

MEETING
STATE OF CALIFORNIA
LANDS COMMISSION

SHERATON SAN DIEGO
HOTEL AND MARINA BAY TOWER
BEL AIRE BALLROOM
1590 HARBOR ISLAND DRIVE
SAN DIEGO, CALIFORNIA

THURSDAY, OCTOBER 13, 2016
1:00 P.M.

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

A P P E A R A N C E S

COMMISSION MEMBERS:

Ms. Betty T. Yee, State Controller, Chairperson

Mr. Gavin Newsom, Lieutenant Governor, represented by Mr. Rhys Williams

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

STAFF:

Ms. Jennifer Lucchesi, Executive Officer

Mr. Colin Connor, Assistant Executive Officer

Mr. Mark Meier, Chief Counsel

Mr. Brian Bugsch, Chief, Land Management Division

Mr. Ken Foster, Public Land Management Specialist

Ms. Kim Lunetta, Administrative Assistant

Ms. Jennifer Mattox, Science Policy Advisor

ATTORNEY GENERAL:

Mr. Andrew Vogel, Deputy Attorney General

ALSO PRESENT:

Ms. Maris Brancheau, Protect our Communities Foundation

Ms. Julia Chunn-Heer, Surfrider Foundation

Supervisor Greg Cox, San Diego County Board of Supervisors

Mr. Jeffrey Durocher, Pacific Wind Development

Mr. Tony Gordon, Port of San Diego

Mr. Michael Jones, The Maritime Alliance

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

ALSO PRESENT:

Mr. Kristin Kuhn, San Diego Coastkeeper

Mr. Scott Maloni, Poseidon Water

Commander Jerod Markley, Navy Region Southwest

Mr. Jim Peugh, San Diego Audubon Society

Mr. Mike Prather, Easter Sierra Audubon Society

Ms. Staley Prom, Surfrider Foundation

Ms. Amanda Sackett, Surfrider Foundation

Ms. Terry Weiner, Desert Protective Council

Mr. David Yow, Port of San Diego

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I 1:00 P.M. - OPEN SESSION	1
II CONFIRMATION OF MINUTES FOR THE MEETING OF AUGUST 9, 2016	20
III EXECUTIVE OFFICER'S REPORT	21

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

- 2280 Sunnyside Lane LLC (Lessee):
Continuation of annual rent at \$1,755 per year
for a General Lease - Recreational Use located on
sovereign land in Lake Tahoe, adjacent to 2280
Sunnyside Lane, near Tahoe City, Placer County
(PRC 4170.1).

- Joseph A. Enos and Patricia R. Enos,
Trustees of the Enos Trust, established November
20, 1989 (Lessee): Continuation of annual rent
at \$201 per year for a General Lease -
Recreational Use located on sovereign land in
Georgiana Slough, adjacent to 14800 Andrus
Island Road near the town of Walnut Grove,
Sacramento County. (PRC 8906.1).

IV CONSENT CALENDAR C01-C61	32
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THE FOLLOWING ITEMS ARE CONSIDERED TO BE
NONCONTROVERSIAL AND ARE SUBJECT TO CHANGE AT
ANY TIME UP TO THE DATE OF THE MEETING.

LAND MANAGEMENT DIVISION
NORTHERN REGION

C01 DORIS B. FAGAN, TRUSTEE OF THE FAGAN
REVOCABLE TRUST DATED JUNE 7, 2001 (APPLICANT):
Consider application for a General Lease -
Recreational Use, of sovereign land located in
the Sacramento River, adjacent to 22539 Adobe
Road, near the city of Red Bluff, Tehama County;
for an existing boat dock and appurtenant
facilities. CEQA Consideration: categorical exemption.
(PRC 6957.1; RA# 27115) (A 3; S 4) (Staff: M.J.
Columbus)

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C02 SANDRA J. CLARKSON, TRUSTEE OF THE CLARKSON SURVIVOR' TRUST, UNDER TRUST AGREEMENT DATED MARCH 21, 1994 (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in the Sacramento River, adjacent to 22551 Adobe Road, near the city of Red Bluff, Tehama County; for an existing uncovered floating boat dock and appurtenant facilities. CEQA Consideration: categorical exemption. (PRC 6955.1; RA# 31715)(A 3; S 4)
(Staff: M.J. Columbus)

C03 TRI-ASSOCIATION, A CALIFORNIA NONPROFIT MUTUAL BENEFIT CORPORATION (APPLICANT): Consider authorization for an amendment to Lease No. PRC 3775.1, a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 7001 West Lake Boulevard, near Tahoma, El Dorado County; to relocate a buoy field. CEQA Consideration: categorical exemption.(PRC 3775.1; RA# 33615) (A 5; S 1)
(Staff: M.J. Columbus)

C04 RONALD H. ROUDA AND MARILYN SUE ROUDA, TRUSTEES OF THE RONALD H. ROUDA QUALIFIED PERSONAL RESIDENCE TRUST #1, DATED JUNE 2, 1999; MARILYN SUE ROUDA AND RONALD H. ROUDA, TRUSTEES OF THE MARILYN SUE ROUDA QUALIFIED PERSONAL RESIDENCE TRUST #1, DATED JUNE 2, 1999; DAVIA R. ROUDA AND MEIKA A. ROUDA, TRUSTEES OF THE DAVIA R. ROUDA TRUST DATED JUNE 2, 1999; AND MEIKA A. ROUDA AND DAVIA R. ROUDA, TRUSTEES OF THE MEIKA A. ROUDA TRUST DATED JUNE 2, 1999 (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 10 Aspen Street, near Tahoe City, Placer County; for two existing mooring buoys not previously authorized by the Commission. CEQA Consideration: categorical exemption. (W 26866;RA# 34814) (A 1; S 1)
(Staff: K. Connor)

C05 ROSS W. RELLES JR. AND LYNNE K. RELLES (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 3205 and 3225 West Lake Boulevard, near Homewood, Placer County; for four existing mooring buoys. CEQA Consideration: categorical exemption. (PRC 8702.1; RA# 35815) (A 1; S 1)
(Staff: K. Connor)

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C06 FRANK CASALE AND TERESA M. CASALE (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 720 West Lake Boulevard, near Tahoe City, Placer County; for two existing mooring buoys. CEQA Consideration: categorical exemption. (PRC 8643.1; RA# 15415) (A 1; S 1) (Staff: K. Connor)

C07 ADOLPHUS ANDREWS JR., GORDON P. ANDREWS, AND EDITH ANDREWS TOBIN, AS TRUSTEES OF THE EMILY T. ANDREWS 1987 REVOCABLE TRUST, AS AMENDED (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 9720 Brockway Spring Drive, near Kings Beach, Placer County; for two existing mooring buoys. CEQA Consideration: categorical exemption. (PRC 7928.1; RA# 35715)(A 1; S 1) (Staff: K. Connor)

C08 WILLIAM D. WATKINS AND DENISE P. WATKINS TRUSTEES OF THE WATKINS FAMILY TRUST DATED 1-7-94 (LESSEE); 6980 WEST LAKE, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY (APPLICANT): Consider waiver of rent, penalty and interest; termination of Lease No. PRC 3637.1, a General Lease - Commercial Use; and an application for a General Lease - Commercial Use, of sovereign land located in Lake Tahoe, adjacent to 6980 West Lake Boulevard, near Tahoma, Placer County; for an existing pier and five mooring buoys previously authorized by the Commission and three existing freshwater intake pipelines not previously authorized by the Commission. CEQA Consideration: categorical exemption. (PRC 3637.1; RA# 15715) (A 1; S 1) (Staff: N. Lee)

C09 RICHARD P. FILSON AND ANN M. FILSON, TRUSTEES OF THE FILSON FAMILY REVOCABLE TRUST DATED SEPTEMBER 19, 2001; MARK G. MARSHALL; BRYANT C. BLEWETT AND ELLEN E. MARSHALL, TRUSTEES OF THE BLEWETT-MARSHALL REVOCABLE TRUST DATED DECEMBER 12, 2007; MOLLY C. MARSHALL; AND PAUL A. MARSHALL (LESSEE/APPLICANT): Consider termination of Lease No. PRC 8951.9, a Recreational Pier Lease, and an application for a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 8361 Meeks Bay Avenue, near Meeks Bay, El Dorado County; for one existing mooring buoy previously authorized by the Commission; and an existing pier and one existing mooring buoy not

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previously authorized by the Commission. CEQA
Consideration: categorical exemption. (PRC 8951.1;
RA# 26115) (A 5; S 1) (Staff: M. Schroeder)

C10 THE TRUSTEES OF THE LAKE TAHOE PARK ASSOCIATION
(APPLICANT): Consider an amendment of lease and
revision of rent to Lease No. PRC 3887.1, a General
Lease - Recreational Use, of sovereign land located in
Lake Tahoe, adjacent to 1700 Sequoia Avenue, Tahoe
City, Placer County; for two existing piers, swim area
with swim line, and 50 mooring buoys. CEQA
Consideration: not projects. (PRC 3887.1) (A 1; S 1)
(Staff: M. Schroeder)

C11 COUNTY OF SUTTER (PERMITTEE); CITY OF YUBA CITY
(APPLICANT): Consider acceptance of a quitclaim deed
for Permit No. PRC 1929.9, for a Public Agency Permit,
and an application for a General Lease - Public Agency
Use, of sovereign land located in the Feather River,
adjacent to 563 2nd Street, Yuba City, Sutter County
and River Front Park, city of Marysville, Yuba County;
for the replacement of the Fifth Street Bridge,
installation of utility conduits and water line, and
use of a temporary construction easement. CEQA
Consideration: Mitigated Negative Declaration, adopted
by the city of Yuba City, State Clearinghouse No.
2013082011, and adoption of a Mitigation Monitoring
Program. (PRC 1929.9; RA# 38215) (A 3; S 4)
(Staff: M. Schroeder)

C12 WILLIAM A. MANKE AND LAVON T. MANKE, AS
CO-TRUSTEES UNDER THE WILLIAM A. MANKE FAMILY TRUST
AGREEMENT DATED JULY 20, 1981 (APPLICANT): Consider
application for a General Lease - Recreational Use, of
sovereign land located in Donner Lake, adjacent to
14956 South Shore Drive, near the town of Truckee,
Nevada County; for an existing pier and storage shed
not previously authorized by the Commission. CEQA
Consideration: categorical exemption. (W 8670.65; RA#
39114) (A 1; S 1) (Staff: M. Schroeder)

C13 MICHAEL M. GHILOTTI AND LISA B. GHILOTTI
(LESSEE): Consider revision of rent to Lease No. PRC
8962.1, a General Lease - Recreational Use, of
sovereign land located in Lake Tahoe, adjacent to 7762
North Lake Boulevard, near Tahoe Vista, Placer County;

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for two existing mooring buoys. CEQA Consideration: not a project. (PRC 8962.1) (A 1; S 1) (Staff: J. Toy)

C14 BROODY BEAR, LLC AND FLATCAT, LLC (LESSEE): Consider revision of rent to Lease No. PRC 8334.1, a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 3755 Idlewild Way, near Homewood, Placer County; for two mooring buoys. CEQA Consideration: not a project. (PRC 8334.1) (A 1; S 1) (Staff: J. Toy)

C15 FLORENE D. HECK AS TRUSTEE, OR SUCCESSOR TRUSTEE, OF THE FLORENE D. HECK 1991 REVOCABLE TRUST DATED MARCH 27, 1991 (LESSEE): Consider revision of rent to Lease No. PRC 4412.1, a General Lease - Recreational Use, of sovereign land located in Lake Tahoe, adjacent to 780 West Lake Boulevard, near Tahoe City, Placer County; for two existing mooring buoys. CEQA Consideration: not a project. (PRC 4412.1) (A 1; S 1) (Staff: J. Toy)

BAY/DELTA REGION

C16 STEVEN E. AMES AND LINDA S. AMES (LESSEE); JAMES GRIMES AND KIM GRIMES, CO-TRUSTEES UNDER THE GRIMES LIVING TRUST DATED JULY 8, 2014 (AS RESTATED ON AUGUST 21, 2015) (APPLICANT): Consider acceptance of a quitclaim deed for Lease No. PRC 5124.9, a General Lease - Recreational and 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 3445 Garden Highway, near the city of Sacramento, Sacramento County; for an existing boat dock, appurtenant facilities, and bank protection. CEQA Consideration: categorical exemption. (PRC 5124.1; RA# 05016) (A 7; S 6) (Staff: G. Asimakopoulos)

C17 DELTA WETLANDS PROPERTIES, AN ILLINOIS GENERAL PARTNERHSIP (LESSEE); THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA (APPLICANT): Consider acceptance of a quitclaim deed for Lease No. PRC 5275.1, a General Lease - Recreational Use, and an application for a General Lease - Public Agency Use, of sovereign land located in the South Fork of the Mokelumne River, adjacent to Assessor's Parcel Number

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069-030-35, on Bouldin Island, near the city of Isleton, San Joaquin County; for an existing boat dock and appurtenant facilities. CEQA Consideration: categorical exemption. (PRC 5275.9; RA# 37915) (A 11; S 3) (Staff: G. Asimakopoulos)

C18 2101-2603 WILBUR LLC (LESSEE): Consider correction to prior approval for the revision of rent to Lease No. PRC 1546.1, General Lease - Industrial Use, of filled and unfilled sovereign land in the San Joaquin River, adjacent to 2301 Wilbur Avenue, near the city of Antioch, Contra Costa County; for an existing non-operational industrial pier, maintenance pier, pipelines, and appurtenant facilities. CEQA Consideration: not a project. (PRC 1546.1; RA# 32915) (A 11; S 7)(Staff: V. Caldwell)

C19 DYANNA TAYLOR AND SETH WHITESIDE TAYLOR (APPLICANT): Consider rescission of approval of Lease No. PRC 9257.1, and an application for a General Lease - Recreational Use, of sovereign land located in Corte Madera Creek, adjacent to 119 Greenbrae Boardwalk, near the city of Larkspur, Marin County; for an existing boat dock and appurtenant facilities not previously authorized by the Commission. CEQA Consideration: categorical exemption. (PRC 9257.1; RA# 03715) (A 10; S 2) (Staff: V. Caldwell)

C20 EAST BAY REGIONAL PARK DISTRICT (APPLICANT): Consider application for a General Lease - Public Agency Use, of sovereign land located in San Pablo Bay, near the city of Pinole, Contra Costa County; for construction, use, and maintenance of a segment of the San Francisco Bay Trail. CEQA Consideration: Environmental Impact Report, certified by the East Bay Regional Park District, State Clearinghouse No. 2010082043, and adoption of a Mitigation Monitoring Program and Statement of Findings. (W 27042; RA# 36615) (A 15; S 9) (Staff: A. Franzoia)

C21 COUNTY OF MARIN (APPLICANT): Consider application for a General Lease - Dredging, of sovereign land located in San Francisco Bay, near the town of Tiburon, Marin County; to maintenance dredge a navigable depth at the northern and southern channel entrances to Paradise Cay. CEQA Consideration:

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categorical exemption. (PRC 7822.9; RA# 06915) (A 10; S 2) (Staff: A. Franzoia)

C22 CALIFORNIA STATE LANDS COMMISSION AND CCO SOCIAL I, LLC (PARTIES): Consider an indemnity agreement for a video line co-located on the new Santa Fe Avenue \ Bridge, over sovereign land located in the Tuolumne River, adjacent to the Lakewood Memorial Park between the communities of Empire and Hughson, Stanislaus County. CEQA Consideration: not a project. (W 26991; RA# 37115)(A 12; S 8) (Staff: A. Franzoia)

C23 LAS GALINAS VALLEY SANITARY DISTRICT (APPLICANT): Consider application for an amendment to Lease No. PRC 6201.9, a General Lease - Public Agency Use, of sovereign land located in San Francisco Bay, near the city of San Rafael, Marin County; to include two additional parcels in the lease premises for installation and maintenance of a cattle fence, management of wildlife habitat, open space preservation, public access, and drainage improvements. CEQA Consideration: categorical exemption. (PRC 6201.9; RA# 24811) (A 10; S 2) (Staff: A. Franzoia)

C24 CHEVRON U.S.A., INC. (LESSEE/APPLICANT): Consider adoption of a Mitigated Negative Declaration, State Clearinghouse No. 2016072038, and adoption of a Mitigation Monitoring Program, termination of Lease No. PRC 3277.1, a General Lease - Right-of-Way Use, and issuance of a General Lease - Right-of-Way Use, of sovereign land located in Honker Bay, Roaring River Slough, Montezuma Slough, Grizzly Slough, and the Sacramento River, Solano, Contra Costa, Yolo, and Sacramento Counties; for existing pipeline facilities, to construct a temporary work platform, and install a horizontal directionally drilled refined products pipeline.(PRC 3277.1; RA# 31615) (A 11; S 3) (Staff: A. Franzoia)

C25 DARRELL FERREIRA AND MARY LYNN FERREIRA, AS CO-TRUSTEES AND ALL SUCCESSOR TRUSTEES OF THE DARRELL AND MARY LYNN FERREIRA REVOCABLE TRUST DATED MAY 11, 2006 (APPLICANT): Consider application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in the Sacramento River, adjacent to 6901 Garden Highway, near the city of

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Sacramento, Sacramento County; for an existing boat dock, appurtenant facilities, and bank protection. CEQA Consideration: categorical exemption. (PRC 7016.1; RA# 36315) (A 7; S 6) (Staff: J. Holt)

C26 DREW PEFFERLE (ASSIGNOR); NEIL A. CLARK AND JULIA L. CLARK (ASSIGNEE): Consider application for the assignment of Lease No. PRC 5699.1, a General Lease - Recreational and Protective Structure Use, of sovereign land located in the Sacramento River, adjacent to 3843 Garden Highway, near the city of Sacramento, Sacramento County; for a boat dock, appurtenant facilities, and bank protection. CEQA Consideration: not a project. (PRC 5699.1; RA# 02716) (A 7; S 6) (Staff: J. Holt)

C27 ERIC FUGE (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Tomales Bay, adjacent to 19225 State Route 1, near the town of Marshall, Marin County; for an existing mooring buoy not previously authorized by the Commission. CEQA Consideration: Negative Declaration, adopted by the California State Lands Commission, State Clearinghouse No. 2012082074. (W 26983; RA# 25415) (A 10; S 2) (Staff: D. Tutov)

C28 DANA R. CAPPIELLO, TRUSTEE, OR HER SUCCESSORS IN INTEREST OF THE DANA R. CAPPIELLO LIVING TRUST DATED JULY 16, 2007 (APPLICANT): Consider application for a General Lease . Recreational Use, of sovereign land located in Tomales Bay, adjacent to 22667 State Route 1 near the town of Marshall, Marin County; for the installation, use, and maintenance of a mooring buoy. CEQA Consideration: Negative Declaration, adopted by the California State Lands Commission, State Clearinghouse No. 2012082074. (W 27036; RA# 18215) (A 10; S 2) (Staff: D. Tutov)

C29 HOG ISLAND OYSTER COMPANY, INC. (APPLICANT): Consider application for a General Lease - Commercial Use, of sovereign land located in Tomales Bay, adjacent to 20215 State Route 1 near the town of Marshall, Marin County; for three existing mooring buoys not previously authorized by the Commission. CEQA Consideration: Negative Declaration, adopted by the California State Lands Commission, State

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Clearinghouse No. 2012082074. (W 26985; RA# 23715)
(A 10; S 2) (Staff: D. Tutov)

