

MEETING  
STATE OF CALIFORNIA  
LANDS COMMISSION

PORT COMMISSION HEARING ROOM  
FERRY BUILDING  
ONE FERRY BUILDING  
SAN FRANCISCO, CALIFORNIA

FRIDAY, AUGUST 15, 2014  
1:07 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. John Chiang, State Controller, Chairperson,  
represented by Mr. Alan Gordon

Mr. Gavin Newsom, Lieutenant Governor, also represented by  
Mr. Kevin Schmidt

Mr. Michael Cohen, Director of Finance, represented by Ms.  
Eraina Ortega

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

Ms. Nicole Dobroski, Environmental Program Manager, Marine  
Facilities Division

ATTORNEY GENERAL:

Mr. Joe Rusconi, Deputy Attorney General

ALSO PRESENT:

Mr. Tsvi Achler

Mr. John Berge, Pacific Merchant Shipping Association

Ms. Eileen Boken

Mr. Lee Callister, Redwood Creek Association

Mr. Emilio Diaz

Mr. Rick Drain

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ALSO PRESENT:

Mr. Bill Ekern, City of Redwood City

Mr. Jon Golinger, No Wall on the Waterfront

Mr. Frank Holmes, Western States Petroleum Association

Mr. James Jonas

Mr. Greg Price

Ms. Diana Reddy, Affordable Housing Advocate

Mr. Lee Robbins

Ms. Tania Solé

Mr. Marian Wallace

Mr. Michael Warburton, Public Trust Alliance

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| I OPEN SESSION  | 1    |
| II CONFIRMATION OF MINUTES FOR THE REGULAR MEETING OF JUNE 19, 2014   | 1    |
| III EXECUTIVE OFFICER'S REPORT  | 2    |
| Continuation of Rent Actions to be taken by the CSLC Executive Officer pursuant to the Commission's Delegation of Authority:  |      |
| - Snug Harbor Resorts, a California Limited Liability Company. (Lessee): Continuation of minimum annual rent at \$3,450 per year for a General Lease - Commercial Use, located on sovereign land in Steamboat Slough, near Ryer Island, Solano County (PRC 6109.1). |      |
| IV CONSENT CALENDAR C01-C73   | 5    |
| 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 MERCER-FRASER COMPANY (LESSEE): Consider an amendment to Lease No. PRC 7760.1, a General Lease - Right-of-Way Use, of sovereign land located in the Eel River, adjacent to Assessor's Parcel Number 200-341-005, near the city of Fortuna, Humboldt County; to extend the lease expiration date. CEQA Consideration: not a project. (PRC 7760.1; RA# 00614) (A 2; S 2) (Staff: G. Asimakopoulos)

C02 W.L. SIMMONS, JR., TRUSTEE OF THE W.L. SIMMONS, JR. LIVING TRUST DATED DECEMBER 18, 2013 (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 5450 West Lake Boulevard, near Homewood, Placer County; for an existing pier, boat lift, and two mooring buoys. CEQA Consideration: categorical exemption. (PRC 3709.1; RA# 07913) (A 1; S 1) (Staff: G. Asimakopoulos)

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C03 EUREKA READY MIX CONCRETE CO., INC. (LESSEE): Consider an amendment to Lease No. PRC 7988.1, a General Lease - Right-of-Way Use, of sovereign land located in the Eel River, adjacent to Assessor's Parcel Numbers 106-221-001, 201-221-009, and 201-261-005, near the city of Fortuna, Humboldt County; to extend the Lease expiration date. CEQA Consideration: not a project. (PRC 7988.1;RA 20013) (A 2; S 2) (Staff: G. Asimakopoulos)

C04 LEE A. STEARN (APPLICANT): Consider application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in the Sacramento River, adjacent to 2611 Garden Highway, near the city of Sacramento, Sacramento County; for an existing uncovered floating boat dock, steel gangway, stairway, and bank protection not previously authorized by the Commission. CEQA Consideration: categorical exemption. (W 26770; RA# 25813) (A 7; S 6) (Staff: V. Caldwell)

C05 IDA PEARL WEBER AND JIM DARRELL WEBER (LESSEES); WEBER FAMILY REVOCABLE TRUST, DBA DUCK ISLAND RV PARK & FISHING RESORT (APPLICANTS): Consider termination of Lease No. PRC 7968.1, a General Lease - Commercial and Protective Structure Use, and an application for a General Lease - Commercial and Protective Structure Use, of filled and unfilled sovereign land located in the Sacramento River, adjacent to 16814 State Highway 160, near the city of Rio Vista, Sacramento County; for six fishing platforms, two concrete pads, a portion of a covered patio and deck, bank protection, and fill used in conjunction with a commercial recreational vehicle park. CEQA Consideration: termination - not a project; lease - categorical exemption. (PRC 7968.1; RA# 26713)(A 11; S 3) (Staff: V. Caldwell)

C06 PAUL B. TIETJEN AND LANA T. TIETJEN, TRUSTEES OF THE PAUL B. TIETJEN AND LANA T. TIETJEN DECLARATION OF TRUST DATED AUGUST 6, 2002 AND HOWARD A. COOPER (LESSEES): Consider an amendment of lease and revision of rent to Lease No. PRC 4674.1, a General Lease - Recreational Use, of sovereign land located in Corte Madera Creek, adjacent to 555 and 575 Larkspur Plaza Drive, city of Larkspur, Marin County; for an existing

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C06(CONTINUED) joint-use uncovered floating boat dock, ramp, pier, two concrete deadmen, two anchor cables, and boat lift. CEQA Consideration: not projects. (PRC 4674.1) (A 10; S 2) (Staff: R. Collins)

C07 HELIO A. FIALHO AND THERESE S. FIALHO, TRUSTEES OF THE FIALHO FAMILY TRUST; AND BRIAN J. METTLER (LESSEES): Consider an amendment to Lease No. PRC 5561.1, a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 1600 and 1620 North Lake Boulevard, Tahoe City, Placer County, for an existing joint-use pier, boat lift, and four mooring buoys. CEQA Consideration: not a project. (PRC 5561.1; RA# 26013) (A 1; S 1) (Staff: M.J. Columbus)

C08 RIDGEWOOD PROPERTY OWNERS ASSOCIATION (LESSEE): Consider an amendment of lease and revision of rent to Lease No. PRC 4967.1, a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 4520 North Lake Boulevard, near Carnelian Bay, Placer County; for an existing pier, 15 mooring buoys, and one swim float. CEQA Consideration: not projects. (PRC 4967.1)(A 1; S 1) (Staff: M.J. Columbus)

C09 BODEGA FARMS (LESSEE): Consider revision of rent to Lease No. PRC 6617.1, a General Lease - Right-of-Way Use, of sovereign land located in the Pacific Ocean at Estero Americano and Bodega Bay, near Bodega Bay, Sonoma County; for one 12-inch diameter saltwater intake pipeline and one 8-inch diameter outfall pipeline. CEQA Consideration: not a project. (PRC 6617.1) (A 10; S 2) (Staff: A. Franzoia)

C10 SAUSALITO-MARIN CITY SANITARY DISTRICT (PERMITTEE): Consider termination of Lease No. PRC 6782.9, a General Permit - Public Agency Use, of former sovereign land in San Francisco Bay, adjacent to the Golden Gate National Recreation Area and near the city of Sausalito, Marin County; for a sewer treatment facility and outfall pipeline. CEQA Consideration: not a project. (PRC 6782.9) (A 10; S 2) (Staff: A. Franzoia)

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C11 CALIFORNIA DEPARTMENT OF WATER RESOURCES (APPLICANT): Consider an application for a General Lease - Public Agency Use, of sovereign land located in various waterways in Butte, Colusa, Glenn, Placer, Sacramento, Solano, Sutter, Yolo and Yuba counties; for annual repairs of up to 15 small erosion sites per year under Phase 1 of the Small Erosion Repair Program on levees within the Sacramento River Flood Control Project. CEQA Consideration: Programmatic Environmental Impact Report, certified by the California Department of Water Resources, State Clearinghouse No. 2009112088, and adoption of a Mitigation Monitoring Program and Statement of Findings. (W 26767; RA# 25213) (A&S Statewide) (Staff: W. Hall)

C12 MELODIE K. RUFER AND CHRIS J. RUFER, TRUSTEES OF THE MKG TRUST DATED OCTOBER 28, 1988 (APPLICANTS): Consider application for a General Lease - Recreational and Protective Structure Use of sovereign land located in the Sacramento River, adjacent to 4153 Garden Highway, city of Sacramento, Sacramento County; for an existing single-berth floating boat dock, six pilings, gangway, and bank protection. CEQA Consideration: categorical exemption.(PRC 6037.1; RA# 25313) (A 7; S 6) (Staff: W. Hall)

C13 U.S. DEPARTMENT OF INTERIOR BUREAU OF LAND MANAGEMENT (LESSEE): Consider amendment of Lease No. PRC 8041.9, a General Lease - Public Agency Use, of sovereign land located along Lost Slough in the Cosumnes River Preserve, in the city of Galt, Sacramento County; to replace the land description. CEQA Consideration: categorical exemption. (PRC 8041.9) (A 9; S 3) (Staff: W. Hall)

C14 WILLIAM MCINERNEY (APPLICANT): Consider rescission of approval of Lease No. PRC 5925.1, a General Lease - Recreational and Residential Use, of sovereign land located in Mare Island Strait, adjacent to 39 Sandy Beach Road, near the city of Vallejo, Solano County. CEQA Consideration: not a project. (PRC 5925.1;RA# 10304) (A 14; S 3) (Staff: N. Lavoie)

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C15 BETTY VRANESH, TRUSTEE OF THE BETTY VRANESH REVOCABLE TRUST, DATED NOVEMBER 14, 2002 (APPLICANT): Consider termination of Lease No. PRC 6185.9, a General Lease - Protective Structure Use, and an application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in the Sacramento River, adjacent to 2221 Garden Highway, near the city of Sacramento, Sacramento County; for bank protection previously authorized by the Commission; and an existing uncovered floating boat dock, ramp, piling, and steel cable, not previously authorized by the Commission. CEQA Consideration: termination - not a project; lease - categorical exemption. (PRC 6185.1; RA# 27213) (A 7; S 6) (Staff: N. Lavoie)

C16 SACRAMENTO YACHT CLUB (LESSEE): Consider revision of rent to Lease No. PRC 5512.1, a General Lease - Recreational Use, of sovereign land located in the Sacramento River, adjacent to 3365 South River Road, near the city of West Sacramento, Yolo County; for a private yacht club. CEQA Consideration: not a project. (PRC 5512.1) (A 7; S 6) (Staff: D. Oetzel)

C17 DAVID A. BROWN, TRUSTEE OF THE LOWELL W. BROOK 2007 RESIDENCE TRUST; DAVID A. BROWN, TRUSTEE OF THE DAVID A. BROWN 2007 RESIDENCE TRUST F/B/O KAREN L. BROWN; DAVID A. BROWN, TRUSTEE OF THE DAVID A. BROWN 2007 RESIDENCE TRUST F/B/O KRISTEN A. BROWN; AND DAVID A. BROWN, TRUSTEE OF THE DAVID A. BROWN 2007 RESIDENCE TRUST F/B/O TARA L. BROWN (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe adjacent to 8317 Meeks Bay Avenue, near Tahoma, El Dorado County; for one existing mooring buoy. CEQA Consideration: categorical exemption. (PRC 8522.1; RA# 20413) (A 5; S 1) (Staff: J. Sampson)

C18 JACK DURELL KELP AND CANDICE DEAK KELP, AS CO-TRUSTEES AND ANY SUCCESSOR TRUSTEES OF THE KELP FAMILY 2011 AB REVOCABLE TRUST, CREATED APRIL 14, 2011 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in the Georgiana Slough, adjacent to 431 West Willow Tree Lane, near the city of Isleton, Sacramento County; for an existing floating boat dock, walkway, gangway, two



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C18(CONTINUED) pilings, and one unattached piling. C  
CEQA Consideration: categorical exemption. (PRC  
6684.1;RA# 19513) (A 11, S 3) (Staff: J. Sampson)

C19 LAURIE ANN DAVIS (APPLICANT): Consider  
application for a General Lease - Recreational and  
Protective Structure Use, of sovereign land located in  
the Sacramento River, adjacent to 411 Second Street,  
city of Isleton, Sacramento County; for an existing  
floating boat dock, gangway, five two-pile dolphins,  
and landing previously authorized by the Commission;  
and an existing patio, bulkhead, walkway, deck,  
parking lot fill, and bank protection not previously  
authorized by the Commission. CEQA Consideration:  
categorical exemption. (PRC 4527.1;RA# 11710)  
(A 11; S 3) (Staff: J. Sampson)

C20 BRIAN A. FAHEY AND LAUREN KONDO (APPLICANTS):  
Consider application for a General Lease -  
Recreational Use, of sovereign land located in the  
Sacramento River, adjacent to 10461 Garden Highway,  
near the city of Sacramento, Sutter County; for an  
existing single-berth floating boat dock, one piling,  
one two-pile dolphin, and gangway. CEQA Consideration:  
categorical exemption. (PRC 7736.1; RA# 23713)  
(A 3; S 4) (Staff: J. Sampson)

C21 DAN S. SMITH, TRUSTEE OF THE DAN S. AND CARLA  
DILLARD SMITH LIVING TRUST (APPLICANT): Consider  
application for a General Lease - Recreational Use, of  
sovereign land located in Steamboat Slough, adjacent  
to 3146 Snug Harbor Drive, near Walnut Grove, Solano  
County; an existing floating boat dock, four pilings,  
gangway, and walkway previously authorized by the  
Commission, and an existing single-berth floating boat  
dock addition not previously authorized by the  
Commission. CEQA Consideration: categorical exemption.  
(PRC 7146.1; RA# 16113) (A 11; S 3)  
(Staff: J. Sampson)

C22 LINO CATABRAN AND LINDA CATABRAN (APPLICANTS):  
Consider application for a General Lease -  
Recreational and Protective Structure Use, of  
sovereign land located in the Sacramento River,  
adjacent to 5291 Garden Highway, city of Sacramento,  
Sacramento County; for an existing covered

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C22(CONTINUED) single-berth floating boat dock, one gangway, three wood pilings, one two-pile dolphin, and bank protection previously authorized by the Commission, and an existing gangway and two boat lifts not previously authorized by the Commission. CEQA Consideration: categorical exemption. (PRC 6437.1; RA# 29712) (A 7; S 6) (Staff: J. Sampson)

C23 JOHN P. KATIC AND R. MICHELE KATIC (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in the Sacramento River, adjacent to 7715 Garden Highway, near the city of Sacramento, Sacramento County; for an existing floating boat dock, two pilings, and gangway. CEQA Consideration: categorical exemption. (PRC 8582.1; RA# 25913) (A 7; S 6)(Staff: J. Sampson)

C24 ROBERTA HOLM (LESSEE): Consider termination of Lease No. PRC 6119, a General Lease - Recreational and Protective Structure Use, and application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in the Sacramento River, adjacent to 10205 Garden Highway, near the city of Sacramento, Sutter County; for an existing floating boat dock, one two-pile dolphin, two pilings, gangway, and bank protection. CEQA Consideration: termination - not a project; lease - categorical exemption. (PRC 6119.1; RA# 22313) (A 3; S 4)(Staff: J. Sampson)

C25 DECKER ISLAND, LLC (APPLICANT): Consider application for a General Lease - Right-of-Way Use, of sovereign land located in Horseshoe Bend, city of Rio Vista, Sacramento County; for the construction of a new bucket-trenched 3-inch diameter shielded power cable. CEQA Consideration: Mitigated Negative Declaration, adopted by the Reclamation District #341, State Clearinghouse No. 2014032039, and adoption of a Mitigation and Monitoring Program. (W 26780; RA# 00514)(A 11; S 3) (Staff: J. Sampson)

C26 THE MARCHINI FAMILY PARTNERSHIP, A CALIFORNIA LIMITED PARTNERSHIP (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 5618 North Lake Boulevard, near Carnelian Bay, Placer County; for an existing pier, boathouse, sundeck with stairs, and

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C26(CONTINUED) two mooring buoys previously authorized by the Commission; and an existing boat lift and a gantry with a boat hoist not previously authorized by the Commission. CEQA Consideration: categorical exemption.(PRC 4956.1; RA# 17413) (A 1; S 1) (Staff: M. Schroeder)

C27 LINDA N. DAVIS, SCOTT E. BOHANNON, ROBERT WEBSTER, ALIDA C. LATHAM, AND ALVIN T. LEVITT, TRUSTEES OF THE DAVID D. BOHANNON AND OPHELIA E. BOHANNON 1988 IRREVOCABLE TRUST FOR ISSUE DATED OCTOBER 22, 1988 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 3655 Idlewild Way, near Tahoe Pines, Placer County; for an existing pier previously authorized by the Commission, and two existing mooring buoys not previously authorized by the Commission. CEQA Consideration: categorical exemption. (PRC 4311.1;RA# 25013) (A 1; S 1) (Staff: M. Schroeder)

C28 PATRICK W. HIGGINS AND LEAH E.C. HIGGINS; AND MCKINNEY SHORES, LLC (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 6160 and 6190 West Lake Boulevard, near Tahoma, Placer County; for an existing joint-use pier, boat lift, and two mooring buoys. CEQA Consideration: categorical exemption. (PRC 4924.1;RA# 18713) (A 1; S 1) (Staff: M. Schroeder)

C29 ALVINA PATTERSON, AS TRUSTEE OF THE ALVINA PATTERSON FAMILY TRUST DATED FEBRUARY 10, 1990 (LESSEE): Consider annual payment plan and waiver of penalty and interest on Lease No. PRC 5675.1, a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 7276 North Lake Boulevard, near Tahoe Vista, Placer County; for two existing mooring buoys. CEQA Consideration: not projects. (PRC 5675.1) (A 1; S 1) (Staff: M. Schroeder)

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C30 CASCADE MUTUAL WATER COMPANY, A CALIFORNIA NONPROFIT MUTUAL BENEFIT CORPORATION (LESSEE): Consider an amendment of lease and revision of rent to Lease No. PRC 5899.1, a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 2117 Cascade Road, near Emerald Bay, El Dorado County; for an existing pier. CEQA Consideration: not projects. (PRC 5899.1) (A 5; S 1) (Staff: M. Schroeder)

C31 BRADLEY A. GILL AND NANCY J. GILL, AS TRUSTEES OF THE BRADLEY A. GILL AND NANCY J. GILL REVOCABLE TRUST OF 2002 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Donner Lake, adjacent to 14170 South Shore Drive, near the town of Truckee, Nevada County; for an existing pier. CEQA Consideration: categorical exemption. (PRC 8568.1; RA# 17913) (A 1; S 1) (Staff: M. Schroeder)

C32 WILLIAM A. COGLIZER AND MICHELLE C. COGLIZER, TRUSTEES OF THE WILLIAM A. COGLIZER AND MICHELLE C. COGLIZER REVOCABLE LIVING TRUST DATED JUNE 13, 1995 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 8811 Winston Way, near Meeks Bay, El Dorado County; for two existing mooring buoys. CEQA Consideration: categorical exemption. (PRC 8558.1; RA# 17513) (A 5; S 1) (Staff: M. Schroeder)

