneys, so that's -- I wasn't -- when I was
5 talking about uniqueness, I didn't mean two exact same
6 piers could they negotiate a rent. What I was trying to
7 get was did individual piers have the ability to -- based
8 on their conditions, individual conditions have --

9 DEPUTY ATTORNEY GENERAL RUSCONI: So long as it's
10 based on uniqueness two different piers --

11 CHAIRPERSON NEWSOM: Like Mr. Robinson's comments
12 about I can't use a third. But in his ability to come in
13 from of this Commission, most likely in a consent, to make
14 that argument avails itself. So we are able to one-off
15 address those issues, and people should be encouraged to
16 come back to this Commission. That's opened argument.
17 Not ideological. Interested in evidence, Mr. Robinson.
18 And consider those things.

19 So I think I'm hearing broad consensus. And I
20 like this idea of use not impact, coming back with a
21 discount rate that you, you know, with your
22 open-mindedness, based on what you're hearing hear and of
23 appropriateness. And to the extent those are the more
24 specific direction, other things that you've heard be -- I
25 know you want stronger bracket. But, you know, you're

1 going to go back out. You've got 15 days to do that.
2 You're going to hear more feedback, consider that, come
3 back with a special in January. We'll meet that February
4 deadline.

5 It doesn't make everyone happy, because they want
6 this to go away. I get it. But I think we've made some
7 real progress, I hope, worthy of your time.

8 (Applause.)

9 CHAIRPERSON NEWSOM: And I think we'll be in a
10 much better position hopefully. And if not, please come
11 back on that special January meeting.

12 EXECUTIVE OFFICER LUCCHESI: So if I could just
13 close the loop on this. What I would ask the Commission
14 to do is to defer voting on the Item 119, and instead
15 direct staff to develop language to address the impact
16 area concerns raised by the Commissioners and by the
17 public, specifically to limit the impact area to a use
18 area, and reassess the seasonal usage of that area,
19 develop language consistent with that, go back out to
20 public comment consistent with the Administrative
21 Procedures Act, and come back to the Commission with the
22 proposed regulations in January at a special meeting to be
23 scheduled with your offices.

24 CHAIRPERSON NEWSOM: Does that make sense?

25 ACTING COMMISSIONER GORDON: Yes.

1 ACTING COMMISSIONER FINN: Yes.

2 CHAIRPERSON NEWSOM: Fabulous. Is there a motion
3 to codify what Ms. Lucchesi just said, or do we need a
4 motion?

5 EXECUTIVE OFFICER LUCCHESI: You don't need a
6 motion. You're just going to defer voting on this item.

7 CHAIRPERSON NEWSOM: Then we will act
8 accordingly.

9 ACTING COMMISSIONER FINN: And we just direct her
10 to do what she said.

11 CHAIRPERSON NEWSOM: Yes. We demand you do what
12 you just said.

13 (Laughter.)

14 EXECUTIVE OFFICER LUCCHESI: I will meet your
15 demands.

16 CHAIRPERSON NEWSOM: This is a tough enforcement
17 Commission.

18 So with that, I believe that concludes the
19 regular agenda. And now, I will open it up to public
20 comment. There are two brave souls that have spent a good
21 couple of hours. And I believe Frank Coats is one of them
22 and James Kay that wishes to speak to the Commission on
23 items not in front of us today.

24 MR. COATS: Hello. Good afternoon. Thank you
25 for this opportunity. I'm Frank Coats. And I don't know

1 if you're familiar with this issue, but I'm the guy who is
2 writing on the bus across the new -- across the old bridge
3 on the Feather River --

4 CHAIRPERSON NEWSOM: And guys we just -- because
5 Mr. Coats is speaking, thank you so much.

6 MR. COATS: I'm the guy that called Caltrans and
7 asked to see the feasibility study on public access to the
8 Feather River that they were supposed to write when they
9 planned the new bridge across the Feather River on State
10 Route 99 in Sutter County.

11 One, two, three. Here we go.

12 Thank you for your efforts. You tried to
13 persuade Caltrans to live up to its obligations to the
14 people of the State to write this feasibility study. Back
15 in 1972, Caltrans wrote the language for Section 84.5,
16 because they didn't like the language that Assemblyman
17 Ernie LaCoste had introduced. He accepted it. Caltrans
18 knew about this law before it was written, because they
19 wrote the law. And two years later they adopted in their
20 project procedures manual a specific two-page section on
21 how to implement this law.

