

MEETING

STATE OF CALIFORNIA
STATE LANDS COMMISSION

STATE CAPITOL

ROOM 447

SACRAMENTO, CALIFORNIA

ORIGINAL

MONDAY, NOVEMBER 29, 1982

10:15 A.M.

Ronald J. Peters
CSR License Number 2780

PETERS SHORTHAND REPORTING CORPORATION

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MEMBERS PRESENT

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- Mr. Kenneth Cory, State Controller, Chairman
Ms. Suzanne Morgan, Representing Mary Ann Graves,
Director of Finance
Mr. David Ackerman, Representing Mike Curb,
Lt. Governor

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MEMBERS ABSENT

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STAFF PRESENT

- Dr. Claire Dedrick, Executive Officer
Mr. Rick Frank, Deputy Attorney General
Mr. Robert C. Hight, Chief Counsel
Mr. Dwight Sanders
Ms. Jane Smith, Secretary
Mr. W. M. Thompson, Manager, Long Beach Operations
Mr. Robert Trout, Assistant Executive Officer

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ALSO PRESENT

- Mr. Jan Stevens, Deputy Attorney General

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PROCEEDINGS

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CHAIRMAN CORY: Okay. We will call the meeting
to order.

The first item is confirmation of the minutes of
the meeting of October the 28th and November 16th.

Any corrections or additions?

ACTING COMMISSIONER MORGAN: No problem.

ACTING COMMISSIONER ACKERMAN: No.

CHAIRMAN CORY: Without objection, the minutes
will be confirmed as presented.

The report of the Executive Officer.

EXECUTIVE OFFICER DEDRICK: Yes. You have the
Executive Officer's report and a report from your coastal
representative before you. I only have one thing to add
to the written report, and that is to give you a brief
rundown on the current situation on the moratorium on
seismic exploration in Region 4, Mendocino, Humboldt and
Del Norte Counties. Regardless of what you read in the
papers, or hear on television and the radio, the seismic
exploration does not use explosives and the ban on explora-
tion in that area has not yet been lifted.

The task force that we put together to study the
charges has not quite completed its report. That will
occur sometime this week and then, and not until then, I

will decide whether or not it is reasonable to lift the ban.

Currently there is no information, as far as I know, indicating that there is any damage to the whales, but I'd like to complete the report and not pre-judge it before we come to any kind of a decision.

CHAIRMAN CORY: You will make that report public as soon as it is complete?

EXECUTIVE OFFICER DEDRICK: Yes, we certainly will.

CHAIRMAN CORY: Any questions from the commissioners?

ACTING COMMISSIONER ACKERMAN: No.

ACTING COMMISSIONER MORGAN: No.

CHAIRMAN CORY: Okay. Thank you. We have got the Coastal Commission Report. Any questions on that?

ACTING COMMISSIONER MORGAN: No.

ACTING COMMISSIONER ACKERMAN: No.

CHAIRMAN CORY: Okay. The next item is the Consent Calendar. For those people in the audience, the Consent Calendar items are prefixed with the letter C1 through 11, and these will be taken up in a single motion unless there are objections. We will approve, en masse, the entire group. Is there anybody in the audience who has any objections to the proposed staff recommendations

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in Items C1 through 11?

Commissioners?

ACTING COMMISSIONER MORGAN: No.

ACTING COMMISSIONER ACKERMAN: No.

CHAIRMAN CORY: Without objection, the Consent
Calendar will be approved as presented.

Item 12, the approval of a one-year Salvage
Permit for three parcels of tide and submerged land
totalling 27 acres.

Is there anybody in the audience who wishes to
address the Commission on Item 12?

Questions from Commissioners?

ACTING COMMISSIONER ACKERMAN: None.

ACTING COMMISSIONER MORGAN: No.

CHAIRMAN CORY: Without objection, Item 12 is
approved as presented.

Item 13 is a ten-year Interagency Agreement with
the Department of Fish and Game on 3,501.86 acres in Lake
and Napa Counties.

Is there anybody in the audience on this item?

Questions from Commissioners?

Without objections, Item 13 is approved as
presented.

Item 14, approval of a one-year extension of a
Mineral Prospecting Permit near Hector, San Bernardino

1 County, for borate minerals for Duval Corporation.

2 Anybody in the audience on this item?

3 Questions from Commissioners?

4 Without objection, Item 14 is approved as
5 presented.

6 Item 15, Harold Pierce requesting an approval of
7 a one-year extension of mineral prospecting in San Gorgonio
8 Pass for an exploration program.

9 Anybody in the audience on this item?
10 Commissioners?

11 ACTING COMMISSIONER MORGAN: No.

12 CHAIRMAN CORY: Without objection, is approved
13 as presented.

14 Item 16. The City of Long Beach has notified us
15 of their intent to spend an initial \$471,700 of its share of
16 tideland oil revenues to expand the Bluff Park slope
17 protection project.