C33 BERNARD A. NEWCOMB, TRUSTEE OF THE BERNARD A. NEWCOMB LIVING TRUST DATED JANUARY 29, 1997 (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Donner Lake, adjacent to 14946 South Shore Drive, near the town of Truckee, Nevada County; for an existing pier. CEQA Consideration: categorical exemption. (PRC 7807.1; RA# 22613) (A 1; S 1) (Staff: M. Schroeder)

C34 JERRY D. HICKS AND KATHY HICKS, AKA KATHLEEN SCHNEIDER (LESSEES): Consider correction to lessee name in prior authorization and waiver of penalty and interest on Lease No. PRC 4593.1, a General Lease - Recreational and Protective Structure Use, of sovereign land located in the Sacramento River,

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C34(CONTINUED) adjacent to 1851 Garden Highway, near the city of Sacramento, Sacramento County; for the continued use and maintenance of an existing uncovered floating boat dock, one piling, a three-pile dolphin, gangway, bank protection, and horizontal pile brace. CEQA Consideration: not projects. (PRC 4593.1) (A 7; S 6) (Staff: M. Schroeder)

C35 CHARLES H. DANA, JR. AND SIRANOUCHE APELIAN, AS TRUSTEES OF THE CHUCK AND SIRA LIVING TRUST, DATED JUNE 27, 2008 (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in Tomales Bay, Inverness, Marin County; for an existing pier. CEQA Consideration: categorical exemption. (PRC 8483.1; RA# 21213) (A 10; S 2) (Staff: D. Simpkin)

C36 LAKEHOUSE MALL PROPERTY MANAGEMENT, INC. (APPLICANT/SUBLESSOR); TAHOE WATER ADVENTURES (SUBLESSEE): Consider application for a General Lease - Commercial Use and approval of a sublease of sovereign land located in Lake Tahoe, adjacent to 120 Grove Street, Tahoe City, Placer County; for an existing commercial pier with an Americans with Disabilities Act lift and eight mooring buoys previously authorized by the Commission, and two seasonal string lines not previously authorized by the Commission. CEQA Consideration: approval of sublease - not a project; lease ;V categorical exemption. (PRC 5354.1; RA# 09612) (A 1; S 1) (Staff: B. Terry)

C37 BIG WATER VIEW, LLC, A NEVADA LIMITED LIABILITY COMPANY (APPLICANT/SUBLESSOR); TAHOE VISTA INN AND MARINA, LLC (SUBLESSEE); CAPTAIN JON'S LLC (SUBLESSEE): Consider application for a General Lease - Commercial Use and approval of two subleases of sovereign land located in Lake Tahoe, adjacent to 7220 North Lake Boulevard and Assessor's Parcel Number 117-110-069, Tahoe Vista, Placer County; for an existing commercial bulkhead pier, boat ramp, 12 seasonal berthing slips, 18 mooring buoys, 12 seasonal mooring buoys, two marker buoys, and bar/lounge facility previously authorized by the Commission and maintenance dredging not previously authorized by the Commission. CEQA Consideration: lease - categorical exemption; approval of subleases - not a project;

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C37(CONTINUED) dredging - categorical exemption.  
(PRC 5739.1; RA# 15410) (A 1; S 1) (Staff: B. Terry)

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CENTRAL REGION

C38 PELORIA PARADISE POINT, LLC, DBA PARADISE POINT MARINA (APPLICANT): Consider application for a General Lease - Commercial Use, of sovereign land located in Disappointment Slough on Bishop Tract, adjacent to 8095 Rio Blanco Road, near the city of Stockton, San Joaquin County; for an existing commercial marina known as Paradise Point Marina, consisting of two boat docks improved with 12 covered berths, 39 uncovered berths, 300 lineal feet of side ties, a 250-foot accommodation dock, walkways, boat hoist, and bulkhead. CEQA Consideration: categorical exemption. (PRC 7123.1; RA# 21613) (A 13; S 5) (Staff: G. Asimakopoulos)

C39 TIME WARNER TELECOM OF CALIFORNIA, L.P. (LESSEE): Consider revision of rent to Lease No. PRC 8044.1, a General Lease - Right-of-Way Use, of sovereign land located in the Stanislaus River, Mokelumne River, and Cosumnes River, near the cities of Riverbank and Lodi, and the town of Wilton, Stanislaus County, San Joaquin County, and Sacramento County; for a steel casing containing six two-inch diameter high density polyethylene conduit ducts with fiber-optic cable within one of the six ducts. CEQA Consideration: not a project. (PRC 8044.1) (A 8, 12; S 5, 8) (Staff: V. Caldwell)

C40 PORT OF STOCKTON (LESSEE): Consider an amendment to Lease No. PRC 9043.9, a General Lease - Public Agency Use, of sovereign land located in the San Joaquin River, near Rough and Ready Island, adjacent to Assessor's Parcel Numbers 145-020-09 and 162-030-01, near the city of Stockton, San Joaquin County; to include a revised land description. CEQA Consideration: not a project. (PRC 9043.9; RA# 15811) (A 13; S 5) (Staff: V. Caldwell)

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C41 PACIFIC GAS AND ELECTRIC COMPANY (LESSEE):  
Consider revision of rent to Lease Nos. PRC 5438.1A,  
PRC 5438.1B, PRC 5438.1C, PRC 5438.1D, PRC 5438.1E,  
and PRC 5438.1F, General Leases - Rights-of-Way Use,  
of sovereign land located in various waterways,  
various counties, for the continued use and  
maintenance of existing transportation, distribution,  
and gathering pipelines to transport natural gas. CEQA  
Consideration: not a project. (PRC 5438.1A,  
PRC 5438.1B, PRC 5438.1C, PRC 5438.1D, PRC 5438.1E,  
PRC 5438.1F;RA# 28811) (A & S: Statewide)  
(Staff: D. Jones)

C42 STEPHEN MURRAY DART, TRUSTEE, ET AL. (LESSEE):  
Consider revision of rent to Lease No. PRC 7344.1, a  
General Lease - Protective Structure Use, of sovereign  
land located in the Pacific Ocean, near Pebble Beach  
and Cypress Point, Monterey County; for the continued  
use and maintenance of two concrete-grouted  
rock-revetment shoreline protective structures. CEQA  
Consideration: not a project. (PRC 7344.1)  
(A 29; S 17) (Staff: D. Oetzel)

C43 CALIFORNIA STATE LANDS COMMISSION (PARTY):  
Consider authorizing staff to file a Record of Survey  
for the Reach 4A San Joaquin River Administrative Map.  
CEQA Consideration: not a project. (W 26377) (A 5, 21,  
31; S 12, 14, 16)(Staff: J. Porter)

C44 GWF POWER SYSTEMS, L.P. (LESSEE): Consider  
adoption of a Mitigated Negative Declaration, State  
Clearinghouse No. 2014062059, adoption of a Mitigation  
and Monitoring Program, and approval of an amendment  
to Lease No. PRC 7230.1, a General Lease -  
Right-of-Way Use, of sovereign land located in Suisun  
Bay, unincorporated Bay Point, Contra Costa County; to  
allow for the removal of a wastewater outfall pipeline  
and diffuser; and authorize acceptance of a quitclaim  
deed for the termination of Lease No. PRC 7230.1 upon  
satisfactory completion of the pipeline removal  
project. (PRC 7230.1; RA# 22113) (A 14; S 7)  
(Staff: J. Sampson, H. Wyer)

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C45 CALIFORNIA DEPARTMENT OF PARKS AND RECREATION (APPLICANT): Consider application for a General Lease - Public Agency Use, of sovereign land located in Mono Lake below elevation 6417 feet, near Lee Vining, Mono County; for the existing Mono Lake Tufa State Reserve and floating boat dock previously authorized by the Commission; and two existing boardwalks not previously authorized by the Commission. CEQA Consideration: categorical exemption. (PRC 6537.9; RA# 23113) (A 5; S 8) (Staff: M. Schroeder)

C46 COUNTY OF SANTA CLARA (LESSEE/ASSIGNOR); CITY OF PALO ALTO (ASSIGNEE): Consider an amendment to and assignment of Lease No. PRC 4598.9, a General Lease - Public Agency Permit, of sovereign land located in the City of Palo Alto, Santa Clara County; for an existing airport. CEQA Consideration: not projects. (PRC 4598.9; RA# 13913) (A 24; S 13) (Staff: D. Simpkin)

C47 COUNTY OF SANTA CLARA (LESSEE); CITY OF PALO ALTO (LESSEE/APPLICANT): Consider acceptance of a quitclaim deed for Lease No. PRC 4598.9, a General Lease - Public Agency Permit, termination of Lease No. PRC 7826.9, a General Lease - Public Agency Use, and an application for a General Lease - Public Agency Use, of sovereign land located in the city of Palo Alto, Santa Clara County; for an existing airport, an existing storm water pump back station and 60-inch diameter steel outfall pipeline, an existing pier and boat dock, an existing Ranger cottage and marshlands and open space. CEQA Consideration: quitclaim and termination: not projects, lease: categorical exemption. (W 26771 PRC 4598.9, PRC 7826.9; RA# 13913) (A 24; S 13) (Staff: D. Simpkin)

SOUTHERN REGION

C48 WILLIAM P. SMITH AND THEODORE F. BISI (LESSEES): Consider termination of Lease No. PRC 8566.1, a General Lease - Agricultural Use, and an application for a General Lease - Agricultural Use, of approximately 445 acres of sovereign land located in the Burton Mesa Ecological Reserve, near the city of Lompoc, Santa Barbara County for dry crop farming. CEQA Consideration: termination - not a project; lease - categorical exemption. (PRC 8566.1) (A 35; S 19) (Staff: R. Collins)



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C49 EXXON MOBIL CORPORATION (LESSEE): Consider adoption of a Mitigated Negative Declaration, State Clearinghouse No. 2014051098, adoption of a Mitigation Monitoring Program, and approval of an application for an amendment to Lease No. PRC 7163.1, a General Lease - Right of Way Use, of sovereign land located in the Pacific Ocean, near the city of Goleta, Santa Barbara County; to remove and replace two faulty power cables serving oil platforms Harmony and Heritage, and to add a temporary use area to the Lease as part of Exxon Mobil's Offshore Power System Reliability - B Project, and authorization for staff acceptance of a quitclaim deed for the temporary use area upon Project completion. (PRC 7163.1; RA# 05413)(A 37; S 19) (Staff: K. Foster, C. Herzog)

C50 CABRILLO POWER I LLC (APPLICANT): Consider application for a General Lease - Beach Nourishment Use, of sovereign land located in the Pacific Ocean adjacent to Carlsbad State Beach and Agua Hedionda Lagoon, City of Carlsbad, San Diego County; for the placement of up to 500,000 cubic yards suitable dredge material per dredging cycle from Agua Hedionda Lagoon. CEQA Consideration: categorical exemption. (PRC 932.1; RA# 15913) (A 76; S 38) (Staff: K. Foster)

C51 ROGER J. BUFFINGTON AND DEBORA L. BUFFINGTON (APPLICANTS): Consider application for a General Lease - Recreational Use, of sovereign land located in the Main Channel of Huntington Harbour, adjacent to 16892 Coral Cay Lane, Huntington Beach, Orange County; for an existing boat dock, access ramp, and cantilevered deck not previously authorized by the Commission. CEQA Consideration: categorical exemption. (W 26775; RA# 28213) (A 72; S 34) (Staff: A. Franzoia)

C52 DEL REY YACHT CLUB (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Catalina Harbor, Santa Catalina Island, Los Angeles County; for an existing pier, ramp, float, and float extension. CEQA Consideration: categorical exemption. (PRC 6412.1; RA# 23313)(A 70; S 26) (Staff: A. Franzoia)

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C53 ROBERT P. MILLER (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Huntington Harbour, adjacent to 16582 Somerset Lane, Huntington Harbour, Orange County; for a boat dock, access ramp, and cantilevered deck. CEQA Consideration: categorical exemption. (PRC 3169.9; RA# 28413) (A 72; S 34) (Staff: A. Franzoia)

C54 SCOTT S. BROWN, TRUSTEE OF THE SCOTT S. BROWN TRUST (LESSEE): Consider revision of rent to Lease No. PRC 3859.1, a General Lease - Recreational Use of sovereign land located in Huntington Harbour, adjacent to 16801 Bolero Lane, Huntington Beach, Orange County; for a boat dock, access ramp, and cantilevered deck. CEQA Consideration: not a project. (PRC 3859.1) (A 72; S 34)(Staff: A. Franzoia)

C55 JAMES J. SWEARINGEN AND LEE SWEARINGEN, CO-TRUSTEES OF THE SWEARINGEN FAMILY TRUST, UNDER DECLARATION OF TRUST, DATED APRIL 15, 1996 (LESSEE): Consider revision of rent to Lease No. PRC 5936.1, a General Lease - Recreational Use, of sovereign land located in Huntington Harbour, adjacent to 16832 Coral Cay Lane, city of Huntington Beach, Orange County; for an existing boat dock, access ramp, and cantilevered deck. CEQA Consideration: not a project. (PRC 5936.1) (A 72; S 34) (Staff: D. Oetzel)

C56 THE ABALONE FARM, INC. (LESSEE): Consider revision of rent to Lease No. PRC 7326.1, a General Lease - Right-of-Way Use, of sovereign land located in the Pacific Ocean near Cayucos, San Luis Obispo County; for the use of one intake pipeline and two discharge pipelines. CEQA Consideration: not a project. (PRC 7326.1)(A 35; S 17) (Staff: D. Oetzel)

C57 ING LIONG WONG AND CHU FONG WONG, AS TRUSTEES UNDER THE WONG 1986 FAMILY TRUST (CREATED BY A DECLARATION OF TRUST DATED SEPTEMBER 18, 1986) (LESSEES): Consider revision of rent to Lease No. PRC 3254.1, a General Lease - Recreational Use, of sovereign land located in Huntington Harbour, adjacent to 16891 Bolero Lane, city of Huntington Beach, Orange County; for an existing boat dock, access ramp, and cantilevered deck. CEQA Consideration: not a project. (PRC 3254.1) (A 72; S 34) (Staff: D. Simpkin)

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C58 CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER (APPLICANT/LESSEE): Consider an amendment to Lease No. PRC 8079.9, a General Lease - Public Agency Use, for sovereign land located in the dry lake bed, Owens Lake, Inyo County; to authorize the use of tillage with Best Available Control Measure backup on approximately four square miles already under lease with existing dust control measures. CEQA Consideration: Addenda and related Environmental Impact Reports certified by the Great Basin Unified Air Pollution Control District, State Clearinghouse Nos. 2002111020 and 2007021127; Addendum and related Mitigated Negative Declaration adopted by the Los Angeles Department of Water and Power, State Clearinghouse No. 2005061068; and adoption of a Mitigation and Monitoring Program, Statement of Findings, and Statement of Overriding Considerations. (WP 8079.9; RA# 01014) (A 26; S 18) (Staff: D. Simpkin)

C59 U.S. BORAX INC. (LESSEE): Consider an amendment to Lease No. PRC 3511.1, a General Lease - Right-of-Way Use, of sovereign land located in Owens Lake, Inyo County; to realign Lake Minerals Road. CEQA Consideration: categorical exemption. (PRC 3511.1; RA# 21913) (A 26; S 18) (Staff: D. Simpkin)

SCHOOL LANDS

C60 SAN DIEGO GAS AND ELECTRIC COMPANY (LESSEE): Consider revision of rent to Lease No. PRC 4451.2, a General Lease - Right-of-Way Use, of State school land located in a portion of Section 36, Township 15 South, Range 3 East, SBM, in the Cleveland National Forest, San Diego County for an existing 69kV power line. CEQA Consideration: not a project. (PRC 4451.2) (A 71; S 36) (Staff: C. Hudson)

C61 SOUTHERN CALIFORNIA GAS COMPANY (LESSEE): Consider revision of rent to Lease No. PRC 8836.2, a General Lease - Right-of-Way Use, of State school land located on two parcels in portions of Section 16, Township 5 North, Range 15 East and Section 36, Township 3 North, Range 12 East, SBM, near Twentynine Palms, San Bernardino County; for an existing 16-inch diameter underground natural gas pipeline, two block

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C61(CONTINUED) valves, and one cathodic protection rectifier. CEQA Consideration: not a project. (PRC 8836.2) (A 33; S 18) (Staff: C. Hudson)

C62 SOUTHERN CALIFORNIA EDISON COMPANY (LESSEE): Consider revision of rent to Lease No. PRC 4465.2, a General Lease - Right-of-Way Use, of State school land located in a portion of Section 36, Township 6 South, Range 5 West, SBM, near Elsinore Peak, Riverside County; for an existing 12kV distribution line. CEQA Consideration: not a project. (PRC 4465.2) (A 67; S 31) (Staff: C. Hudson)

C63 CALIFORNIA DEPARTMENT OF TRANSPORTATION (APPLICANT): Consider authorizing, acting as trustee of the School Land Bank Fund, the sale and subsequent issuance of a patent to the State of California, Department of Transportation (Caltrans) for 0.48-acre, more or less, of indemnity school lands located along State Highway 247, east of the community of Lucerne Valley, San Bernardino County. CEQA Consideration: categorical exemption.(SA 5770; RA# 27813) (A 33; S 18) (Staff: J. Porter, J. Frey)

MINERAL RESOURCES MANAGEMENT

C64 GERALD W. BAUGHMAN (APPLICANT): Consider application for a prospecting permit for minerals other than oil, gas, geothermal resources, and sand and gravel on State school lands, Mono County. CEQA Consideration: categorical exemption. (W 40976; RA# 24113) (A 5; S 14) (Staff: V. Perez)

C65 SAN JOAQUIN AREA FLOOD CONTROL (APPLICANT): Consider application for a Non-Exclusive Geological Survey Permit on sovereign lands in the Smith Canal, San Joaquin County. CEQA Consideration: categorical exemption. (W 6005.144;RA# 28013) (A 13; S 5) (Staff: R. B. Greenwood)

C66 UNITED STATES GEOLOGICAL SURVEY (APPLICANT): Consider application for a Non-Exclusive Geophysical Survey Permit on tide and submerged lands in San Pablo Bay under the jurisdiction of the California State Lands Commission. CEQA Consideration: categorical exemption. (W 6005.145; RA # 02714)(A 10, 14, 15; S 2, 3, 9) (Staff: R. B. Greenwood)

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MARINE FACILITIES - NO ITEMS

ADMINISTRATION

C67 CALIFORNIA STATE LANDS COMMISSION (PARTY):  
Consider granting authority to Executive Officer to solicit statements of interest for consultant services, negotiate fair and reasonable price, award and execute agreements for preparation of environmental documentation and mitigation monitoring for the proposed South Ellwood Field Project by Venoco, Inc. offshore of Goleta, Santa Barbara County. CEQA Consideration: not a project. (PRC 3242.1; W 30119.2; RA# 24513; Bid Log 2014-06) (A & S: Statewide) (Staff: A. Abeleda, E. Gilles)

C68 CALIFORNIA STATE LANDS COMMISSION (PARTY):  
Consider ratifying the action of the Executive Officer's execution of an agreement with the California Polytechnic State University affiliated Cal Poly Corporation, San Luis Obispo, for review and revision of Seismic Design Provisions in "Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS)." CEQA Consideration: not a project. (Contract Number C2013-054) (A & S: Statewide) (Staff: A. Abeleda, D. Brown, A. Nafday)