C30 MARK CARLSON (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Tomales Bay, adjacent to 18565 State Route 1, near the town of Marshall, Marin County; for an existing mooring buoy not previously authorized by the Commission. CEQA Consideration: Negative Declaration, adopted by the California State Lands Commission, State Clearinghouse No. 2012082074. (W 27035; RA# 34415) (A 10; S 2) (Staff: D. Tutov)

C31 THOMAS MCDONNELL RILEY AND MELISSA EATON RILEY (APPLICANT): Consider application for a General Lease - Recreational Use, of sovereign land located in Tomales Bay, adjacent to 22195 State Route 1, near the town of Marshall, Marin County; for the installation, use, and maintenance of a mooring buoy. CEQA Consideration: Negative Declaration, adopted by the California State Lands Commission, State Clearinghouse No. 2012082074. (W 26986; RA# 16315)(A 10; S 2) (Staff: D. Tutov)

C32 RAY F. PETERSON AND BETTY L. PETERSON, AS TRUSTEES OF THE PETERSON 2006 REVOCABLE TRUST, 10/15/06 (APPLICANT): Consider application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in Steamboat Slough, adjacent to 13954 Grand Island Road, near Walnut Grove, Sacramento County; for an existing boat dock, appurtenant facilities and bank protection. CEQA Consideration: categorical exemption.(PRC 5754.1; RA# 29415) (A 11; S 3) (Staff: D. Tutov)

C33 DELTA GAS GATHERING, INC. (APPLICANT): Consider application for a General Lease - Right-of-Way Use of sovereign land located in the Sacramento River, between Merritt Island and Randall Island, near the town of Courtland, Sacramento and Yolo Counties; for an existing natural gas pipeline. CEQA Consideration: categorical exemption. (PRC 7906.1; RA # 33815) (A 9; S 3) (Staff: D. Tutov)

C34 PETER R. MOORE AND JAN MOORE (LESSEE); JANICO, LLC (APPLICANT): Consider termination of Lease No. PRC 5865.9, a General Lease - Recreational and Protective

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Structure Use, and an application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in the Sacramento River, adjacent to 7257 Garden Highway, near the city of Sacramento, Sacramento County; for an existing boat dock, appurtenant facilities, and bank protection. CEQA Consideration: categorical exemption. (PRC 5865.1; RA# 37415) (A 9; S 6)(Staff: D. Tutov)

C35 KIRK D. WEST AND GLORIA J. WEST (APPLICANT): Consider application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in Georgiana Slough, adjacent to 16807 Terminous Road, near Isleton, Sacramento County; for an existing boat dock, appurtenant facilities, and bank protection. CEQA Consideration: categorical exemption. (PRC 7014.1; RA# 29615) (A 11; S 3) (Staff: D. Tutov)

CENTRAL/SOUTHERN REGION

C36 PHILLIPS 66 COMPANY (LESSEE): Consider revision of rent for Lease No. PRC 1449.1, a General Lease - Right-of-Way Use, of sovereign land located in the Pacific Ocean, offshore of Oceano Dunes State Recreational Vehicle Area, San Luis Obispo County; for an existing wastewater outfall pipeline and an abandoned outfall pipeline. CEQA Consideration: not a project. (PRC 1449.1) (A 35; S 17) (Staff: R. Collins)

C37 TRANSWESTERN PIPELINE COMPANY (LESSEE): Consider revision of rent to Lease No. PRC 7598.1, a General Lease - Right-of-Way Use, of sovereign land located in the Colorado River, southeast of the city of Needles, near the Interstate 40 river crossing, San Bernardino County; for an existing gas pipeline. CEQA Consideration: not a project. (PRC 7598.1) (A 33; S 16) (Staff: R. Collins)

C38 PACIFIC GAS AND ELECTRIC COMPANY (LESSEE): Consider revision of rent to Lease No. PRC 8737.1, a General Lease - Right-of-Way Use, of sovereign land located in the Colorado River, southeast of the city of Needles, San Bernardino County; for groundwater quality monitoring wells. CEQA Consideration: not a project. (PRC 8737.1) (A 33; S 16) (Staff: R. Collins)

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C39 CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE (LESSEE); U.S. BUREAU OF RECLAMATION (APPLICANT): Consider rescission of prior authorization of Lease No. PRC 9239.9 a General Lease - Public Agency Use, and an application for a General Lease - Public Agency Use of sovereign land located in the historic bed of the Colorado River at Moabi Regional Park near the city of Needles, San Bernardino County; for the construction, operation, maintenance, and monitoring of open backwater, wetland, and upland habitat and ancillary structures. CEQA Consideration: Mitigated Negative Declaration, adopted by the California State Lands Commission, State Clearinghouse No. 2015101098. (PRC 9239.9; RA# 03916)(A 33; S 16) (Staff: R. Collins)

C40 MARGARET ANN HOHLY, TRUSTEE OF THE MARGARET ANN HOHLY TRUST DATED NOVEMBER 24, 2015 (APPLICANT): Consider an application for a General Lease - Other, of sovereign land located in Huntington Harbour, adjacent to 16931 Bolero Lane, Huntington Beach, Orange County; for an existing boat dock, access ramp, and cantilevered deck with partial enclosure. CEQA Consideration: categorical exemption. (PRC 3244.1; RA# 35010) (A 72; S 34) (Staff: S. Kreutzburg)

C41 KENNETH D. WOLDER AND LESLIE A. WOLDER, AS TRUSTEES OF THE WOLDER FAMILY REVOCABLE INTER VIVOS TRUST INITIALLY CREATED ON SEPTEMBER 18, 1991 (LESSEE); DAVID LEE JOHNSTON AND LISA D. JOHNSTON, TRUSTEES OF THE DLJ TRUST DATED DECEMBER 20, 2005 (APPLICANT): Consider an application for an assignment of Lease No. PRC 7422.9, a Recreational Pier Lease, of sovereign land located in Huntington Harbour, adjacent to 16212 Piedmont Circle, Huntington Beach, Orange County; for an existing boat dock. CEQA Consideration: not a project. (PRC 7422.9; RA# 01316) (A 72; S 34) (Staff: S. Kreutzburg)

C42 QUI V. PHAN AND NGAN L. PHAN (APPLICANT): Consider an application for a General Lease - Recreational and Protective Structure Use, of sovereign land located in Huntington Harbour, adjacent to 16711 Carousel Lane, Huntington Beach, Orange County; for an existing boat dock, access ramp, cantilevered deck, and bulkhead protection. CEQA

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Consideration: categorical exemption. (PRC 8244.1; RA# 38715) (A 72; S 34) (Staff: S. Kreutzburg)

C43 KIMBERLEE M. KROUSE, TRUSTEE OF THE VIRGINA BAKER PERSONAL RESIDENCE TRUST, DATED FEBUARY 4, 2005 (LESSEE); KEVIN P. KROUSE, TRUSTEE OF THE KEVIN P. KROUSE INVESTMENT TRUST DATED DECEMBER 22, 2012, AS TO AN UNDIVIDED ONE-HALF INTEREST, AND COURTNEY N. KROUSE, TRUSTEE OF THE COURTNEY N. KROUSE INVESTMENT TRUST DATED DECEMBER 19, 2012, AS TO AN UNDIVIDED ONE-HALF INTEREST, AS TENANTS IN COMMON (APPLICANT): Consider termination of Lease No. PRC 3565.9, a Recreational Pier Lease, and an application for a General Lease - Recreational Use, of sovereign land located in Huntington Harbour, adjacent to 3282 Gilbert Drive, city of Huntington Beach, Orange County; for an existing boat dock and access ramp. CEQA Consideration: categorical exemption. (PRC 3565.1; RA# 34915) (A 72; S 34) (Staff: L. Pino)

SCHOOL LANDS

C44 JOHN D. VAN SANT AND SELBY L. VAN SANT (ASSIGNOR); JUSTIN W. CHAIDEZ AND MARIA A. CORONADO (ASSIGNEE): Consider application for the assignment of Lease No. PRC 4541.2, General Lease - Right-of-Way Use, of State-owned school land within a portion of Section 36, Township 9 North, Range 22 East, SBM, near the city of Needles, San Bernardino County; for an existing roadway and utility access. CEQA Consideration: not a project. (PRC 4541.2; RA# 00416) (A 33; S 16) (Staff: C. Hudson)

C45 SOUTHERN CALIFORNIA EDISON COMPANY (APPLICANT): Consider termination of Lease Nos. PRC 4024.2, PRC 4025.2, PRC 4026.2 and PRC 4027.2, General Lease - Right-of-Way Easements; and application for a General Lease - Right-of-Way Use, of State-owned school land within portions of Section 36, Township 12 North, Range 20 East, SBM; Section 36, Township 10 North, Range 13 East, SBM; Section 36, Township 10 North, Range 14 East, SBM; and Section 36, Township 10 North, Range 15 East, SBM, near the Mojave National Preserve, San Bernardino County; for an existing overhead transmission line, steel towers, and access road. CEQA Consideration: categorical exemption. (PRC 4024.2;

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RA# 33415) (A 33; S 16) (Staff: C. Hudson)

C46 NORBERT C. FREITAS AND ALICE FREITAS (LESSEE): Consider revision of rent to Lease No. PRC 5329.2, a General Lease - Grazing Use, of State-owned school and lieu land within portions of Section 36, Township 32 North, Range 15 East, MDM; Sections 7, 16, 17, 18, 19, 20, and 30 Township 31 North, Range 16 East, MDM; and portions of Sections 24, 25, 34, and all of Section 36, Township 31 North, Range 15 East, MDM, near the unincorporated community of Ravendale, Lassen County; for livestock grazing and fencing. CEQA Consideration: not a project.(PRC 5329.2) (A 1; S 1) (Staff: C. Hudson)

MINERAL RESOURCES MANAGEMENT

C47 DAVID EVANS AND ASSOCIATES, INC. (APPLICANT): Consider an application for a Non-Exclusive Geophysical Survey Permit to conduct low-energy geophysical surveys on tide and submerged lands under the jurisdiction of the California State Lands Commission. CEQA Consideration: Mitigated Negative Declaration and addendum, State Clearinghouse No. 2013072021. (WP 8345; RA# 03316)(A & S: Statewide) (Staff: R. B. Greenwood)

C48 FUGRO PELAGOS, INC. (APPLICANT): Consider an application for a Non-Exclusive Geophysical Survey Permit to conduct low-energy geophysical surveys on tide and submerged lands under the jurisdiction of the California State Lands Commission. CEQA Consideration: Mitigated Negative Declaration and addendum, State Clearinghouse No. 2013072021. (WP 8391; RA# 02616) (A & S: Statewide) (Staff: R. B. Greenwood)

C49 MERKEL & ASSOCIATES, INC. (APPLICANT): Consider an application for a Non-Exclusive Geophysical Survey Permit to conduct low-energy geophysical surveys on tide and submerged lands under the jurisdiction of the California State Lands Commission. CEQA Consideration: Mitigated Negative Declaration and addendum, State Clearinghouse No. 2013072021. (W 6005.169; RA# 04916) (A & S: Statewide) (Staff: R. B. Greenwood)

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C50 SCRIPPS INSTITUTION OF OCEANOGRAPHY (APPLICANT): Consider an application for a Non-Exclusive Geophysical Survey Permit to conduct low-energy geophysical surveys on tide and submerged lands under the jurisdiction of the California State Lands Commission. CEQA Consideration: Mitigated Negative Declaration and addendum. State Clearinghouse No. 2013072021. (WP 9094;RA# 07016) (A & S: Statewide) (Staff: R. B. Greenwood)

C51 CALIFORNIA STATE LANDS COMMISSION (PARTY): Consider approval of qualifying miles for subventions for Fiscal Year 2016-2017, to the counties of Ventura and Santa Barbara; to the city of Carpinteria located in Santa Barbara county; to the cities of Huntington Beach and Seal Beach located in Orange county; and to the city of Long Beach located in Los Angeles County. CEQA Consideration: not a project. (W 4848.1, W 4848.3, W 4848.4, W 4848.5, W 4848.6, W 4848.8) (A 37, 53, 68, 70, 72, 74; S 19, 24, 33, 34, 37) (Staff: N. Heda, C. Connor)

C52 ROBERT G. WETZEL (APPLICANT): Consider application for a prospecting permit for minerals other than oil, gas, geothermal resources, or sand and gravel, Assessor's Parcel Numbers 041-380-01, and 041-380-02, administered by the California State Lands Commission as trustee, containing approximately 640 acres of State-owned 100 percent reserved mineral interest school lands, within Section 36, Township 27 North, Range 4 East, SBM, located about 8 miles northwest of Death Valley junction, Inyo County. CEQA Consideration: categorical exemption.(W 40984; RA# 00816) (A 26; S 28) (Staff: V. Perez)

C53 RONALD JAMES MARTIN (APPLICANT): Consider application for a prospecting permit for minerals other than oil, gas, geothermal resources, or sand and gravel, Assessor's Parcel Number 097-210-06, administered by the California State Lands Commission as trustee, containing approximately 145 acres of State fee-owned school lands, within Section 36, Township 28.5 South, Range 40 East, MDM, Kern County. CEQA Consideration: categorical exemption. (W 40985; RA# 14815)(A 35; S 18) (Staff: V. Perez)

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C54 CITY OF LONG BEACH (TRUSTEE): Consider acceptance of the Final Report and Closing Statement for the Long Beach Unit Annual Plan (July 1, 2015, through June 30, 2016), Long Beach Unit, Wilmington Oil Field, Los Angeles County. CEQA Consideration: not a project. (W 17168) (A 70; S 33, 34) (Staff: E. Tajer)

MARINE ENVIRONMENTAL PROTECTION NO ITEMS

ADMINISTRATION

C55 CALIFORNIA STATE LANDS COMMISSION (PARTY): Consider delegating authority to the Executive Officer to solicit statements of interest for on-call consultant services, negotiate a fair and reasonable price, and award and execute agreements of less than \$250,000 per task for environmental or Public Trust review of water infrastructure projects and programs for which Commission staff seeks to prioritize review pursuant to Governor Brown's Executive Order B-29-15. CEQA Consideration: not a project. (A & S: Statewide) (Staff: A. Abeleda, C. Connor, C. Oggins)

C56 CALIFORNIA STATE LANDS COMMISSION (PARTY): Consider delegating authority to the Executive Officer to solicit proposals for electrical engineering services, negotiate a fair and reasonable price, and award and execute agreements for conducting electrical systems safety analysis at oil and gas drilling and production facilities on State-owned lands under lease or contract with the Commission in Santa Barbara, Ventura, Orange and Los Angeles Counties. CEQA Consideration: not a project. (A & S: Statewide) (Staff: A. Abeleda, D. Cook, D. Rodriguez)

C57 CALIFORNIA STATE LANDS COMMISSION (PARTY): Consider delegating authority to the Executive Officer to solicit bids, and award and execute agreements for the removal of the various hazards located along the coastline in Santa Barbara and Ventura Counties. CEQA Consideration: Mitigated Negative Declaration and Mitigation Monitoring Program, adopted by the California State Lands Commission, State Clearinghouse No. 2002071146. (Staff: A. Abeleda, D. Cook, C. Basavalinganadoddi)

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C58 CALIFORNIA STATE LANDS COMMISSION, IN ITS CAPACITY AS THE KAPILOFF LAND BANK TRUSTEE, AND CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE (PARTIES): Consider delegating authority to the Executive Officer to execute agreements and authorize expenditures from Kapiloff Land Bank funds for the management of the Bolsa Chica Lowlands Restoration Project for budget fiscal year 2016-2017. CEQA Consideration: categorical exemption.(C2013-033, Bid Log 2016-07) (A & S: Statewide) (Staff: W. Hall, A. Abeleda)

LEGAL

C59 CALIFORNIA STATE LANDS COMMISSION, BAYWOOD, LLC (PARTIES): Consider a Compromise Title Settlement and Land Exchange Agreement Between the California State Lands Commission and Baywood, LLC, a California Limited Liability Company, resolving title to certain real property located in and adjacent to the Petaluma River, city of Petaluma, Sonoma County. CEQA Consideration: statutory exemption. (W 24561) (A 10; S 3) (Staff: S. Blackmon, J. Garrett, D. Frink)

C60 CALIFORNIA STATE LANDS COMMISSION (PARTY): Consider adopting Best Management Practices for marine debris removal as required by the California Harbors and Navigation Code section 552. CEQA Consideration: not a project.(A & S: Statewide) (Staff: P. Pelkofer)

KAPILOFF LAND BANK TRUST ACQUISITIONS . NO ITEMS

EXTERNAL AFFAIRS

GRANTED LANDS

C61 CITY OF MARTINEZ (TRUSTEE): Consider relieving the City of Martinez from a requirement to transmit 20 percent of the revenue generated from its granted lands to the state. CEQA Consideration: not a project. (G 02-02) (A 11; S 7)(Staff: R. Boggiano)

LEGISLATION AND RESOLUTIONS . SEE INFORMATIONAL

V. INFORMATIONAL

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62 CALIFORNIA STATE LANDS COMMISSION:
Legislative report providing information and a
status update concerning state legislation
relevant to the California State Lands
Commission. CEQA Consideration: not applicable.
(A & S: Statewide) (Staff: S. Pemberton, M. Moser)

VI. REGULAR CALENDAR 63-65

63 PACIFIC WIND DEVELOPMENT, LLC (APPLICANT):
Consider application for a General Lease -
Industrial Use, of 640 acres, more or less, of
State school land located in Section 16,
Township 16 South, Range 6 East, SBM, north of
Boulevard, San Diego County, for the
construction, operation, maintenance, and
decommissioning of a new wind energy facility.
CEQA Consideration: Environmental Impact
Report/Statement (EIR/EIS), certified by the
California Public Utilities Commission, State
Clearinghouse No. 2009121079, and adoption of
a Mitigation Monitoring Program, Statement of
Findings, and Statement of Overriding
Considerations. (W 26245; RA# 05707)
(A 71; S 40) (Staff: J. Porter, P. Huber,
J. Mattox)

33

64 CALIFORNIA STATE LANDS COMMISSION AND SAN
DIEGO UNIFIED PORT DISTRICT (PARTIES): Consider
authorization of a Memorandum of Agreement
between the State Lands Commission and the San
Diego Unified Port District to develop a pilot
marine planning effort for State-owned tidelands
and submerged lands located in the Pacific
Ocean offshore San Diego County. CEQA
Consideration: not a project. (A 78, 80;
S 39, 40) (Staff: J. Mattox, S. Pemberton)

62

65 CALIFORNIA STATE LANDS COMMISSION (PARTY):
Consider approval of the 2016 Category 1 Southern
California benchmark rental rate for sovereign
land in Ventura, Los Angeles, Orange, and San
Diego Counties; and approval of the 2016 Category
2 Huntington Harbour benchmark rental rate for
sovereign land in the city of Huntington Beach,
Orange County. CEQA Consideration: not a project.

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(W 27041) (A 37, 44, 50, 62, 66, 70, 72, 73, 74, 76, 78, 80; S 19, 27, 28, 33, 34, 35, 37, 38, 39, 40) (Staff: K. Foster)	87
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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:	107
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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):	
California State Lands Commission v. City and County of San Francisco	
Seacliff Beach Colony Homeowners Association v. State of California, et al.	
SLPR, LLC, et al. v. San Diego Unified Port District, California State Lands Commission	
San Francisco Baykeeper v. California State Lands Commission	
Center for Biological Diversity v. California State Lands Commission	
City of Santa Monica, et al. v. Nugent	
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City of Santa Monica, et al. v. Levy
City of Santa Monica, et al. v. Philbin
City of Santa Monica, et al. v. Greene
City of Santa Monica, et al. v. Prager
Sierra Club et al. v. City of Los Angeles, et al.

United States v. Walker River Irrigation District, et al.