18 ACTING COMMISSIONER MORGAN: I have some questions
19 on this one.

20 CHAIRMAN CORY: Okay.

21 ACTING COMMISSIONER MORGAN: Who is our expert?
22 Moose?

23 This is an item that we previously approved at
24 about a fourth of the price. What is happening here?

25 MR. THOMPSON: At that time they submitted just

for a short section of it. This bluff extends for many blocks in the beach area in Long Beach. It is the same scope as before. This is an extension.

CHAIRMAN CORY: Just more of the same?

MR. THOMPSON: Right.

ACTING COMMISSIONER MORGAN: Is it primarily related to protection of the slope or what?

MR. THOMPSON: Yes. Actually, they have to restore this slope. It is eroding away. And what we are trying to do here is prevent coming back in with three or four separate additional calendar items in the future.

ACTING COMMISSIONER MORGAN: Is this not going to cover the entire area, or is this just a piece of it?

MR. THOMPSON: We've been advised by the City of Long Beach that they think this is the major part of it but, again, you don't know what will happen in the future as far as future erosion in this area.

ACTING COMMISSIONER MORGAN: Could someone ask them what their intentions are? Let's find out if this is the whole thing.

CHAIRMAN CORY: We can always ask Long Beach their intentions. It is a question of getting an answer.

(Laughter)

ACTING COMMISSIONER MORGAN: Is this the whole project or are they piecemealing it?

1 MR. THOMPSON: As it is now, we think this is the
2 whole project. That is why we put it together this way.
3 But we can't give you any guarantee that there won't be
4 another one back in a year or two.

5 ACTING COMMISSIONER MORGAN: Okay.

6 CHAIRMAN CORY: But it is their portion of the
7 money?

8 MR. THOMPSON: Yes, that is right. And all you
9 are doing here is making a finding that they may expend
10 this money for this particular purpose.

11 CHAIRMAN CORY: You are going to ask them?

12 MR. THOMPSON: Yes.

13 ACTING COMMISSIONER MORGAN: Okay.

14 CHAIRMAN CORY: And report to Susie.

15 MR. THOMPSON: Yes.

16 ACTING COMMISSIONER MORGAN: Thanks.

17 CHAIRMAN CORY: Okay.

18 EXECUTIVE OFFICER DEDRICK: My impression was the
19 same as Moose's, but he is closer to it than I am.

20 CHAIRMAN CORY: They are going where, from
21 Linderö to what? Orizaba?

22 MR. THOMPSON: There are four different parcels
23 in there.

24 ACTING COMMISSIONER MORGAN: There is a bluff
25 that they are trying to protect.

1
2 CHAIRMAN CORY: Yes, but the distance is down
3 toward -- okay, it is from Lindero to Orizaba and that
4 general area.

5 MR. THOMPSON: It's not solid. It's just areas
6 within that.

7 CHAIRMAN CORY: Okay.

8 ACTING COMMISSIONER MORGAN: My only problem is
9 I'd like to see some overall planning. The appearance that
10 I have is that they are looking for projects since they
11 have money sitting around, and things just seem to pop up.

12 EXECUTIVE OFFICER DEDRICK: Commissioner, we
13 talked to the new Brubaker, who is a lady named Carolyn Sutter,
14 and she is coming to visit, by the way, about the 16th of
15 December and will be at, I hope, the Commission meeting
that day.

16 She has told us that they are putting together
17 a kind of planning document that you asked for, what six
18 months ago?

19 ACTING COMMISSIONER MORGAN: Yes.

20 EXECUTIVE OFFICER DEDRICK: And I really think
21 that she is very serious about it. She is as much land
22 oriented as she is oil oriented, I guess.

23 MR. THOMPSON: Again, you realize that you are
24 not involved with the approval of the funds here.

25 ACTING COMMISSIONER MORGAN: I agree.

8

1 MR. THOMPSON: As long as it is allowable under
2 the statute.

3 CHAIRMAN CORY: Any further questions?

4 without objection, Item 16 is approved as
5 presented.

Item 17, notification of Long Beach to spend
\$124,010 of its share for a stairway to the beach at Ninth
Place.

Any questions from Commissioners?

ACTING COMMISSIONER MORGAN: That's fine.

That's the same problem.

ACTING COMMISSIONER ACKERMAN Just one question.

// Our approval, we are not really approving these items?

Maybe Moose can answer this.

Is that correct, that this is just simply the notification by the City to expend the funds and their share?

8 MR. THOMPSON: You are making a finding that this
9 particular expenditure is allowed under the Section of
0 Chapter 138.

ACTING COMMISSIONER ACKERMAN: Within 138.

CHIEF COUNSEL HIGHT: That there is a consistent
use.

ACTING COMMISSIONER ACKERMAN: But as far as the project's direction or what they want to spend it on, that's

1 not within our purview?

2 MR. THOMPSON: That is right. In fact, you don't
3 have to act on this at all. If you don't act, then it
4 becomes automatic and they have notified us.