C69 CALIFORNIA STATE LANDS COMMISSION (PARTY):  
Consider granting authority to the Executive Officer to solicit statements of interest for consultant services, negotiate fair and reasonable price, award and execute agreements for preparation of environmental documentation and mitigation monitoring for the proposed Chevron Long Wharf Maintenance and Efficiency Project by Chevron Products Company at Richmond, Contra Costa County. CEQA Consideration: not a project. (Bid Log 2014-07; MFD W 9777.5; W 30068.11; RA# 01814) (A & S: Statewide) (Staff: D. Brown, A. Abeleda, S. Mongano)

LEGAL

C70 CALIFORNIA STATE LANDS COMMISSION, JEFFERSON HOME RANCH PARTNERSHIP I, L.P.; JEFFERSON AND SONS, LLC; AND, CLAUDE HOOVER (PARTIES): Consider a Compromise Title Settlement and Land Exchange Agreement between the California State Lands Commission, Jefferson Home

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C70 (CONTINUED) Ranch Partnership I, L.P., Jefferson and Sons, LLC, and, Claude Hoover resolving title to certain real property located in and adjacent to the Salinas River, Monterey County. CEQA consideration: statutory exemption. (W 26781) (A 29; S 17) (Staff: K. Foster, J. Rader)

KAPILOFF LAND BANK TRUST ACTIONS - NO ITEMS

EXTERNAL AFFAIRS

GRANTED LANDS

C71 CITY OF PITTSBURG (APPLICANT): Consider approval of a record of survey depicting the location and extent of the sovereign tide and submerged lands granted to the City of Pittsburg, Contra Costa County. CEQA consideration: not a project. (G 02-03) (A 11; S 7) (Staff: R. Boggiano)

C72 CITY OF LONG BEACH (APPLICANT): Review the proposed expenditure of tideland oil revenues, in an amount not to exceed \$250,000 by the City of Long Beach for one capital improvement project located within legislatively-granted sovereign land in the City of Long Beach, Los Angeles County. CEQA consideration: not a project. (G 05-03) (A 70; S 28, 33) (Staff: R. Boggiano)

LEGISLATION AND RESOLUTIONS

C73 CALIFORNIA STATE LANDS COMMISSION: Legislative report providing information about state and federal bills that are relevant to the California State Lands Commission. CEQA Consideration: not applicable. (A & S: Statewide) (Staff: S. Pemberton, M. Moser)

V INFORMATIONAL - NO ITEMS

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VI REGULAR CALENDAR

74 THE STATE LANDS COMMISSION (PARTY): Consider approval of the Legislative Report titled "2014 Assessment of the Efficacy, Availability, and Environmental Impacts of Ballast Water Treatment Technologies for Use in California Waters." CEQA Consideration: not a project. (W 9777.234, W 9777.290) (A & S: Statewide) (Staff: J. Thompson, N. Dobroski, L. Kovary) 53

75 THE STATE LANDS COMMISSION (PARTY): Consider approval of the budget, as submitted by the successful bidder, for a study to examine the feasibility of shore-based reception and treatment facilities for the management of discharged ballast water in California. CEQA Consideration: not a project. (W 9777.234, W 9777.290, W 9777.295, C2013-13) (A & S: Statewide) (Staff: N. Dobroski, L. Kovary, D. Brown) 5

76 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 sundeck with stairs not previously authorized by the Commission. CEQA Consideration: categorical exemption. (PRC 1617.1; RA# 24810) (A 1; S 1) (Staff: M.J. Columbus) 64

77 BROAD BEACH GEOLOGIC HAZARD ABATEMENT DISTRICT (APPLICANT): Consider application for a General Lease - Beach Replenishment and Protective Structure Use of sovereign land located in the Pacific Ocean at Broad Beach, in the city of Malibu, Los Angeles County; for portions of an existing rock riprap shoreline protective structure, and for the construction of dunes and beach replenishment. CEQA Consideration:

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|--|------|
| 77(CONTINUED) statutory exemption. (W 26420; RA# 22611) (A 50; S 27)(Staff: K. Foster, S. Blackmon, S. Haaf, J. Ramos)   | 5    |
| VII PUBLIC COMMENT   | 7    |
| VIII COMMISSIONERS' COMMENTS   | 95   |
| 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:               | 95   |
| 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):   |      |
| United States v. California (1965) 381 U.S. 139, No. 5 Original  |      |
| Redwood Square Enterprises, LLC v. Standard Brands Paint Co. 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   |      |
| SLPR, LLC et al. v. San Diego Unified Port District, State Lands Commission  |      |
| San Francisco Baykeeper v. State Lands Commission  |      |



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IX CLOSED SESSION(CONTINUED)

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.

Keith Goddard v. State of California

Los Angeles County Waterworks District No.  
40 v. Diamond Farming Co.

California State Lands Commission v. City  
and County of San Francisco

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

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

1. Provide instructions to negotiators  
regarding entering into a new lease of state  
land for the Broad Beach Restoration Project,  
City of Malibu, Los Angeles County. Negotiating  
parties: Broad Beach Geologic Hazard Abatement  
District, State Lands Commission; Under  
negotiation: price and terms.

Adjournment 95

Reporter's Certificate 96

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

1  
2           ACTING CHAIRPERSON GORDON: I'll call this  
3 meeting of the State Lands Commission to order. All the  
4 representatives of the Commission are present. I'm Alan  
5 Gordon representing State Controller John Chiang. I'm  
6 joined today to my right by Lieutenant Governor Gavin  
7 Newsom, and to my left by Eraina Ortega representing the  
8 Department of Finance.

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

15           The Commission also has responsibility for the  
16 prevention of oil spills at marine oil terminals and  
17 offshore oil platforms, and prevention of the introduction  
18 of invasive species by ballast water into California  
19 marine waters. Today, we will hear requests and  
20 presentations concerning the leasing, management, and  
21 regulation of these public sovereign and school land  
22 properties, interests in the activity occurring or  
23 proposed hereon.

24           The first item of business will be the adoption  
25 of the minutes from the Controller's -- Commission's

1 meeting of June 19th, 2014. May I have a motion, please.

2 ACTING COMMISSIONER ORTEGA: So moved.

3 COMMISSIONER NEWSOM: Second.

4 ACTING CHAIRPERSON GORDON: All those in favor?

5 (Ayes.)

6 ACTING CHAIRPERSON GORDON: Minutes are  
7 unanimously adopted.

8 Next order of business is the Executive  
9 Order's(sic) report. Ms. Lucchesi.

10 EXECUTIVE OFFICER LUCCHESI: Of course. First,  
11 I'd like to -- good morning -- or good afternoon. First,  
12 I'd like to thank the Port of San Francisco Executive  
13 Director, Monique Moyer, and her staff for facilitating  
14 and allowing us the use of their hearing room for our  
15 Commission meeting. It's absolutely gorgeous, and it's  
16 very different from where we normally hold our Commission  
17 meetings. So I think we're all enjoying this immensely.

18 And it's very appropriate as well. The  
19 Commission and its staff has been intimately involved with  
20 the Port Commission with the waterfront community over the  
21 past 20 years and more in ensuring that the water front is  
22 developed and protected for the people of California.  
23 Some of the examples of those projects is this Ferry  
24 building, the Exploratorium, the Giants' ballpark, which  
25 the Commission approved in 1997. So it's very appropriate

1 and about time that we had one of our Commission meetings  
2 here. So thank you to the Port of San Francisco.

3 Next I want to talk about the recent Bureau of  
4 State Audits review. As reported earlier, the Bureau of  
5 State Audits recently conducted a follow-up review of the  
6 State Lands Commission's leasing practices. They issued  
7 their report on July 31st. The numbers in that report  
8 revealed that we have made significant progress since the  
9 initial audit in all areas of lease management and  
10 auditing. We also acknowledge the need to continuously  
11 maintain and review our processes as identified in the  
12 recent review.

13 Some of those processes, put in place as a result  
14 of the 2011 audit, have helped improve performance while  
15 others require updating to reflect experience, current  
16 staffing, and other necessary changes resulting from the  
17 conversion to the new -- our new lease management database  
18 and workflow software.

19 My management team are committed to continuous  
20 improvement and will be working to address these issues  
21 identified in the report. We are confident that our new  
22 lease management software will facilitate these  
23 improvements.

24 I also want to acknowledge that the State Lands  
25 Commission staff is hosting a public meeting concerning

1 leases for the use of State sovereign land for privately  
2 owned facilities located in Corte Madera Creek in Marin  
3 County. The purpose of the meeting is to continue  
4 Commission staff's public outreach for the use of State  
5 owned sovereign lands following in the footsteps of public  
6 meetings in Huntington Harbor, Lake Tahoe, the Colorado --  
7 along the Colorado River near Needles and now in Corte  
8 Madera Creek.

9           Staff will be providing property owners and other  
10 interested properties background and information regarding  
11 the Commission's leasing practices, and lease application  
12 process. The meeting will be held in the main hall of the  
13 Corte Madera Community Center at 498 Tamalpais Drive on  
14 August 28th from 6:30 to 7:30 p.m.

15           I also want to mention that the State of  
16 California recently released the Safeguarding California  
17 Plan for Reducing Climate Risk on July 31st, 2014. This  
18 plan provides policy guidance for State decision makers as  
19 part of the continuing efforts to prepare for climate  
20 risks. The State Lands Commission staff was heavily  
21 involved in the drafting of the ocean's chapter of that  
22 plan.

23           The Safeguarding Plan sets forth policy on hazard  
24 avoidance for new development to minimize the adverse  
25 effects of sea level rise, erosion, and storms and calls

1 for new development to be carefully considered in light of  
2 principles described in the safeguarding plan and any  
3 recommendations resulting from the State Coastal  
4 Leadership Group on sea level rise. This is a group that  
5 the State Lands Commission participates in with the  
6 Coastal Commission, State Coastal Conservancy, BCDC, and  
7 the Ocean Protection Council.

8 And that concludes my report. Thank you.

9 ACTING CHAIRPERSON GORDON: Next order of  
10 business will be the adoption of the consent calendar. I  
11 call on Ms. Lucchesi to indicate which items, if any, have  
12 been removed from the consent calendar.

13 EXECUTIVE OFFICER LUCCHESI: Yes. C 04, C 35, C  
14 37, C 46, C 58, C 71, and regular items 75 and 77 are  
15 removed from the agenda and will be considered at a future  
16 Commission meeting.

17 ACTING CHAIRPERSON GORDON: That's the full list?

18 EXECUTIVE OFFICER LUCCHESI: Yes. I'm just  
19 checking real quick the comment cards to ensure that none  
20 need to be taken off. Yes, that's the current list.

21 ACTING CHAIRPERSON GORDON: Is there anyone in  
22 the audience who wishes to speak on any of the items on  
23 the consent calendar?

24 If not, can I have a motion on the consent  
25 calendar, please?

1 COMMISSIONER NEWSOM: So moved.

2 ACTING COMMISSIONER ORTEGA: Second.

3 ACTING CHAIRPERSON GORDON: All those in favor?

4 (Ayes.)

5 ACTING CHAIRPERSON GORDON: Being adopted three  
6 to nothing, the consent calendar is hereby approved.

7 Next order of business will be -- did you want  
8 to --

9 COMMISSIONER NEWSOM: Through the Chair, and  
10 Director, do we want to quickly move through the consent  
11 items you pulled out or do they require more energy and  
12 time, or are you just pulling those off?

13 EXECUTIVE OFFICER LUCCHESI: I'm just pulling  
14 them completely off the agenda completely and we'll bring  
15 those back at a future Commission meeting date.

16 COMMISSIONER NEWSOM: Okay. Perfect. Then it  
17 is -- yeah, it would be appropriate. Thank you Mr.  
18 Chair, just cause I know there are a number of people here  
19 that have public comment. I have to leave at 2:30, and I  
20 want to be indulgent of those that I know are here to  
21 speak on something that's not on the agenda, at least my  
22 understanding it's not on the agenda based upon the  
23 speaker cards, and give everyone that opportunity, if the  
24 Commission is willing to speak now to whatever it is  
25 that's on their mind, and then get to the regular

1 calendar. And with that, indulge, with respect and  
2 apologies, the few people that are here on two agenda  
3 items and respectfully ask for their patience.

4 EXECUTIVE OFFICER LUCCHESI: So just to clarify,  
5 I believe the request is to move the public comment period  
6 to now.

7 COMMISSIONER NEWSOM: Yeah.

8 ACTING CHAIRPERSON GORDON: All three  
9 Commissioners are in favor of that. So what we'd like to  
10 do now is we're going to move now to the issue of the  
11 lawsuit having to do with Proposition B and all of the  
12 people who would like to speak on that subject.

13 Jennifer, you're --

14 EXECUTIVE OFFICER LUCCHESI: I'm nodding yes.

15 (Laughter.)

16 EXECUTIVE OFFICER LUCCHESI: And I would like to  
17 make a statement before we invite the public up to speak.

18 ACTING CHAIRPERSON GORDON: All right. So we're  
19 going to have the Executive Director make a statement  
20 first and then we will go to Mr -- actually it Lee  
21 Robbins, followed by Eileen Boken, and Michael Warburton.

22 And do we have any other cards in front of us?  
23 So far I've only got three on that subject. Oh, we've got  
24 more coming up.

25 Okay. All right. Jennifer.



1 EXECUTIVE OFFICER LUCCHESI: So it appears from  
2 the public comment speaker cards that a number of citizens  
3 are here to comment on the San Francisco local initiative  
4 Prop B, and the Commission's decision to file a legal  
5 challenge to Prop B.

6 The local initiative as passed would prohibit the  
7 City and the Port from permitting any development located  
8 on State Public Trust Lands generated by -- granted,  
9 excuse me, by the legislature to be managed by the Port of  
10 San Francisco that exceeds the established building height  
11 limits unless authorized to do so by a vote of the people  
12 of San Francisco.

13 First, I understand that the perception is that  
14 the State, through this litigation, is attempting to  
15 exclude the local citizenry from the public process in  
16 protecting the waterfront. That is simply untrue. The  
17 public processes through the Port Commission and other  
18 mechanisms like the CEQA process remain intact, robust,  
19 and effective.

20 Rather, the State Lands Commission is protecting  
21 the management of these lands for the benefit of all the  
22 people of California, not just the local San Franciscan  
23 citizenry.

24 The Public Trust Lands in San Francisco, like  
25 many other waterfronts in the State, are owned by the

1 State, but managed in trust by the local government for  
2 the benefit of all the people of California. The  
3 decisions affecting the management of these Public Trust  
4 Lands and resources are to be made by those entities, like  
5 the San Francisco Port Commission, specifically delegated  
6 that authority by the legislature. These entities have a  
7 statutorily mandated fiduciary duty to manage these lands  
8 and resources in the best interests of the State on behalf  
9 of all Californians.

10 The use of the local initiative and referendum  
11 powers is limited to municipal affairs only, and not to  
12 matters of statewide concern. The management of State  
13 Public Trust Lands by the legislative trustees, such as  
14 the Port of San Francisco, is a statewide affair.

15 On January 29th, 2009, the Commission voted to  
16 support State legislation that ultimately became Public  
17 Resources Code Section 6009. Through this Public  
18 Resources Code section, the Legislature expressed that  
19 trustees, like the City of San Francisco acting through  
20 the Port Commission, are required to manage the State's  
21 tidelands and submerged lands consistent with the terms  
22 and obligations of their grants and the public trust  
23 without subjugation of statewide interests to the  
24 inclination of local initiatives. The legislature  
25 recognized that the local concerns could be detrimental to

1 the statewide purposes that these unique lands must serve.

2           Second, it is not the substance of Proposition B  
3 that is the issue. The Commission's objective --  
4 objection is that the statutorily mandated exclusive  
5 control by the Port of the lands granted has now been  
6 partially removed and placed into the hands of the San  
7 Francisco electorate contrary to the legislature's grant  
8 and to the subsequent legislative enactment of Public  
9 Resources Code 6009.

10           I also want to mention that this is not the first  
11 time the State Lands Commission has weighed in, both on a  
12 policy level and a legal level, on a local initiative that  
13 impacts Public Trust Lands and resources. On October  
14 16th, 2008, the Commission voted to oppose a local  
15 initiative that sought to amend the Port of San Diego's  
16 port master plan. The Commission also authorized staff  
17 and the Attorney General's office to file an amicus brief  
18 in a pre-election challenge to the San Diego local  
19 initiative. The local initiative failed at the ballot, so  
20 further legal action was not warranted by the Commission.

21           The Commission has also sued local grantees  
22 regarding their improper use of Public Trust monies and  
23 assets.

24           And finally, consistent with our concerns and  
25 arguments about Prop B, Commission staff has the same

1 concerns about the validity of the proposed Union Iron  
2 Works Historic District housing, waterfront, parks, jobs,  
3 and preservation initiative involving lands located within  
4 Pier 70.

5           In summary, the land use and management decisions  
6 made by the city through the Port Commission consistent  
7 with its inclusive and mandatory public process cannot be  
8 overridden by local initiative process, because the Port,  
9 as a trustee, acts pursuant to authority that the  
10 California legislature specifically delegated to the Port  
11 to implement State policy on matters of statewide concern.

12           The Commission supports a comprehensive and  
13 inclusive public review and engagement in all projects  
14 affecting State Lands and resources. However, allowing a  
15 discrete local citizenry to decide how to manage -- how  
16 the management of State Lands and resources effectively  
17 eliminates the rest of Californians from that process.

18           Thank you.

19           ACTING CHAIRPERSON GORDON: Thank you, Ms.  
20 Lucchesi.

21           Mr. Or Mrs. Robbins. Lee Robbins. Come up, Mr.  
22 Robbins.

23           ACTING CHAIRPERSON GORDON: Remind you, there is  
24 a three minute limit on members of the public simply, we  
25 have, for time constraints. So you will see a little

1 light there that will tell you when you're getting towards  
2 the end. All yours, Mr. Robbins.

3 MR. ROBBINS: Okay. Thank you. I would like to  
4 say I don't have a prepared speech. I'm an ordinary  
5 citizen who came to this. I do have degrees in economics  
6 from Harvard and management from Wharton University of  
7 Pennsylvania, and I'm a professor at a local university.

8 And I am shocked and dismayed at the attempt to  
9 take away the voice of local citizenry and turn it over to  
10 three people, led by Gavin Newsom, appointed here by the  
11 Governor and directly to affect primarily local matters.

12 This was something that was voted down two to one  
13 by the citizenry of San Francisco, which, if you may  
14 remember, is an extraordinary vote. And I was shocked and  
15 surprised to hear that Mr. Newsom and the others among  
16 you, if you supported it, were initiating this lawsuit  
17 against the very citizenry that elected him.

18 And the issue is one I believe of democracy and  
19 it's also the issue of who is affected by it. If you  
20 think a little bit about what the last person has said,  
21 the implication should also be that the local citizenry of  
22 California should not be overruling the federal  
23 government, and, in fact, the Republican House of  
24 Representatives should be telling us what to do. That's  
25 the analogy.

1           And I can say that that's enough to say at the  
2 moment, except that I am not taking money from developers,  
3 and I am concerned about the aspects of the political  
4 process that lead to these results.

5           Thank you.

6           ACTING CHAIRPERSON GORDON: Ms. Boken. Eileen  
7 Boken.

8           MS. BOKEN: Eileen Boken, resident of San  
9 Francisco here in opposition to the lawsuit by the State  
10 Lands Commission against the City and County of San  
11 Francisco regarding Prop B. And I'm urging the Commission  
12 to just drop it.