United States v. 1.647 Acres

Nowel Investment Company v. State of California; California State Lands Commission

Little Beaver Land Company, Inc. v. State of California

City of Goleta v. California State Lands Commission

World Business Academy v. California State Lands Commission

In re: Rincon Island Limited Partnership Chapter 11

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.

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1. Provide instructions to negotiators proposed amendments to oil and gas leases held by Venoco, Inc., Santa Barbara County. Negotiating parties: Venoco, Inc.; State Lands Commission; Under negotiation: terms.
2. Provide instructions to negotiators regarding acquisition of a public access easement to and along Martins Beach in San Mateo County. Negotiating Parties: Martins Beach 1, LLC., Martins Beach 2, LLC, State Lands Commission; Under negotiation: price and terms.

C. OTHER MATTERS.

THE COMMISSION MAY CONSIDER MATTERS THAT FALL UNDER GOVERNMENT CODE SECTION 11126 (e)(2)(B) or (2)(C). THE COMMISSION MAY ALSO CONSIDER PERSONNEL ACTIONS TO APPOINT, EMPLOY, OR DISMISS A PUBLIC EMPLOYEE AS PROVIDED IN GOVERNMENT CODE SECTION 11126 (a)(1).

Adjournment 108

Reporter's Certificate 109

P R O C E E D I N G S

1
2 CHAIRPERSON YEE: Good afternoon. I call this
3 meeting of the State Lands Commission to order. All
4 representatives of the Commission are present. I am State
5 Controller Betty Yee. And I am joined by today by --
6 excuse me -- Chief of Staff Rhys Williams for Lieutenant
7 Governor Gavin Newsom, as well as Eraina Ortega
8 representing the Department of Finance. For the benefit
9 those in the audience, the State Lands Commission manages
10 property -- State property interests in over 5 million
11 acres of land, including mineral interests. The
12 Commission also has responsibility for the prevention of
13 oil spills at marine oil terminals and offshore oil
14 platforms, and for preventing the introduction of marine
15 invasive species into California's marine waters.

16 Today, we will hear requests and presentations
17 involving the lands and resources within the Commission's
18 jurisdiction.

19 But before we start our formal agenda, we have
20 several guests that I would like to invite up to address
21 the Commission. First, I would like to welcome and thank
22 San Diego County Supervisor Greg Cox for hosting us today.
23 And Supervisor Cox, good afternoon.

24 SAN DIEGO SUPERVISOR COX: Good afternoon. And
25 thank you, Madam Chair for giving me a few words -- an

1 opportunity to say a few words of welcome on behalf of the
2 County of San Diego.

3 We're very honored and pleased to have the State
4 Lands Commission meeting here in San Diego. Obviously, we
5 very much appreciate the Commission holding this meeting
6 here and to focus on issues of that are pertinent to not
7 only the State of California, but we understand there's
8 one item that is very specific to San Diego, and certainly
9 our San Diego Unified Port District.

10 San Diegans share a deep passion for their
11 location here on the Pacific Ocean, our relationship with
12 the ocean and the environment. And I consider myself
13 certainly one of those San Diegans that feels that same
14 passion.

15 As a San Diego County Supervisor and also a
16 member of the California Coastal Commission, I can assure
17 you that we're all working together to plan our coastal
18 resources and certainly to promote public access, and to
19 allow the citizens of this State of all economic means the
20 opportunity to avail themselves and enjoy the amenities
21 that we have here throughout the State of California and
22 our coastal environments.

23 After all, San Diego and California are known for
24 its surf, its turf, and its beautiful locations, and
25 coastline. It's obviously a big part of our economy

1 throughout the State of California, particularly as it
2 relates to tourism. And it certainly defines who we are,
3 and drives our critical local economies.

4 From surfers and swimmers to tourists and
5 long-time local fisherman, our natural resources are
6 enjoyed by many, many people throughout the State, but
7 there's a tricky balance as we all know in protecting our
8 resources and allowing people to enjoy them. And that's
9 why I've advocated for a long time for the whole issue of
10 marine spatial planning to allow ourselves to better
11 protect and maximize our coastal resources.

12 It's also why I fought for our emerging blue
13 economy. And in San Diego we're very fortunate. We had a
14 study that was done just a couple of years ago by our San
15 Diego Regional Chamber of Commerce -- excuse me, Regional
16 Economic Development Council to really define, you know,
17 the impact of that blue economy in the San Diego region.

18 And what they determined that there was over
19 1,400 businesses throughout the San Diego County region
20 providing over 46,000 jobs, having about a \$14 billion
21 impact on our local economy. That's pretty significant.
22 And it covers everything from ship building to
23 aquaculture, to underwater robotics, and obviously tourism
24 is a part of that.

25 I was just back in Washington D.C. two weeks ago.

1 I was appointed through our National Association of
2 Counties to serve on the Governance Coordinating
3 Committee, which is a subcommittee of the National Ocean
4 Council. And I know we are right in the process now of
5 firming up some position papers to be made available to
6 the next President of the United States, whoever he or she
7 is. And we want to work very closely with this incoming
8 administration to focus on a lot of the issues that I know
9 are very important to the citizens of this State, the
10 State Lands Commission, including sea level rise, and
11 certainly the implication of that is climate change,
12 hypoxia, acidification of our ocean waters.

13 All of these are issues that we're going to have
14 to be dealing with in the months and years ahead. And I
15 really do appreciate the fact that this Commission, along
16 with our San Diego Unified Port District. As I
17 understand, we'll have an item a little bit later on your
18 agenda today dealing with setting up a criteria to
19 establish a marine planning partnership for the
20 State-owned tidelands and submerged lands located off of
21 San Diego.

22 And so I commend you for that effort, and also
23 the San Diego Unified Port District. I think it can serve
24 as a great role model not only for the rest of California,
25 but certainly for the rest of the country.

1 So congratulations on getting to this level. I
2 know it's only a starting point. But you've got to have a
3 starting point before you can build on your successes. So
4 kudos to the State Lands Commission and the San Diego
5 Unified Port District. I certainly look forward to seeing
6 how this effort moves forward and would like to share the
7 information you come up with, with not only our State
8 Coastal Commission, but certainly the National Ocean
9 Council.

10 And I wish you well in your meeting here in San
11 Diego. Thanks for coming, and we hope you'll come back
12 again.

13 CHAIRPERSON YEE: Thank you, Supervisor Cox. And
14 let me just say we are very appreciative of your
15 leadership in leading this marine planning effort. And
16 really appreciate the commitment to bring a broad array of
17 stakeholders to the part of this process. And we're
18 excited that we're at this point now of hopefully entering
19 into this process agreement.

20 So thank you.

21 SAN DIEGO SUPERVISOR COX: Thank you very much.

22 CHAIRPERSON YEE: Questions or comments from the
23 members for Supervisor Cox?

24 Thank you so much.

25 SAN DIEGO SUPERVISOR COX: Thanks.

1 federal agencies, including this Commission, the
2 California Coastal Commission, Army Corps of Engineers,
3 Department of Boating and Waterways, Department of Fish
4 and Wildlife among others.

5 --o0o--

6 MR. GORDON: This slide illustrates our five
7 largest focus areas, harbor police, maritime, recreation,
8 planning and green port, and real estate development.

9 Harbor police has over 130 sworn employees that
10 serve San Diego Bay, the San Diego International Airport,
11 and port tidelands in our 5 member cities. The Port of
12 San Diego has 2 cargo terminals and 2 cruise ship
13 terminals. We're the 4th largest of 11 California ports
14 and the largest non-container port in California. We
15 oversee a working waterfront of boat yards, sport fishing
16 landings, marine cargo terminals, and commercial fishing
17 landings.

18 The Port maintains 22 public parks as amenities
19 that attract visitors and enhance the value of our
20 waterfront. The Port is an environmental steward, and our
21 Green Port Program sets measurable goals for conservation,
22 waste reduction, and pollution prevention.

23 The port has an extensive commercial real estate
24 portfolio including 17 hotels, 25 marinas, numerous
25 restaurants, tours, and museum attractions and oversees

1 800 tenant businesses.

2 --o0o--

3 MR. GORDON: Now, I'll move into a small sampling
4 of some of the current projects and other initiatives that
5 the Port has been working on. Since I'm real estate guy,
6 I'm going to touch on a lot of redevelopment projects.
7 But as the previous slide showed, that's not all that the
8 Port does.

9 --o0o--

10 MR. GORDON: I'll start with the Shelter Island
11 boat launch ramp replacement. This is one of the most
12 popular boat launching facilities in all of California
13 with an estimated 50,000 launches per year. This project
14 will enlarge the boat launch basin's interior, replace the
15 rock revetment jetties, and the existing 10 lane concrete
16 boat ramp into boat docks.

17 Construction is anticipated to begin in early
18 2017. The Department of Boating and Waterways has awarded
19 the Port Approximately \$9 million in grant funding to help
20 pay for this project.

21 --o0o--

22 MR. GORDON: Next up is the redevelopment of East
23 Harbor Island, just a bit south of our current location.
24 This 57-acre redevelopment area was formerly occupied by
25 several rental car companies that relocated to the

1 MR. GORDON: The National City Aquatic Center is
2 a City of National City project that received four and a
3 half million dollars of funding from the Port and a lease
4 on port land. The aquatic center opened to the public in
5 June of this year and features water activities, such as
6 rowing and kayaking and conducts water sports education.

7 --o0o--

8 MR. GORDON: Next up is the Chula Vista bayfront.
9 This is the largest waterfront development opportunity on
10 the west coast at approximately 535 acres. The master
11 plan was approved by the California Coastal Commission in
12 2012. The 535-acre master plan is proposed to include a
13 resort, hotel, and convention center, as well as 1,250
14 additional hotel rooms, 1,500 residential units, over
15 300,000 square feet of visitor-serving retail, a fire
16 station, and supporting infrastructure.

17 Port staff collaborated closely with State Lands
18 Commission staff to complete a land exchange that will
19 allow residential units to be built in the denser part of
20 the development while reserving extensive open space in
21 the environmentally sensitive areas of the Chula Vista
22 bayfront.

23 When completed, more than 53 percent of the plan,
24 that's 286 acres, will be dedicated to the public realm,
25 including parks, open space, habitat preservation, roads

1 and waterways. The Port entered into an exclusive
2 negotiating agreement with RIDA Development Corporation
3 for a resort, hotel and convention center in early 2015.
4 Negotiations with RIDA have been positive and are ongoing.

5 --o0o--

6 MR. GORDON: This next project has received quite
7 a bit of attention lately. The Central Embarcadero
8 Redevelopment site covers approximately 70 acres of land
9 and water. It's a highly visible and desirable site that
10 includes the areas between the USS Midway Museum and the
11 Manchester Grand Hyatt as shown on the slide.

12 We issued a request for proposals in February of
13 this year and received 11 high-quality proposals from
14 across the country. We hosted 2 public open houses at the
15 convention center in June, where all 6 of the short-listed
16 developers showcased their proposals.

17 It was a great opportunity for the public to ask
18 questions and get information directly from the
19 developers. Approximately 1,200 members of the public
20 attended over the 2 days.

21 --o0o--

22 MR. GORDON: The Board directed staff to
23 exclusively continue discussions with Gafcon to further
24 evaluate their proposal while not eliminating the other 5
25 short-listed proposals. This slide shows a rendering of

1 their proposed project, which includes expanded public
2 park and public space, a curated shopping and dining
3 component, and a public market. In addition, the proposal
4 features a public living room with multiple new and fresh
5 hotel concepts that would be accessible to all travelers,
6 an outside museum, a beach, an aquarium, and an iconic
7 spire that will carry people 500 feet above the bay to
8 enjoy breathtaking views.

9 Staff is returning to the board today with an
10 update on our due diligence, so stay tuned for next steps
11 on this project.

12 --o0o--

13 MR. GORDON: The Port is in the midst of
14 developing a 50-year vision plan as part of the Port
15 master plan update to help guide land and water uses in
16 San Diego Bay. We have concluded the initial visioning
17 phase of this project that will eventually result in a new
18 comprehensive update to the Port master plan.

19 The vision and guiding principles which were
20 developed during this phase will ensure a holistic,
21 thoughtful, and balanced approach to creating a vibrant,
22 sustainable bay for future generations. The public was
23 engaged through a variety of workshops throughout the past
24 year in the integrating planning process and will continue
25 to be involved as the effort moves forward.

1 --o0o--

2 MR. GORDON: Lastly, this is a brand new venture
3 that we're really excited about aquaculture. This slide
4 depicts a FLUPSY, which is a floating upweller system to
5 grow shellfish. The Port is moving forward with an
6 initial pilot program for FLUPSY to grow nursery-stage
7 oysters. At the April 2016 meeting, the board directed
8 our staff to proceed with this pilot program. With the
9 region's mild weather, the oysters would be able to grow
10 quickly through the nursery stage.

11 Other fish farms in colder climates, such as the
12 Pacific Northwest would then be able to purchase the
13 juvenile oysters from us to help speed up their process to
14 grow oysters out to market.

15 --o0o--

16 MR. GORDON: So that's a quick overview of just a
17 few of the many initiatives that we're working on at the
18 Port of San Diego. This is in addition to ongoing
19 projects at the marine terminals, new business lines,
20 including parking and attractions, environmental
21 initiatives including the development of a sustainable
22 leasing program, just to name a few.

23 So you can see we definitely have our hands full.
24 And as always, we appreciate the support we get from the
25 California State Lands Commission.

1 And that concludes my presentation.

2 CHAIRPERSON YEE: Thank you, Mr. Gordon.

3 Questions or comments, Commissioners?

4 Thank you. And we also very much appreciate the
5 leadership role of the district as well with respect to
6 our pilot planning efforts. So very appreciative.

7 MR. GORDON: Thank you.

8 CHAIRPERSON YEE: Thank you.

9 Okay. I believe our next speaker to address in
10 open session is Mike Prather.

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

13 CHAIRPERSON YEE: Good afternoon.

14 MR. PRATHER: Good afternoon. Excuse me if I'm
15 nervous. I come from a -- I come from the country.

16 My name is Michael Prather. I'm from Lone Pine,
17 California representing Eastern Sierra Audubon with a
18 request for a support letter for the nomination of Owens
19 Lake to become part of the Western Hemisphere Shorebird
20 Reserve Network.

21 So I'd like to take you through some quick slides
22 and then possibly take a couple of questions, if you have
23 those.

24 --o0o--

25 MR. PRATHER: Owens Lake is about 110 square

1 miles up in Inyo County's Southern Owens Valley. It dried
2 a century ago due to water exportation to Los Angeles. It
3 is owned primarily by the State of California. In
4 November of 2001, water began to be spread to control dust
5 at Owens Lake. And historic populations of birds began to
6 return in the spring of 2002, in -- by -- in the
7 thousands -- numbers in the thousands.

8 --o0o--

9 MR. PRATHER: This top photograph is from an
10 aircraft. It's of the western edge of the lake near
11 Keeler gives a typical look at some of the habitat and
12 dust control measures that are taking place out at Owens
13 Lake currently. The bottom is some of the public access
14 recreation group of birders on quite a good lot of birds
15 out there feeding, as they migrate every spring and fall.

16 --o0o--

17 MR. PRATHER: So what are Owens Lake's habitat
18 and nesting value for birds? There's ponds, wetlands,
19 mudflats, areas that have been created in efforts to
20 control the regional dust hazard. The historical food web
21 has been recreated and the birds have returned.

22 Using a habitat suitability model and maintaining
23 the habitat baseline value of 2010, there will continue to
24 be thousands of acres of wildlife habitat while still
25 controlling the dust and conserving water at Owens Lake.

1 A single day count in April of 2013 found 113,000
2 birds on the lake, including more than 60,000 shorebirds
3 of 20 different species. A reminder once again, this was
4 a single day count of 113,000 birds.

5 Approximately 14 percent of the entire world's
6 population of American Avocet was there that day, over 1
7 percent of the population of Snowy Plover and Least
8 Sandpiper that use Owens Lake. In addition to use by
9 large numbers of spring and fall shorebird migrants. The
10 lake also provides nesting habitat for American Avocets,
11 Killdeer, Black-necked Stilts and the largest inland
12 California breeding population of the Snowy Plover, a
13 species of special concern.

14 --o0o--

15 MR. PRATHER: So why join the Western Hemisphere
16 Shorebird Reserve Network? WHSRN, a lot easier to say.
17 To be a part of a hemispheric network of shorebird sites
18 extending from Tierra Del Fuego in Patagonia to the
19 Arctic, 70 or 80 plus sites at this time. Other
20 California WHSRN sites are San Francisco Bay, Mono Lake,
21 Humboldt Bay, Elkhorn Slough, and South San Diego Bay.

22 This designation is an advisory, a voluntary
23 designation. It is meant to inform managers and decision
24 makers, and scientists. It requires no additional water,
25 and no funds. It asks for an annual report. This is kind

1 of a summary of the bird numbers for a given year, that is
2 currently written each year by the Department of Water and
3 Power, the City of Los Angeles, as part of their lease and
4 permit agreements.

5 It will help develop science and management
6 tools. It will establish local, regional, and
7 international recognition raising new public awareness,
8 and generating conservation funding opportunities.

9 --o0o--

10 MR. PRATHER: There we go.

11 Why the support letter request?

12 This is a quote from Bob Clay, who's the director
13 of WHSRN. He works with Manomet Conservation Science
14 Center in Manomet, Massachusetts. This is akin to Point
15 Blue, formerly Point Bird -- Point Reyes Bird Observatory
16 up in Marin in Sonoma.

17 WHSRN requires a voluntary expression of a
18 commitment from the landowner, the authority responsible
19 for site management, to include the needs of shorebirds as
20 a priority within the management of a site. Support
21 letters therefore are needed from California State Lands
22 Commission, and Los Angeles Department of Water and Power.
23 We are very close to a letter from Department of Water and
24 Power.

25 Department of Water and Power, the City of Los

1 Angeles, as well as State Lands have had some difficulty
2 with the word "priority", what that means. And that's
3 reasonable. That's a reasonable thing to see.

4 There are multiple priorities at Owens Lake.
5 There's leases for mining, there's grazing, there's dust
6 control, and there's wildlife and public access.

7 So I think a letter that is -- that recognizes
8 and states that there are clearly other priorities there,
9 but certainly shorebird conservation is one of them,
10 because shorebird conservation is currently in the lease
11 that will be formed for the dust control project, the
12 Owens Lake Master Project. Habitat management over time
13 is already part of that. And State Lands is already a
14 partner to that process.

15 So, at this time, possibly there's some questions
16 or some information that I might be able to share more.

17 CHAIRPERSON YEE: Thank you, Mr. Prather. Let me
18 just turn to our Executive Director, but just make a
19 comment here. This is a proposal that you're bringing
20 forward, and we do want to take a little bit of time to
21 analyze it further and -- the other support that you have
22 so far in terms of --

23 MR. PRATHER: We have a letter of support from
24 California Department of Fish and Wildlife, and we have a
25 support letter from Audubon California, which is Audubon

1 more on a professional level beyond the volunteer level
2 statewide.

3 CHAIRPERSON YEE: Okay.

4 MR. PRATHER: We've worked with them for a number
5 of years.

6 CHAIRPERSON YEE: Great. Thank you.

7 Ms. Lucchesi.

8 EXECUTIVE OFFICER LUCCHESI: Thank you.

9 We've actually -- staff has been in communication
10 with Mr. Prather for about a year now on this subject
11 matter. And a number of things have happened at Owens
12 Lake, especially with the habitat suitability model and
13 the data that's been gathered as part of that process,
14 along with some evolving scientific information that is
15 showing how the -- with sea level rise and the decrease in
16 coastal habitat, and the potential for decrease in coastal
17 habitat for these shorebirds, just makes the inland
18 habitat that much more important.