5 CHAIRMAN CORY: But they have put us on notice
6 that if they want to do something that is outside that we
7 believe to be outside the trust --

8 MR. THOMSPON: Then you can make that finding
9 that it is not under that section, E through F or H, and
10 therefore, then, they would have to come back for a
11 separate finding.

12 CHAIRMAN CORY: Okay, or litigate it.

13 MR. THOMPSON: Right. And our staff recommenda-
14 tion is that this is under those and the Attorney General
15 has also reviewed this.

16 CHAIRMAN CORY: Okay. The Golden Stairway at
17 Ninth Place is approved without objection.

18 (Laughter)

19 CHAIRMAN CORY: Item 18, the Compromise Title
20 Settlement with Usonia, Inc.

21 EXECUTIVE OFFICER DEDRICK: I'd like to point out
22 that this is the first use of our new powers of the
23 Kapiloff Land Bank Fund, the first money going into that
24 fund.

25 CHAIRMAN CORY: And this will enable title to be

1 cleared, the money to be put into the fund and then used
2 when we find the appropriate parcel?

3 EXECUTIVE OFFICER DEDRICK: That is right.

4 ACTING COMMISSIONER ACKERMAN: That is correct.

5 CHAIRMAN CORY: Okay. Anybody in the audience
6 on this?

7 Questions from Commissioners?

8 Without objection, Item 18 is approved as
9 presented.

10 Item 19, San Diego County LAFCO wants us to
11 approve the annexation of the tide and submerged lands
12 within the bed of Batiquitos Lagoon in Carlsbad.

13 Anybody in the audience on this item?

14 Questions from Commissioners?

15 Without objection, Item 19 is approved.

16 EXECUTIVE OFFICER DEDRICK: There is a map.

17 ACTING COMMISSIONER MORGAN: I saw the map.

18 CHAIRMAN CORY: She saw the map. Okay.

19 You were thinking of the map.

20 ACTING COMMISSIONER MORGAN: Yes.

21 CHAIRMAN CORY: As we used to say at the Assembly
22 Rules Committee, nothing is too good for a member of the
23 Legislature, and that is just what we are giving them,
24 nothing.

25 (Laughter)

1 CHAIRMAN CORY: Item 20. This is cessation of
2 jurisdiction over Federal prison and FAA facility at
3 Boron. They have got a prison at Boron?

4 CHIEF COUNSEL HIGHT: Yes.

5 EXECUTIVE OFFICER DEDRICK: Yes.

6 CHAIRMAN CORY: Now, that is hard time, boy,
7 that is putting it into coddling criminals, I will tell
8 you.

9 EXECUTIVE OFFICER DEDRICK: I don't think they
10 work the pit, but there is a prison there.

11 ACTING COMMISSIONER ACKERMAN: I have never been
12 there.

13 CHAIRMAN CORY: You have never been to Boron?

14 You are lucky. It makes Norfolk, Virginia, look
15 nice.

16 Anybody in the audience on this item?

17 Questions from Commissioners?

18 Without objection, Item 20 is approved as
19 presented.

20 Item 21. This is approval of proposed boundaries
21 and annexation of tide and submerged lands to the City of
22 Sacramento from the County.

23 This is around the infamous virgin sturgeon,
24 and who, the Air Force, somebody has a military --

25 CHIEF COUNSEL HIGHT: The Air Force.

1
2 CHAIRMAN CORY: Anybody in the audience on this
item?

3 ACTING COMMISSIONER ACKERMAN: Has this item
4 received all the local approvals? Are we the last one in
5 line?

6 EXECUTIVE OFFICER DEDRICK: Just a moment.

7 I don't think there are any local approvals, are
8 there?

9 CHAIRMAN CORY: Well, LAFCO has to approve it.

10 EXECUTIVE OFFICER DEDRICK: Well, LAFCO has
11 approved it. We are acting on LAFCO's request, and I
12 think that's it, just LAFCO and the Commission.

13 ACTING COMMISSIONER ACKERMAN: That is correct.

14 CHAIRMAN CORY: Okay.

15 Without objection, Item 21 is approved as
16 presented.

17 Item 22, a limited disclaimer on 10.92 acres of
18 land, Tuolumne County, in New Melones, is that right?

19 EXECUTIVE OFFICER DEDRICK: It is under the
20 reservoir.

21 CHAIRMAN CORY: Under the reservoir. Filled
22 or unfilled?

23 EXECUTIVE OFFICER DEDRICK: Covered with water.

24 CHAIRMAN CORY: Covered with water.

25 Anybody in the audience on this item?

Questions from Commissioners?

Without objection, Item 22 is approved as presented.

Item 23. This is approval of a boundary line agreement and a settlement of lawsuit in Humboldt Bay Harbor, Recreation and Conservation District.

Anybody in the audience on this?

Questions from Commissioners?

Without objection, Item 23 is approved as presented.

Item 24, authorization to file a limited disclaimer in San Diego County in the County of San Diego versus Raymond V. Johnson.