13           This lawsuit pits the voters of San Francisco and  
14 the current city attorney against the city's former Mayor  
15 and former city attorney. It could be said that San  
16 Francisco is at war with itself. As with any civil war,  
17 the wounds may be deep and slow to heal. And it begs the  
18 question is this the politics of cynicism rather than the  
19 politics of hope?

20           Thank you.

21           ACTING CHAIRPERSON GORDON: I'm going to just  
22 make one comment right here just for a clarification. Mr.  
23 Newsom is here as the Lieutenant Governor of California,  
24 representing all the people in California. He's not the  
25 Mayor of San Francisco anymore.

1 Mr. Warburton.

2 MR. WARBURTON: My name is a Mike Warburton, and  
3 I'm the Executive Director of a group called the Public  
4 Trust Alliance. And the mission of our nonprofit is to  
5 elevate the role of the Public Trust Doctrine. Some  
6 things are too important for public use to treat like  
7 private property, so they're held in trust.

8 The Coastal Commission and the State Lands  
9 Commission are very, very important California entities  
10 and organizations. The Director of the Coastal -- or the  
11 State Lands Commission said, oh, it's not the substance of  
12 this that's important of Proposition B. It's not the  
13 substance. Well, it is the substance. And that is what  
14 is the waterfront of San Francisco going to become, what's  
15 it going to look like, and who has a voice in that?

16 The waterfront has always been held in Public  
17 Trust, and that means all the people. And every  
18 Californian has standing to sue under the Public Trust  
19 constitutionally, so it's not like a lot of other issues.  
20 This is different. This lawsuit is different. It is very  
21 dangerous to democracy when -- you know, what does it mean  
22 when a city gets control of its waterfront?

23 Does that really mean that three particular  
24 people? No, a city is much bigger than its port  
25 commission. I've been working on public interest and

1 development issues up and down California for a long time.  
2 And the State Lands Commission oftentimes supports the  
3 larger public interest, but sometimes it gives up on its  
4 lawsuits when it defends the public interest. Sometimes  
5 it gives up too soon, as it did in San Diego.

6 And these issues are very, very important. And  
7 just the idea of leaving this be is something that could  
8 be very, very constructive.

9 Thank you.

10 ACTING CHAIRPERSON GORDON: Thank you, sir.

11 Mr. Jon Golinger.

12 MR. GOLINGER: Good afternoon, members of the  
13 Commission. My name is Jon Golinger, and I'm here with No  
14 Wall on the Waterfront. We're the citizen's group that  
15 sponsored Proposition B and backed Prop B, and was  
16 instrumental in defeating the 8 Washington project.

17 First, I want to ask the Commission to please  
18 make clear when you voted to authorize this lawsuit. It's  
19 our understanding from the record that this is the first  
20 Commission meeting since July 15. If you voted at a  
21 previous meeting, it was not on the agenda, but please  
22 explain that to the members of the public.

23 Second, as -- you want to answer that

24 ACTING CHAIRPERSON GORDON: I'll give you a  
25 little more time.



1 Counsel, when was this voted?

2 DEPUTY ATTORNEY GENERAL RUSCONI: This was voted  
3 in closed session pursuant to our litigation privilege in  
4 the Government Code during the April meeting.

5 ACTING CHAIRPERSON GORDON: Okay.

6 MR. GOLINGER: So prior to the passage.

7 ACTING CHAIRPERSON GORDON: Yes.

8 MR. GOLINGER: Thank you.

9 Second, the Chairman pointed out, and we agree,  
10 that Lieutenant Governor Gavin Newsom is no longer the  
11 mayor of the City, but seven months ago or now closer to  
12 ten, he was here just across the street filming a TV  
13 commercial, and on television in the city, urging voters  
14 to pass Proposition B, which was a different Prop B that  
15 authorized voters to increase height limits on the  
16 waterfront just across the street for the 8 Washington  
17 project.

18 So I think it is fair to ask the Lieutenant  
19 Governor to square his position last fall backing the  
20 project of a developer who's given him money to ask voters  
21 to rezone the waterfront for that developer, and now he's  
22 opposing, through this litigation, the rights of the  
23 voters to rezone the waterfront in a way that perhaps that  
24 developer is not happy with. I think that's a fair  
25 question. It's extraordinarily hypocritical.

1           ACTING CHAIRPERSON GORDON: Let me just -- I'm --  
2 the Lieutenant Governor can defend himself, but I just  
3 want to layout the facts of what went on. The State Lands  
4 Commission authorized an exchange of a small web shaped --  
5 excuse me, a small wedge shaped parcel that had been used  
6 as a parking lot. We exchanged it for a city park to  
7 develop on the waterfront and a significant amount of  
8 money to be deposited into the low income housing fund for  
9 the City. It was a three to nothing vote on that  
10 decision. That's what we voted on here. Okay.

11           MR. GOLINGER: That's not my point. Lieutenant  
12 Governor Newsom did a television commercial and it was in  
13 our mailboxes. Every San Franciscan knows it and watched  
14 it asking voters to approve a ballot measure to change the  
15 zoning on the waterfront. He is now backing a lawsuit  
16 telling the voters they had no right to do so. How could  
17 he ask them to do something that he thought was illegal to  
18 do, or has he changed his position, and if so, why?

19           Second, the staff pointed out that the Commission  
20 has sued previously on other ballot measures. The staff  
21 don't point out that the court rejected those lawsuits in  
22 the San Diego case. The staff also argued that the Burton  
23 Act did not transfer title of the waterfront to the City  
24 and County of San Francisco.

25           Let me read you the title of the Burton Act, "An

1 Act transferring, in trust, to the City and County of San  
2 Francisco the interest of the State in and to and control  
3 and management of the harbor of San Francisco", period.

4 We do not dispute that the City and County of San  
5 Francisco owns the waterfront but holds it in trust for  
6 the State. There's no dispute. Proposition B is entirely  
7 consistent with that. Retaining our height limits and  
8 local control of zoning is certainly a function of  
9 localities and municipalities around the nation is  
10 entirely consistent with allowing access to the  
11 waterfront.

12 John Burton, who's still around, has opined on  
13 this measure, and he was the author, of course, of the  
14 Burton Act, was for Proposition B and is urging you, as we  
15 are today, to reconsider and drop your lawsuit.

16 Lastly, why now?

17 Forty-five years ago, the legislature passed the  
18 Burton Act. That November, the voters of San Francisco  
19 voted on a ballot measure to implement the Burton Act, and  
20 since then have voted on 18 other waterfront related  
21 ballot measures, some zoning, some funding, all, under the  
22 argument in this lawsuit, illegal.

23 Why has State Lands waited until now when the  
24 voters have weighed in to preserve the waterfront in a  
25 reasonable way by a wide margin to toss it out?

1           In fact, the Giants ballpark, bayfront parks up  
2 and down the waterfront, the waterfront plan, the building  
3 we're standing in were all the consequence of San  
4 Francisco voters voting on ballot measures affecting the  
5 waterfront.

6           Is it your position that the building we're in  
7 was renovated illegally, and that all those ballot  
8 measures should be rescinded and voters should never have  
9 a say again?

10           City attorney of San Francisco has announced on  
11 the day you filed the suit, he will defend it vigorously,  
12 and pointed out, as we echo and will, that this would  
13 affect not just one ballot measures, not just one city,  
14 but the zoning, responsibilities, and reasonable planning  
15 process of San Francisco and coastal communities up and  
16 down the State.

17           We urge you, in your role, not as advocates for  
18 the turf of an agency, but as stewards of an incredible  
19 place for the people of San Francisco and all Californians  
20 to drop the lawsuit, join us, help us move forward on  
21 things like 8 Washington to build something there that  
22 people actually want and that will serve the needs of all  
23 the people.

24           Thank you.

25           ACTING CHAIRPERSON GORDON: Ms. Lucchesi, do you

1 have a response with regard to the San Diego situation?

2 EXECUTIVE OFFICER LUCCHESI: Oh, I would be happy  
3 to respond at the end of all public comments, if there's  
4 other issues raised.

5 ACTING CHAIRPERSON GORDON: We have one more  
6 person here, Marian Wallace.

7 MS. WALLACE: Hi. Good afternoon. As a  
8 long-time citizen of San Francisco, I respectfully ask  
9 that the lawsuit against Proposition B be dropped. The  
10 land is in trust to the people of San Francisco, so we  
11 really shouldn't waste the time and energy on the lawsuit.

12 Thank you.

13 ACTING CHAIRPERSON GORDON: Do we have any other  
14 members of the audience who wish to comment on this  
15 subject?

16 Ms. Lucchesi.

17 EXECUTIVE OFFICER LUCCHESI: I just wanted to  
18 make a couple of clarifications on the 8 Washington  
19 initiative, as well as the San Diego initiative and  
20 subsequent lawsuit. It is our understanding that the 8  
21 Washington initiative was focused solely on lands that  
22 would become private lands under the approved land  
23 exchange agreement by the State Lands Commission, so it  
24 would not, in fact, affect State property.

25 Second, the San Diego initiative and subsequent

1 challenge or filing of an amicus brief by the State Lands  
2 Commission was denied at the trial level, because it was a  
3 pre-election challenge. And I'll let Joe weigh in on what  
4 the -- how the courts view on -- how the courts view  
5 pre-election challenges, but it was not tried on the  
6 merits of the claims.

7 ACTING CHAIRPERSON GORDON: Mr. Rusconi.

8 DEPUTY ATTORNEY GENERAL RUSCONI: The California  
9 Supreme Court has issued an opinion that has, in effect,  
10 told lower courts that when you're faced with a  
11 pre-election challenge based on substantive failures with  
12 the proposed initiative, that the better thing for the  
13 trial court to do is simply to allow that to proceed to  
14 the ballot because it might be defeated and the whole  
15 issue may go away. And it is only with procedural  
16 matters, which might be waived, should they not be brought  
17 prior to an election, or is the court really going to  
18 weigh in prior to the vote of the people.

19 So what happened in San Diego was the  
20 pre-election challenge was denied by the trial court, and  
21 the measure was thereafter not enacted by the populous, so  
22 the issue went away.

23 ACTING CHAIRPERSON GORDON: Thank you, sir.

24 Mr. Lieutenant Governor.

25 COMMISSIONER NEWSOM: No, it wouldn't be

1 constructive.

2           ACTING CHAIRPERSON GORDON: Okay. Ms. Lucchesi,  
3 is it your desire that -- do you believe we should move  
4 ahead with public comment on other subjects or should we  
5 go back to the regular calendar first?

6           I guess it's my discretion.

7           EXECUTIVE OFFICER LUCCHESI: It is your  
8 discretion.

9           (Laughter.)

10          ACTING CHAIRPERSON GORDON: Let's finish public  
11 comment.

12          EXECUTIVE OFFICER LUCCHESI: Okay.

13          ACTING CHAIRPERSON GORDON: We only have a few  
14 more people out there.

15          EXECUTIVE OFFICER LUCCHESI: That's right.

16          ACTING CHAIRPERSON GORDON: Let's continue that.  
17 Mr. Berge, we've missed you.

18          EXECUTIVE OFFICER LUCCHESI: I believe Mr. Berge  
19 wants to speak on a specific item.

20          ACTING CHAIRPERSON GORDON: Oh, he's on -- oh  
21 never mind. Never mind.

22          EXECUTIVE OFFICER LUCCHESI: So you might be  
23 looking at the wrong pile.

24          ACTING CHAIRPERSON GORDON: Wrong pile. Wrong  
25 pile.

1           Let's go to Mr. James Jonas, sea level rise,  
2 adaptation, and --

3           MR. JONAS: You guys, the State Lands Commission.  
4 My favorite subject.

5           My name is James Jonas of Redwood City. And I've  
6 been tracking the sea level rise issue. And I do think  
7 that there's been very robust discussions that have been  
8 taking place on a State level. And I want to commend  
9 what's been taking place by the staff and by this  
10 commission, by BCDC, as well as the other regulatory  
11 agencies, and the public, but it's been a little bit  
12 short-sighted.

13           And the reason why is because as the seas rise,  
14 the State takes. What that means -- now, let me connect  
15 the parts here for those in the audience.

16           First, of all, as the seas rise, basically the  
17 State's rights are called ambulatory. So it comes by the  
18 mean high tide line. And as that changes, what happens is  
19 that then your house possibly comes part of the Public  
20 Trust, so all the issues you see in San Francisco could be  
21 your home.

22           That conclusion begets a bit of a challenge here,  
23 because I feel as though the citizens need to be aware of  
24 this and be very, very conscious of the fact that this has  
25 taken place. And also on a State level, we need a robust



1 discussion with regard to that. And the reason why is  
2 because it forces us toward short-term alternatives versus  
3 long-term alternatives. The short-term alternatives are,  
4 first of all, hey guys, you can't live there any more, you  
5 need to leave. Now, that's -- that would be a short-term  
6 alternative. The other short-terms alternative is we just  
7 need to look at putting up barriers and putting up  
8 seawalls.

9           But the third alternative, the alternative C, of  
10 looking at adaptive communities, of which I live in, which  
11 is a floating community, is not discussed in a robust  
12 fashion, even though we're seeing that discussion taking  
13 place -- in fact, places being implemented in Germany, in  
14 Amsterdam, in Edinburgh, in London. All these folks are  
15 actually embracing this alternative.

16           In California, we can't seem to have that  
17 discussion because of this issue. What I'm concerned  
18 about is that we may end up having somebody with five and  
19 a half million dollars in their pocket, who will put  
20 together a State proposition, which will be to change our  
21 constitution. He'll have a lot of folks that will be a  
22 little bit angry on this. Why? Because, you know what, a  
23 big bunch of our population is right next to the coast,  
24 and a big bunch of our value in property is right next to  
25 the coast.

1           So as a consequence, he will be able to go ahead  
2 and, let's say, energize the public. And my concern is  
3 that we may have a poorly thought out proposition on the  
4 ballot. The result being, changing the nature of this  
5 commission, BCDC, as well as other regulatory issues  
6 upturning very sound and, you know, well thought through  
7 regulatory laws in the area of the environment.

8           And so what I'm asking this Commission to do is  
9 to step ahead of it. Do a little bit more than just, you  
10 know, participate in a report. This is a lot of work  
11 there. But I think what we need to do to agendize it is  
12 actually bring it on the agenda, let's have some workshops  
13 and discussions in State Lands, and also at the same time,  
14 let's postpone any issues with regard to actions on  
15 floating communities, because these actually represent the  
16 DNA of potential solutions.

17           We actually have good ideas of what are the  
18 patterns of living that work in this area. So I do ask  
19 that what we do is we give it a little pause with regard  
20 to actions in that area, and also that there is a more  
21 robust discussion that takes place in the area of sea  
22 level rise and the State Lands Commission.

23           Thank you.

24           ACTING CHAIRPERSON GORDON: Mr. Jonas, just --  
25 Mr. Jonas, one minor a comment. You've raised some

1 wonderful issues. I'm really glad you came here, because  
2 we've been wrestling with these for a couple of years now.  
3 And you might want to contact your legislator, because a  
4 lot of what we do with regard to floating communities here  
5 is prescribed by State law and how it has been interpreted  
6 over the years. And you sound like you have some good  
7 ideas and you might want to contact your State legislator  
8 and see if he or she is interested in pursuing some of  
9 that, because these are policy decisions that we  
10 actually -- at the State Lands Commission, we implement  
11 policy, the legislature makes it.

12 MR. JONAS: It's almost as if you're a giant  
13 robot and you've been given a program and you have to  
14 implement those things. And even though, when you really  
15 think about it, it really doesn't make sense, but your job  
16 is to -- they put together some rules and you've got to  
17 follow those rules, so I do understand that.

18 What I'm concerned -- I don't think this will  
19 probably happen on the legislative level, because it is --  
20 will be very controversial. I'm more concerned that we're  
21 going to end up with a State proposition that will change  
22 the Public Trust Doctrine as dictated within the  
23 Constitution of the State of California, as well as the  
24 connective tissue of other legislation that would have to  
25 be modified in order to deal with this issue. A knee-jerk

1 reaction is something we want to avoid.

2 ACTING CHAIRPERSON GORDON: Thank you, sir.

3 Ms. Lucchesi.

4 EXECUTIVE OFFICER LUCCHESI: If I may just add,  
5 just for information purposes as well, the Ocean  
6 Protection Council in which our Chair sits on, will be  
7 considering the California Safeguarding Plan at their  
8 council meeting in a couple weeks. And I think that's --  
9 and also an appropriate venue to express your ideas and  
10 your thoughts, because the Ocean Protection Council is  
11 also spear-heading a State coastal leadership group that's  
12 made up of the executive directors of the State Lands  
13 Commission, Coastal Commission, BCDC, State Conservancy,  
14 and we are working on these issues now at that level. And  
15 so --

16 MR. JONAS: It's -- it is a really important  
17 issue, and I really want to acknowledge the work that has  
18 taken place. I don't want to in any way, shape, or form  
19 diminish the work. It's just when dealing with this  
20 strange unintended consequence of we take the State -- you  
21 know, the Public Trust Doctrine, ambulatory use, and sea  
22 level rise, we're dealing with the new times here. And I  
23 don't know whether there has been a good discussion on  
24 that. There was a discussion -- we did bring this up  
25 during the creation of the bay plan. You guys, I believe,

1 were involved in that in some --

2 EXECUTIVE OFFICER LUCCHESI: Yes.

3 MR. JONAS: -- maybe tangentially, but you were  
4 involved that. And again, one of the mandates under the  
5 bay plan was suggest legislation. Yet, there has been no  
6 legislation suggested that kind of resolves this issue.  
7 And again, my concern is any knee-jerk on the State level  
8 with regard to a proposition.

9 Thank you.

10 EXECUTIVE OFFICER LUCCHESI: Thank you.

11 ACTING CHAIRPERSON GORDON: And the meeting Ms.  
12 Lucchesi was referencing at the Ocean Protection Council  
13 is on August 27th at 1:00 p.m. at the Cal/EPA building in  
14 Sacramento. I believe it will probably be -- it should be  
15 webcasted, so if you want to watch it there.

16 MR. JONAS: Thank you.

17 ACTING CHAIRPERSON GORDON: Thank you, sir.

18 Bill Ekern, Assistant City Manager, City of  
19 Redwood City.

20 MR. EKERN: Thank you, Mr. Chair, members of the  
21 Commission. I just wanted to come and introduce myself.  
22 Redwood City has been involved through the Docktown  
23 discussions over many months, and put a face to the City.  
24 But more than anything else, I really wanted to thank your  
25 staff for participating in our inner harbor planning

1 session. It's been very helpful to us understanding how  
2 the pieces come together. And their perspectives have  
3 been valuable. And with that, thank you very much.

4 ACTING CHAIRPERSON GORDON: Thank you very much,  
5 sir.

6 Let's see, Greg Price. Is Mr. Price available?

7 MR. PRICE: I was enjoying a tuna fish sandwich.

8 (Laughter.)

9 MR. PRICE: Sorry about that.

10 ACTING CHAIRPERSON GORDON: Sorry to  
11 inconvenience you.

12 MR. PRICE: Yeah, no worries.

13 I'm back. I needed help with resolving an issue  
14 with staff regarding our lease for our pier in Lake Tahoe.  
15 If you remember, back in January 2002, I came before  
16 Commissioners Gordon and Newsom -- hello. We haven't met  
17 -- to introduce a number of issues regarding buoys and  
18 piers. And I have copies of the presentations if you are  
19 interested in that.