19 I think it's ripe for the Commission to consider
20 this request at a future meeting. And staff will commit
21 to putting that analysis together and a recommendation,
22 either at the December meeting or at the Commission's
23 first meeting in 2017.

24 CHAIRPERSON YEE: Okay. Great. As part of that
25 analysis, I know we've been focused on potentially other

1 sites, but -- and I'm thinking of my pet project, Bolsa
2 Chica.

3 (Laughter.)

4 CHAIRPERSON YEE: But would you also just make
5 some commentary or have some discussion included in that
6 as well, yes.

7 EXECUTIVE OFFICER LUCCHESI: Of course, yes.

8 CHAIRPERSON YEE: Okay. Obviously, this is an
9 opportunity and we want to take this seriously to look at
10 what it means to be a part of this network, but this will
11 be something that we will have the staff come back with a
12 recommendation developed for us.

13 MR. PRATHER: Super. This particular photograph
14 is your lands that you manage. This is the plaza -- the
15 Snowy Plover, Plover Wing Plaza that Water and Power built
16 as part of the Commission's request for public accessed
17 amenities at Owens Lake. It's -- it is a marvelous
18 landscape architectural piece. Thank you very much.

19 CHAIRPERSON YEE: Thank you. Thank you, Mr.
20 Prather for being here.

21 All right. I believe the first item of business
22 on the agenda is the adoption of the minutes from the
23 Commission's meeting of August 9th, 2016.

24 May I have a motion to approve the minutes?

25 ACTING COMMISSIONER WILLIAMS: So moved.

1 CHAIRPERSON YEE: Moved by Commissioner Williams.

2 ACTING COMMISSIONER ORTEGA: Second.

3 CHAIRPERSON YEE: Second by Commissioner Ortega.

4 Without objection, such will be the order.

5 The next order of business is the Executive

6 Officer's report.

7 Ms. Lucchesi.

8 (Thereupon an overhead presentation was

9 presented as follows.)

10 EXECUTIVE OFFICER LUCCHESI: Good afternoon --

11 CHAIRPERSON YEE: Good afternoon.

12 EXECUTIVE OFFICER LUCCHESI: -- Chair and

13 Commissioners. I have another -- a number of items that I
14 want to brief the Commission on, on a number of different
15 topics, including oil spill prevention, land management,
16 and renewable energy.

17 So I will start on the topic of oil spill
18 prevention. As you are well aware, earlier this year, the
19 Commission supported SB 900, which was authored by Senator
20 Hannah-Beth Jackson and sponsored by Controller Yee, that
21 would have set up a Coastal Hazard Removal and Remediation
22 Program in the State Lands Commission, along with specific
23 continuous funding, and also a requirement to inventory
24 legacy wells off the coast of California and do a seep
25 study.

1 Unfortunately, that bill was vetoed by the
2 Governor. And in his veto message, he did leave open the
3 idea of gathering additional information about the legacy
4 wells and the coastal hazards out there and utilizing that
5 information to then pursue possible future funding in the
6 future. And the Governor also directed State Lands
7 Commission to work with the Department of Conservation in
8 that effort as is our practice.

9 On that subject, I did want to just remind the
10 Commission that separate but parallel to SB 900, the
11 Commission directed staff in August of last year to start
12 doing our own internal inventory of legacy wells based on
13 publicly-available information and information in our own
14 files. And we have actually completed a significant
15 portion of that work, including identifying their location
16 status and summarizing all the available records that we
17 have on that. And I plan to present that to the
18 Commission in December with an idea of a plan of action
19 going forward, in consultation with the Department of
20 Conservation, so that we can start moving forward on
21 getting a better handle of the issues of legacy wells out
22 there to help inform future discussion on how the fund
23 those activities.

24 CHAIRPERSON YEE: That's great. Thank you.

25 And that will help jump start the effort with the

1 Department of Conservation.

2 EXECUTIVE OFFICER LUCCHESI: That's our hope as
3 well.

4 CHAIRPERSON YEE: So very much appreciate the
5 staff's continued diligence on that.

6 Thank you.

7 EXECUTIVE OFFICER LUCCHESI: On that same
8 subject, I wanted to just let the Commission know that we
9 have issued our Notice of Preparation for the Becker Well
10 Abandonment Project -- Abandonment and Remediation
11 Project. We have released a solicitation for statements
12 of interest for contractors to go out and do the
13 environmental analysis for the project. And we will be
14 making the decision on that contractor by the end of this
15 week.

16 Our Notice of Preparation for the draft
17 Environmental Impact Report was released on October 4th,
18 and we plan on having a public hearing scoping hearing in
19 Carpinteria on this project next Thursday. So we are
20 moving forward on the proper abandonment of the Becker
21 Well in Summerland.

22 Moving on to land management activities, in
23 February of this year, Commission staff began a
24 feasibility study for the use of unmanned aerial systems,
25 or drones, as a support tool for certain Commission

1 activities. Staff researched drone systems and met with
2 vendors who demonstrated their drone system's capabilities
3 including providing aerial imagery, assisting in
4 surveying, and providing topographic information.

5 These capabilities could immediately help and
6 assist Commission staff in several areas of our programs,
7 including boundary surveying, identifying and cataloging
8 physical hazards, observation of offshore oil seeps,
9 documenting changes in sea level rise in coastal
10 processes, such as erosion, accretion, flooding, and
11 sediment transport, and locating abandoned mines and their
12 features in difficult-to-access terrain. The information
13 collected could then be used to create an imagery and data
14 library as well as multiple GIS layers.

15 Based on the positive recommendation returned by
16 the study, we have decided to purchase one drone system.
17 Staff will be -- obtain the necessary pilot licenses and
18 commence training upon delivery of the drone.

19 This acquisition and use of the drone is
20 consistent with Key Action 4.2.1 of the Commission's
21 strategic plan to build a comprehensive set of
22 authoritative geospatial data that will enhance Commission
23 decision making and enrich the public's understanding of
24 the Commission's mission, vision, policies, and
25 activities.

1 I also want to mention that we have made a
2 significant step forward in streamlining our surface
3 leasing application process. For decades, we have had one
4 application that was anywhere between 17 and 20 pages long
5 for the use of State property that spanned proposals such
6 as marine oil terminals all down to an individual buoy at
7 Lake Tahoe.

8 And as you can imagine, for those applicants who
9 are applying to the Commission for the use of State's --
10 of the State's land for a buoy and a pier in Lake Tahoe is
11 a much different proposal than one for a marine oil
12 terminal.

13 And we have completed a short-form application
14 that is now down to 9 pages, and is a much easier to
15 understand and work-through application for those citizens
16 and groups that have a more simple proposal for the use of
17 State property. So that's up and live on our website, and
18 hopefully that will help with our customer service with
19 the people of California.

20 I wanted to mention a couple of status updates on
21 major applications. Venoco's lease line adjustment Draft
22 EIR is out for public review and comment. That comment
23 period ends November 14th. We will have staff in Goleta
24 next week on October 19th for two public hearings to hear
25 comments from the public, at 3:00 and 6:00 p.m., again in

1 the City of Goleta.

2 We've also received an application from Poseidon
3 Huntington Beach for an amendment to their existing lease
4 with the Commission to account for their proposed sea
5 water intake and discharge technology modifications to
6 their proposed desalination project.

7 The Commission staff has started its review of
8 this application and will be relying on the city's 2010
9 certified subsequent Environmental Impact Report, as well
10 as prepare additional environmental analysis required by
11 CEQA in connection with the consideration of this project.

12 We have also, as a staff, entered into an MOU
13 with the Coastal Commission staff, and the Santa Ana
14 Regional Water Quality Control Board staff to basically
15 lay out the sequencing of the consideration by these three
16 State agencies of this project. That will help provide, I
17 think, some certainty hopefully to the applicant, and also
18 be transparent for the members of the public that are
19 interested in this process.

20 Like I said, we are moving forward on developing
21 the additional environmental analysis and review that's
22 necessary with this new application, and we anticipate
23 that the Commission will consider the application for the
24 amendment and the CEQA -- additional CEQA document before
25 the end of the second quarter of next year.

1 On the subject of renewable energy, I wanted to
2 let the Commission know that we have been invited to
3 participate in the Bureau of Ocean and Energy Management
4 California Intergovernmental Renewable Energy Task Force
5 to facilitate coordination and consultation among federal,
6 State, local, and tribal governments on renewable energy
7 activities on the outer continental shelf offshore
8 California's coast.

9 The first meeting of this task force was actually
10 held -- is being held right now. Unfortunately, I was not
11 able to attend, but we do have staff attending that
12 meeting in person and also by phone. And so that's a
13 really exciting step forward in terms of collaboration and
14 coordination.

15 And that -- also, that invitation and
16 participation on that task force dovetails nicely as the
17 Commission now has the second California seat on the West
18 Coast Regional Planning Board. The West Coast Regional
19 Planning Board is a partnership of federally recognized
20 tribes. The State's of Washington, Oregon, and
21 California, and federal agencies focused on implementing
22 the United States National Ocean Policy, and engaging
23 around marine planning and other tool to effectively
24 address existing and future uses of the region's oceans
25 and coasts.

1 California has two seats on the Board. One is
2 held by the Ocean Protection Council, and now the State
3 Lands Commission will occupy the second seat.

4 The annual meeting of the West Coast Regional
5 Planning Board will be held on October 26th and 27th in
6 Portland, Oregon. And our Science Policy Advisor,
7 Jennifer Mattox, will be attending on behalf of the
8 Commission.

9 I do want to update the Commission on the status
10 of the Bureau of Land Management exchange, that was
11 discussed in a Memorandum of Intent entered into in
12 October of last year. As you may remember, the Commission
13 authorized execution of a Memorandum of Intent with the
14 Bureau of Land Management to facilitate the exchange of
15 61,000 acres of State Lands for 5,600 acres of BLM lands
16 that were primed for renewable energy facilities,
17 including a currently operating solar facility.

18 Since that time, BLM and Commission staffs have
19 been coordinating to refine and submit the maps and
20 cost-sharing estimates. On September 14th of this year,
21 the BLM issued its Record of Decision for the DRECP
22 land-use plan amendment. The proposed exchange was
23 included in this document.

24 BLM indicates that the legal land description
25 review has just been completed. And the next step is to

1 coordinate to prepare the final feasibility package for
2 submittal to the BLM Washington D.C. office for the
3 Director's approval.

4 To complete this, we will need to complete land
5 inspections, NEPA and CEQA review, notice of the proposal
6 for newspaper publication, and a review for sufficiency by
7 the solicitor. So we're continued to -- continuing to
8 make progress on that. It's been a little slow as the
9 BLM -- California BLM director did change over earlier
10 this year.

11 And last, but not least, I did want to provide an
12 update -- status update on Martin's Beach. The 2 lawsuits
13 are still pending at various stages in the court system.
14 The Friends of the Martin's Beach case is back in trial
15 court following the Supreme Court's denial of a petition
16 for review, and de-publication of the entire appellate
17 opinion.

18 It is not yet set for trial, but it has been
19 assigned to the same judge that heard the Surfrider case.
20 Surfrider's case has been fully briefed in the First
21 District Court of Appeal, with the Coastal Commission and
22 others filing amicus briefs in support of Surfrider's.
23 The parties have all requested oral argument, but non --
24 none has been set yet.

25 The Coastal Commission is still pursuing their

1 efforts to secure prescriptive rights at Martin's Beach.
2 The status of negotiations between the property owner and
3 staff of the State Lands Commission under Senator Hill's
4 bill, SB 968, have substantively stalled. We have not
5 made any further progress in those negotiations. And as
6 such, I anticipate that I will agendize the Martin's Beach
7 issue for the Commission's consideration at its December
8 meeting. And that concludes my Executive Officer's
9 report. I'm happy to answer any questions.

10 CHAIRPERSON YEE: Thank you, Ms. Lucchesi.
11 Commissioner Williams.

12 ACTING COMMISSIONER WILLIAMS: On just 2 items
13 actually. BLM and exchange, are we -- how far -- you said
14 there were -- there was a changeover at BLM.

15 EXECUTIVE OFFICER LUCCHESI: Right.

16 ACTING COMMISSIONER WILLIAMS: Are we behind on
17 schedule?

18 EXECUTIVE OFFICER LUCCHESI: A little bit due to
19 the change in the leadership at BLM. So we're trying to
20 press our counterparts at BLM to move this forward as
21 quickly as possible. But in all honesty, there has been
22 some delay because of the change in leadership.

23 ACTING COMMISSIONER WILLIAMS: Okay. I'm just --
24 from the Lieutenant Governor's perspective, if we could
25 just express a concern that we don't fall further behind

1 schedule on that exchange.

2 EXECUTIVE OFFICER LUCCHESI: I'm happy to do
3 that. Thank you.

4 ACTING COMMISSIONER WILLIAMS: Then the second
5 piece was the UAVs.

6 EXECUTIVE OFFICER LUCCHESI: Yes.

7 ACTING COMMISSIONER WILLIAMS: And, you know, an
8 incredible technology, a lot of potential commercially and
9 environmentally. Do you know if there are other State
10 agencies with similar land management jurisdictions that
11 are using the technology?

12 ADMINISTRATIVE SERVICES DIVISION CHIEF CONNOR:
13 Fish and Wildlife.

14 EXECUTIVE OFFICER LUCCHESI: We believe the
15 Department of Fish and Wildlife is using that technology.

16 ACTING COMMISSIONER WILLIAMS: Okay. I think it
17 would be interesting to -- and whether it's partnering
18 with Fish and Wildlife or individually as an agency to
19 look at how we're using the technology beneficially. And,
20 you know, as an agency, showing the rest of the State how
21 we're using it efficiently and effectively and possibly
22 come up with some recommendations of how -- of what the
23 agency -- the Commission's experience with their
24 technology is.

25 EXECUTIVE OFFICER LUCCHESI: Great. Yeah, I

1 think that's a wonderful idea. And as we get our hands
2 dirty with this, we'll be sure to continuously report back
3 to the Commission on our progress, and possibly do a staff
4 report to help memorialize that.

5 CHAIRPERSON YEE: Great. Thank you, Commissioner
6 Williams. Let me just add also my concern about the delay
7 in the land swap as well. It's a little frustrating given
8 that it's been approved by the federal agencies, and now,
9 you know, it stalled because of the administration change.
10 So as it comes back if you could just try to give us
11 updates, but certainly relay that back as a concern.

12 EXECUTIVE OFFICER LUCCHESI: I certainly will.
13 Thank you.

14 CHAIRPERSON YEE: All right. Thank you.
15 Other questions or comments on these items?

16 Okay. Thank you, Ms. Lucchesi, very much.

17 Our next order of business is the adoption of the
18 consent calendar. Are there items that need to be removed
19 from the consent calendar?

20 EXECUTIVE OFFICER LUCCHESI: Surprisingly, no.
21 (Laughter.)

22 CHAIRPERSON YEE: None. Okay.

23 EXECUTIVE OFFICER LUCCHESI: I had to check my
24 notes. I don't know if that's happened in a while, but
25 no, no items need to be removed from the consent item.

1 CHAIRPERSON YEE: Okay. So the consent --

2 EXECUTIVE OFFICER LUCCHESI: I mean, consent
3 agenda. Excuse me.

4 CHAIRPERSON YEE: Right. So the consent agenda
5 consists of calendar items C01 to C62.

6 Hearing no request to remove anything from the
7 consent calendar, may I have a motion?

8 ACTING COMMISSIONER ORTEGA: Move approval of the
9 consent calendar.

10 CHAIRPERSON YEE: Okay. Motion by Commissioner
11 Ortega to approve the consent calendar.

12 ACTING COMMISSIONER WILLIAMS: Second.

13 CHAIRPERSON YEE: Second by Commissioner
14 Williams.

15 Without objection, such will be the order.

16 Thank you.

17 All right. And I believe we are going to move on
18 to the next, which is on our regular calendar, and that's
19 Item 63. And this is to consider an application for a
20 general lease of State school land for a new wind energy
21 project in San Diego County.

22 And before I have the staff start the
23 presentation, Ms. Lucchesi, let me just ask one more thing
24 from the December --

25 EXECUTIVE OFFICER LUCCHESI: Right.

1 are aware, the Commission has jurisdiction over
2 approximately 460,000 acres of fee-owned lands that it
3 manages for the benefit of the State Teachers' Retirement
4 System. These lands are commonly referred to as school
5 lands.

6 On October 16th, 2008, the Commission passed a
7 resolution supporting the environmentally responsible
8 development of renewable energy projects on school lands.
9 Today, we are pleased to present for your consideration
10 the first application for a wind energy lease on school
11 lands.

12 --o0o--

13 LAND MANAGEMENT DIVISION CHIEF BUGSCH: The
14 proposed project is for a general lease industrial use for
15 a term of 40 years for the construction, operation,
16 maintenance, and decommissioning of 7 wind turbines
17 located on a 640-acre parcel of school lands in the McCain
18 Valley approximately 6 miles north of the Community of
19 Boulevard and approximately 50 miles east of here, in
20 Eastern San Diego County.

21 The 7 wind turbines on the school lands parcel
22 would have the combined capacity to produce up to 21
23 megawatts of electricity, enough to power -- or to service
24 approximately 6,000 homes. The Commission received the
25 initial application from Pacific Wind Development in

1 August of 2007.

2 Pacific Wind Development, LLC is a wholly-owned
3 subsidiary of Avangrid Renewables, which is the second
4 largest wind energy company in the United States with more
5 than 6 gigawatts owned and operated and more than 10
6 billion in assets.

7 --o0o--

8 LAND MANAGEMENT DIVISION CHIEF BUGSCH: When the
9 application was received in 2007, the proposed lease was
10 part of a larger project known as Tule Wind, that included
11 adjacent lands under the jurisdiction of the Bureau of
12 Land Management, lands owned by a Native American tribe,
13 the Ewiiapaayp Band of Kumeyaay Indians, and administered
14 by the Bureau of Indian Affairs, and private lands under
15 the jurisdiction of San Diego County. Combined total, the
16 project area was more than 14,000 acres.

17 Concurrent with the wind energy project, San
18 Diego Gas and Electric was proposing construction of a new
19 substation, the rebuilding of an existing substation, and
20 construction of a transmission line between the two
21 substations.

22 Because of this -- because all these projects
23 were deemed to be interrelated, it was determined that a
24 joint environmental document covering the wind energy and
25 power transmission projects should be prepared.

1 In December 2009, the Bureau of Land Management
2 published a Notice of Intent to prepare a joint EIR/EIS
3 with the California Public Utilities Commission acting as
4 the lead agency for the EIR.

5 --o0o--

6 LAND MANAGEMENT DIVISION CHIEF BUGSCH: As
7 originally proposed, Tule Wind consisted of 128 turbines,
8 of which 96 would be located on BLM lands, 18 on tribal
9 lands, 7 turbines on private lands, and 7 on a State
10 school lands parcel. The 7 turbines on the State school
11 lands parcel is the application in front of you today.

12 In December 2011, BLM issued a Record of Decision
13 and approved an alternative for the proposed Tule Wind
14 project that permitted construction and operation of 62
15 turbines on the BLM land.

16 In April 2012, the BLM issued a right-of-way
17 grant for the BLM-approved portion of the project. The
18 BLM's Record of Decision also instructed the applicant to
19 obtain further approvals from the BIA and the Commission
20 for the remainder of the proposed project.

21 Subsequently, the project was split into two,
22 into the Tule Wind -- Tule I, which is the approved
23 portion of the project on BLM land, and Tule II, which is
24 the proposed ridgeline project on tribal land, and the
25 Commission's school lands.