22 So Caltrans knew exactly what they were doing.
23 For the last 40 years, they've written not one report
24 under this law in 40 years, until we got to -- until I
25 asked to see the one they wrote for this bridge, and it

1 turned out they didn't have one.

2 I greatly appreciate that you guys basically
3 hired the Attorney General to write a series of letters to
4 Caltrans to try to persuade them that it would be a good
5 thing for them to write a feasibility study as the law
6 required. It's a feasibility on providing public access
7 to a navigable river. And Caltrans proceeded to write
8 basically a sham report in two or three versions. They
9 listed authors in the report that you could contact for
10 more information.

11 I called the biologist. She said she'd never
12 been to the site. She knew nothing about the site. She
13 didn't know about the report. She knew absolutely
14 nothing, and perhaps I should write to her supervisor.

15 They said that there were no comments in the
16 original environmental impact document about public
17 access. There was in fact a comment about public access
18 in the original document as published.

19 They said that they'd fully responded to all the
20 comments. Actually, they responded with a canned response
21 about how they reimburse people whose land is taken. They
22 said that there were no trespassing signs on the south
23 levee that's controlled by Reclamation District 1001.
24 There are no trespassing signs on the south levee.

25 They said they had no way of getting pedestrians

1 or the general public to the top of the levee from the dry
2 side on the south side. State Route 99 is one of those
3 highways that the public can walk or ride a bicycle on the
4 shoulder of. So the public can approach the levee by
5 walking up the highway, and get to the top of the levee.
6 And the only barrier to crossing over to the levee from
7 the pedestrian traveled portion of the highway is
8 Caltrans' own guardrail if they put it through, so that
9 you have to climb over it.

10 CHAIRPERSON NEWSOM: The pesky red light it son,
11 but please conclude.

12 MR. COATS: Already, wow. Okay. Well, thank you
13 very much, but please don't drop it. You wrote -- you
14 hired the Attorney General. You got him to write nice
15 letters to Caltrans. They tried to write a report. It
16 was a sham report. Don't drop it. Make sure this gets
17 done and make sure it gets done statewide. This is a law
18 Caltrans wrote but has ignored for 40 years. Please make
19 sure they comply with it.

20 Thank you.

21 CHAIRPERSON NEWSOM: I appreciate it. Thank you.
22 Jennifer, you'll note that.

23 EXECUTIVE OFFICER LUCCHESI: Yes. Yes. We've
24 been working with Mr. Coats for a number of years on this
25 issue. We are -- and we've been trying to work with

1 Caltrans in conjunction with the California Department of
2 Fish and Wildlife at this particular site. There are some
3 unique aspects of this site that really make public access
4 really doable here without a lot of money, because the
5 State not only owns the waterway but Fish and Wildlife
6 owns a significant portion of the upland.

7 However, you know, we haven't been successful in
8 making inroads with Caltrans on this issue. However, we
9 are more keenly aware of this particular law in the
10 Streets and Highways Code 84.5. And when we review
11 environmental documents or become aware of other projects
12 that would trigger that section, we are notifying Caltrans
13 as early in the process as possible, so that they can do a
14 meaningful public feasibility -- or public access
15 feasibility study.

16 I do have to just highlight the fact that the
17 Commission just directed staff to develop a public access
18 guideline document that would highlight this issue, and
19 make the -- and educate the public, other agencies,
20 educate them on the public's right to access these
21 waterways and the various laws that embody that policy.
22 And so hopefully, through that document that we will bring
23 back for approval by the Commission, and any associated
24 kind of public types of brochures or something that make
25 it a little bit more readable and less legal, we can make

1 some inroads on educating not only the public, but other
2 State agencies on their obligations to serve the public's
3 interest.

4 CHAIRPERSON NEWSOM: Well done. Thank you.

5 Patience. Thank you.

6 Grab that mic so we can hear you. It's one of
7 those directional mics

8 MR. KAY: Is that better?

9 CHAIRPERSON NEWSOM: Fabulous. Thank you.

10 MR. KAY: Good afternoon, ladies and gentlemen.

11 My name is Jim Kay. I was born in California. I was
12 raised in Antioch on the San Joaquin River. I'm here
13 representing Little Beaver Land Company, Incorporated and
14 the two stockholders, myself and my sister, and our
15 families.