20 But it took a long time for staff to resolve  
21 these issues, and they were resolved in February of 2004.  
22 Since then, I was working with staff to follow up on the  
23 part of our lease that the Commission agreed to, which  
24 was, thank you Mr. Price, for bringing all these issues  
25 before us. Staff, please go and get stakeholder comments

1 and come back and we'll resolve them.

2 Well, it took two years to resolve them. When I  
3 returned to staff to say, okay, my rent is now \$1,000  
4 less, I'd like to correct that, I just couldn't get that  
5 done through staff. So then I worked through an advocate.  
6 She met similar road blocks.

7 The challenge that I have is that it's very  
8 clear -- and I just spilled Pellegrino on my notes.

9 (Laughter.)

10 MR. PRICE: But the challenge that I have is that  
11 there were a number of issues that were raised. And  
12 staff -- and here are copies. Here's this.

13 This is from the first presentation - for you  
14 reading pleasure. It just took a long time to resolve  
15 these issues. And I went through the different  
16 transcripts that staff directed me to -- by the way, I'm  
17 hiring a stenographer for all my conversations with my  
18 teenage daughters. I love it. It works really well to go  
19 back and just see what was actually said.

20 And there are -- I mean, it was very clear --  
21 perhaps -- I don't know if your memory needs jogging. I  
22 could read what was said at the January 2002 meeting.

23 ACTING CHAIRPERSON GORDON: 2002 or 2012?

24 MR. PRICE: 2012, excuse me. It was very clear  
25 in the motion that we're going to -- you know, these

1 things will be discussed, and it will be retroactive back  
2 to our lease start date, which was October 2001.

3 So what staff is doing is that they're parsing  
4 issues. They're calling a May 2012 Commission meeting,  
5 but even in the motions in that Commission meeting, which  
6 again I have the transcript, staff was continually  
7 directed to get more feedback. These are still open  
8 issues.

9 And so I'm just -- I'm frustrated and I'm not  
10 sure what to do. So if you have advice, I'd love to hear  
11 it. If you'd like to have copies of the transcripts, I  
12 have those. How would you like me to proceed?

13 ACTING CHAIRPERSON GORDON: Can you give us a  
14 little -- what are the specific issues that you're locked  
15 up on?

16 We can't make any decision today on your lease.  
17 This has not been agendized. The best we will be able to  
18 do substantively is put you on to another agenda at a  
19 later date.

20 MR. PRICE: Perfect.

21 ACTING CHAIRPERSON GORDON: But what are the  
22 issues that you're having trouble with?

23 MR. PRICE: The issue -- I mean, again, as I  
24 raised in the summary, there are a number of issues that  
25 staff put together the initial plan to figure out the cost



1 for piers in particular. The cost for buoys were a little  
2 more simple.

3 The main impact to our lease amount came from a  
4 rethinking of the use area. If you recall, this was the  
5 ten-foot perimeter around the entire pier.

6 ACTING CHAIRPERSON GORDON: We shrank it down to  
7 where the boat is.

8 MR. PRICE: Correct. Correct. So that  
9 reduces -- when that finally got resolved -- again, all  
10 these issues I brought up. I was I think the first leasee  
11 to come up after the law came into effect. This finally  
12 got resolved in February of 2014. I then contacted staff  
13 and then just -- you know, lots of emails, which I can  
14 share.

15 But it's essentially the impact of the use area  
16 that got corrected reducing our rent. And then the  
17 suggestion was that I pay another fee to change our lease,  
18 which is a five-year lease. And I've already paid \$2,700  
19 to enjoy the company of staff and work on the lease. So  
20 that's already been paid.

21 I have to pay another \$875 to correct something  
22 that, in my view, the Commission has said when we resolve  
23 this, it will be retroactive. So I just -- I'm just at an  
24 impasse.

25 ACTING CHAIRPERSON GORDON: So as I'm trying to

1 understand, so is the issue that the previous calculation  
2 has come forward into the new calculation --

3 MR. PRICE: No.

4 ACTING CHAIRPERSON GORDON: -- so that you're not  
5 getting credit for a reduced area?

6 MR. PRICE: So what was agreed to in the January  
7 2002 -- 2012 meeting was that Mr. Price's lease will be  
8 calculated at today's rate back then. If at some point in  
9 the future, the modifications come into play, it will be  
10 retroactive back to October of 2001.

11 ACTING CHAIRPERSON GORDON: So you had already  
12 paid under the old rate?

13 MR. PRICE: I've continued to pay under the old  
14 rate, and staff won't abide by the guidance of the  
15 Commission.

16 EXECUTIVE OFFICER LUCCHESI: If I could just --

17 ACTING CHAIRPERSON GORDON: Ms. Lucchesi.

18 EXECUTIVE OFFICER LUCCHESI: First, I just want  
19 to say that I, of course, remember all those discussions  
20 that happened over the two-year period -- excuse me.  
21 Sorry.

22 MR. PRICE: Were you at the January 2012 meeting?

23 EXECUTIVE OFFICER LUCCHESI: Yes, yes.

24 MR. PRICE: Okay. Great.

25 EXECUTIVE OFFICER LUCCHESI: So I have not

1 actually met with Mr. Price directly on this, so what I  
2 would first suggest is that I become involved in these  
3 discussions, and we can go over the history and what the  
4 Commission directed and what the Commission didn't direct,  
5 and try to get a common understanding of the facts. So  
6 that's what I would suggest that I become involved in  
7 these discussions. I have not to this point.

8           What I believe that Mr. Price -- and without -- I  
9 don't want to get into a this is my position, this is  
10 their position type of thing, but just to give some  
11 context. That two-year consideration by the Commission  
12 that began with Mr. Price's questions about understanding  
13 the methodology that the Commission used to establish  
14 rent, that -- that was -- that's what was discussed over  
15 those two years, and the Commission confirmed that staff's  
16 use of a certain methodology.

17           There were -- there may have been other issues  
18 raised on the outskirts about use area and other things,  
19 but in terms of the methodology used, the Commission  
20 evaluated various ways to assess rent and confirmed the  
21 staff's use of a certain methodology.

22           What happened with the use area came out of the  
23 Commission's adoption of our new lease regulations that  
24 occurred earlier this year. So I think that's where  
25 there's a source of confusion, maybe a source of

1 disagreement. And I think that if we have a chance to  
2 talk this further, hopefully we can come to a resolution.  
3 If not, we can better present what the real issues are for  
4 the Commission's consideration.

5 MR. PRICE: One caveat. The use area was never  
6 an outlier. It was brought up at the very beginning. It  
7 was brought up all the way along. There are comments by  
8 the Commissioners that say, you know, what about this use  
9 area? It's really concerning me, please. Constant  
10 communication back to staff to get feedback from  
11 stakeholders. So this didn't come in late. It didn't  
12 come in on the sidelines. It was all there. So I enjoy  
13 meeting.

14 EXECUTIVE OFFICER LUCCHESI: Yes.

15 ACTING CHAIRPERSON GORDON: Ms. Ortega.

16 ACTING COMMISSIONER ORTEGA: Yeah, I just wanted  
17 to make sure -- I think Ms. Lucchesi may have clarified  
18 this. But on the -- I was not here for the 2012 issue,  
19 but on the issue of the use area and when we adopted the  
20 final regulations on that, we had --

21 MR. PRICE: In February.

22 ACTING COMMISSIONER ORTEGA: -- in February of  
23 this year, we had a substantive discussion about the  
24 effect that the change in the use area calculation would  
25 have on those folks who already have a lease in place.

1 And we discussed the potential negative consequences of  
2 having to apply for a new lease in order to have it  
3 calculated at the new amount, and that lessees would have  
4 to consider whether it was worthwhile to do that based on,  
5 you know, what the savings might be over the course of the  
6 lease.

7 And I think we asked staff to look at some ways  
8 of whether there was a streamlined lease process that  
9 could reduce the application fees somewhat. But I just  
10 want to make clear that we did consider that. We  
11 recognize that it is a concern. But, you know, we also  
12 recognize that each lessee would have to consider whether  
13 it was worthwhile to do that.

14 So I think on -- not combining that with your  
15 previous issues, which I'm not familiar with, I just want  
16 to make clear that on that issue, you are not the only  
17 one, and it is something that we have, you know,  
18 recognized as an issue, but we've directed staff to try to  
19 do it at a cost effective way. And I think that's where  
20 we left it with staff.

21 MR. PRICE: So I think the challenge is that my  
22 lease was specific that it would be retroactive. I don't  
23 know about the other leases, but my lease back in January  
24 2012, the Commission passed that my lease would be  
25 specific. If there were changes, it would be retroactive.

1 So that is the challenge.

2 ACTING COMMISSIONER ORTEGA: Okay. So we'll have  
3 to ask staff then look at that specific --

4 EXECUTIVE OFFICER LUCCHESI: I will look into  
5 that.

6 ACTING CHAIRPERSON GORDON: Mr. Newsom.

7 COMMISSIONER NEWSOM: It's good that you came.  
8 You've got Jennifer on this. You guys will --

9 MR. PRICE: Go get 'em.

10 COMMISSIONER NEWSOM: I'm confident -- as opposed  
11 to litigating this out right now, which I think is going  
12 to be complicated. I mean, we've all got to go back to  
13 the notes, et cetera, but you've got the right person.  
14 I'm confident you guys can figure something out and stop  
15 spending all that money.

16 MR. PRICE: Which money?

17 COMMISSIONER NEWSOM: Too much money to hire  
18 people.

19 MR. PRICE: With State Lands, yes. I do write a  
20 lot of checks to the State.

21 COMMISSIONER NEWSOM: Talk directly to us and you  
22 can save money.

23 MR. PRICE: I'm going to finish my tuna fish  
24 sandwich now.

25 Thank you.

1           ACTING CHAIRPERSON GORDON: Thank you, Mr. Price.

2           Let's see, I think every -- all the other folks  
3 who wish to speak want to talk about Docktown.

4           So let's start with Rick Drain, followed by Lee  
5 Callister, and it looks like Emilio Diaz.

6           Mr. Drain.

7           MR. DRAIN: Hi. I'm Rick Drain, a California  
8 voter, formerly of Redwood City resident. Just to fill in  
9 for people who don't know, Docktown is a marina  
10 development that's been in place for many decades, half a  
11 century or so in Redwood City, California.

12           And I've spoken to most of you before about  
13 another California -- Redwood City interest where a  
14 different development wanted to produce a change in a  
15 different marina, and that was solved to the detriment of  
16 California's voters, California's public access to that  
17 State land.

18           So here we are again. The city wants to push the  
19 traditional boating uses of the California waterfront away  
20 in favor of a more modern waterfront use of being the  
21 scenic backdrop for new development. And we really think  
22 that, to the extent the State Lands Commission does have  
23 power to act here, it is in the interests of the people of  
24 California and the Public Trust that you try to keep State  
25 Lands that are waterfront real waterfront use.

1           And other people talk about the specifics here,  
2 but what it means basically is preserving Docktown.  
3 That's the short version.

4           Thank you very much.

5           ACTING CHAIRPERSON GORDON: Thank you, sir.

6           Lee Callister, please. Welcome back.

7           MR. CALLISTER: Thank you. Commissioners, staff,  
8 public members, I'm Lee Callister. I'm the president of  
9 the Redwood Creek Association, which is the floating  
10 community association in Docktown.

11           And as noted, I was here last time, and I  
12 mentioned a number of reasons why I thought that the staff  
13 opinion issued to the city was -- should not apply to our  
14 case. First of all, floating homes are water dependent  
15 and regarded as innovative housing in many parts of the  
16 world -- Mr. Jonas cited a few examples of that -- and  
17 lauded as responsive to rising sea levels.

18           Second -- the second place, our floating  
19 community can be a public attraction like the floating  
20 homes of Sausalito.

21           And we supply much needed affordable housing,  
22 which is very much in short supply in San Francisco at  
23 this time. There have been no new affordable housing  
24 units built for several years now.

25           Also, I want to mention that we have been here



1 since 1960. That the notion houseboats are not acceptable  
2 is really a child of the McAteer-Petris passed in 1969.  
3 And that the policies staff depends on to make their case  
4 were not written and adopted until 2001.

5 But I'm not here today to make a legal case. We  
6 are now represented by the law firm of Morrison and  
7 Foerster in San Francisco, who will be contacting staff in  
8 the near future to discuss the issues and request that we  
9 be put on the agenda.

10 In the meantime, I just wanted to update you on a  
11 couple of recent developments. The city and State have  
12 said -- have continued to meet. I've asked for -- we've  
13 gotten some information on those meetings. I've asked for  
14 more information, which was not forthcoming.

15 It appears the staff still believes the city is  
16 planning to move us to another location that will allow  
17 us -- and will allow us to stay where we are in the  
18 meantime. In fact, there is no new proposal for a new  
19 marina at this time that's anywhere beyond initial talking  
20 stations. It will take years to approve and build. And  
21 opening up the levee to create that, what is now an  
22 enclosed pond, will allow tide waters to flow into the  
23 place and quite probably toss it back into the laps of the  
24 State Lands Commission.

25 Meanwhile, city officials have made it clear that

1 they will not wait for that to happen. They say the  
2 transition period requested during the inner harbor  
3 meetings, and acknowledged by State Lands staff, can also  
4 just mean until all the boats are gone.

5           And in the meantime, they're actually working to  
6 reduce the number of residents in the marina by limiting  
7 the number of liveaboards, and by not allowing residents  
8 to transfer liveaboard rights, even if they sell their  
9 homes, effectively reducing the home -- the value of our  
10 homes to nothing or whatever can be negotiated with the  
11 city -- on a sale out to the city. And the reason for  
12 doing that, their assertion is that State Lands has ruled  
13 that we can no longer be there.

14           As our case has yet to be heard by this  
15 Commission, this seems premature, and not -- and not in  
16 keeping with positions taken by the city's own task force.

17           We'll look forward to having further  
18 conversations with you via our attorneys at a future  
19 meeting. Thank you very much for your time.

20           ACTING CHAIRPERSON GORDON: Thank you, sir.

21           Mr. Diaz.

22           MR. DIAZ: Hello. I'm just a resident at  
23 Docktown. I built my boat in the '70s in Alviso. And  
24 then in about '98 everybody was kicked out. And so I  
25 ended up in Docktown. I was there -- got there in January

1 of '98. About a month later, Peninsula Marina, about 400  
2 boats, were all kicked out. They had a month to move.  
3 And then last year, of course, Pete's Harbor with about  
4 300 boats were all told to leave.

5           So basically, anything south of Oyster Point no  
6 liveboards. You can't -- there's a couple of exceptions  
7 here and there. But basically if I wanted to have my boat  
8 anywhere south on the peninsula or even in San Jose,  
9 there's no place to go. And so access to the water for  
10 boats is getting to be nil.

11           Thank you.

12           ACTING CHAIRPERSON GORDON: Thank you, sir.

13           Tania Solé.

14           MS. SOLÉ: Hello, Commissioners. I am Tania  
15 Solé, a Docktown resident. This is the third time I come  
16 before you to update you on what is going on in Redwood  
17 City.

18           Unfortunately, the city is interpreting an  
19 informational letter from Ms. Sheri Pemberton as a  
20 directive to close down my community. Just this past  
21 week, Mr. Bill Ekern, who just spoke, sent an email  
22 advising a prospective resident, who you'll hear from in a  
23 moment, that said, and I quote, "I wanted to you let know  
24 that in the past couple of weeks the city's policy and  
25 position on new berthing agreements has changed. We are

1 no longer taking any new tenants in the Docktown marina of  
2 any sort. No new boats will be accepted. Consequently,  
3 there is no longer space to accommodate your earlier  
4 request", unquote.

5 Yes, the email did say boats, as in fully  
6 functional and operational and non-liveaboard boats.  
7 There are so many issues involved, so many things  
8 changing, so many unintended consequences of that hastily  
9 sent informational letter. In a lot of ways, we are no  
10 different than the homes at Sandy Beach and Viejo, where  
11 State Lands staff is working with the residents to have  
12 them sign leases.

13 The same can be done on Docktown. Staff simply  
14 needs to empower the intermediary grantee, the City of  
15 Redwood City, to do the same.

16 Beyond the parallels with Sandy Beach, there are  
17 a host of other reasons why our community should be  
18 allowed to remain, at least at the size it was when the  
19 city took over. If Sausalito, Alameda, and Mission Creek,  
20 just a couple of blocks south from this very location have  
21 been formalized, why not us?

22 In a time of a housing crisis, we provide one of  
23 the last pockets of affordable housing. We offer  
24 sustainable, green, climate-change adaptive solution to  
25 housing. In fact, floating homes have been presented at

1 the prestigious Viennese Architecture Biennale. And  
2 cities like Amsterdam and London are creating floating  
3 neighborhoods and villages. Not to mention, that the  
4 mixed use marinas with a large percentage of live-work  
5 residents, which in most cities in the world are  
6 considered and zoned commercial, are completely consistent  
7 with the Public Trust.

8           On behalf of our current residents and future  
9 residents, I respectfully request that you either direct  
10 staff to write a letter to the City of Redwood City  
11 allowing that this situation will take time to be fully  
12 evaluated, and that in the interim, the marina can  
13 continue to allow new boats, new residents, and transfers  
14 of ownership, or you put this issue on the agenda, or you  
15 do both.

16           Thank you.

17           ACTING CHAIRPERSON GORDON: Mr. Asher -- Achler.

18           DR. ACHLER: Hi. Dear Committee, I'm not a  
19 member of Docktown. I've been invited on a temporary  
20 basis to Apple Computer in order to show that my  
21 neuroscience motivated algorithm -- what my neuroscience  
22 motivated algorithm can do for them.

23           I'm an over-educated, maybe eccentric, doctor  
24 with degrees in medicine, electrical engineering, and  
25 neuroscience.

1           My plan is to bring my boat down and experience  
2 the bay and embrace the community as I grew up in this  
3 area. The marina -- which marina would not want a trained  
4 doctor and someone who understands electricity? My boat  
5 has all the marin equipment necessary to keep the bay  
6 clean.

7           However, as Emilio points out when we started off  
8 from Alviso and then got bumped around, and what I find is  
9 that there is a strong deliberate trend pushing personal  
10 boaters away from the public waters. This trend continues  
11 with the State Lands Commission in what can be seen as a  
12 war against boaters.

13           I planned ahead and started searching for a  
14 marina since October. Despite physical spots available at  
15 a marina, I still have not found a place. I recently  
16 received an email from Mr. Ekern who's the city manager,  
17 of which you heard about.

18           I know that there is several spots available, and  
19 at least in one case specifically, that a space is  
20 becoming available and is not being refilled. The State  
21 Lands Commission seems to be taking a leading role in  
22 this. For example, a recent letter from the SLC staff,  
23 which the Redwood City Council is using as evidence to  
24 support removal of boaters, suggests that Docktown and  
25 boats block public river use and should be removed.

1           This is an odd and twisted narrative. How can  
2 boats in a marina along the shore inhibit the use of the  
3 water? How does the existing path on land within the  
4 marina, which even allows walking on the docks inhibits  
5 the public from walking along and enjoying the water and  
6 looking at boats?