1 The California PUC certified the EIR on April
2 19th, 2012. And in August 2012, the County of San Diego
3 approved a major use permit that approved the turbines on
4 private land, as well as other components of the larger
5 project that are under the county's jurisdiction. At this
6 time, I will turn it over to the Commission's Science
7 Advisory -- Science Policy Advisor and Tribal Liaison,
8 Jennifer Mattox.

9 SCIENCE POLICY ADVISOR MATTOX: Good afternoon.
10 I have to have my reading glasses now.

11 I'm Jennifer Mattox. I'm the Commission's
12 Science Advisor, as well as the Tribal Liaison. Just for
13 background, my career and educational background is in
14 avian sciences and endangered species conservation. I've
15 been working on the Tule Wind Project since I came to the
16 Commission in 2010.

17 So it's -- the project, like all energy projects,
18 raises some complex issues, and it requires us to look at
19 both the micro-scale of the project itself and the
20 specific risks involved, as well as at the macro-scale of
21 how California intends to meet its energy demand into the
22 future.

23 So in the next few minutes, I'm going to attempt
24 to concisely summarize these issues and staff's
25 recommendation, and taking into account our CEQA duties,

1 our commitment to environmental protection, and our
2 State's efforts overall to reduce greenhouse gas emissions
3 and combat global climate change.

4 First of all, I just want to address a few
5 points. The Commission has received a number of comment
6 letters regarding this project. And I know that there are
7 some speaker slips for our folks that are here today. And
8 I wanted to take just a second or two to speak to those
9 concerns that we're aware of.

10 Several commenters note that there are legal
11 challenges against the project, and note that as a reason
12 to defer Commission action today. I just wanted to
13 clarify that while litigation has been brought against the
14 Bureau of Land Management and Bureau of Indian Affairs in
15 federal court under the National Environmental Policy Act,
16 and the Bald and Golden Eagle Protection Act, the district
17 court has dismissed all claims under the Eagle Act and has
18 partially dismissed the NEPA claims.

19 Most importantly perhaps, no CEQA challenges have
20 been brought against the certification of the EIR by the
21 CPUC. What this means for the Commission is that it is
22 bound by the presumption of legal adequacy of the lead
23 agency's EIR.

24 With respect to our CEQA process, 2 important
25 points. First, just to clarify what it means under CEQA

1 to be a responsible agency as opposed to a lead agency.
2 In this case, we are acting as a responsible agency. So
3 this plays into our approach to our Golden Eagle analysis.
4 There has been some concern raised that we are
5 piecemealing by looking at our analysis as to our lands.

6 In distinguishing lead agencies from responsible
7 agencies however, CEQA makes it clear that while a lead
8 agency looks at the whole of the action, the responsible
9 agency is required to limit its analysis to those impacts
10 under its jurisdiction.

11 This analysis is what appropriately then is
12 presented in your staff report. Secondly, just to briefly
13 mention our CEQA findings, in those findings, staff
14 concluded that several impacts, including those to Golden
15 Eagles, were minimized to the extent feasible, but that
16 the impact was still considered significant.

17 To clarify, the term "significant and
18 unavoidable" is a CEQA term of art in this context, as
19 opposed to what "generally significant" may mean in a
20 layman's terms. Our finding here simply reflects the very
21 low threshold under CEQA for sensitive and special status
22 species and our efforts to make this finding out of an
23 abundance of caution.

24 As with all projects, this project poses
25 collision risk, mainly to bats and birds. Because of the

1 protected status of Golden Eagles under federal and State
2 law, I want to focus the rest of this presentation on
3 Golden Eagles.

4 --o0o--

5 SCIENCE POLICY ADVISOR MATTOX: So this -- the
6 next 2 slides just are the introduction to the results of
7 the eagle surveys that were done for this project over
8 many, many years from 2005 to 2013. This first slide
9 shows the point count locations and the little circles
10 around it are the buffers.

11 So you can see that our parcel is the little blue
12 parcel down at the bottom of the colors. The yellow is
13 the Bureau of Land Management land, and then the green is
14 the Ewiiapaayp Reservation land. So you can see where
15 kind of the point counts were done and then the buffers
16 around those circles as to where the Golden Eagle activity
17 was seen.

18 --o0o--

19 SCIENCE POLICY ADVISOR MATTOX: This one -- this
20 slide I actually think is even more important. This one
21 depicts the results of the telemetry and flight path data.
22 The survey -- the report indicated that no eagles used the
23 State Lands parcel as a core area. Most flight paths were
24 well north of our parcel, and the eagle use on and near
25 the Commission parcel is relatively low.

1 The nearest nest is located just beyond that
2 northernmost turbine at the very top of the Ewiiaapaayp
3 Tribal lands. And observations in the surveys indicated
4 that the foraging of the breeders occurs to the north and
5 west of that area.

6 Using the methodology then prescribed by the
7 federal Fish and Wildlife Service's guidance, the modeled
8 collision risk is 0.03 eagles per year for the State's
9 parcel, and 0.33 eagles per year for the entire Tule II
10 project.

11 By comparison, the Alta East project in Kern
12 County estimate is 0.5 per year, and the Shiloh IV
13 project, which I would note is the only project to obtain
14 an eagle take permit so far of all wind projects currently
15 operating in California, received take authorization for
16 0.89 eagles per year, rounded up to 5 eagles over the
17 5-year permit. So just to provide that context and
18 comparison.

19 --o0o--

20 SCIENCE POLICY ADVISOR MATTOX: So again, I
21 just -- because the majority of the feedback that we've
22 received pertains to the subject of wildlife collisions
23 and Golden Eagles, because they are a sensitive protected
24 species, as well as being sort of a charismatic emblem, I
25 wanted to just say a few words about the conservation

1 measures.

2 So while the evidence presented in our analysis
3 demonstrates that the risk to Golden Eagles from the
4 portion of the project on our lands is small, we are
5 nonetheless recommending a number of significant
6 conservation requirements. They are listed here. And we
7 mean for those to protect the Golden Eagles to the maximum
8 extent possible. These requirements are consistent with
9 the requirements imposed by the prior approving agencies,
10 the Bureau of Indian Affairs, and Bureau of Land
11 Management, and, in fact, go further, in that the proposed
12 lease requires the applicant to implement the project
13 monitoring conservation practices and adaptive management
14 measures in the eagle conservation plan while the
15 permitting process with the Fish and Wildlife Service is
16 still being played out.

17 Staff has been in close coordination with the
18 Fish and Wildlife Service staff for several years. And we
19 understand from the service that it continues to
20 coordinate and negotiate with the applicant as regards the
21 eagle take permit.

22 I spoke with Project Manager Heather Beeler with
23 the Service yesterday. And she indicated that it is the
24 Service's recommended practice, in fact, to engage
25 applicants informally to develop the Eagle Conservation

1 Plan, so that when the time comes that they've worked out
2 all the challenges, that's at the point where they ask the
3 applicant to formally submit the eagle take permit
4 application of which the conservation plan is a component.
5 That helps the application proceed smoothly once it's
6 formally submitted through the NEPA process.

7 She also indicated that she believes the final
8 eagle conservation plan for the project is likely to be
9 substantially the same as the 2014 version, of which we
10 have a copy. Then the only updates being necessitated by
11 the revised modeling estimates, which I spoke to earlier,
12 as well as any updates to the Service's revised eagle take
13 regulations. So that's expected around the end of the
14 year.

15 Lastly, Ms. Beeler reviewed the staff report and
16 indicated to me yesterday that our characterization of the
17 permitting process and timing was accurate and that our
18 requirements, in her opinion, went quote above and beyond.

19 Lastly, I want to just really close with the
20 benefits of a project like this. You know, like any form
21 of energy project, coal, gas, nuclear or renewable
22 facilities, this project does have environmental impacts.

23 What we believe is that low carbon energy
24 production, like that of the Tule Wind project, can play a
25 major role in reducing global carbon pollution and that

1 the overall benefits tip the scale in favor of approval.

2 We believe this project is consistent with the
3 Governor's Executive Order B-3015 which acknowledges the
4 threat of climate change to the health and well-being of
5 humans and natural resources in the state. And we
6 highlight California's efforts to achieve significant
7 greenhouse gas reduction emissions -- emission reductions
8 by 2050.

9 That order further directs agencies with
10 jurisdiction over sources of greenhouse gas emissions to
11 implement measures consistent with the reduction targets.
12 This project does that.

13 Lastly with the Commission's strategic plan, we
14 specifically call out Key Action 2.1.2 which is to market
15 land holdings to promote renewable energy and
16 environmentally responsible resource and energy
17 development projects. Because of the many risks posed by
18 climate change on the people and resources of the state,
19 particularly its most vulnerable populations, and for the
20 reasons that I described earlier in this presentation,
21 staff believes approval of this project is appropriate and
22 in the State's best interest. We respectfully request its
23 approval.

24 Thank you.

25 CHAIRPERSON YEE: Thank you very much for the

1 presentation. We have a number of speakers on this item.
2 Let me call you up in order and you will have three
3 minutes each to speak.

4 First Jeffrey Durocher with Pacific Wind
5 Development - so please come forward - followed by Maris
6 Brancheau with Protect Our Communities Foundation followed
7 by Jim Peugh with San Diego Audubon Society and then Terry
8 Weiner with the Desert Protective Council.

9 Good afternoon.

10 MR. DUROCHER: Good afternoon. My name is
11 Jeffrey Durocher. I'm Avangrid Renewables which is the
12 parent company of Pacific Wind Development, and the
13 applicant for the State Land lease where we would install
14 7 turbines. And I'm not going to go over the parameters
15 of the project. I think staff did a really good job of
16 describing it. Unless you have any questions about
17 specifics, I'd be happy to address those.

18 But suffice it to say, the project has been
19 extensively studied and thoroughly vetted over a number of
20 years. I did want to touch on a few additional public
21 benefits that we think come from the project. And some of
22 these have been mentioned, like the California Renewable
23 Portfolio Standard, 50 percent by 2030, but also here
24 locally is San Diego Climate Action Plan, which seeks for
25 the City of San Diego to achieve 100 percent renewables by

1 2035.

2 In addition to the Commission's own policy, we
3 think the project really supports those goals directly.
4 We also see a number of benefits regionally for fire
5 protection by funding a fire protection agreement with the
6 County of San Diego Fire Authority. We think there's a
7 net benefit in the reduction of fire risk by installation
8 of roads that act as fire breaks. We are installing 3
9 water tanks at strategic locations to help in the event of
10 a wildlife. We will engage in a fuel reduction program
11 around every turbine, as well as the roads. And we are
12 installing fire suppression systems in each of the cells,
13 which is part of the turbine that contains the generator
14 equipment.

15 And the revenues from the lease, as I understand
16 it, will benefit the Teacher's Pension fund. There's a
17 minimum yearly payment as well -- which can go up to 5
18 percent of the gross revenue of the project increasing to
19 5.75 over a course of years. We're also providing a
20 \$40,000 fund to remediate and close abandoned mines, which
21 will improve safety on the parcel, and a \$15,000 agreement
22 to reimburse staff of their efforts in administering the
23 lease and monitoring the mitigation measures.

24 And lastly, we have a community development
25 program that we committed to that is correlated to the

1 number of megawatts that we install. So if we develop the
2 Tule II project, we expect that there would be an
3 additional \$90,000 funding for the Mountain Health and
4 Community Services Center, and \$90,000 for the Mountain
5 Empire Unified School District.

6 And lastly, I'd just like to say that we have a
7 number of representatives from the company, as well as
8 some technical experts, if you have any questions.

9 Thank you.

10 CHAIRPERSON YEE: Thank you very much, Mr.
11 Durocher.

12 Questions or comments.

13 Next speaker Maris Brancheau.

14 Good afternoon.

15 MS. BRANCHEAU: Good afternoon, Commissioners.
16 I'm Maris Brancheau. I'm an attorney for Protect our
17 Communities Foundation, POC. POC is a 501(c)(3)
18 organization in San Diego County who is committed to
19 representing the rights of utility ratepayers and who has
20 long been against the industrialization of our backcountry
21 for large scale utility projects.

22 Currently, POC is involved in litigation against
23 the Carlsbad Energy Center, which is a fossil fuel plant
24 proposed for the coast. And we are in litigation and
25 opposed to the Tule II Wind Project that you're

1 considering today.

2 We are opposed to this project because it's the
3 wrong project, it's at the wrong time, and it's definitely
4 in the wrong place.

5 It's the wrong project because the Tule Wind II
6 project is on the ridgeline. The ridgeline is where most
7 of the birds fly, the eagles fly. This is more -- about
8 more than just the Golden Eagle. It's about all raptors
9 and species of concern, including the Swainson's Hawk that
10 will fly above these windmills in -- on -- above your
11 land.

12 It's the wrong time. Like I mentioned earlier,
13 we're involved in litigation against the Tule Wind
14 project, based on the fact that the Bureau of Indian
15 Affairs is using the EIR that the BLM certified, even
16 though that EIR, or Environmental Impact Report/Impact
17 Statement did not adequately study the ridgeline impacts
18 on the Golden Eagle.

19 Also, the Bureau of Indian Affairs required the
20 applicant to have an eagle take permit. There is no
21 current eagle take permit for this project. Therefore,
22 it's the wrong time to approve it.

23 California obviously needs renewable energy, and
24 POC supports renewable energy in the form of battery
25 storage and local distributed generation, technologies

1 that are available.

2 The BIA approved 20 windmills on its land, only
3 with the requirement there be an eagle take permit.
4 Therefore, it's the wrong time, because there is no eagle
5 take permit. We would ask the lone of you please make a
6 motion today to table this decision until after the
7 litigation has been -- the pending litigation has been
8 resolved, or until you can consult with the U.S. Fish and
9 Wildlife Service about the absence of an eagle take
10 permit.

11 Further, the McCain Valley is beautiful. This is
12 the wrong place. I would urge each of you to go there
13 during the day, during the night. At nighttime, there's
14 great views of the sky. There will be lights on these
15 turbines that are going to actually devastate the view
16 from Anza-Borrego Desert State Park. And POC would ask
17 not that you just table this motion, but that you consider
18 each of your parcels and which might be the best for
19 renewable energy, because this parcel is not. And one of
20 your overriding considerations is that it's going to
21 benefit the Teachers' Retirement Fund.

22 Please do not devastate our wildlands on the
23 backs of the teachers who have taught for years about the
24 importance of preserving wildlife, about endangered
25 species, and about eagles. It's just not fair to the kids

1 or the teachers to do that.

2 There's also impacts to the endangered Peninsular
3 Bighorn Sheep, which I don't think have been adequately
4 addressed in the EIR.

5 CHAIRPERSON YEE: Mr. Brancheau, your time has
6 expired, but let me have you summarize the rest of your --
7 and we'd be happy to take anything in writing.

8 MR. BRANCHEAU: Okay. Please do not devastate
9 this land, and its natural resources. Of all the parcels
10 managed by the State Lands Commission, we urge you to
11 inventory where it would be best to put renewable energy,
12 and to remember that you're supposed to do environmentally
13 responsible renewable energy, and this project is not
14 environmentally responsible.

15 Thank you.

16 CHAIRPERSON YEE: Thank you.

17 Okay. Why don't we hear from the rest of the
18 speakers and then we'll take questions, which I'm sure
19 we'll have. Jim Peugh(Po) -- Peugh(Pew)

20 MR. PEUGH: Hi. I'm Jim Peugh and I'm the
21 Conservation Chair, San Diego Audubon Society.

22 San Diego Audubon strongly supports wind power as
23 a non-polluting, low carbon renewable form of energy, but
24 only when it was sited where the turbines and the needed
25 access has very -- or has minimal environmental impact.

1 We have a wind policy of our chapter. One of the
2 specific examples of places where wind power is
3 inappropriate is the McCain Valley. As you've heard
4 before, Golden Eagles are a fully protected species by the
5 State of California. And they're protected by the federal
6 government under the Migratory Bird Treaty Act. Any take
7 is a violation without a permit.

8 We urge the Commission to reject this proposal --
9 this project. Perhaps this land could better be used or
10 profitably leased out as mitigation for other projects,
11 you know, other wind projects, other energy projects that
12 need mitigation. It will be a great area to preserve for
13 the future.

14 The staff report says the project has
15 significant un -- significant and unavoidable impacts to
16 five resources area: biological, visual, cultural,
17 paleontological, noise, and air quality. We're
18 particularly concerned, of course, with biology.

19 According to the staff report, as of 2008, the
20 Commission has resolved to use school lands for
21 environmentally responsible development for renewable
22 energy projects. This project is clearly not
23 environmentally responsible. This location was rejected
24 by the BLM, because of the risk. It's on a ridge, which
25 the previous speaker explained to you is really important

1 for raptors, including eagles. I live on a house in San
2 Diego on a ridge also, and the red-tailed hawks, you know,
3 gaining altitude with no use of their wings at all to get
4 up to an altitude for transiting to another area with no
5 energy or for dropping down and foraging.

6 So the fact that this is on a ridge is unique and
7 makes it really significant. It's within 4 miles of a
8 nest. And the fact that there's no Fish and Wildlife take
9 permit is really serious.

10 The take analysis that your staff -- that the
11 staff has reported is based on a -- not based on an
12 analysis by the State and federal agencies. We urge that
13 you not take action on this, at least until you have the
14 State and federal agencies verify that risk analysis and
15 see if it's actually valid. You'll be taking a big risk
16 on this project, so you need to be gambling on analysis
17 that you know is valid.

18 The Statement of Overriding Considerations is
19 really concerning. It says that, "The Commission finds
20 that the benefits of the project outweigh the significant
21 unavoidable impacts after mitigation is applied and
22 considers such impacts acceptable".

23 As I said, there is several unmitigated impacts.
24 The economic benefits of this, \$135,000 a year, is
25 retirement for probably 2 or 2½ teachers. The needs are

1 168,000 teachers. So it would take about 400,000 projects
2 of this scale to address the needs. This is not a
3 significant benefit. This is a less-than-trivial benefit.

4 The energy benefits, these few turbines could be
5 installed in a more environmentally sensitive project
6 elsewhere with much less environmental impact.

7 So the negative impacts of the project really
8 significantly outweigh the benefits of the project. So
9 this obviously is not an appropriate use for a statement
10 of environmental considerations. I'm the farthest thing
11 you can have from a lawyer, but it just seems really weird
12 the statement that says, "The Applicant acknowledges that
13 unauthorized take of a Golden Eagle is prohibited, and it
14 assumes all..." -- "...it assumes full liability for any
15 take that may occur".

16 Can you really do that? I mean, if you recruit
17 somebody to -- as a driver for a bank robbery, can you
18 take the liability for that driver? I don't think so. I
19 mean, you're part of this -- you're part of this project.
20 I don't know how the applicant could take your liability
21 if there's a problem.

22 And even if the applicant gets a take, apparently
23 now take permits are only good for five years, so the
24 uncertainty of whether the project will go forward without
25 the take is a real problem. And I think it's a potential

1 liability problem for you.

2 It was mentioned before that with climate change,
3 we really have to move on to get renewable energy. And
4 that's true. There are risks to us because of climate
5 change, but there are dramatic risks for all kind of
6 birds, particularly raptors. The impacts of climate
7 change are unknown, so the statistics that you were
8 presented, even if they work out to be valid, may not be
9 valid in five years, and they might not be valid in 10
10 years.

11 Please, seriously consider rejecting this
12 project. But if you don't reject the project, please at
13 least consider waiting until you can have the risk data
14 that was presented to you evaluated by State and federal
15 agencies.