16 I'm here today because the State Lands Commission
17 has determined that the 62 acres that the State sold in
18 1873 was mistakenly sold. The sale was unauthorized, and
19 is void. And Little Beaver Land Company, Incorporated is
20 not entitled to either title or compensation for the land.

21 I totally disagree with the State's position. It
22 is fundamentally wrong and unjust. If the State
23 employees, the Surveyor General, the Register of State
24 Land Office, the Secretary of State, the Governor, and I
25 assume the Attorney General, acted in a manner that they

1 were not authorized to act, made a mistake, and the
2 original sale is invalid and void, then I believe that the
3 State has a responsibility to correct their mistake.

4 I think most people would agree that it is wrong,
5 unfair, immoral, and unjust to sell property to collect
6 taxes for 140 years, allow people to invest their time,
7 energy, money, and hope in the property, and then take the
8 property back without just compensation.

9 My grandparents, my parents, my sister, and I
10 have done nothing wrong here. And we have a right to
11 expect the State to do the right thing. If the State is
12 going to take back this property, they need to follow due
13 process, and the State needs to compensate Little Beaver
14 Land Company for the property it sold in 1873. I will
15 leave a brief history and some documents relating to this
16 property for your information and review.

17 A lot of the words that I used in here wrong,
18 unfair, immoral, unjust, unauthorized, mistake, these are
19 the State Lands Commission or the State's words, either
20 the State Lands Commission, or the courts or whatever.
21 They're not my words. I'm not editorializing here.

22 Anyway, I'll leave this information. My hope
23 today is to hear back from the State Lands Commission and
24 begin a meaningful dialogue to resolve the title issues or
25 compensation relating to this land.

1 CHAIRPERSON NEWSOM: Thanks.

2 MR. KAY: I'm available if anybody has any
3 questions.

4 CHAIRPERSON NEWSOM: No, I appreciate that.
5 We'll take a look at that. And, Jennifer, I don't know if
6 you're aware of this, but regardless, if you would follow
7 up on that request.

8 EXECUTIVE OFFICER LUCCHESI: Yes, of course. Of
9 course, we will. It's my understanding that we, along
10 with the Attorney General's office back in 2005, engaged
11 with Mr. Kay and his attorney, Mr. Brisco, over a number
12 of months if not years on this. And it's my understanding
13 that we wrote a pretty comprehensive letter explaining why
14 we couldn't engage in a land exchange or title settlement
15 agreement because of the fact that we believed, based on
16 examining the history and his title, that he -- that his
17 company actually did not have title. We -- now, I'm just
18 reflecting on what has gone on in the past.

19 We will take another look at what he has provided
20 us, along with the efforts that our staff and the Attorney
21 General's office went into back in 2005 to come up with
22 that determination and follow up with Mr. Kay.

23 MR. KAY: Thank you. Yeah, those discussions
24 lasted about seven years, okay. It was months or -- it
25 was seven years. Well, anyway.

1 CHAIRPERSON NEWSOM: No, I appreciate it.

2 MR. KAY: Take a look at it.

3 CHAIRPERSON NEWSOM: Thank you. We will.
4 Appreciate it. Thanks for your patience.

5 Anyone else wish to speak on any items that
6 weren't in front of the Commission?

7 Seeing none. We'll close public comment.

8 And that, I believe, concludes today's meeting,
9 subject to one final closed session discussion. Shall we
10 move into closed session?

11 EXECUTIVE OFFICER LUCCHESI: Yes.

12 CHAIRPERSON NEWSOM: We will then ask everyone to
13 give us the space to spend time amongst ourselves.

14 (Off record: 4:52 PM)

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

17 (On record: 5:05 PM)

18 CHAIRPERSON NEWSOM: So the Commission has just
19 met in closed session. Ms. Lucchesi, any further action
20 for the Commission?

21 EXECUTIVE OFFICER LUCCHESI: No.

22 CHAIRPERSON NEWSOM: Seeing none. We will
23 conclude the last calendared State Lands Commission
24 meeting of 2013.

25 Thank you very much.

1 EXECUTIVE OFFICER LUCCHESI: Thank you.
2 (Thereupon the California State Lands
3 Commission meeting adjourned at 5:05 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 13th day of December, 2013.

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