CHIEF COUNSEL HIGHT: This is a disclaimer, Mr. Chairman. It authorizes the County to take the lands but they do not take the trust interest of the State.

CHAIRMAN CORY: Questions from anybody in the audience?

Questions from Commissioners?

Without objection, Item 24 is approved as presented.

Item 25. This is to accept the donation of a record interest in Lake Earl and Lake Tarawa, Del Norte County, two-thirds of the one-fifth interest of which there is paper title, which we believe there is no substance to.

1 ASSISTANT EXECUTIVE OFFICER TROUT: That is
2 exactly right.

3 CHAIRMAN CORY: We think we own it anyway, even
4 though they have got a piece of paper saying that they
5 think they own it.

6 Anybody in the audience on this item?

7 Questions of Commissioners?

8 Without objection, Item 25 is approved as
9 presented.

10 Item 26 requests authorization to settle quiet
11 title action regarding Hamilton Air Force Base in Marin
12 County.

13 Anybody in the audience on this item?

14 Yes, sir.

15 MR. COUPAL: My name is Jon Coupal and I have
16 lived in Norfolk. It is not that bad.

17 CHAIRMAN CORY: Have you been to Boron?

18 MR. COUPAL: No, I have never been to Boron.

19 ACTING COMMISSIONER MORGAN: Do you want to go?

20 CHAIRMAN CORY: It makes Norfolk look really nice.

21 MR. COUPAL: Okay. I am an attorney and I
22 represent the Marine Coalition and the Aircraft Owners and
23 Pilots Association.

24 The Marine Coalition is a non-profit corporation,
25 incorporated in the State to protect the economic, social

1 and environmental elements of the region which encompasses
2 Marin County.

3 The Aircraft Owners and Pilots Association is a
4 service association. It has more than 250,000 members who
5 fly general aviation aircraft.

6 Our clients are concerned that the settlement
7 agreement does not assign responsibility for the maintenance
8 of the dikes and levies surrounding Hamilton Air Force Base,
9 particularly the dike adjacent to the bay. This endangers
10 the base from possible flooding if the dikes are allowed to
11 deteriorate. We believe that before the settlement is
12 accepted, it would be in the best interests of the State
13 to ensure that some party be responsible for the maintenance
14 of these dikes and levies.

15 Also, I did not receive a full copy of the
16 settlement agreement and if I could, I'd like to ask a
17 question if there is a staff member who can answer it.

18 EXECUTIVE OFFICER DEDRICK: Bruce, Bruce Flushman,
19 Deputy Attorney General.

20 MR. COUPAL: My copy of the settlement, my
21 abbreviated copy of the settlement agreement, does not
22 indicate that there is an aviation easement over that
23 portion of the property at the end of the runway, that one
24 long thin parcel running north, south. Is there some sort
25 of easement granted?

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MR. FLUSHMAN: There are avigation easements granted in accordance with or reserved by the United States in accordance with the FAA Regulations as of the date of the settlement agreement.

With respect to the levee maintenance, the levee that protects the main portion of the base which is being quitclaimed to the United States as part of a boundary line agreement, is included within the base proper, so the United States, or whomever is the ultimate disposee of the base, will have to maintain that.

The levee which protects the northerly portion, the antenna field, is being quitclaimed to the State. The United States has reserved in that area an easement to run in favor of United States, its successors and assigns to maintain, repair, replace, construct or improve that levee.

CHAIRMAN CORY: It sounds like they are contemplating that it's their responsibility.

MR. FLUSHMAN: The United States, Mr. Hamblin, the United States Attorney, is here, whom I have been negotiating with for lo these many months, and the United States believes that whoever receives the base proper should maintain the levee, and that has been the basis for our negotiations, that the persons who receive the benefit of the levee should maintain it.

MR. COUPAL: That is acceptable to us. The only

1 problem is in the interim period, between when the division
2 of the property takes place and the GSA disposal of the
3 property, we don't know how long it will take and who will
4 be in charge of maintenance of the dikes and levees. I
5 realize that it's fair that whoever receives that major
6 portion of the base be ultimately responsible for the main-
7 tenance of the dikes and levees, but the interim period is
8 a major concern to us.

9 CHAIRMAN CORY: Does the United States Government
10 want to make a comment on that or will you prefer to remain
11 silent?

12 MR. FLUSHMAN: This is Assistant United States
13 Attorney Rodney Hamblin, who is handling the case on behalf
14 of the United States.

15 MR. HAMBLIN: I haven't remained silent yet, Mr.
16 Cory, so I guess I won't now.

17 I am still sorry to be late. I thought this was
18 supposed to start at 10:30.

19 With regard to the terms of the agreement, Mr.
20 Flushman and I have worked it out. It is probably the
21 intention of the Government -- I have to make one thing
22 clear. We, at first, had come to terms with the settlement,
23 at least between the Attorney General's Office and the
24 United States Attorney's Office, and that was approved by
25 all of the agencies of the United States. Then there have

1 been some recent changes made. Those recent changes have
2 been submitted to Washington. I don't think they are
3 substantial. I think they are more a matter of form
4 than they are of substance, with regard to the various
5 items.