16 Thank you.

17 CHAIRPERSON YEE: Thank you, Mr. Peugh.

18 Terry Weiner.

19 MS. WEINER: Good afternoon, Commissioners. I
20 hope that you received my very brief letter that I
21 submitted on behalf of the Desert Protective Council. My
22 name is Terry Weiner and I am the Imperial County Projects
23 and Conservation Coordinator for the Desert Protective
24 Council, which is a 501(c)(3) desert education and
25 advocacy organization founded in 1954.

1 For 60 years, we've been trying to educate people
2 about the importance of the desert ecosystems. And we
3 certainly understand the importance of the connections
4 with mountain ecosystems because the species don't have
5 boundaries. We urge you to oppose this project,
6 because -- well, in my mind I had the question, have any
7 of the Commissioners actually gone out and toured the
8 land?

9 McCain Valley was established as a Resource
10 Conservation Area, because of its beauty and its
11 importance to a long list of special species that are
12 native to the mountain chaparral. I'm very familiar with
13 the wind project down below Ocotillo, the Ocotillo Wind
14 Project. And I -- we have studied the greenhouse gas
15 emissions from this project, and some of which would be
16 applicable to the building of Tule I and Tule II, the
17 scraping of roads, of which you have 18 miles or more,
18 releases a lot of -- releases carbon from the soil, not to
19 mention destroying whatever crust is up there, that
20 could -- diesel fumes from the construction trucks, you
21 know, and the ongoing use of electricity for the
22 generators at the base of the turbines isn't -- doesn't
23 seem to be taken into account.

24 Now, we're not opposed to renewable energy. We
25 have a group that we co-founded called Solar Done Right.

1 And if you've been following energy use in California,
2 solar panels are going up like crazy in Los Angeles, where
3 I think a lot of this energy is being sent, to the degree
4 that we don't need these destructive energy projects. San
5 Diego County is growing, and people need places to go to
6 recreate. This has been a very popular recreation area
7 for a long time. And it's not a good tradeoff of State
8 Lands Commission lands, which you're supposed to help
9 protect the resources. It's not a good tradeoff for \$5
10 million over 30 years to destroy an area forever.

11 Thank you very much.

12 CHAIRPERSON YEE: Thank you.

13 We have on more speaker on this item. Let me ask
14 Julia Chunn-Heer Surfrider to please come forward.

15 Is she here?

16 MS. CHUNN-HEER: I'm sorry. I put the wrong
17 agenda item.

18 CHAIRPERSON YEE: Oh, I'm sorry. It's not on
19 this one.

20 MS. CHUNN-HEER: It's 64.

21 CHAIRPERSON YEE: Okay. Very good. Thank you.

22 All right. We have heard a number of comments.
23 Let me ask the staff to respond to a number of them. And
24 maybe first and foremost, maybe some clarification with
25 respect to the take of the Golden Eagles, and, you know,

1 what's -- what does unauthorized take mean, and given kind
2 of timing issues, maybe with respect to issuance of the
3 permit and what the applicant's liability is.

4 EXECUTIVE OFFICER LUCCHESI: Yeah. So I think
5 between Jennifer Mattox and I we can answer those
6 questions. I think a couple of clarifications. Neither,
7 BIA, Bureau of Indian Affairs, nor BLM required that the
8 applicant receive an eagle take permit prior to issuing
9 their approvals. What they did require was that the
10 applicant submit an eagle take permit application and
11 begin that process, and that process has begun.

12 Excuse me.

13 I also want to note that BLM did not reject the
14 Tule II -- Tule Wind II area outright. What it said was
15 it's better to address this project in phases. And they
16 addressed the first phase first. And they were going to
17 follow in their approval process of the second phrase
18 after the 2 other landowners, BIA and State Lands
19 Commission, considered the -- their applications for the
20 phase 2 portion of this project.

21 And finally, before I turn it over to Jennifer to
22 address maybe some of the more detailed questions about
23 what constitutes take, the eagle take permit itself does
24 not offer any additional protections to the specific
25 eagles to the resource. What it does is it provides

1 protection to the permittee in the event there is take.
2 And so -- but what goes along with an eagle take permit
3 process is that the applicant is required to develop an
4 Eagle Conservation Plan. And in that plan, there are
5 various mitigation and protection measures that do help
6 protect the resource and the species.

7 Now, as part of the Commission's approval as part
8 of the lease, there is a term that requires the applicant
9 to submit that Eagle Conservation Plan and be required to
10 be bound by it. The applicant has done that. So, in
11 effect, even though they have not received an eagle take
12 permit that actually helps protect their liability in the
13 event of take, they have committed to all the mitigation,
14 all the appropriate and necessary mitigation and
15 protection measures that will actually result in the
16 protection of the species.

17 So I just wanted to make that point. And
18 Jennifer, can you describe a little bit about what it
19 means to have a take of a species? That would be --

20 SCIENCE POLICY ADVISOR MATTOX: Yeah, certainly.

21 So the Migratory Bird Treaty Act and the Bald and
22 Golden Eagle Protection Act prohibit the taking of the --
23 of species. Basically, in this case, it would be
24 abandonment of a breeding territory, loss of nest success,
25 or collision injury or mortality involved with collision.

1 So the twist here is about who authorizes, what
2 constitutes take, when does that happen, and who owns it,
3 so to speak?

4 So in a multitude of adjudicated cases, we have
5 been given direction that the event of take is in the
6 taking itself, and that by authorizing construction and
7 operation of the facility itself does not constitute take,
8 that the take has to happen for it to be take.

9 So we're looking at a project where, in any given
10 year, you know, 0.03, according to the modeling that was
11 done consistent with the Fish and Wildlife Service's
12 guidelines. So they are not -- if the operation were to
13 proceed prior to obtaining that permit, there would not be
14 a violation, unless and until a take was documented.

15 So as Jennifer said, really what the benefit of
16 that permit is to the applicant's civil and criminal
17 liability not to the conservation of the eagles, because
18 the conservation measures are being put in place now.
19 So -- and this has been upheld in the -- both the Bureau
20 of Land -- the action against the Bureau of Land
21 Management and the action against the Bureau of Indian
22 Affairs made it very clear that the take issue -- that
23 they could not force or proscribe that the take permit be
24 required to be obtained before construction and operation,
25 that that was not appropriate, and that -- that it's the

1 process. Having the separate federal and State entities
2 be in charge of each of their respective jurisdictional
3 processes and allow those processes to play out.

4 And so I don't know if that helps. And we also
5 have actually a Golden Eagle biology expert here, Laura
6 Nagy. So if you had any really detailed questions about
7 the modeling and things like that, she's available as
8 well.

9 CHAIRPERSON YEE: Great. Thank you, Jennifer.
10 Questions?

11 Okay.

12 Yes.

13 ACTING COMMISSIONER ORTEGA: Madam Chair, if I
14 could make one comment.

15 CHAIRPERSON YEE: Sure.

16 ACTING COMMISSIONER ORTEGA: A couple of the
17 speakers mentioned the amount of the money that would be
18 generated for the State Teachers' Retirement Fund, of
19 which the Director of Finance and also the Controller are
20 members. And while I think we appreciate any additional
21 revenue that come into that fund, the actual amounts being
22 proposed here are not so significant that they would be
23 the overarching reason I think why we might make a
24 determination that this lease was appropriate. So I know
25 for me, the bigger issue of the energy policy of the State

1 and the significance of the amount of energy generated by
2 this project is more persuasive than the small, but, you
3 know, helpful amount that will go to the State Teachers'
4 Retirement Fund.

5 So I just wanted to make that point that it's not
6 just a trade of the amount of money. And certainly, the
7 energy that's being generated here is replacing energy
8 that would need to be generated somewhere else, which
9 would have its own risks and potential negative impacts on
10 species wherever that energy was coming from.

11 So thank you.

12 CHAIRPERSON YEE: Thank you, Commissioner Ortega.

13 Okay. Having heard all comments and questions by
14 Commissioners, we do have this as an action item before
15 us. Is there a motion?

16 ACTING COMMISSIONER ORTEGA: I'll move approval
17 of the staff recommendation.

18 CHAIRPERSON YEE: Okay. We have a motion by
19 Commissioner Ortega to approve the staff recommendation.

20 ACTING COMMISSIONER WILLIAMS: Second.

21 CHAIRPERSON YEE: Seconded by Commissioner
22 Williams.

23 Without objection, that motion carries.

24 Thank you.

25 Okay. Moving on, I believe our next item is Item

1 64. And this is Commission's consideration of the
2 memorandum of agreement between State Lands Commission and
3 the San Diego Unified Port District to develop a pilot
4 marine planning effort for State-owned tidelands and
5 submerged lands located on the Pacific Ocean offshore San
6 Diego County.

7 Let me have the staff come up and make the
8 presentation.

9 Hi, Jennifer.

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

12 SCIENCE POLICY ADVISOR MATTOX: I think it was my
13 lucky day.

14 (Laughter.)

15 CHAIRPERSON YEE: It is.

16 SCIENCE POLICY ADVISORY MATTOX: And now I have
17 an even smaller screen to read.

18 Good afternoon. Again, I'm Jennifer Mattox. I
19 am the Science Policy Advisory here at the Commission.
20 And I'm here to present Item 64. And in this item, we are
21 talking about the proposed Memorandum of Agreement between
22 the State Lands Commission and the San Diego Unified Port
23 District to consider how the Commission and the Port will
24 communicate, share information, and play in the sand box
25 together in undertaking marine spatial planning process

1 offshore San Diego.

2 --o0o--

3 SCIENCE POLICY ADVISOR MATTOX: So the Commission
4 and the Port, through this MOA, are striving to strengthen
5 our partnership as land managers of the submerged and
6 tidal lands offshore San Diego County. This MOA
7 formalizes our collaboration and commits our agencies to a
8 marine planning effort that is intended to provide
9 managers and decision makers with a scientifically based
10 tool to support the integrated management of Public Trust
11 resources in order to benefit the environmental and
12 economic health of local San Diego coastal communities and
13 the State as a whole.

14 This planning effort is a pilot project that will
15 encompass State-owned tidelands and submerged lands
16 offshore of San Diego County. The Commission and the port
17 anticipate that this area will be the starting point for
18 developing and refining an ultimate boundary of the
19 planning area, which is geographically discrete in the
20 southern part of the State. And this is an area that
21 includes lands leased by the Commission, areas granted to
22 local trustees, environmentally sensitive habitat areas,
23 marine protected areas, and other designations.

24 --o0o--

25 SCIENCE POLICY ADVISOR MATTOX: We need to be

1 mindful of these designations and land management
2 structures as we plan, because one of the fundamental
3 concepts of this planning process is that it is intended
4 to complement, not replace or conflict, with other
5 designations and anybody else's jurisdiction. And I want
6 to make sure I really emphasize that point. It is not a
7 regulatory process. It is not taking over or creating
8 more conflict. It is simply a toolbox -- spatially
9 referenced toolbox guide so to speak to facilitate
10 dialogue and good planning and good public policy.

11 So ultimately -- given that starting point,
12 ultimately, we are looking to refine the boundaries of the
13 plan, not preemptively like now. That's why we're
14 starting with this area, but ultimately refine it down to
15 something that meets everybody's needs. And by everybody,
16 I mean, the vast number of stakeholders that are going to
17 be involving in this process and who we actually are even
18 reaching out to.

19 So ultimately, it will be refined through the
20 stakeholder input, the selected sectors -- that's what we
21 call them sectors -- or resource areas that we want to
22 focus on, scientific information that's available, and
23 then any other factors that we may not have thought of,
24 but that a stakeholder might bring up.

25 So I want to make sure that I emphasize that we

1 have already started some outreach. We've spoken
2 extensively with our State partners and we have additional
3 meetings tomorrow. So we've coordinated with the Ocean
4 Protection Council, the State Parks, State Department of
5 Fish and Wildlife, also some academic institutions, NGOs.
6 And then we've coordinated extensively with our military
7 partner, specifically the Navy down here, with whom we had
8 a joint meeting sometime ago, when -- I think shortly
9 right after our informational presentation that we had in
10 front of you I think in February.

11 And at that meeting, not only the Navy but then
12 also the coordinator and manager for the West Coast
13 Regional Planning Body, John Hansen, was also facilitating
14 that meeting to help us understand that larger process for
15 the entire west coast that is being led under the auspices
16 of the National Ocean Policy and the National Ocean
17 Council implementation plan.

18 So while we recognize -- we want to make sure
19 that we're recognizing and complimenting the larger
20 regional and west coast efforts, but still maintaining
21 sort of the -- the sort of tailoring of this for our
22 specific jurisdiction and needs and goals.

23 --o0o--

24 SCIENCE POLICY ADVISOR MATTOX: So here we have
25 our sort of big 3, that this effort is intended to be

1 scientifically driven, driven by collaboration, and
2 holding to the principle of protection. The Commission
3 and the Port will work collaboratively to ensure that this
4 plan utilizes the best available scientific data,
5 stakeholder and public engagement, and transparency. We
6 want to develop a marine decision support framework,
7 develop and share a spatial analysis tool, so that people
8 can visualize where they may or may not have conflict, and
9 then create a framework for the local trust grantee, the
10 Port, to participate in the management of these ocean
11 areas and facilitate meaningful engagement, because we
12 can't look at these things in a vacuum. It isn't the bay
13 belongs to the Port, and the ocean belongs to us, and we
14 never talk to each other, and we don't make decisions.

15 We influence each other, activities in the port,
16 ships need to come out of the bay and cross through the
17 ocean. So we really want to make sure that this focuses
18 on integration. And I just want to make a last note that
19 keeping in perspective that the role of the MOA -- so
20 we're not -- we're not approving -- looking to consider
21 approval of a plan today. We have a long way to go. We
22 don't have that tool yet. The -- to really distinguish
23 this Memorandum of Agreement is meant to lay out the
24 relationship between Commission staff and Port staff. And
25 we feel that that's -- even though it's a tiny, tiny, tiny

1 little baby step, it's really important, because even just
2 in dialoguing about the components of the MOA, we really
3 made a lot of progress towards understanding each other
4 being on the same page, as to, you know, who is going to
5 do what work, staff, who's going to outreach to who. And
6 then further even like are we or aren't we going to make a
7 website? Are we or aren't we going to have a public
8 meeting? Are we or aren't we going to have peer review?

9 So we really wanted to make this to be the tool
10 to make sure we start it out of the blocks with a common
11 understanding of the goal, and what it meant to be a
12 partnership and work together, and to be clear that our
13 goal was to reduce conflict, protect the environment,
14 protect the economic sectors, and to protect
15 socioeconomically vulnerable populations, and also address
16 climate change, sea level rise, and other issues that are
17 going to be become more and more pressing.

18 So I'll just leave it at that. And I'm here if
19 you have any questions. And we have a whole team.

20 Thanks.

21 CHAIRPERSON YEE: Thank you Jennifer for the
22 presentation. We have a number of speakers on this item.
23 Let me call them up and -- let's see, why don't we hear
24 from Commander Jerod Markley with the Navy Region
25 Southwest office, followed Kristin Kuhn, San Diego

1 Coastkeeper, and Amanda Sackett with Surfrider Foundation.

2 And Julia, are you speaking on this one, I'm sorry?

3 MS. CHUNN-HEER: Yes.

4 CHAIRPERSON YEE: Okay. With Amanda or
5 separately.

6 MS. CHUNN-HEER: Separately.

7 CHAIRPERSON YEE: Okay. We'll have you come up
8 after her.

9 And then just get the order queued up, followed
10 by Michael Jones, and then David Yow with the Port of San
11 Diego. Okay. Good afternoon.

12 COMMANDER MARKLEY: Good afternoon. I'm
13 Commander Jerod Markley. I represent Navy Region South
14 west. Thank you for the opportunity to speak today. I
15 want to start off by saying my slip says opposition to
16 Item 64. It's opposition to Item 64, but it's not
17 opposition to the grand idea of marine spatial planning.
18 The Navy is a big supporter of the concept of marine
19 spatial planning.

20 We look at marine spatial planning as an
21 effective way to manage and conserve ocean resources, and
22 we've been an active participant in regional planning
23 bodies all around the country, including and especially
24 the West Coast Regional Planning body that was discussed
25 earlier.

1 So we're excited about the idea, and we think
2 there's a lot of good ideas in this MOA, but we think that
3 it needs to cook a little bit more before it's ready to
4 serve.

5 So we ask that you would postpone giving
6 authority to sign out the MOA until perhaps your next
7 meeting in December, so that we have an opportunity to
8 engage more fully in discussion with your staff and with
9 the Port staff about the details of the MOA.

10 So the reason the Navy cares about it, the Navy
11 is the single largest landholder in the San Diego Unified
12 Port District. We're also easily the single largest user
13 of the water space that this MOA contemplates. From the
14 Navy's elite SEAL teams utilizing the waters off Coronado
15 and the way down to the Mexican border, to do small boat
16 training, to do various modes of clandestine infiltration
17 training, to do even the basic BUD/S training that SEALs
18 go through before they become SEALs.

19 San Diego functions as the hub for the Navy's
20 largest, most comprehensive, and most used training and
21 testing ranges. This means we have surface vessel,
22 submarines, and aircraft training out in these waters
23 every day.

24 Space and Naval Warfare Systems Commands, SPAWAR,
25 conducts extensive testing operations off Point Loma,

1 including unmanned aerial and underwater vehicle
2 development, as well as exercising the Navy's marine
3 mammal program, which searches for underwater shapes to
4 identify explosives in littoral waters for Navy vessels
5 and personnel to clear.

6 Camp Pendleton fulfills a similar role for the
7 Marine Corps, as a hub for much of their training, the
8 amphibious and other training, that they do off the coast
9 of San Diego County. So not a day or night goes by that
10 we're not training and/or testing on, under, and above the
11 waters that are under consideration here.

12 If I had a chart, I could show you all the op
13 areas and training areas that we have up and down the
14 coast of San Diego, and you would see that there's very
15 little water out there that could be assigned to some
16 other use without actively de-conflicting military uses.
17 We use most of it.

18 As the demand for water, space, and ocean
19 resources continue to grow, sophisticated marine spatial
20 planning is a must have for preserving our training and
21 testing vital to national security, while encouraging
22 other beneficial uses and protecting the environment. But
23 we need to make sure that such planning is adequately
24 coordinated with all the major stakeholders, and that
25 individual planning efforts do not work at cross-purposes

1 to one another.

2 We don't think the MOA, as written, provides for
3 appropriate military representation in the marine spatial
4 planning process. We'd like some more formal recognition
5 there, and we're happy to work with staff to work out the
6 details of that.

7 And we also think that the -- the goals of the
8 MOA are at least partially redundant to the process that's
9 underway with the West Coast Regional Planning Body.

10 I'm running out of time, so I'm going to skip
11 ahead a little bit here.

12 The Commission is planning to take a seat on the
13 RPB and actively participate starting later this month, so
14 it's worth -- it's worth waiting until the next meeting
15 till after you've had an opportunity to observe the R --
16 or participate in the RPB process to sign out this MOA.
17 That way the Commission and the Port can shape their
18 efforts with the military to work in concert with the RPB,
19 and efforts are already underway, and perhaps expend
20 significantly less resources in the bargain.

21 Two things that I'd point out, the purpose of the
22 RPB is kind of the same purpose that's laid out by this
23 MOA, which is to develop a decision framework. And the
24 RPB has already developed a data portal where stakeholders
25 in that process are depositing data and all that data is

1 being aggregated into a common picture.

2 So there's significant potential for you to
3 leverage the efforts that are already under the way there.
4 It'll just take a little bit longer to look at it, and I
5 think it will be more efficient.