7           In fact, I see Docktown as an enriching and  
8 pleasant break from the current urbanization, immersing  
9 one into local culture and history. Some of the boats  
10 frankly belong to museums. They're very unique.

11           (Laughter.)

12           DR. ACHLER: What I do see limiting public use is  
13 the urbanization with massive developments in the area  
14 from one marina to the shore. This is what appears to be  
15 emphatically supported by the SLC staff. Condos are  
16 restricting public use of the grounds where those lands  
17 can no longer be used by the public to freely walk in view  
18 of the area.

19           As Emilio experienced, this is a trend. Just a  
20 few years ago alone in Redwood City, several major public  
21 marinas were closed in the area in favor of this  
22 urbanization limiting 700 spots. As one can predict,  
23 there's now much less possibility for the public and  
24 people like me to enjoy these waters as there were a few  
25 years ago.

1 I cannot use this area. I had a map, but it  
2 doesn't matter. Basically, anything south of Oyster Point  
3 is just not accessible, Alameda and Oyster Point.

4 I have searched for the last 11 months for a  
5 place to park my boat. In effect, the whole area is off  
6 limits. Currently, State Lands' policies and practices  
7 are not guaranteeing public access, instead reduced the  
8 use of public lands. They are granting lands to  
9 developers to make money. The State Lands Commission is  
10 being used in a cynical manner, in effect, representing  
11 rich construction magnates in a war against boaters, far  
12 from benefiting the general public or environment without  
13 even taking a formal position on it.

14 ACTING CHAIRPERSON GORDON: Mr. Achler, you want  
15 to wrap up soon.

16 DR. ACHLER: Sure. I'd be happy to share with  
17 you all my communications with marinas in this area in my  
18 search to use these waters. I hope the State Lands  
19 Commission will consider the people of this area and open  
20 a formal and equitable discussions.

21 Thank you.

22 ACTING CHAIRPERSON GORDON: Thank you, sir.

23 Ms. Reddy.

24 MS. REDDY: Good afternoon, Commissioners. I'm  
25 Diana Ready. I'm an affordable housing advocate in San



1 Mateo County, and specifically in Redwood City. And in  
2 recent years, in the last ten years, we've lost in excess  
3 of 400 units of residents who are living in floating homes  
4 in Redwood City. And this displacement started, and then  
5 skyrocketing rents in our area, not unlike San Francisco,  
6 has caused hundreds of other displaced residents in  
7 Redwood City.

8           So as an affordable housing advocate, I was  
9 seeing floating homes as one of our last banyans(sic) to  
10 protect in our area, so that people of lower incomes would  
11 have a place to live. So I'm pretty passionate about  
12 Docketown and trying to do what I can to advocate for them.

13           In that regard, I urge the Commission to consider  
14 joining others in the world in encouraging and enabling  
15 floating communities to address both sea level rise and  
16 housing that is affordable to all residents.

17           I would also ask that the Commission use its  
18 influence to ensure that alternative locations are, in  
19 fact, identified and executed before any further  
20 displacement occurs.

21           Thank you very much.

22           ACTING CHAIRPERSON GORDON: Do we have any other  
23 Docketown residents here? I don't have any other papers in  
24 front of me. Ms. Lucchesi, do you have any response to  
25 the requests for either a letter or an agenda item where

1 we need to go with this?

2 EXECUTIVE OFFICER LUCCHESI: I have a couple of  
3 points I want to make. In regards to agendaing this  
4 discussion for a future meeting, I have been communicating  
5 with Mr. Callister to try and find a time early next week  
6 where we can talk about how that can be achieved. And I'm  
7 happy to do that, if that's the will of the Commission.

8 I want to make a couple of points in terms of  
9 ensuring that marinas are kept open and available for all  
10 the people of California. That's something that the  
11 Commission and the Commission staff works very hard to do  
12 throughout the State. Marinas, their use by all  
13 Californians through their transient boating activities,  
14 are incredibly important to our society, incredibly  
15 important to the Public Trust Doctrine, and to the State  
16 as a whole. We work very hard with our marinas to ensure  
17 that they can be kept open even in hard times with  
18 different mechanisms through rent and otherwise.

19 What the real issue here is, and it's not a new  
20 policy by the Commission since 2001. This is -- the  
21 Public Trust Doctrine is a common law doctrine, which  
22 means it's made by the courts. It's made by the decisions  
23 of the courts throughout time, that these are public lands  
24 held in trust for all the people of California. And when  
25 one particular person or group gets to live on these

1 lands, they effectively exclude the rest of Californians  
2 from being able to use that property.

3           And we have long been involved up and down the  
4 coast with various marinas and grantees to try to find  
5 resolutions to the conflict between liveaboards and the  
6 public's ability to use these lands from a transient  
7 boating perspective.

8           We are usually able to find some mechanism to  
9 resolve this, but I would also like to note that it's not  
10 just Commission staff or the State Lands Commission, this  
11 is also based on advice -- legal advice from the Attorney  
12 General's office about residential use of these public  
13 lands. So there is a lot to work through to find a  
14 resolution, and that resolution can take a number of  
15 different pathways.

16           So as staff of a Commission that has oversight  
17 authority over grantees, such as the City of Redwood City,  
18 we are often put in a position where our grantees ask us  
19 for advice about interpreting the Public Trust Doctrine  
20 and interpreting their granting statutes. In the letter  
21 that's been routinely referenced, that's what we were  
22 doing.

23           The State Lands Commission itself actually has no  
24 approval authority or permit authority over this area of  
25 Docktown. There's no action necessarily for the

1 Commission to take. That's why it's been a little bit of  
2 a struggled to try and figure out how do you agendize this  
3 item. But I will be working with Mr. Callister and anyone  
4 else to figure out a way to do that. So that's -- those  
5 are the points I wanted to make.

6 ACTING CHAIRPERSON GORDON: It strikes me that  
7 there are two issues that are coming together here. And  
8 we need to figure out procedurally where we can go,  
9 because there is nothing to vote on.

10 And the issue, which the first gentleman raised,  
11 which is one that sitting on the Ocean Protection Council  
12 and also -- frankly, the timing is interesting, as I was  
13 just teaching climate change and ocean rise at a class at  
14 UC Davis last night is short-term and longer-term planning  
15 over climate change.

16 There's the longer term how do we cut carbon how  
17 do we try to get our arms around this and decrease it.  
18 There's the short-term, there are going to be impacts on  
19 California. We know that, whether we're talking about  
20 water storage, whether we're talking about power, whether  
21 we're talking about low-lying coastal areas and cliffs,  
22 the Delta, they're all going to be impacted.

23 And while we are planning long term to try to  
24 decrease our carbon under AB 32, we're going to have to  
25 start hardscaping some of the things we have in

1 California. And as these folks have raised, I think which  
2 is a really interesting issue, is traditionally we don't  
3 view housing as an acceptable use under the Public Trust.

4 As we lose some lands in California, as the  
5 climate changes, this idea that is taking hold in London,  
6 in Amsterdam, in Germany where low-lying areas they are  
7 trying to deal with housing problems and climate change  
8 problems at the same time, I think at an -- at least at an  
9 issue of an informational, some research that needs to be  
10 done as to what the potential is.

11 You know, we're talking San Mateo County, which  
12 has, I think, just been found one of the most expensive  
13 counties in the United States, least amount of affordable  
14 housing, as is Santa Clara County, Alameda County, San  
15 Francisco, Marin, we need to at least -- we have a  
16 traditional view of these things. And we need to look  
17 going forward what possibilities there are and whether we  
18 need to change our policy look. So from the perspective  
19 of one Commissioner, who's not going to be on the  
20 Commission, come January --

21 (Laughter.)

22 ACTING CHAIRPERSON GORDON: -- it strikes me that  
23 we should at least start doing some longer-term studies of  
24 what the potentials are, and what we're going to lose, how  
25 many marinas are out there, how many affordable housing

1 slots we're going to lose, what the potential is if we  
2 were going to look at this?

3 I also, for the Controller, sit on the Tax Credit  
4 Allocation Commission, which funds below market rate  
5 housing in California. And we are incredibly deficient up  
6 and down the state in affordable units. And when you talk  
7 about businesses, forget what you read in the press. When  
8 you talk to business people, one of their primary issues  
9 they talk about as why they cannot expand in California is  
10 the lack of affordable housing for their employees.

11 And if these floating communities are one way to  
12 tackle both of those issues, I think we at least owe it to  
13 folks to look at it and see whether the State doctrines  
14 need to be adjusted, and if not, why not.

15 All right. With that, the next order of business  
16 will be the regular calendar.

17 Item 74 is to consider approval of the  
18 legislative report titled 2014 Assessment of the Efficacy,  
19 Availability, and Environmental Impacts of Ballast Water  
20 Treatment Technologies for use in California waters.

21 Easy for you to say, Nicole.

22 ENVIRONMENTAL PROGRAM MANAGER DOBROSKI: Thank  
23 you.

24 ACTING CHAIRPERSON GORDON: You need an acronym  
25 of some kind. This isn't doing it.

1 ENVIRONMENTAL PROGRAM MANAGER DOBROSKI: I know.  
2 I know. I'm sorry. After all these years, you would  
3 think we would have come up with one.

4 Good afternoon, Mr. Chairman and Commissioners.  
5 My name is Nicole Dobroski. I am the Environmental  
6 Program Manager for the Commission's Marine Invasive  
7 Species Program. I'm here today to request your approval  
8 of the report, as you just mentioned, the 2014 Assessment  
9 of the Efficacy, Availability, and Environmental Impacts  
10 of Ballast Water Treatment Technologies for use in  
11 California.

12 ACTING CHAIRPERSON GORDON: Say it three times  
13 quickly.

14 ENVIRONMENTAL PROGRAM MANAGER DOBROSKI: Yes.  
15 No. In 2006, the California legislature passed the  
16 Coastal Ecosystems Protection Act, which among its  
17 provisions established performance standards for the  
18 discharge of ballast water, and the requirement for the  
19 Commission to regularly report to the legislature on the  
20 availability of ballast water treatment technologies.  
21 Reports are due 18 months in advance of each scheduled  
22 implementation date for the performance standards.

23 Previous reports were approved by the Commission  
24 and provided to the legislature in 2007, 2009, '10 and  
25 '13. The 2013 report determined that no ballast water

1 treatment technologies were available to meet the  
2 California performance standards.

3 As a result, Senate Bill 814 was signed in 2013  
4 delaying implementation of the performance standards for  
5 two years until January 1, 2016 or 2018, depending on a  
6 vessel's ballast water capacity and year of construction.

7 The report presented to you today is in advance  
8 of the January 1, 2016 implementation date, which will  
9 impact all newly built vessels and existing vessels with a  
10 ballast water capacity of 1,500 to 5,000 metric tons.  
11 Most vessels will need to use ballast water treatment  
12 technologies in order to comply with the California  
13 performance standards. These treatment technologies may  
14 be either shore based or installed onboard a vessel.

15 At this time, there are no shore-based ballast  
16 water treatment facilities in California or the U.S. that  
17 are designed to remove non-indigenous species from ballast  
18 water. Therefore, this technology cannot presently be  
19 considered available for industry use.

20 The Commission is currently funding a study to  
21 assess the feasibility of shore-based treatment facilities  
22 to enable vessel compliance with the California  
23 performance standards. This project is being managed by  
24 the Delta Stewardship Council, and we expect a final  
25 report in mid-2015.



1           The review of available ship-board treatment  
2 system data indicates that no system can meet all of the  
3 California performance standards. Staff's review of the  
4 data was complicated by several factors. There are a lack  
5 of methods and technologies sensitive enough to measure to  
6 some of California's most stringent performance standards.  
7 Furthermore, existing federal and international protocols  
8 being used to evaluate ship-board ballast water treatment  
9 system performance do not address some of California's  
10 performance standards.

11           The data gap between how ship-board treatment  
12 systems are currently being evaluated to meet  
13 international and federal discharge standards, and what is  
14 necessary to determine if treatment systems meet the  
15 California standards must be addressed.

16           It is essential that the Commission adopt ballast  
17 water sampling protocols to gather additional information  
18 on the performance of ship-board ballast water treatment  
19 systems that may meet the California performance  
20 standards.

21           In light of the aforementioned information, it  
22 appears that ballast water treatment technologies will not  
23 be available to enable implementation of the California  
24 performance standards on January 1 of 2016. Additional  
25 time is necessary for the adoption of ballast water

1 sampling protocols specific to the California standards  
2 and for additional research to take place to fill data  
3 gaps on ship-board treatment system performance.

4 This information, combined with the results of  
5 the shore-based treatment feasibility report, will enable  
6 staff to more conclusively determine what ballast water  
7 treatment technologies will be available.

8 It is imperative to move California towards  
9 implementation of the performance standards in order to  
10 protect the natural resources and health and safety of the  
11 citizens of the State.

12 Thank you.

13 ACTING CHAIRPERSON GORDON: Thank you.

14 Mr. Berge.

15 MR. BERGE: Thank you, Mr. Chairman and  
16 Commission, Commissioner. I want to thank the -- by the  
17 way, my name is John Berge with the Pacific Merchant  
18 Shipping Association. And I'm happy to come up here  
19 speaking in support of the report.

20 ACTING CHAIRPERSON GORDON: Mr. Schmidt is now  
21 sitting in for the Lieutenant Governor. Welcome.

22 MR. BERGE: I would like to thank both the  
23 Commission and the staff for their hard work over the last  
24 few years, culminating in what we view is a well written,  
25 honest, and balanced report.

1           It also provides a lot of good information on  
2 background information on issues in other states,  
3 federally and internationally, which all play into this  
4 discussion.

5           I wouldn't say the report is perfect, lest you  
6 think I'm getting soft in my old age --

7           (Laughter.)

8           MR. BERGE: -- but we would --

9           ACTING CHAIRPERSON GORDON: Here comes the but,  
10 or however.

11          (Laughter.)

12          MR. BERGE: We would urge the Commission to adopt  
13 the report. But at this time, I think the critical  
14 question is where do we go from here?

15          And obviously, there seems to be a consensus  
16 among most people that we will need to adjust the  
17 implementation schedule. And regardless of new  
18 developments, that's probably a requirement and something  
19 that we believe the Commission should make as a  
20 recommendation to the legislature.

21          However, notwithstanding that, we believe the  
22 findings of the report that BAT cannot meet the standards  
23 and that several organism categories are extremely  
24 difficult, if not impossible, to measure. It begs the  
25 question as to practicality of the discharge standards

1 themselves.

2           And therefore, based on those findings, we would  
3 ask the Commission to consider making a recommendation to  
4 the legislature to amend and align the standards with  
5 those adopted federally by the U.S. EPA and the U.S. Coast  
6 Guard.

7           No surprise there, I'm sure.

8           ACTING CHAIRPERSON GORDON: Shocked. Shocked, I  
9 tell you, Mr. Berge.

10           MR. BERGE: These standards are representative of  
11 the limits of technology, efficacy, and treatment or  
12 testing resolution.

13           Finally, I just want to also add in regards to  
14 the recommendation that staff move forward with testing  
15 protocols. We definitely understand that there needs to  
16 be some sort of protocol available to measure  
17 compliance -- legal compliance for the standard. But  
18 we're concerned that the fact that BAT doesn't exist to  
19 meet those standards, and that the resolution limits of  
20 testing protocols probably preclude it from reaching the  
21 necessarily -- necessary resolution to accurately measure  
22 those standards, we're concerned that we're going to end  
23 up with basically two scenarios out of this.

24           One, either a ship passes the test, in which case  
25 it doesn't necessarily mean that the discharge actually

1 beats a California standard, it just means we're not sure,  
2 or two, the ship is failing the test and is in violation  
3 of State law essentially without any remedy, since BAT  
4 doesn't meet the standard.

5 ACTING CHAIRPERSON GORDON: And, Mr. Berge, you  
6 find Catch 22 as an unacceptable State standard?

7 (Laughter.)

8 MR. BERGE: Well, it's something we've dealt with  
9 many times before in the past, so it's not something we  
10 probably can't live with, but I just -- and I don't  
11 believe that the Commission needs to make a decision on  
12 this right now, but I just wanted to express those  
13 thoughts and make sure that you consider that as we move  
14 forward.

15 ACTING CHAIRPERSON GORDON: Thank you, sir.

16 MR. BERGE: And that concludes my remarks. Thank  
17 you for my time.

18 ACTING CHAIRPERSON GORDON: Mr. Holmes.

19 MR. HOLMES: Good afternoon. My name is Frank  
20 Holmes, and I represent Western States Petroleum  
21 Association. I'm the director for the North West Region  
22 in marine issues.

23 We've been working with staff on prior reports  
24 making comments. We've submitted written comments to this  
25 particular lege report. And Mr. Berge commented on a lot

1 of points that we would make, so I won't duplicate those  
2 comments, but we too would support this Commission  
3 accepting this report.

4 And I want to compliment the staff for working  
5 with industry to come up with something that's technically  
6 sound and something that everyone can support.

7 ACTING CHAIRPERSON GORDON: Thank you, sir.

8 MR. HOLMES: Thanks.

9 ACTING CHAIRPERSON GORDON: I would just like to  
10 say particularly thank you to the staff, Nicole, staff's  
11 work. You've guys have done an amazing job on this. From  
12 where we were two years ago, where every time one of these  
13 reports came in, I would get numerous complaints from  
14 various affected members, and the meetings where we first  
15 started and it was clear that the staff and the regulated  
16 community were sort of talking past each other, the  
17 progress that's been made where you guys have agreed on  
18 what does exist, what needs to happen, I think, is frankly  
19 very commendable. It's what government should be about.  
20 Industry is able to go about doing what they do best,  
21 which is moving goods into California, which keeps the  
22 Economy going. And you guys are able to do what you do  
23 best which is try to protect the coastal resources of  
24 California.

25 You folks have done an amazing job, and hopefully

1 as we go forward and the technology develops, everybody  
2 will be able to stay on the same page.

3 Thank you.

4 ACTING COMMISSIONER ORTEGA: I think my question  
5 is for Ms. Lucchesi. Would the issue of delaying the  
6 timelines be something that the Commission staff would  
7 recommend to the Commission or is that something that you  
8 would envision leaving to the legislative arena?

9 EXECUTIVE OFFICER LUCCHESI: It would definitely  
10 need to be left to the legislature --

11 ACTING CHAIRPERSON GORDON: To do it.

12 EXECUTIVE OFFICER LUCCHESI: Sorry. It would  
13 definitely need to be -- it says it's on. There we go.

14 It would definitely need to be left to the  
15 legislature to make that determination. However, as in  
16 the past, we provide technical support in terms of  
17 drafting language that would be legal and appropriate in  
18 that situation. There are times when Commission staff or  
19 the State Lands Commission itself does take a position on  
20 these types of bills. And depending on how that language  
21 is drafted and what it actually will do will depend on  
22 whether the Commission staff -- what kind of position the  
23 Commission staff takes or -- and we would bring it to the  
24 Commission to take a more formal position, if that's  
25 appropriate as well.

1           We have all intentions to work with the regulated  
2 community, the environmental groups, and all other  
3 stakeholders in trying to figure out a way forward, given  
4 the standards and the implementation dates that are  
5 currently set in law.