6 With regard to the maintenance of levees, as
7 Mr. Flushman has stated, at this time the United States has
8 the property and has title to it and has the levee that it is
9 maintaining. That is under the General Services Adminis-
10 tration at the present time.

11 Until the title to that property is divested, and
12 we are speaking now of the main air base, I assume the
13 government has the responsibility to maintain the levees.
14 When this property is divested, if it is divested totally,
15 in the manner that Mr. Freeman had suggested earlier, then
16 the obligation to maintain the levee, and we are speaking
17 about around the air field, obviously is not going to be
18 with the government. So I have stated this in court
19 several times, and it is my position that the beneficial
20 users of that property, whomever they may be, will be
21 charged with maintaining the levee and they will have the
22 right to do it.

23 There is one item that has come up recently, and
24 I don't know whether it has been discussed, but the Army
25 has made a request for 8,000 feet of runway, and that

1 request has been kicking around for some time. It has
2 finally gone to the Secretary of Defense's Office, and it is
3 being considered that they may wish to withdraw not only
4 5,000 but 8,000 feet for the reserve unit. Now, whether
5 that is approved or not still remains to be seen, because
6 this has to clear a Federal property committee as well as
7 GSA.

8 That may not be the best and highest best use of
9 the property. So, in answer to your first question, the
10 government obviously has the base and it has a financial
11 interest in it. Its financial interest in that base to be
12 disposed of, which is in the millions, obviously would be
13 greatly diminished if they allowed the levee to breach.

14 Do you have any questions?

15 CHAIRMAN CORY: In looking at the map, in terms
16 of the levees, there appears to be a portion of the runway
17 in the part that is being --

18 MR. FLUSHMAN: That is an approach zone. The
19 runway actually ends before that.

20 CHAIRMAN CORY: Okay.

21 MR. FLUSHMAN: That is just an approach zone,
22 which they have an easement for.

23 CHAIRMAN CORY: Okay. So that the levee, then, is
24 on the nontransferred portions.

25 MR. FLUSHMAN: A portion of the levee.

1 CHAIRMAN CORY: Except that portion which is
2 north.

3 MR. FLUSHMAN: Yes, that is correct.

4 CHAIRMAN CORY: Okay. So it would be that which
5 is protecting that which you described as the antenna
6 field.

7 MR. FLUSHMAN: Yes. Now, that levee is a part of
8 the same system that protects the main base. Should that
9 levee be breached due to action of the waves or some other
10 fashion, it might cause water to go into the main base, so
11 that levee as well, has to be maintained. But the position
12 of it that I was maintaining for the Commission is that
13 the State, which did not build the levee, nor approve its
14 building, should not have to maintain it.

15 CHAIRMAN CORY: And the easement has been granted
16 so that whoever ends up with the ultimate beneficial use
17 and thus responsibility can go in and maintain the levee.

18 MR. FLUSHMAN: Yes.

19 MR. COUPAL: Is it my understanding, then, that
20 the Federal Government accepts responsibility for the main-
21 tenance of that dike until the final disposition?

22 MR. HAMELIN: I will answer that, Mr. Flushman.
23 I can answer that from here. When you say, "That dike,"
24 which one are we speaking of?

25 MR. COUPAL: I believe it's the one separating,

close to the end of the runway, right.

MR. HAMBLIN: Well, so long as the government is the fee owner of that property, and we also own the levee that runs completely up to what we call the main part of the base, together with the north area which was the transmitter field, when the property is consummated in this agreement, the government will have the right to maintain -- it will maintain what it owns next to the base, and until it disposes of the base, it will likewise have the right to maintain the northern portion over what is transferred to the State, but the government is not going to, shall I say, reserve the obligation to maintain it. The government wants the right to be able to dispose of an entire base with all of the levee that is necessary, or the right to maintain the levee, and that includes the north portion as well.

The title will be in the State but it will have the right in the government to pass on to its assigns, however, the right to maintain the levee.

MR. COUPAL: Until that decision is made, though, you are saying that the Federal Government will maintain it?

CHAIRMAN CORY: No, no. He's saying that if they want to, they will, and if they don't want to, they won't.

MR. HAMBLIN: Well, as a very practical matter, the government has -- I don't want to disclose the amount of money, but obviously we are talking about millions of

1 dollars in this base, and if the levee goes down, it just
2 isn't prudent to let it go down.

3 Now, there has been a little bit of a problem, I
4 know, in the past year, when we have had very heavy rains,
5 there was no funds appropriated for the maintenance of the
6 levee. I don't want to cross that bridge today.