6 So we ask you that postpone the vote on this
7 matter until your next meeting. And we commit to meet in
8 the near term with the Commission and with the Port to
9 further discuss this planning process with the goal of
10 incorporating the military in a formal manner. And we
11 also wish to help draft -- help the draft MOA harmonize
12 with the efforts of the RPB.

13 The last thing anything wants -- anybody wants is
14 for a project proponent to invest based on assurances from
15 the Commission or from the Port and then find later that
16 their project is inconsistent with national security
17 priorities and can't be built.

18 Thanks for your time.

19 CHAIRPERSON YEE: Thank you, Commander Markley.

20 COMMANDER MARKLEY: And I'll take any questions
21 if you have any.

22 CHAIRPERSON YEE: Actually, I'll just make a
23 comment. I appreciate the testimony today. Let me just
24 say this has been a process 8 months in the making, so I
25 think there have been a lot of staff at the Port and

1 certainly with the State Lands Commission invested in
2 this. I can assure you, as one Commissioner, that the
3 United States Navy is going to be a major, major presence
4 in this effort.

5 I don't believe there's any desire to try to
6 compromise any of the existing activities of the Navy with
7 respect to training or testing or any of the other
8 activities you described. But certainly you will be -- I
9 consider you to one of the major stakeholders, as you
10 identified the largest landholder for the Port district.

11 So this is a planning memorandum of agreement.
12 So there's no plan yet, and that's the work to come.

13 Redundancy, I think, in this case, may be good,
14 but I would venture to say that this effort may actually
15 instruct and inform the larger regional effort. So, I
16 mean, I think there's a lot of -- even though it may be
17 redundant, I think the fact that this is going to be a
18 broad stakeholder effort, stakeholders still are being
19 identified. I mean, we have expressed our interest in
20 having much more broader, robust representation from
21 certain constituencies and communities. So -- but I can
22 assure you that the United States Navy will be very much
23 an integral part of this process.

24 COMMANDER MARKLEY: Thank you very much.

25 CHAIRPERSON YEE: Okay. Other comments on that?

1 Yes, Commissioner Williams.

2 ACTING COMMISSIONER WILLIAMS: Just to reflect
3 the Chair's sentiment on the role of the Navy, and the
4 significant seat at the table it will have here as well,
5 on behalf of the Lieutenant Governor.

6 COMMANDER MARKLEY: Thank you.

7 CHAIRPERSON YEE: Thank you.

8 Any staff comment on that piece?

9 Okay. Very well.

10 Let me have the next speaker please come up. And
11 that would be Kristin Kuhn.

12 MS. KUHN: Good afternoon --

13 CHAIRPERSON YEE: Good afternoon.

14 MS. KUHN: -- Chair Yee and members of the
15 Commission. My name is Kristin Kuhn. I'm with San Diego
16 Coastkeeper. And I am giving this testimony on behalf of
17 Matt O'Malley, legal and policy director from San Diego
18 Coastkeeper who regrets he cannot be here today.

19 Thank you for the opportunity to comment on the
20 Memorandum of Agreement between the State Lands Commission
21 and the Port of San Diego to pursue a marine spatial
22 planning pilot project in the ocean off the San Diego
23 coast.

24 We've spoken with members of your staff and the
25 Port staff, and appreciate their desire to engage in an

1 open dialogue about this effort. We understand the
2 Commission import, view this effort as an opportunity to
3 advance collaborative, coordinated management of the San
4 Diego coast. And to that end, the MOA repeatedly
5 references a commitment to transparent, robust public
6 engagement during all phases of the framework development.
7 And we think that such engagement during -- and
8 involvement of the environmental community is crucial to
9 the success of this collaborative undertaking. We hope
10 that this undertaking will allow us to build upon the
11 successes realized through the development of our marine
12 protected areas, and integrate those successes into
13 achieving sustainable uses alongside restorative and
14 protective efforts along our coastline.

15 It is worth noting that the planning efforts are
16 viewed skeptically by the environmental community. This
17 stems partly from the fact that traditional land-use
18 planning has largely been conducted for the benefit of
19 development in industry and often marginalizes or excludes
20 environmental stakeholder involvement.

21 It is true that San Diego Coastkeeper is
22 concerned that if not done appropriately, the resulting
23 efforts could contribute to the streamlining
24 industrialization of the already stressed marine
25 environment off our coast. Yet, it is against that

1 background that we're here today with an open mind, and in
2 the spirit of collaboration.

3 It is very much our hope that San Diego
4 Coastkeeper and other environmental organizations,
5 community groups, and resource agencies will be engaged
6 through meaningful participation throughout this process.
7 We appreciate this opportunity to comment, and look
8 forward to working with you and your staff as the process
9 moves forward.

10 Thank you.

11 CHAIRPERSON YEE: Thank you, Ms. Kuhn.

12 Okay. Amanda Sackett.

13 MS. SACKETT: Good morning, Chair Yee and
14 Commissioners. My name is Mandy Sackett. I'm the
15 California policy coordinator for the Surfrider
16 Foundation's global headquarters. Surfrider has over 20
17 chapters in California representing ten of thousands of
18 supporters, and over 80 chapters across the world. Our
19 mission is to protect ocean waves and beaches.

20 So thank you today for the opportunity to comment
21 on the framework between State Lands Commission and the
22 Port of San Diego to pursue this potential marine spatial
23 planning pilot project offshore in San Diego.

24 As a pilot project, it is very important to set
25 the precedent of incorporating public input into the

1 planning process. Many local stakeholders, including the
2 Surfrider San Diego County chapter that represents
3 thousands of supporters in the -- throughout the county
4 and advocates as well, would like to have a voice in this
5 planning process.

6 We recognize that the staff and Commission view
7 this MOA as an opportunity to advance the collaborative
8 and forward-thinking management of California's coast and
9 ocean, but we are concerned that identifying streamlining
10 the permitting process as a primary goal may undermine
11 these planning efforts.

12 Without a comprehensive planning process that
13 incorporates stakeholder and public input, this may result
14 in unbalanced planning or an industrialization of our
15 oceans, and is a misuse of marine spatial planning.

16 Safeguarding public resources and public access
17 to the coast should be essential components of the
18 planning process. We do remain interested in hearing
19 details about the scope of the pilot project and next
20 steps, and look forward to the inclusive public dialogue.

21 So thank you very much for the opportunity to
22 speak today.

23 CHAIRPERSON YEE: Thank you, Ms. Sackett.

24 Okay. Julia.

25 MS. CHUNN-HEER: Good afternoon. I'm Julia

1 Chunn-Heer. And I'm the policy manager for Surfrider San
2 Diego County. I wanted to thank you for the chance to
3 speak today. And I've been tracking this issue closely
4 alongside coastkeeper, and support the comments that
5 Kristin and Mandy made before myself.

6 And so basically, if this pilot project is going
7 to happen, we want to make sure that ocean-minded NGOs
8 have a seat at the table, can participate in the process.
9 And we're still interested in hearing the details about
10 the geographic scope of the pilot, the next steps, and the
11 drivers for embarking on this process.

12 It has caused us some pause. And I think my
13 primary concern is the streamlining. So generally, you
14 tend to not streamline just getting out the gate. You're
15 trying to work out the kinks, and then streamline after
16 the fact. So we would be leery of that part of the
17 agreement.

18 Thank you.

19 CHAIRPERSON YEE: Thank you.

20 Okay. Mr. Jones.

21 Mr. Michael Jones.

22 MR. JONES: Good afternoon, Commissioners. I'm
23 Michael Jones, the president of the Maritime Alliance. We
24 are the nonprofit organizers of the largest maritime
25 technology cluster in the United States here in San Diego.

1 Our mission statement is promoting sustainable,
2 science-based ocean industries.

3 In 2010, President Obama signed the Executive
4 Order to create the National Ocean Policy, and created the
5 regional planning bodies. There are 7 of those, and the
6 west coast is one regional body. And our understanding
7 from discussions with the RPB is that they are really
8 thinking about a subregional local approach. So we
9 believe that this is the right approach.

10 And in December our Executive Director, Greg
11 Murphy, testified in front of this Commission and
12 advocated for a subregional ocean planning. We believe
13 San Diego is the perfect location for -- to create a model
14 for ocean planning. It would clearly be a pilot as
15 discussed, and everybody should be involved. The former
16 speakers talked about an inclusive process. We certainly
17 expect that would be the case.

18 Anything that we do, from the Maritime Alliance
19 point of view, we bring together 3 constituencies,
20 academia, science; policy and military; and the third is
21 industry. So we really look forward to an inclusive
22 process, and we believe that San Diego can play an
23 important role in this MOU between the Port and the State
24 Lands. We think it is an important for step to create a
25 pilot that we think can be a model for the United States.

1 Thank you for taking the leadership, and we would
2 invite all of you to come to our San Diego Blue Tech Week,
3 November 7th through the 11th. We will be talking about
4 marine spatial planning, ocean GIS. People that are very
5 interested in this, including the Ocean Foundation, the
6 Nature Conservancy, Ocean Conservancy, and others will be
7 with us. We believe that there is a balanced approach,
8 and we in San Diego can be working toward that.

9 Thanks.

10 CHAIRPERSON YEE: Thank you very much.

11 And David Yow with the Port of San Diego, please.

12 Good afternoon.

13 MR. YOW: Good afternoon. Thank you. Chairwoman
14 Yee, members of the State Lands Commission, my name is
15 David Yow, and I'm the legislative policy administrator
16 for the San Diego Unified Port District. Also joining me
17 back there are Eileen Maher and Phil LeBlanc from the
18 Planning and Green Port team at the Port.

19 I have to begin with an apology. Normally,
20 before you stands Job Nelson, External Relations,
21 Assistant Vice President or Randa Coniglio, our President
22 and CEO. Right now, they're across town at the Board of
23 Port Commissioners meeting where this very same item was
24 taken up and passed unanimously.

25 So thank you for allowing me to come before you

1 and speak -- and express the District's support of this
2 memorandum of agreement. The Port sees this memorandum as
3 the framework for future partnership as we work together
4 to advance ocean environmental stewardship at a local
5 level in a thoughtful and collaborative way.

6 This partnership is also a way for us to align
7 with the marine conservation and resource management goals
8 that are put forth in the President's National Ocean
9 Policy. To do this, we will promote dialogue among
10 stakeholders and engage the public in developing a
11 decision-support framework, spatial analysis tool that
12 you've heard about, specific to this region right here off
13 of San Diego.

14 This MOA allows us to coordinate with each other
15 and work off the same information, and to be proactive
16 with engaging public dialogue in gathering input to
17 benefit the whole ecosystem. This type of action was
18 contemplated in the strategic plan you passed last year.
19 And we think this could be a pilot that could be
20 replicated around the State.

21 Thank you again for the opportunity to address
22 you today, and express our support. And we look forward
23 to significant dialogue with the public and key
24 stakeholders.

25 Thank you again.

1 CHAIRPERSON YEE: Thank you, Mr. Yow.

2 Okay. Any other member of the public wish to
3 testify?

4 Okay. Seeing none.

5 Commissioner comments?

6 Okay. Let me just first thank the Port of San
7 Diego staff and certainly the Commission staff for working
8 so diligently on this and to get to the point of where we
9 have this MOA here today. To just bolster some of the
10 public testimony here today, I just want to urge both
11 parties to be sure that we are honoring a robust
12 stakeholder process going forward, and obviously providing
13 updates to the Commission as this process proceeds.

14 The -- I think the clarification I do want to
15 again make is that this is a very limited Memorandum of
16 Agreement. It really does specify the relational aspects
17 between the Port and the Commission, as well as a number
18 of process issues. And really the work on the planning
19 itself will begin after this MOA is adopted.

20 So, Ms. Lucchesi, any other comments this.

21 EXECUTIVE OFFICER LUCCHESI: The only thing --
22 the only couple of comments that I want to make is from
23 both the Commission staff and -- I think I can also speak
24 on behalf of the Port staff, when we started discussing
25 the idea of this MOA, it was with the 3 pillars that

1 Jennifer mentioned in her staff report presentation. And
2 that's science, that's collaboration, and that's
3 protection.

4 And that can't be emphasized enough here, just to
5 close the loop on this. Excuse me. I'm obviously losing
6 my voice and I'm very sorry, because I'm sure it's really
7 annoying.

8 (Laughter.)

9 EXECUTIVE OFFICER LUCCHESI: The State Lands
10 Commission staff cannot embark on this process by
11 ourselves. We are very well aware of our own limitations
12 in both our resources funds and our expertise. And the
13 MOA in front of the Commission today establishes a
14 relationship -- formalizes a relationship with the Port of
15 San Diego in order to ensure that the planning process is
16 as robust as possible, and involves as many stakeholders
17 and interested citizens and ideas as possible.

18 We also know that even between the two of our
19 agencies, we do not know everything, and so we are
20 committed to that robust participation. And the real goal
21 here -- I know there was a couple of comments about permit
22 streamlining, and that being a goal. I think that a lot
23 of times permit streamlining is analogized a fast tracking
24 development. That's not how the Commission staff views
25 permit streamlining.

1 In our experience, we obviously, as landowners,
2 are subject to various regulatory authorities. And what
3 we have found in our experience is that as much as we
4 coordinate and collaborate with our sister State and
5 federal partners that sometimes decisions are made
6 differently. One body may come to a decision that's
7 different than another agency.

8 Our goal in this is to gather all the data that
9 we can, and provide it in a way that's easily digestible
10 and comprehensive for all the various decision makers that
11 are going to be looking at how the offshore area is used
12 and protected into the future.

13 And so when we talk about permit streamlining,
14 it's really that we're all operating under the same facts,
15 scientific data, law, and all the other priorities that
16 are established through the planning process. So I just
17 want to make that clear, that this is not an effort to
18 streamline or fast track development. It's really an
19 information tool -- informational tool that hopefully all
20 decision makers across all the various local governments,
21 state governments and federal governments, can use to help
22 make the best decisions possible.

23 Thank you.

24 CHAIRPERSON YEE: Thank you, Ms. Lucchesi.

25 Let me just add one more thing, and that is after

1 the Commission's action today, which I believe will be to
2 adopt this, if you could return to the December meeting in
3 working with the Port on a workplan, just so all of the
4 stakeholders who have spoken today and those who have been
5 participating thus far, and others still to join in the
6 effort, have some sense of what to expect going forward.

7 And I think there were some concerns about
8 geographic scope as well. So to the extent we can help
9 really identify, you know, those elements, I think it may
10 be helpful.

11 I think to all of you who testified, thank you
12 for coming forward. I'm just going to make a request to
13 please give this pilot a chance. You know, this could
14 really be a model that could be employed in other parts of
15 the State certainly, nationally, and perhaps even
16 internationally. But the fact that we do want to make
17 this a robust stakeholder driven process, that is not
18 meant to be prescriptive at the outset, and certainly by
19 the end of this, to reach the goal that Ms. Lucchesi just
20 spoke about, I think is a good goal that really can help
21 facilitate planning in the future.

22 So with that, Commissioners, is there a motion?

23 ACTING COMMISSIONER WILLIAMS: I'll make the
24 motion.

25 CHAIRPERSON YEE: Okay. Motion by Commissioner

1 Williams to adopt the staff recommendation.

2 ACTING COMMISSIONER ORTEGA: Second.

3 CHAIRPERSON YEE: Second by Commissioner Ortega.

4 Without objection, that motion carries.

5 Thank you very much.

6 Okay. Next, we have Item 65, which is to
7 consider approval of the 2016 Category 1 Southern
8 California benchmark rental rate. And let us have a staff
9 presentation.

10 Good afternoon.

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

13 PUBLIC LAND MANAGEMENT SPECIALIST FOSTER: Good
14 afternoon, Madam Chair and Commissioners. My name is Ken
15 Foster. I am the manager of the Southern California
16 Region for the Commission's Land Management Division, and
17 I'm here to present information on Calendar Item C65.

18 --o0o--

19 PUBLIC LAND MANAGEMENT SPECIALIST FOSTER:

20 Calendar Item C65 includes a recommendation to
21 the -- that the Commission approve updates to the Category
22 1 Southern California benchmark, which applies to leases
23 in Ventura, Los Angeles, Orange, and San Diego counties,
24 and to the Category 2 Huntington Harbor Benchmark, which
25 applies to leases in Huntington Harbor in the City of

1 Huntington Beach in Orange County.

2 For discussion purposes, I'll be referring to
3 these 2 benchmarks as Category 1 and Category 2 throughout
4 the rest of the presentation.

5 --o0o--

6 PUBLIC LAND MANAGEMENT SPECIALIST FOSTER: Before
7 I discuss the benchmark values themselves, I want to
8 provide you with some background information about
9 benchmarks, and why the Commission has used them for
10 calculating rent. The use of benchmarks is authorized by
11 the California Code of Regulations under section 2003 of
12 the Title 2, Administration.

13 Benchmarks are used to establish uniform rental
14 rates to specific geographic areas with large
15 concentrations of similar facilities. Benchmarks improve
16 consistency, transparency, predictability, and staff
17 efficiency in the calculation of rent within the
18 geographic areas they cover.

19 Commission appraisal staff generally updates
20 benchmarks every 5 years. The benchmarks are then the
21 foundation for the recommended rental rates approved by
22 the Commission for individual lease authorizations and
23 rent revisions. The 2 benchmarks being considered today
24 were last updated in December 2011.

25 --o0o--

1 PUBLIC LAND MANAGEMENT SPECIALIST FOSTER: This
2 map shows the various areas within the Commission's
3 jurisdiction where benchmark rates are applied. The 2
4 areas I'll be discussing are covered by the benchmarks
5 designated by the red ovals near the bottom.

6 --o0o--

7 PUBLIC LAND MANAGEMENT SPECIALIST FOSTER: This
8 table lists the Commission's current benchmark rates for
9 each of the areas shown on the previous map. The 2
10 benchmarks subject to this recommendation are highlighted
11 in red. As the table shows, 4 benchmarks are due for
12 updates in 2017, so we'll be doing this again several
13 times next year.

14 This stable and the previous map are available
15 for viewing on the Commission's website.

16 --o0o--

17 PUBLIC LAND MANAGEMENT SPECIALIST FOSTER: So the
18 2 -- the current 2011 Category 1 benchmark applies to
19 docks, piers, buoys, and similar facilities and is set at
20 33.1 cents per square foot. The 2011 Category 2 benchmark
21 applies to cantilever decks, sundecks, or other
22 nonwater-dependent encroachments that are ostensibly used
23 as an extension of the private backyard of the upland
24 residents, a purpose unrelated to the docking and mooring
25 of boats.

1 In Huntington Harbor this is primarily cantilever
2 decks that extend into sovereign land along the main and
3 midway channels. The Commission has issued approximately
4 150 leases in Huntington Harbor and a majority of those
5 include cantilever decks. The current Category 2
6 Huntington Harbor benchmark rate is set at \$21.60 per
7 square foot.

8 In using the Category 2 benchmarks, the
9 Commission's practice is to apply a discount of up to 75
10 percent in situations where the tide and submerged land
11 being leased may not have the same utility as the upland
12 properties from which the data were drawn.

13 Reduced utility can be due to topography or other
14 physical characteristics, the nature of the use of the
15 tide and submerged land, or certain legal constraints.
16 The discounted value is relative to the adjacent developed
17 property, because it has a lower utility, and generally
18 cannot be developed to the same highest and best use as
19 the adjacent property, but still enhances or contributes
20 value to that property.

21 For cantilever decks with enclosures, the
22 enclosed area is not discounted due to the enclosure's
23 potential or actual use as full residential living space
24 and thus warrants no reduction in utility as compared to
25 the full upland land value.