6           ACTING CHAIRPERSON GORDON: Very good. I think  
7 we're going to move on to the next item. Anything else?

8           EXECUTIVE OFFICER LUCCHESI: We do need to take a  
9 vote on that.

10          ACTING CHAIRPERSON GORDON: We do need to take a  
11 vote?

12          EXECUTIVE OFFICER LUCCHESI: Yes.

13          ACTING CHAIRPERSON GORDON: Oh, on the  
14 adoption of the report.

15          EXECUTIVE OFFICER LUCCHESI: On the report --  
16 presumably consistent -- hopefully consistent with staff's  
17 recommendation.

18          ACTING COMMISSIONER ORTEGA: I'll move adoption.

19          DEPUTY ATTORNEY GENERAL RUSCONI: And just to  
20 remind you, you are back in the two --

21          ACTING CHAIRPERSON GORDON: Only one of us gets  
22 to vote.

23          ACTING COMMISSIONER ORTEGA: I'll move adoption  
24 of the staff recommendation.

25          ACTING COMMISSIONER SCHMIDT: Second.



1           ACTING CHAIRPERSON GORDON: All those in favor?

2           (Ayes.)

3           ACTING CHAIRPERSON GORDON: Passes two to  
4 nothing.

5           As much as I love ballast water, I let you go on  
6 the record on that. I can't believe all the people in the  
7 audience left when we were going to discuss ballast water.  
8 Usually, you know, thousands of people show up just to  
9 hear a discussion of little squiggly creatures in the  
10 ballast.

11           All right. Item number 76 is our next item of  
12 business. This is a application for a general lease,  
13 recreational use of sovereign land located in Lake Tahoe.

14           Staff presentation, please.

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

17           EXECUTIVE OFFICER LUCCHESI: Brian Bugsch is our  
18 Chief of our Land Management Division and he will be  
19 giving the presentation.

20           LAND MANAGEMENT DIVISION CHIEF BUGSCH: Good  
21 afternoon, Commissioners. My name is Brian Bugsch, as  
22 Jennifer said, and I'm the Chief of the Land Management  
23 Division. I'm here to present information on Calendar  
24 Item 76.

25           This item recommends authorization of a lease

1 between the Commission and the applicant's Peter and  
2 Judith Snook for the use of State lands in Lake Tahoe  
3 adjacent to the applicant's lakefront parcel for an  
4 existing pier, boathouse, and two mooring buoys previously  
5 authorized by the Commission, and the use and maintenance  
6 of an existing boat lift and sundeck not previously  
7 authorized by the Commission.

8 --o0o--

9 LAND MANAGEMENT DIVISION CHIEF BUGSCH: Just a  
10 few photos here of the item. I'll stop on that one.

11 As a brief background, the previous lease with  
12 the Snooks was a rent free private recreational pier  
13 lease. This lease application has been scheduled for  
14 consideration at three prior Commission meetings and  
15 removed from the agenda at the request of the Snooks'  
16 agent, Jan Brisco. It was removed from the December 2nd,  
17 2013 agenda, because the Snooks were out of the country,  
18 and the February 21st meeting to discuss certain lease  
19 provisions, and then again in June 19th for a new issue on  
20 how the rent for the sundeck is calculated.

21 I want to remind the Commission and emphasize  
22 that all of the issues that you'll hear today about the  
23 sundecks at Lake Tahoe were extensively discussed and  
24 ultimately resolved by the Commission 22 months ago at the  
25 October 19th, 2012 meeting.

1           At that meeting, Mr. Vanderbeek and his -- the  
2 attorney representing him brought up all the same issues  
3 that you'll hear today surrounding rent for sundecks at  
4 Lake Tahoe. They raise the issues of why it shouldn't be  
5 considered residential use, how the rent should be valued,  
6 and the equity and consistency with which rent is applied.

7           ACTING CHAIRPERSON GORDON: Brian, can I stop you  
8 for one second?

9           LAND MANAGEMENT DIVISION CHIEF BUGSCH: Sure.

10          ACTING CHAIRPERSON GORDON: With the Vanderbeek  
11 situation, it was an actual boathouse, correct? Was that  
12 the one where there was a beautiful boathouse on top, yes,  
13 no?

14          LAND MANAGEMENT DIVISION CHIEF BUGSCH: Yes.  
15 I'll have a picture of it here at the end, so we can look  
16 at it.

17          ACTING CHAIRPERSON GORDON: Okay.

18          LAND MANAGEMENT DIVISION CHIEF BUGSCH: I think  
19 there's one at the end I put in here.

20          Yes. So I have all the relevant portions of the  
21 transcripts here today, if you'd like to read them, but in  
22 the interests of time -- of your time, I'll try and  
23 summarize them.

24          After extensive testimony and discussion,  
25 ultimately the Commission agreed with staff that the use

1 of a sundeck is a non-water dependent use distinct and  
2 different from the use of the pier and boathouse which are  
3 for the docking and mooring of boats.

4           Consequently, the Commission supported using  
5 valuation for sundecks distinct and different from the  
6 valuation used for other improvements. The Commission  
7 also supported establishing a clear valuation method going  
8 forward, so that all Lake Tahoe sundeck applicants could  
9 be treated consistently and equitably.

10           To achieve that, they directed staff to work with  
11 the Vanderbeeks and bring the item back. Staff did as  
12 instructed, the methodology was finalized, the item was  
13 brought back to the Commission and approved at the  
14 December 2012 meeting.

15           Since that time, the Commission has consistently  
16 employed the same methodology for all Lake Tahoe sundecks,  
17 which have all been in the same vicinity on the northwest  
18 side of Lake Tahoe. There is nothing materially different  
19 with this sundeck than the others that have been brought  
20 to the Commission. In fact, we will show you all the  
21 sundecks that have been approved at Lake Tahoe since the  
22 Commission has spoken. As you'll see, they all employ the  
23 same consistent methodology that the Commission has  
24 already agreed upon.

25           Right now, I'd like to go over that methodology

1 for you just to clarify.

2 --o0o--

3 LAND MANAGEMENT DIVISION CHIEF BUGSCH: The rent  
4 on sundecks in Lake Tahoe is calculated by determining a  
5 land value for the submerged parcel. Residential  
6 lakefront lot sales are used in the analysis that included  
7 vacant lots or properties with minimal value to the  
8 improvement and therefore considered teardowns.

9 The sales were verified through public records at  
10 the Placer County Assessor's Office. The sales were  
11 converted to a price per square foot of land, and it  
12 ranged from \$57 to \$118 per square foot, with an average  
13 of \$93 per square foot.

14 Because the sales vary in size, location, and  
15 beach frontage, a conservative range of value was  
16 estimated at \$71 to \$90 per square foot. For the purposes  
17 of this lease, the staff recommended the lower end of this  
18 conservative range and applied \$75 per square foot as a  
19 representative per square foot land value for the subject  
20 land -- upland.

21 At that point, we then apply basically a 75  
22 percent discount to that value. So we apply a  
23 contributory value of 25 percent of the indicated \$75 per  
24 square foot.

25 ACTING CHAIRPERSON GORDON: Where did you come up

1 with the 75 percent discount number?

2 LAND MANAGEMENT DIVISION CHIEF BUGSCH: It's  
3 consistent -- as I was going to say, the contributory  
4 value is essentially recognized of the fact that the  
5 sundeck does not have the exact same value or utility as  
6 the adjoining upland parcel, so we're going to apply a  
7 discount. And this is consistent with how we apply the  
8 contributory value to other non-water dependent uses  
9 throughout the State.

10 Specifically, we use this with cantilever decks  
11 in Huntington Harbor where we have a lot of leases. So  
12 it's consistent with our same valuation methods statewide.

13 EXECUTIVE OFFICER LUCCHESI: And if I just made  
14 add on to that. That's all consistent in other areas  
15 where we -- for example, a protective structure --  
16 shoreline protective structure, where we're trying to  
17 appraise the value and relying on upland value lands, but  
18 knowing that that same land does not have the same kind of  
19 utility, and that number, that percentage what came to  
20 through our appraisal staff in their recommendations.

21 ACTING CHAIRPERSON GORDON: What's the basis -- I  
22 mean, why not 50 percent, why not 95 percent? Why -- is  
23 this one of those, we have three reasons --

24 LAND MANAGEMENT DIVISION CHIEF BUGSCH: A long --  
25 awhile -- I may be able to explain that. Awhile ago, we

1 did kind of an appraisal of remnant parcels in areas close  
2 to the coast and everything, and came up with a valuation  
3 of that, which ranged -- I'm doing it off the top of my  
4 head, so I don't want to -- maybe, Colin -- between seven  
5 and something else and then we averaged that out.

6 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

7 Right. It was a study of remnant parcels as  
8 Brian said -- by the way, I'm Colin Connor. I'm the  
9 Assistant Chief of the Land Management Division. There  
10 was a study done several years ago about that. And it's  
11 basically trying to find out these properties don't have  
12 the same value as others, so what is the ratio of an  
13 adjoining property as a comparison, if you will, of a  
14 remnant property to a fully functional developable  
15 property?

16 And the value differences were expressed in  
17 ranges. As Brian said, seven -- I believe the range value  
18 was seven to 31 percent, so we're looking at 25 percent.  
19 And we applied that fairly evenly across the State for  
20 these types of properties, as Jennifer said, for  
21 protective structures, cantilever decks in Huntington  
22 Harbor, sundecks along the Sacramento River. So that's  
23 the background.

24 ACTING CHAIRPERSON GORDON: Okay.

25 LAND MANAGEMENT DIVISION CHIEF BUGSCH: So we

1 arrived at that. And then that gets us to a value, the  
2 \$75 multiplied times the 25 percent, and then times the  
3 nine percent of appraised land value that's in our  
4 regulations, results in \$1.69 per square foot for the  
5 sundeck and stairs area of the leased premises.

6 For the Snooks, that valuation is up there on  
7 your things there. The square footage for their sundeck  
8 and stairs is 674 square feet multiplied by the \$1.69 per  
9 square foot results in the proposed rent for the sundeck  
10 of \$1,140.

11 --o0o--

12 LAND MANAGEMENT DIVISION CHIEF BUGSCH: On your  
13 screen now is their lease and along with the other ones  
14 that have been approved since you guys have given us the  
15 methodology or agreed to the methodology going forward.  
16 I'll go ahead and show you some of those to show first  
17 their dock and then the other -- or their sundeck and the  
18 other ones. I think their representative, Ms. Brisco, is  
19 working on a couple of these.

20 So these are the six that have been approved so  
21 far.

22 --o0o--

23 LAND MANAGEMENT DIVISION CHIEF BUGSCH: So  
24 there's the Snooks sundeck and -- woops, going a little  
25 too fast.



1           So there's the Snooks. This one, again, it's  
2 very -- one I think Ms. Brisco worked on and looks  
3 relatively close to the one we're looking at here, which  
4 has a wall on one side and then a roof over the boathouse  
5 and then -- which also serves as the sundeck.

6           There's another one.

7                           --o0o--

8           LAND MANAGEMENT DIVISION CHIEF BUGSCH: I'll just  
9 go through these quickly.

10                           --o0o--

11           LAND MANAGEMENT DIVISION CHIEF BUGSCH: I can go  
12 back to any of them.

13                           --o0o--

14                           --o0o--

15                           --o0o--

16           LAND MANAGEMENT DIVISION CHIEF BUGSCH: And then  
17 there's the Vanderbeeks' one that you were talking about.

18           So in the end, staff recommends approval of a  
19 lease for the previously authorized pier, boathouse, and  
20 two moorings buoys, and the previously unauthorized boat  
21 lift and sundeck with annual rent of \$1,140.

22           Ms. Brisco, the representative for the applicant,  
23 and the applicants themselves are present and would like  
24 to address the Commission.

25           ACTING CHAIRPERSON GORDON: Ms. Brisco, the

1 microphone is yours. Welcome back.

2 MS. BRISCO: Thank you. Jan Brisco. It wouldn't  
3 be a Commission meeting without a few Tahoe issues, right?

4 (Laughter.)

5 MS. BRISCO: Thank you very much for the  
6 opportunity. And we know it's consistent. We know there  
7 are a lot of projects that have come forward and been  
8 approved. That's not a question for us, but, you know,  
9 this is an opportunity. I think sort of the last issue  
10 that we hadn't really adequately resolved when we were  
11 doing all the regulation and all the other benchmark  
12 appraisal and everything.

13 And there's a big difference between the statute  
14 that says nine percent of the appraised value and some of  
15 the market value numbers that are coming from staff. And  
16 we've been for several months trying to get that  
17 information from staff, which has prompted our request for  
18 continuance, and really -- and I think staff even had a  
19 little bit of a difficult time trying to explain to you  
20 how they came up with the 75 percent. We really need to  
21 go back and really take a look at that to make sure it is  
22 fair and consistent, especially for Lake Tahoe.

23 This is not a cantilever deck. It's not a  
24 sundeck. It's an upper level of a boathouse. Primary use  
25 is boat related water dependent. There just happens to be

1 an elevated deck on this one and many of the others. And  
2 I don't think it was ever the intent when the legislation  
3 was repealed repealing the rent-free status, that this  
4 would now become a big nine percent of the upland value  
5 issue. We really have worked hard. We've think it should  
6 be a benchmark appraisal method just like the rest of the  
7 pier. It's no different from anyone else using their  
8 pier. They might, you know, sit out at the end of their  
9 dock. These -- that's primarily what happens here. In  
10 the summer months, you watch your grandkids swimming, that  
11 kind of thing. It's really the same use.

12           And I don't think it's appropriate that with that  
13 repeal of the rent-free statute that we now have a change  
14 of use by staff in terms of policy and how moving forward.

15           So we're asking for consistency. With the 40  
16 years that that boathouse has been there rent free, this  
17 issue has never arisen. In fact, we reduced the area of  
18 State property occupied by the structure by actually  
19 consolidating it. We sent that to you in your packet.  
20 And we reduced that area by 102 square feet.

21           The other thing that I think is really important  
22 is that this sundeck is 17 feet by 20 feet. And by my  
23 calculation, that's 340 square feet. So we've been  
24 trying, and with no avail, to work with staff to get this  
25 clarified and corrected. I really think this needs to go

1 back and we need to really understand the intent of that  
2 nine percent and how that's being applied, so that we --  
3 so that it's clear and consistent, not just for this  
4 property owner, but for the others who this issue has  
5 definitely come up time and again. And it's just taken  
6 the Snooks to really say we'd like to address the  
7 Commission on this. We think there's more to be done.

8 Thank you.

9 ACTING CHAIRPERSON GORDON: Can I ask one  
10 question of staff? If the guardrail weren't on the roof,  
11 would it still qualify as a sundeck, if it was just a roof  
12 with nothing around it?

13 EXECUTIVE OFFICER LUCCHESI: If there were no  
14 stairs and no railing, then it would not qualify as a  
15 sundeck.

16 ACTING CHAIRPERSON GORDON: Okay. So it's the  
17 stairs that allows you -- so if you just had stairs and no  
18 handrailing, it's still a sundeck.

19 EXECUTIVE OFFICER LUCCHESI: Yeah, probably a  
20 very dangerous one.

21 ACTING CHAIRPERSON GORDON: All right. Okay.  
22 Just trying to understand where we're going here.

23 ACTING COMMISSIONER ORTEGA: Just another  
24 clarifying question of staff. So the issue that's raised  
25 is clarification about use of the nine percent, but is

1 that a clarification of the statutory intent or a  
2 clarification of the Commission's use of that? You know,  
3 so I'm not sure that the question about clarifying is a  
4 question for us to clarify. If there's a dispute about  
5 what the legislature intended, then this is not the venue  
6 to clarify that.

7 EXECUTIVE OFFICER LUCCHESI: Yeah, if I may, I  
8 may rephrase that question in my answer a little bit,  
9 because I'm a little confused about the question as well.

10 Even with the -- without the repeal of the  
11 statute, the Commission has been consistent about applying  
12 a residential rate to cantilever decks and sundecks, even  
13 when the pier is rent free in other parts of the State.

14 What's interesting about this one is the  
15 Commission was -- the sundeck was never a part of the  
16 lease before. The staff report talks about a previously  
17 unauthorized sundeck, so it was never part of the lease in  
18 the previous lease.

19 That's not atypical that we have become, as a  
20 staff, as a Commission, more specific about the actual  
21 improvements that are being authorized in the lease, as  
22 opposed to a couple of decades ago, where it was not very  
23 descript. So just in terms of protecting the State and  
24 being very accurate, our lease now calls out every single  
25 improvement that's located on State land.

1           So in terms -- however -- so really the question  
2 about was this the legislative intent or not, it's not an  
3 accurate question. It's not -- it's apples to oranges.

4           The legislative intent, the effect, of repealing  
5 the rent-free statute was that all of the -- what was  
6 prior -- previously considered a private, recreational  
7 pier rent free was now going to be charged rent. But the  
8 sundecks, any kind of private residential use of  
9 improvements on State property have consistently been when  
10 we are aware of them, and they're listed in the lease  
11 consistently being applied a rent too.

12           ACTING CHAIRPERSON GORDON: I have a question,  
13 which is somewhat of a follow up on a previous question.  
14 It wasn't really answered to my satisfaction, and Ms.  
15 Brisco raised the same issue.

16           If we were to be challenged in court, and someone  
17 came in and filed and said the discount should be 90  
18 percent not 75 percent, what would be our defense?

19           EXECUTIVE OFFICER LUCCHESI: That's a  
20 hypothetical. That makes it very hard to answer.

21           ACTING CHAIRPERSON GORDON: It is a hypothetical,  
22 but I'm trying to --

23           DEPUTY ATTORNEY GENERAL RUSCONI: We would  
24 turn -- we would turn to our experts in appraise -- land  
25 appraisal and ask them how it's done in other like

1 situations

2 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

3 Basically, that is correct.

4 (Laughter.)

5 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

6 This is all -- that's correct. You have to rely  
7 on some data. We felt that we went through that exercise,  
8 got the data to base it. One thing that you have to take  
9 into account, what is the discount intended to reflect?  
10 And, in this case, you have a dock. And it doesn't have  
11 the same utility -- the full utility as someone's private  
12 backyard. They can't put a pool on the dock, you know,  
13 but they can do that up there.

14 So they have legal rights and more -- greater  
15 physical utility of the upland, hence there should be some  
16 discount. How do you get to that discount? We attempted  
17 to try that by going out and doing a study. So if there  
18 was a challenge to that or an applicant was to question  
19 that, we would respectfully ask them for information on  
20 how they would get to an alternate discount.

21 EXECUTIVE OFFICER LUCCHESI: And this was the  
22 same kind of process that we went through for establishing  
23 rents a couple years ago in Lake Tahoe. If the  
24 Controller's office and Lieutenant Governor's office  
25 recall, staff went through a number of different ways that

1 they could -- that we could assess rent -- that the  
2 Commission could assess rent, and ultimately determined  
3 that the way it has been doing it is the most equitable.  
4 And the same kind of analysis has been done for these  
5 types of sundecks as well.

6 ACTING CHAIRPERSON GORDON: Mr. Snook.

7 MR. SNOOK: I'm Peter Snook. My wife Judy and I  
8 are the owners of the property presently under discussion.  
9 I guess just as an aside before I have a couple of minutes  
10 of prepared comments, I have a real problem with the term  
11 sundeck.

12 My neighbor next door has a flat pier because his  
13 lift is along side. And the end of his pier is actually  
14 more square feet in area than mine, and I don't see why  
15 that isn't also a sundeck, because that's how it's used,  
16 and that's how most people use the ends of their piers  
17 probably everywhere. So anyway.