7 MR. COUPAL: Well, the only problem with that is
8 that the eastern part of the runway, in Admiral Freeman's
9 original decision, called for half of that runway to be
10 converted to tidelands or marshlands and therefore that
11 would involve breaching the dike. So I am still unassured -

12 MR. HAMBLIN: No. I am sorry to interrupt you,
13 sir, but that is not it. It may read that way, but that
14 is not what actually has transpired. Mr. Freeman's state-
15 ment and disposal was to give the first 3,000 feet of
16 runway to Fish and Wildlife, and there were people in the
17 Fish and Wildlife who thought that they could flood it,
18 but the transfer documents in detail, from the GSA to Fish
19 and Wildlife, provided that they would maintain the levee.
20 The levee is not to be breached. So at that stage, Fish
21 and Wildlife is not all that sure they want 3,000 feet of
22 runway. If it is going to be dry land, it isn't very good
23 for ducks.

24 But there is no -- I understand, counsel, that
25 Freeman's decision did not state that Fish and Wildlife

1 could not flood it. The terms of the proposed transfer
2 that is being considered provide that the levee be intact.

3 CHAIRMAN CORY: But that's a matter for you to
4 deal with the Federal Government. There is not a whole lot
5 that we can do about that, one way or the other.

6 MR. COUPAL: I understand that. I'd just like it
7 on the record.

8 CHAIRMAN CORY: Yes, okay.

9 All right. Are there no further questions?

10 Questions from Commissioners?

11 ACTING COMMISSIONER MORGAN: No.

12 ACTING COMMISSIONER ACKERMAN: No.

13 CHAIRMAN CORY: Okay, The authorization requested
14 in Item 26 is granted.

15 Thank you for getting us 318 acres, and hopefully
16 the Feds will maintain the levee.

17 MR. HAMBLIN: For a little while.

18 CHAIRMAN CORY: Always a little room for the
19 double-cross.

20 (Laughter)

21 --000--

22

23

24

25

1 CHAIRMAN CORY: Item 28. This is a report on the
2 current status of the proposed lease program.

3 EXECUTIVE OFFICER DEDRICK: Commissioners, at your
4 meeting of September 23rd, and subsequent directions from
5 you, you asked the staff to hold a public hearing on
6 leasing of the parcels between Point Conception and Point
7 Arguello, 40,000 offshore acres there for oil and gas.

8 You asked that that public hearing address itself
9 to the questions of leasing, to the parcel size, location,
10 the selection of parcels and to conditions of leases.

11 You asked me to establish a scientific review panel
12 to review the marine survey which you had earlier ordered,
13 and you asked me to meet with industry representatives to
14 discuss specific lease provisions.

15 We have done all those things and the report that
16 we are submitting to you today is a draft report on the
17 results of those discussions, meetings and hearings.

18 Just briefly, I would like to cast back a bit in
19 the history of the program. We have been funded at your
20 request by the Legislature for three, going on four years
21 now. Earlier in the planning process, the Commission had
22 thought that they would like the State to be the agency
23 which does the original exploration.

24 Under that original proposal, the lease date
25 would not have occurred until after the exploration in

1 1985. As you remember, during the summer, as a result of
2 many considerations, not the least of which is the cash
3 flow position of the State, the Commission decided to fore-
4 go that option and to go ahead with leasing or to consider
5 leasing now, and to allow the oil companies to do the
6 exploration.

7 I wanted to clarify that because an earlier report
8 to the Legislature had had a 1985 date on it as the first
9 time the Commission would seriously consider going to
10 lease.

11 I would be glad to talk about this in detail if
12 you would like for me to, or in general, or perhaps you would
13 prefer to just read it yourselves and we can discuss it
14 later. This report has not yet been released to the public.
15 It is a draft report and so I think that's an option you
16 might want to take. If you would like to talk about any-
17 thing specifically, I'd be very glad to do so.

18 CHAIRMAN CORY: Well, I would guess that we
19 probably should release this report to the public, hear
20 from the people who wish to address us today, and then have
21 the Commissioners comment about some areas, because I think
22 everybody has had a chance to look at it in one form or
23 another here, to let you know what things we'd like
24 addressed as you take the draft to its final thing. So if
25 we could hear from the people in the audience now.

1 Mr. Mohr.

2 EXECUTIVE OFFICER DEDRICK: Dr. Mohr.

3 CHAIRMAN CORY: Dr. Mohr.

4 EXECUTIVE OFFICER DEDRICK: Dr. Mohr is a member
5 of our Scientific Review Panel which reviewed the marine
6 study.

7 DR. MOHR: I should like to speak in two roles,
8 first as a member of the Commission's very recently
9 assembled Review Committee on the Characterization of the
10 Arguello-Conception Strip Bottom Organisms.

11 The Committee noted that there is a lack of
12 knowledge of water movements within the Arg-Con Strip.

13 Because of the complexity of shape of the sea bottom of the
14 great seasonable variation of upwelling, it is impossible
15 now to calculate where anything will be moved.

16 Secondly, of microscopic plants in the water mass,
17 the principal energy base, just enough is known to be sure
18 that they are different from those elsewhere and that they
19 are abundant. Professor Sweeney, who is the expert in this
20 field, is most concerned.