1 If the cantilever deck is open, the Commission's
2 practice has been to apply a discount of 75 percent to
3 reflect the reduced utility. Staff plans to continue this
4 practice.

5 There are numerous other side channels in the
6 community with similar residential properties that feature
7 boat docks and cantilever decks, but due to a title
8 settlement and land exchange between the State and the
9 original developers, only the main and midway channels are
10 subject to the Commission's leasing jurisdiction.

11 --o0o--

12 PUBLIC LAND MANAGEMENT SPECIALIST FOSTER: In
13 order to determine the new 2016 Category 1 benchmark rate,
14 Commission appraisal staff conducted surveys with
15 commercial marina operators in the counties covered by the
16 benchmark. One hundred four surveys were completed and
17 provide the data used in the Calculations shown here.

18 An analysis of the data indicates that commercial
19 marinas in the survey area feature an average berth length
20 of 37 feet and charge an average monthly rental rate of
21 \$19.40 per linear foot. Converted to an annual basis, the
22 average rent or income received by a marina operator for
23 an average berth in the survey area is just over \$8,600.

24 Commission appraisal staff previously conducted a
25 study to determine the percentage of value attributable to

1 marina income to the use of State land -- sovereign land.
2 The study concluded the 5 percent value factor shown here.

3 When applied to the annual income rate, the value
4 attributable to the use of sovereign land by a berth of 37
5 feet is approximately \$431. The final step in the
6 calculation uses a report prepared by the California
7 Department of Boating and Waterways, which provides the
8 square footage area required by a 37-foot berth or, in
9 this case, 1,153 square feet.

10 Dividing the value obtained in the previous step
11 by the area identified in the Department of Boating and
12 Waterways report yields the 2016 Category 1 Southern
13 California benchmark rate of 37.4 cents per square foot.

14 --o0o--

15 PUBLIC LAND MANAGEMENT SPECIALIST FOSTER: This
16 aerial photo shows the Huntington Harbor community covered
17 by the Category 2 benchmark. The main and midway channels
18 are identified by the blue lines. The yellow dots
19 identify the sales locations utilized by Commission
20 appraisal staff to determine the 2016 Category 2 benchmark
21 discussed in the next slide.

22 --o0o--

23 PUBLIC LAND MANAGEMENT SPECIALIST FOSTER: Staff
24 identified 14 recent sales along the main and midway
25 channels in Huntington Harbor to provide data for this

1 benchmark analysis. Sales data were adjusted to remove
2 the improvement value from the sale price, leaving only
3 the land value to allow for direct comparison with the
4 State's sovereign land.

5 Staff identified a square foot value by
6 calculating the median and the mean of the adjusted sales
7 data, and then selecting a value in the mid-range, or the
8 \$350 value per square foot shown.

9 The average square foot land value is then
10 multiplied by the State's required 9 percent rate of
11 return to arrive at the undiscounted Category 2 Huntington
12 Harbor benchmark rate of \$31.50 per square foot. Applying
13 a 75 percent discount consistent with previous practice
14 for an open cantilever deck results in a discounted
15 Category 2 Huntington Harbor benchmark rate of \$7.88 per
16 square foot.

17 --o0o--

18 PUBLIC LAND MANAGEMENT SPECIALIST FOSTER: To
19 allow a real-world comparison between the 2011 benchmark
20 rates and the 2016 rates, staff selected lease number PRC
21 3244.1, approved earlier in this meeting as calendar Item
22 C40, part of the Commission's consent calendar. The lease
23 area is located along the main channel as shown here.

24 --o0o--

25 PUBLIC LAND MANAGEMENT SPECIALIST FOSTER: The

1 lease includes all 3 elements covered by the 2 benchmarks,
2 including a boat dock, access ramp, and cantilever deck
3 with partial enclosure. The lease area totals 3,000
4 square feet. Two thousand eight hundred square feet is
5 used for the docking and mooring of boats and is covered
6 by the Category 1 benchmark. The cantilever deck, covered
7 by the Category 2 benchmark, occupies the remaining 200
8 square foot with the enclosed portion covering half of
9 that area, or 100 square feet.

10 --o0o--

11 PUBLIC LAND MANAGEMENT SPECIALIST FOSTER: After
12 applying the various rates to each component of the lease,
13 annual rate is calculated at \$3,627 using the current 2011
14 benchmark rates. Annual rent would be \$4,985 if the 2016
15 rates are used. Please note that a majority of the
16 increase is attributable to the Category 2 benchmark which
17 reflects a significant increase in property values in the
18 Huntington Harbor community over the last 5 years.

19 --o0o--

20 PUBLIC LAND MANAGEMENT SPECIALIST FOSTER: Staff
21 recommends approval of both benchmark rates effective as
22 of today.

23 --o0o--

24 PUBLIC LAND MANAGEMENT SPECIALIST FOSTER: Thank
25 you. And staff is available to answer questions.

1 CHAIRPERSON YEE: Thank you very much. We do
2 have one speaker on this item. Let me call up Jeff
3 Cooper.

4 Good afternoon, Mr. Cooper.

5 MR. COOPER: Hey, good afternoon to you. I'm
6 Jeff Cooper. I drove down from Seal Beach. Good to see
7 you all today.

8 This is something -- we have a family property in
9 that area that's affected, and something that my mother
10 brought to my attention last night, so I didn't have
11 really much time to prepare. But what jumped out at me
12 was with the Category 2 and the appraised value for the
13 cantilever deck, I'm surprised at the return rate that's
14 applied as they say for sovereign State property. And I'm
15 not sure if that equates to what you'd find for a
16 traditional return like for a commercial investment you'd
17 call it like a cap rate.

18 And 9 percent seems awful steep for that return
19 on that cantilever. I wish I would have had time to
20 prepare some things, because I think you might look at the
21 returns that you would have like to a -- best I can think
22 of like multi-family investment. And cap rates for those,
23 although I don't have figures for it, I think would be
24 closer to what the rate would be for the docks in the 5's.
25 I know coastal property is even less than that. But like

1 I said, I didn't have time to prepare to bring any members
2 or anything.

3 So I think the gentleman is surprised about the
4 increase of the land value, but -- also, I think if you
5 were looking at that as like an investment, you wouldn't
6 expect to get 9 percent on that, so that's what jumped out
7 at me, and that my mom was trying -- we're trying to work
8 through that.

9 So any ways, I appreciate your time.

10 Oh, I'd also like to say I know this is kind of
11 in contention, because a lot of these people had these
12 properties, had the leases, and this fee is something that
13 was brought up to them recently. And I know there was
14 prescriptive right issues and all that stuff. I'm just
15 not sure where that is or in the process. But any ways,
16 regardless of that, she's been paying this. She's been
17 paying her -- we've been paying the lease and all that
18 stuff.

19 But that 9 percent, that just kind of jumped out
20 to me as pretty steep, especially when you compare that to
21 the Category 1 return.

22 All right. Anyway, thank you for your time.

23 CHAIRPERSON YEE: Okay. Thank you.

24 Ms. Lucchesi, response.

25 EXECUTIVE OFFICER LUCCHESI: Yeah, just in

1 response to his concern about the 9 percent. That is
2 dictated in the Commission's regulations and has been in
3 those regulations for some time. Nine percent is the
4 appropriate return, and it's what we apply to all of our
5 leases per our regulations, where it's appropriate.

6 I think that I really appreciate -- and I didn't
7 catch your name, I'm sorry -- Mr. Cooper coming all the
8 way down here to comment on this subject matter. And I
9 would just like to commit that our staff will talk with
10 you after the meeting to explain a little bit more about
11 the methodology associated with these benchmarks, and then
12 also get an idea of the particular lease that your mother
13 has with us, so we can talk through what this actually
14 means to your mother, and try to address any concerns.

15 MR. COOPER: Thank you.

16 CHAIRPERSON YEE: Thank you, Ms. Lucchesi.

17 Any comments, Commissioners?

18 Okay. Hearing none. May I have a motion.

19 ACTING COMMISSIONER ORTEGA: I move adoption.

20 CHAIRPERSON YEE: Okay. Motion by Commissioner
21 Ortega to adopt the staff recommendation.

22 ACTING COMMISSIONER WILLIAMS: Second.

23 CHAIRPERSON YEE: Second by Commissioner
24 Williams.

25 Without objection, that motion carries.

1 Thank you.

2 All right. Now, we've come to the part of our
3 agenda where we will take public comment, and we have a
4 number of speakers.

5 First, let me call up Scott Maloni with Poseidon
6 Water, if you'll come forward, followed by -- let's see,
7 Staley Prom with Surfrider Foundation.

8 Good afternoon.

9 MR. MALONI: Good afternoon, Chairman Yee and
10 members of the Commission. I wanted to take this
11 opportunity to formally introduce myself. My name is
12 Scott Maloni. I'm the Vice President of project
13 development for Poseidon Water.

14 As you may know, Poseidon is the developer and
15 owner of the Carlsbad desalination facility, which is the
16 largest and most technologically advanced and
17 environmentally sensitive seawater desalination plant in
18 the western hemisphere.

19 In 2008, the State Lands Commission approved a
20 lease agreement for the Carlsbad facility, which has been
21 in operation since December of last year, and to date has
22 produced and delivered over 12 billion gallons of
23 drought-proof drinking water for San Diego County.

24 I'd like to extend a formal invitation to the
25 Commission and the staff to come to Carlsbad the next time

1 you're in Southern California or San Diego. If you have
2 time, we'd love to accommodate you at the site.

3 As your Executive Officer mentioned earlier,
4 Poseidon is in the late stages of developing a second
5 desalination project in Orange County in the City of
6 Huntington Beach. The State Lands Commission approved a
7 lease agreement for that facility back in 2010.

8 We recently submitted an application to the
9 Commission to amend the 2010 lease agreement to address
10 some technological enhancements that we're proposing at
11 the project site to the seawater intake and outfall
12 facilities. These enhancements are designed to
13 demonstrate compliance with the State Water Board's
14 recently adopted ocean plan amendment.

15 I want to take this opportunity to thank your
16 staff for the tremendous sense of urgency, in which they
17 have responded to our application, which I understand now
18 has been deemed complete. This sense of urgency is really
19 a breath of fresh air for us. This project has been in
20 the permitting process for 15 years, and it's actually the
21 first project we reintroduce before Carlsbad, and there's
22 a tremendous sense of urgency to get it finished.

23 For every year of additional delay that this
24 project is not built, Orange County must import 18 billion
25 gallons of water, either from the Colorado River or

1 Northern California. These are two environmentally
2 constrained sources.

3 In closing, I just wanted to make the Commission
4 aware that for the past several years, we also have been
5 in dialogue with your staff about Poseidon's interest in
6 being part of the funding solution necessary for the
7 long-term maintenance of the Bolsa Chica Wetlands.

8 For every 1,000 gallons of seawater that our
9 Huntington Beach project will withdraw from the ocean,
10 it's estimated that we may entrain 2 fish eggs, 2 fish
11 eggs. While this level of impact was determined to be
12 insignificant by the project's certified CEQA document,
13 State law requires mitigation for unavoidable marine life
14 impacts no matter how insignificant they are.

15 Earlier this year, Poseidon submitted a proposed
16 marine life mitigation plan to the Santa Ana Regional
17 Water Quality Control Board that involves providing
18 financial support for the maintenance of the Bolsa Chica
19 inlet.

20 We look forward to working with the State Lands
21 Commission staff and the regional board and the Coastal
22 Commission staff on consideration of our Bolsa Chica
23 Proposal.

24 Thank you.

25 CHAIRPERSON YEE: Thank you, Mr. Maloni. Thank

1 you.

2 Ms. Prom.

3 MS. PROM: Ms. Sackett would like to cede her
4 time as well for this.

5 CHAIRPERSON YEE: Sure.

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

8 MS. PROM: Great. So good afternoon, Honorable
9 Commission and staff. I'm Staley Prom from the Surfrider
10 Foundation. We're a national non-profit environmental
11 organization dedicated to the protection and enjoyment of
12 our oceans, waves, and beaches. We represent 80 chapters
13 in 60 clubs in the U.S., including 20 California chapters.

14 And I'm here today to talk about something that's
15 of great concern to our membership, and particularly our
16 Monterey County chapter, and that's the exploitation of
17 Public Trust resources that's occurring in Marina,
18 California at the CEMEX sand mine.

19 I'll start with some background and tell you
20 about CEMEX's sand mining, and respectfully encouraged
21 staff to very seriously consider and look more deeply into
22 the issue and take action.

23 --o0o--

24 MS. PROM: So to begin, CEMEX has operated the
25 Pacific Lapis sand mine in Marina, California since 2005.

1 It was previously operated by Pacific Concrete and
2 Aggregates and Lone Star Industries between 1965 and 2005.
3 And to our knowledge, CEMEX currently mines 200,000 cubic
4 yards of sand a year and perhaps much more from the mine
5 on the beach, and from a self-made pond on the beach.
6 This is double the amount that was initially mined prior
7 to the Coastal Act.

8 So not surprisingly, the southern Monterey Bay
9 beaches and coastal dunes south of the Salinas River in
10 close proximity to CEMEX are eroding on average at the
11 fastest rate in California, and CEMEX is suspected to be
12 the primary causes.

13 And this isn't surprising given that their entire
14 operation is effectively taking truck loads and truck
15 loads of sand from the beach every day. Various studies
16 conclude that CEMEX is a, if not the leading, contributor
17 to shoreline erosion in southern Monterey bay and CEMEX is
18 mining without any coastal development permits or State
19 Lands leases, and is essentially taking the sand from
20 right beneath us.

21 --o0o--

22 MS. PROM: So respectfully, as recognized
23 recently by the California court of appeals for the First
24 Appellate District, the State Lands Commission has an
25 obligation to protect the Public Trust and protect Public

1 Trust uses wherever feasible. Further, as the court
2 explicitly recognized, sand mining may deplete Public
3 Trust resources.

4 The San Francisco Baykeeper case also indicates
5 citing Public Resources Code section 6900 that sand mining
6 shouldn't take place if it will interfere with Public
7 Trust uses. The range of Public Trust uses that must be
8 protected is broad, including not only navigation,
9 commerce and fishing, but also the rights to bathe and
10 swim.

11 The concept of a public use is flexible
12 accommodating changing public needs, and as noted by the
13 court, an increasingly important public use is the
14 preservation of Trust lands in their natural state, so
15 that they could be used for scientific study, kept as open
16 space, provide favorable scenery, and provide food and
17 habitat for birds and other marine life.

18 As the court recognized in San Francisco
19 Baykeeper, by its very essence a public trust use
20 facilitates public access, public enjoyment, or public use
21 of Trust land. And it's quite obvious that inherently
22 without the Public Trust resource of sand, which makes up
23 our sea floors, tidelands, and beaches, we can't make the
24 Public Trust uses of surfing, beach walking, beach going,
25 or simply being at the beach because the activities are

1 depleting the very properties that we can make those uses
2 on.

3 Again, as the appeals court held, sand mining may
4 deplete public trust resources. And here, we believe
5 CEMEX operations certainly are doing that. Therefore, we
6 respectfully urge the Commission to stop the exploitation
7 of this resource, which is harming the Public Trust uses
8 by literally eroding way the Monterey Bay coasts.

9 --o0o--

10 MS. PROM: We understand that the State Lands
11 Commission hasn't issued or renewed a lease for CEMEX
12 since 1964, but we respectfully assert that you all have
13 jurisdiction and an obligation to protect Public Trust
14 resources in this area. A couple of photos taken by our
15 partner Kathy Biala show the clear connection that
16 CEMEX -- CEMEX's man-made dredge pond has with Public
17 Trust tidelands, and that the pond is full of Public Trust
18 sand resources.

19 So starting with this one from December 4th, 2015
20 showing the tides clearly connecting and washing into the
21 pond.

22 --o0o--

23 MS. PROM: And here's another from December 8th,
24 looking north showing again the clear connection and
25 incoming waves washing into the pond.

1 --o0o--

2 MS. PROM: And another from December 12th showing
3 the undeniable connection.

4 --o0o--

5 MS. PROM: Another from December 18th.

6 --o0o--

7 MS. PROM: And then really the aerial shot really
8 helps to illustrate what's going on. So this is a photo
9 available on-line where you can see the moment of the
10 water washing up and into the dredge pond. And we've all
11 been to the beach, we've felt the force of the waves, and
12 we know it moves sand. So there's no question looking at
13 this, this is pushing sand from the tide lines --
14 tidelands and into the pond. And you can see how CEMEX is
15 taking the sand without any permits right from under us.

16 --o0o--

17 MS. PROM: Here's another aerial photo showing
18 again clearly how the tides are impacting the pond and
19 pushing the sand landward.

20 --o0o--

21 MS. PROM: And finally, here's another aerial
22 photo from the coastal regional sediment management plan
23 for southern Monterey Bay. This photo is from 2008 and
24 shows the dredge pond completely filled with sand, which
25 has been washed in by waves at high tide carrying the sand

1 over the berm and into the dredge pond.

2 Now, these are Public Trust resources -- our
3 Public Trust sand resources, which make up our beaches.
4 Respectfully, we implore you to take a hard look at the
5 issue, assert your jurisdiction to stop the unpermitted
6 taking of Public Trust sand resources. We have scientists
7 including Ed Thornton, an activist, who couldn't be here
8 today because of the distance and travel required, but who
9 would like to come and meet with staff in Sacramento and
10 share further technical data and analysis.

11 So on behalf of Surfrider, I respectfully ask
12 that you seriously consider their data and undertake
13 additional due diligence in the CEMEX activities in
14 protection of our Public Trust sand resources.

15 Thank you.

16 CHAIRPERSON YEE: Thank you. Any further
17 comment?

18 Okay. Any other members of the public wish to
19 make comment?

20 Okay. Ms. Lucchesi, do you have any response on
21 sand mining issue?

22 EXECUTIVE OFFICER LUCCHESI: Yes, of course.
23 Staff has begun to look into the extent of our land
24 ownership jurisdiction and mineral ownership jurisdiction
25 in this area, and we've also begun to look into the

1 impacts to Public Trust resources at this site, and
2 obviously downcoast, and how the operations here may be
3 affecting those Trust resources, including public access
4 and other resources.

5 I will also say that we do -- we are in the
6 process of scheduling a meeting with Mr. Ed Thornton, who
7 is known to be one of the leading coastal engineers in
8 this State. We're hoping to meet with him in the next
9 couple of weeks. So staff is starting to look into this,
10 and we have been for the last couple months actually.

11 CHAIRPERSON YEE: Great. Thank you very much.
12 Thank you to surfrider for coming forward.

13 All right. At this point, Commissioners, any
14 comments or questions?

15 Okay. Very well. Thank you.

16 We will now adjourn into closed session, so let
17 me ask the members of the public to please vacate the
18 room.

19 (Off record: 3:18 p.m.)

20 (Thereupon the meeting recessed
21 into closed session.)

22 (Thereupon the meeting reconvened
23 open session.)

24 (On record: 3:46 p.m.)

25 CHAIRPERSON YEE: Okay. Great. Thank you.

1 Let us now reconvene in open session. The
2 Commission met in closed session.

3 Mr. Lucchesi, anything to report?

4 EXECUTIVE OFFICER LUCCHESI: Not at this time.

5 CHAIRPERSON YEE: Okay. Very well. Seeing no
6 other items coming before the Commission, this meeting is
7 adjourned.

8 Thank you very much.

9 (Thereupon the California State Lands

10 Commission meeting adjourned at 3:47 p.m.)

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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, do hereby certify:

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

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

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

14 IN WITNESS WHEREOF, I have hereunto set my hand
15 this 21st day of October, 2016.

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22
23 JAMES F. PETERS, CSR
24 Certified Shorthand Reporter
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