18 From a non-technical point of view, I guess I see  
19 a fairness issue here, to actually dating ahead of my pier  
20 as a sundeck seems to make it subject to additional rent.  
21 And it's called a sundeck because it's 14 feet above the  
22 water, instead of a flat pier, which maybe is four feet  
23 above the water.

24 Well, the reason my -- end of my per is 14 feet  
25 above the water is because the boat lift hangs under it.



1 It's a different type of lift. And that type of lift has  
2 been there since the original property, which was built  
3 approximately 40 years ago. And I remodeled it when I  
4 bought the property about 27 years ago. And it was  
5 natural, at that time, to keep the same type of structure.

6 Since that time, a lot of the new piers have used  
7 lifts alongside the pier, which avoids a raised structure,  
8 and, at the same time, increases the area over the lake  
9 that's taken up.

10 So anyway, it seems unfair to me to single my  
11 pier out as a sundeck subject to additional rent just  
12 because of the type of boat lift I have. And I said this  
13 before, in reality most of the ends of piers are used as  
14 sundecks. Many have been widened. If I can't use the end  
15 of my pier that's raised, there's only about a 5'5" path  
16 left out there at the end, which really isn't a very  
17 convenient place for having lounges and enjoying my  
18 property. And so that's why I'd like to be able to use  
19 the deck.

20 Thank you.

21 ACTING CHAIRPERSON GORDON: Does your wife wish  
22 to speak also?

23 MR. SNOOK: Sorry?

24 ACTING CHAIRPERSON GORDON: We have a card from  
25 your wife as well, does she wish to speak also.

1 MR. SNOOK: Okay. Sure.

2 MRS. SNOOK: I'm Judith Snook, the other owner  
3 and wife, of 4688 North Lake Boulevard in Carnelian Bay.  
4 In 1987, we bought our house. It's not a trophy house.  
5 It's an ordinary house, but comfortable. And with it came  
6 a pier and a boathouse that needed some serious renovation  
7 so that they would be safe.

8 We reconfigured the boathouse to take up less  
9 area of the lake than the original boathouse. The only  
10 type of lift being built in 1988, and it was a good solid,  
11 safe lift was the cable type that we have that you have  
12 seen in our picture with a flat roof over the top.

13 We always thought we needed access to that roof  
14 for potential repairs, for safety, and for visibility.  
15 You see the boathouse actually blocks our view off the end  
16 of our pier. In reconfiguring it so it would take less  
17 space on the lake, it actually has -- blocks our view. So  
18 to get up to the top of the boathouse, we can see if  
19 there's somebody in trouble out in the water. Swimmers  
20 and kayakers go by all the time. Yesterday and the day  
21 before, there were fairly high winds on the lake, big  
22 surf. And there were kayakers and paddleboarders going  
23 across the lake.

24 And we like to keep an eye on things. My  
25 husband has been in the Coast Guard auxiliary. And right

1 now there is a Coast Guard auxiliarian's boat, a friend's  
2 boat, on our lift, and it's used for safety patrols.

3 We needed that access for visibility, as I said,  
4 and safety, and also to enjoy the lake. We have a rocky  
5 beach. You cannot really walk safely on our beach, so we  
6 have the end of our pier, and that is on top of our  
7 boathouse. It's not like the picture you were showing at  
8 great length. It's not a huge sundeck. It's about half  
9 the size as what you have said that we are going to be  
10 charged for, maybe less than half the size.

11 ACTING CHAIRPERSON GORDON: Can I stop one  
12 second? What's the -- I'm not understanding -- what's the  
13 dispute about the size of the deck? Isn't that a fairly  
14 simple measure of taking out a tape deck(sic) and  
15 measuring it? Double -- I understand maybe a couple a  
16 foot difference, but double the size -- somebody is off  
17 here.

18 EXECUTIVE OFFICER LUCCHESI: We've included the  
19 stairs. The stairs leading up to the sundeck.

20 ACTING CHAIRPERSON GORDON: Ahh, that's the  
21 difference.

22 MRS. SNOOK: And that doubles the size?

23 EXECUTIVE OFFICER LUCCHESI: I would like to have  
24 our --

25 MRS. SNOOK: I don't think so. This is so

1 subjective, and it's so unfair. I mean, it really is.  
2 When we bought the house, we knew we would be paying  
3 property tax on our pier and our boathouse. We had no  
4 idea it would come to this.

5           We were -- we ordered the best replacement boat  
6 lift to be built and -- designed and built that was  
7 available at that time for safety and durability. And in  
8 1988, that's the kind that was being built, not the flat  
9 ones. The flat ones also interrupt our view when we're  
10 down on the pier. We can't see past our neighbor's piers  
11 very well if there are swimmers, so we go up and use the  
12 boat deck.

13           People like the looks of our pier. They don't  
14 object to it. It's not commercial looking, like some of  
15 the modern ones.

16           I don't know what else you might have that I  
17 could add, but I really hope you'll very carefully  
18 consider this in a sense of fairness.

19           Thank you.

20           EXECUTIVE OFFICER LUCCHESI: I would just like to  
21 add on the disagreement over the square footage that we  
22 have, based on submissions by the applicant, had our  
23 boundary staff calculate the area. And so that's how we  
24 came up with the area of six hundred and seventy something  
25 square feet.

1           ACTING CHAIRPERSON GORDON: And we usually charge  
2 people for the stairs? That's considered part of the  
3 sundeck?

4           EXECUTIVE OFFICER LUCCHESI: Yes, that's been our  
5 practice, yes.

6           I would like to also add that TRPA, the  
7 regulatory agency up there at Lake Tahoe, does -- has  
8 not -- does not allow new sundecks to be built,  
9 recognizing that the sundecks are not an appropriate use  
10 of the lake. They do grandfather in previous existing  
11 ones, but they do not authorize new sundecks to be built.

12           ACTING COMMISSIONER ORTEGA: Can you explain a  
13 little more about the stair calculation? So the purpose  
14 of calculating the space that the sundeck occupies is  
15 calculating the part of the lake that is impeded by the  
16 private structure, right?

17           EXECUTIVE OFFICER LUCCHESI: So the part of  
18 the -- the stairs are integral to leading up to the  
19 sundeck. I think it would be helpful if we could get --

20           ACTING CHAIRPERSON GORDON: Put the picture back  
21 up again.

22           EXECUTIVE OFFICER LUCCHESI: -- the picture back  
23 up and the actual slide that shows -- there you go.  
24 Perfect.

25           The stairs leading up to the deck, which actually

1 you cannot really see. Is that the existing catwalk? I  
2 think we need somebody from our Land Management Division  
3 up here -- thank you -- to interpret this.

4 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:  
5 Can I -- I don't know if this has a pointer, but  
6 it's -- you can see the impact area.

7 EXECUTIVE OFFICER LUCCHESI: You need to go the  
8 other way. There we go.

9 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:  
10 There we go.

11 The cross-hatched area is the impact area. This  
12 is the -- the sundeck is to the immediate right of the  
13 cross-hatched impact area, and the stairs are just below  
14 those.

15 We typically rely on our boundary staff to  
16 prepare these exhibits and the calculations that go into  
17 our rent.

18 Looking at this right now, I would have to go  
19 back and look at the boundary unit's calculations, and the  
20 rent memo to make sure they jibe. And we can certainly do  
21 that.

22 ACTING CHAIRPERSON GORDON: Can I see the slide  
23 showing the picture again though? What I'm trying to  
24 figure out is the -- so the deck -- I mean, the stairs  
25 aren't an additional area away from the lake. They are --

1 I mean, they're just -- they are above the pier.

2 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

3 Correct.

4 ACTING CHAIRPERSON GORDON: So the pier is exempt  
5 from rent.

6 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

7 Correct.

8 ACTING CHAIRPERSON GORDON: And we're charging  
9 the folks -- on the way the calculations are working, the  
10 sundeck is what people are going to recreate on, and  
11 that's what we're charging them for. But now we're saying  
12 that the stairs that they walk up is a recreational area?

13 EXECUTIVE OFFICER LUCCHESI: Well, there's no  
14 need for the stairs if there's no sundeck.

15 LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:

16 You see the thought here is that the pier is for  
17 docking and mooring of boats, the sundeck is not. You can  
18 do that on the upland. And the stairs provide access to  
19 the sundeck. If you didn't have a sundeck railing, you  
20 wouldn't have any need to get up there.

21 Earlier references were made to repairs or  
22 construction. You know, if the stairs weren't there, a  
23 contractor would do that with a ladder.

24 ACTING COMMISSIONER ORTEGA: Can we go to the  
25 Vanderbeek photo again, which I think was the last photo?

1           ACTING CHAIRPERSON GORDON: No, the actual  
2 photograph of the deck.

3           ACTING COMMISSIONER ORTEGA: The very last one.

4           ACTING CHAIRPERSON GORDON: Go through slowly.

5           LAND MANAGEMENT DIVISION ASSISTANT CHIEF CONNOR:  
6 Keep going.

7           Stop.

8           ACTING CHAIRPERSON GORDON: That's it.

9           ACTING COMMISSIONER ORTEGA: I can't really tell  
10 from this one. I guess I will say for myself, I more  
11 understood that the sundeck was being charged -- the way  
12 this -- the way the Snook sundeck and stairs are set up, I  
13 understand the argument that they are part -- you wouldn't  
14 need the stairs, if you didn't have a residential use  
15 occurring. But in some of them, the other pictures it  
16 looks like the stairs are kind of over the water more or  
17 not -- I mean, the stairs are actually on top of the pier,  
18 which seems to be kind of double calculating the -- I  
19 understand there's no rent on the pier, but it's a little  
20 confusing to me why we're charging them for --

21           ACTING CHAIRPERSON GORDON: That's my trouble  
22 also. It strikes me that we are shoehorning the -- I  
23 mean, I understand charging people for the recreational  
24 area that they are going to use residentially, but to say  
25 that the -- if the stairs were somehow out over the water,



1 that would be additional space that the public couldn't  
2 use, but the stairs are over the existing -- the pier.  
3 Nobody is going to be using that anyway.

4 EXECUTIVE OFFICER LUCCHESI: Except for --

5 ACTING CHAIRPERSON GORDON: To charge for that  
6 rent double -- where it essentially doubles the square  
7 foot area strikes me as -- I have a problem with that.  
8 I'm not sure where the Commission wants to go, but this  
9 is -- this is --

10 EXECUTIVE OFFICER LUCCHESI: If I just may add  
11 that the pier is for the docking and mooring of boats.  
12 Having a stairway occupy a portion of your pier means you  
13 can't use that portion of the pier for the docking and  
14 mooring of your boat.

15 Now, in terms of the square footage difference, I  
16 am not sure that it does not look visually that that --  
17 those stairs actually would increase the square footage by  
18 doubling, the area of those squares. So I am actually not  
19 sure. And I was looking through Ms. Brisco's comment  
20 letter to see if she had raised this in the comment  
21 letter, and I don't see that. So we actually didn't spend  
22 time to figure out -- we actually didn't realize there was  
23 a disagreement over the square footage of the sundeck at  
24 this time.

25 So I don't know what else we can add to that,

1 other than we -- our boundary staff uses information  
2 submitted by the applicants to calculate the area of the  
3 sundeck and the stairs, because those stairs -- but for  
4 those stairs -- but for the sundeck, the sundeck -- the  
5 stairs would not be there.

6 ACTING COMMISSIONER ORTEGA: So this pier is  
7 without rent because of the timing for when the statute  
8 came into place?

9 EXECUTIVE OFFICER LUCCHESI: That's correct.

10 LAND MANAGEMENT DIVISION CHIEF BUGSCH: When the  
11 application was submitted.

12 ACTING COMMISSIONER ORTEGA: So if this pier were  
13 under rent --

14 EXECUTIVE OFFICER LUCCHESI: Yes.

15 ACTING COMMISSIONER ORTEGA: -- we would still be  
16 charging for the stair area?

17 EXECUTIVE OFFICER LUCCHESI: As a residential  
18 rate, but we would not be double dipping and also charging  
19 that area --

20 ACTING COMMISSIONER ORTEGA: You would subtract  
21 that portion --

22 EXECUTIVE OFFICER LUCCHESI: Yes.

23 ACTING COMMISSIONER ORTEGA: -- of the stairs  
24 out? See, that's making it harder for me, not easier  
25 then, because it just seems --

1           LAND MANAGEMENT DIVISION CHIEF BUGSCH: It's a  
2 dual use, right? So just think -- just think of just the  
3 sundeck and leave the other one out. That's a roof of a  
4 boathouse or covering a boat hoist, and then -- so it has  
5 a recreational value, and then it also has a  
6 nonwater-dependent use when you put the railings and the  
7 stairs with it.

8           ACTING COMMISSIONER ORTEGA: And the recreational  
9 value is -- would be under a separate lease?

10          LAND MANAGEMENT DIVISION CHIEF BUGSCH: No,  
11 that's all together. So we would charge it all together.  
12 It would all be under one lease, all the improvements.  
13 And then the way we value it, we would only -- we wouldn't  
14 double charge for that. We would charge that area under  
15 the nonwater-dependent use valuation, which is \$1.69. And  
16 then the rest of the improvements that the -- the pier and  
17 the impact areas at the other rates, at the \$0.80.

18           So we're not double charging for any areas.  
19 There's only one charge for that. But when they have a  
20 dual use, we charge it at that -- the nonwater-dependent  
21 use.

22          ACTING COMMISSIONER SCHMIDT: I mean, I think the  
23 reality is, going back that we have precedence here is, if  
24 you don't want to pay the higher rent, you don't use your  
25 pier for nonwater uses. And that's kind of what we've

1 been grappling with and trying to deal with through two  
2 years of discussions on this.

3           And the reality is some folks now have -- the  
4 advantage to having a private place to hang out where the  
5 public doesn't, and that's why you're paying a higher  
6 rent. And to be honest, \$1,000 for basically a private  
7 place to hang out in Tahoe compared to land value at this  
8 point seems like a deal.

9           I mean, so I'm happy moving forward, but also if  
10 the will of the Commission is to put this off, I'm happy  
11 with that as well.

12           LAND MANAGEMENT DIVISION CHIEF BUGSCH: And just  
13 to follow up, we have -- you guys have spoken on this.  
14 All these issues were discussed. I can give you the  
15 transcripts to reiterate all of that. We did agree to  
16 that, and we have been consistent going forward.

17           So in the event that you do alter that, you need  
18 to consider how we're going to deal with those other  
19 people that -- and bring those back or how we'll deal with  
20 everything else, if you want to alter the path forward

21           ACTING COMMISSIONER ORTEGA: Mr. Chair, if I may?  
22 I'm willing to make a motion to approve the lease,  
23 especially in light of the comments by Mr. Schmidt. But I  
24 would like to just ask for staff to look at two things.  
25 One is to just double check the calculation of the square

1 footage and see if there is any validity to the dispute  
2 about the square footage. And then maybe as part of that  
3 reporting back just explaining or looking a little bit  
4 about this issue of the stairs and whether or not in some  
5 of the previous cases the stairs significantly contribute  
6 to a loss of, you know, the impact area, a loss of the use  
7 of the lake, and the context of why we're even charging  
8 for these structures to begin with.

9           So perhaps an informational -- or part of your ED  
10 report at a future meeting just saying that you confirmed  
11 the square footage and kind of a little -- a short  
12 discussion perhaps of this kind of stairway issue.

13           EXECUTIVE OFFICER LUCCHESI: Of course.

14           ACTING COMMISSIONER ORTEGA: And with that, I'll  
15 move approval of the lease. I think it's important that  
16 the property come under lease, so I think -- that's why  
17 I'm comfortable moving forward with it today.

18           ACTING CHAIRPERSON GORDON: Approval, we've got a  
19 motion.

20           ACTING COMMISSIONER SCHMIDT: And that's  
21 contingent on the square footage working out?

22           ACTING COMMISSIONER ORTEGA: Um-hmm.

23           ACTING COMMISSIONER SCHMIDT: Okay. Second.

24           EXECUTIVE OFFICER LUCCHESI: Well, I would -- if  
25 the Commission would like to move this item, the moving on

1 the staff's recommendation inevitably is -- hinges on the  
2 staff's calculation of the sundeck location. So if  
3 that -- if we go back and talk with Ms. Brisco and her  
4 clients and we realize there is a discrepancy, we will  
5 bring the item back.

6 ACTING CHAIRPERSON GORDON: I would -- and part  
7 of this is, as the short-timer on the Commission, I won't  
8 be here to deal with these going forward, I would not vote  
9 for the lease today. I do find the issue -- there are  
10 enough votes to get it out, so it's going to go out two to  
11 nothing. I do find the issue of the stairs that are not  
12 taking up additional space, but are just on top of the  
13 existing deck, that is exempted, problematic.

14 If it were increasing the public's lack of use of  
15 the area, I would see why you would do it, but it strikes  
16 me that the deck is a recreational use. I fully am  
17 supportive of the idea of us charging the rent. And the  
18 calculation strikes me as good as any as we're going to  
19 come up with. I know staff spent a lot of time figuring  
20 it out.

21 So at some levels, the 75 percent does strike  
22 me -- what a former bass of mine once said when he said we  
23 always have to have three reasons for everything. And  
24 somebody asked him why, and he said because two is too few  
25 and four is too many. It strikes me that the answer is

1 really 70 is too small and 80 is too much. And so we  
2 started on 80 and we settled on 75.

3 But the idea of throwing the stairs in where, you  
4 know, people -- they're not -- people aren't using the  
5 stairs as sundecks. I understand they're using them to  
6 access the deck, but I really think that's just a  
7 shoehorn, so I would have a problem with it. It's going  
8 to go out two to nothing, but I think this is something --  
9 I don't think this will be the last time that the  
10 Commission sees this issue going forward. I think others  
11 will probably raise the same issue.

12 So we've got a motion and a second on the staff  
13 recommendation with the condition that the square footage  
14 be recalculated. And if that calculation changes, then  
15 this item will actually come back to the Commission at a  
16 later date.

17 All those in favor?

18 (Ayes.)

19 ACTING CHAIRPERSON GORDON: It passes two to  
20 nothing with the Controller abstaining.

21 Let's see, that -- Ms. Lucchesi, that is all for  
22 the regular calendar. Ms. Lucchesi, what is the next  
23 order of business?

24 EXECUTIVE OFFICER LUCCHESI: Well, we have  
25 already done the formal public comment period, but I'm not

1 sure if there's anybody else in the audience that wishes  
2 to speak during public comment.

3 And seeing none.

4 The next order of business is whether the  
5 Commission has any comments or questions.

6 ACTING CHAIRPERSON GORDON: Anybody?

7 That concludes the open meeting. We'll now  
8 adjourn to closed session. Can we please clear the room.

9 (Off record: 3:05 PM)

10 (Thereupon the meeting recessed

11 into closed session.)

12 (Thereupon the meeting reconvened open session.)

13 (On 3:21 PM)

14 ACTING CHAIRPERSON GORDON: Back into open  
15 session. We have concluded our business for the day.  
16 This session of the State Lands Commission is in  
17 adjournment.

18 (Thereupon the California State Lands  
19 Commission meeting adjourned at 3:22 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 18th day of August, 2014.

17  
18  
19  
20 

21  
22  
23 JAMES F. PETERS, CSR, RPR  
24 Certified Shorthand Reporter  
25 License No. 10063