21 Third, the organisms of the characterization strip
22 are definitely extraordinary, especially in kinds. For the
23 plants and the invertebrates, there is a richer assemblage
24 than for the parts studied in the marine sanctuary areas
25 across the Channel. If the organisms were visible, as

1 with terrestrial plants and animals, the area would rank
2 well up in the national parks in the quality of the
3 organisms.

4 The Committee pointed out that the multi-
5 university OPUS study of upwelling off Arg-Con is expected
6 to have some worked-up results on water movements and on
7 those microscopic floating plants beginning late summer or
8 fall of 1983.

9 Dr. Jones provided the Commission staff with a
10 summary document of OPUS. I note that the Review Committee
11 has not had the Coastal Commission response to characteri-
12 zation or that of Santa Barbara County.

13 The Committee expressed its concern at the haste
14 with which things were done. Dr. Dedrick assured us that
15 the study was in process two and one-half years. However,
16 the characterization, sampling of public opinion, require-
17 ment of Review Committee to respond to characterization and
18 then to assorted responses have all been speeded beyond our
19 experience with such things. We have raised the issue of
20 unseemly haste.

21 Professor Jones phoned me saying that he was
22 concerned that the Review Committee might be used improperly.
23 I had already written to that effect in my response.

24 Dr. Dedrick's assurance to Review Committee of the
25 Commission's ability to deal with any ecological threats

that might develop did not allay uneasiness. We tend to remember that Department of Interior specialists agreed with Union Oil Company that compliance with full cement casing requirements was not necessary at Platform A and granted the waiver that preceded the blowout.

Other members of the Committee expressed concern about the speed of our process. Adequate analyses require some time for digestion and really thinking through evidence that can give clues to possible consequences. We have requested, but not received, the complete EIR. In the finalizing agenda there are significant misrepresentations not countered by staff analysis. It is my impression that all members of the Committee are uneasy about the EIR content.

As senior member, and that's in years, I ask that the Committee be provided with copies of the digest of our work provided to the Commission.

Speaking beyond the scope of the Review Committee, as one who since early 1979 has studied intensively official reports, industry claims and the grey and the open literature on drilling discharges, I'd like to note that the field is dominated by what may fairly be called technological four-flushers. Very little of the available work is science.

Of the several components, I note first the

movement of material by water. There is convincing evidence that physiologically efficient materials are moved miles, and to places they can be troublesome. Industry and steward agencies, like EPA Region 9, deliberately ignore the materials we have provided showing this.

Second, composition of drilling slurries. Standard studies omit reference to troublesome components, things like lead sulfide, the biocides and likely others we have not yet ferreted out, and misrepresent others. And then they do not pay attention to reprocessed waters, which have been shunned off Galveston Field to be truly troublesome.

Finally, the work on poisonous effects of growing discharges. Here the studies are almost all industry generated. They combine incompetence and misrepresentation.

Understanding here requires examination of a considerable body of material. As I have to other California agencies, I offer to work with the Commission in this matter.

There is no scientific evidence justifying complacency about marine drilling discharges anywhere that there are organisms worth worrying about, and most certainly not about those of the Arg-Con Strip.

Thank you.

CHAIRMAN CORY: Any questions from Commissioners?

1 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, just
2 briefly, if I may comment on Dr. Mohr's comments?

3 CHAIRMAN CORY: Go ahead.

4 EXECUTIVE OFFICER DEDRICK: The marine study
5 itself, I think, Dr. Mohr agrees, was a very good one. The
6 questions that he is raising we have reported to you in the
7 report and I agree that one of the most serious concerns
8 that was uncovered by the marine study and its subsequent
9 review by these ladies and gentlemen is the question of
10 drilling muds. One of the real problems with animals and
11 plants, I think, are long-term chronic impacts. That is a
12 chronic insult, one that lasts for years, day after day,
13 all the time. The only thing in that category in oil
14 exploration is, in fact, drilling muds.

15 There have been a lot of studies, as Dr. Mohr
16 said, mostly in the East and the Gulf Coast and the Atlantic
17 Ocean. We have a different ocean here. We have got a
18 different kind of world.

19 Currently, the Water Resources Control Board of
20 the Santa Barbara Region, is requiring some of our lessees
21 to do long-term studies under the guidance of that regula-
22 tory body exactly on this point, in addition to which I
23 think it's one of the universities -- is it the University
24 of Southern California?

25 ASSISTANT EXECUTIVE OFFICER TROUT: USC.

1
2 EXECUTIVE OFFICER DEDRICK: USC is also doing a
3 study. It is very difficult for us because there is a lot
4 to be learned, and I think one of the main problems with
5 this marine study is that it is the best one so far. It's
6 more detailed than anything that has been done before and
7 that opens a lot of questions. I still think you were
8 right to do it. I think you have laid a scientific base
9 that has never been laid before in the decision to go to
lease.

10 If, in fact, you do decide to go to lease, the
11 OPUS Study will be in process during the period before
12 site specific EIRs will be done. Many of these questions,
13 and hopefully all of these questions, can be answered at
14 that site specific EIR stage. It is a great frustration to
15 the scientific community, as I know well, because I once
16 was a member of it, that you never can get absolute cer-
17 tainty, and obviously that is the case here.

18 CHAIRMAN CORY: Questions from Commissioners?

19 DR. MOHR: May I say one word?

20 I think the Committee was not concerned about
21 absolute certainty. At this point one hardly has the data
22 to have vague notions of what is likely to occur.

23 Secondly, the Review Committee touched only a
24 study of bottom organisms. And thirdly, we are not uncon-
25 cerned about what a spill could do.

1
2
3 Thank you.

4
5 CHAIRMAN CORY: Mr. John Ledbetter.

6
7 MR. LEDBETTER: I am representing myself. My
8 background is environmental planning.

9
10 Very briefly, I have no question as to the general
11 accuracy of this data, nor the effectiveness of the
12 methodologies. However, the utility of the study seems to
13 be weakened by the presentation of the data, due in large
14 part to map scale inconsistencies and the brevity of the
15 analysis in discussing the significance of these findings
16 in relation to the lease block comparisons as well as the
17 transitions as a whole.

18
19 CHAIRMAN CORY: Pardon me. I am not sure what
20 you just told us.

21
22 MR. LEDBETTER: Well, what I am trying to say is
23 that my background is in environmental planning, as far as
24 reviewing a document for the usefulness of the tool, and in
25 reviewing this document, and my background isn't in biology,
I found it difficult to use because there is five -- seven
maps, five of which are of different scales. Also, in terms
of the analysis itself, I found that well, let me con-
tinue on with what I have prepared here.

26
27 CHAIRMAN CORY: Fine. Okay.

28
29 MR. LEDBETTER: In comparing each of these lease
30 blocks, brief references to the significant features are for

the most part inadequately discussed, particularly in terms of their potential impacts.

Observations such as "Sediment changes associated with oil development might lower this diversity by changing the conditions which allow many species to live here," are so general that they are practically useless. For instance, why are the uncommon abalone of "particular concern"? Do they face extinction? What is the possibility for their regeneration? After a spill, how long will such a regeneration take?

Also, kelp beds are mentioned. Why are these kelp beds "particularly well-developed"? This is a quote, "are particularly well-developed." Why is that significant? Which species use them for feeding and what is their habitat?

In reviewing this, these are the sort of statements that I am concerned with. The potential impact doesn't seem to be adequately discussed.

In trying to determine which of these lease block areas would have the least amount of impact, one has to have an idea of how each one is going to be affected, and direct comparison between these lease blocks, although it is partially illustrated per the fold-out, it is difficult with what seems to me to be superficial treatment of potential impact within each of these lease blocks.

The introduction of this study recognizes the

1 biological importance of this transition zone, as a whole,
2 and cites various other studies of the limited biological
3 work done in this area, particularly under Section Number 4.2,
4 Community Trends Within The Study Area. There is a four-
5 line description of the zone. However, at no other point
6 is the significance of this transition zone discussed. How
7 do these findings relate to the previous studies?

8 And finally, there doesn't seem to be any con-
9 cluding remarks in regard to the potential impact of oil
10 drilling on this biologic transition. It seems to me
11 that procedurally this study seems to be very hastily
12 assembled, resulting primarily in a species inventory
13 rather than a supplemental characterization for an environ-
14 mental impact study.

15 As a tool for decision makers, the document
16 seems difficult to use and incomplete in its analysis.

17 My recommendations might be that a more thorough
18 analysis be more thoroughly completed and the EIR itself
19 be recertified on the basis of the study's what I consider
20 inaccuracies.

21 CHAIRMAN CORY: Okay.

22 ACTING COMMISSIONER ACKERMAN: Mr. Ledbetter,
23 were your comments just now directed to the EIR that was
24 previously brought before this Commission or was it the
25 biological report?

1 MR. LEDBETTER: It was the biological study, but
2 as a supplement to the EIR, yes.

3 ACTING COMMISSIONER ACKERMAN: Were your comments
4 directed to the study that has just been delivered to the
5 Commission today?

6 MR. LEDBETTER: Yes.

7 ACTING COMMISSIONER ACKERMAN: Or is this to a
8 draft that was previously available? I just want to make
9 sure that your comments are reflective of what the
10 Commission is being asked to make public today so that
11 they are all germane to the same document.

12 MR. LEDBETTER: Well, this is the draft that I
13 have been commenting on. I understand that the peer review
14 has been done but I haven't seen anything yet.

15 CHAIRMAN CORY: Claire, can you help us?

16 EXECUTIVE OFFICER DEDRICK: Yes, I'd be glad to.
17 I should have explained it in more detail prior to this.

18 We released the study to the public as soon as
19 we had it, which was like the 22nd or something like that,
20 and also at the same time it went to the Peer Review Panel.
21 The six scientists on the Peer Review worked more or less
22 independently of each other, although they communicated
23 frequently as Dr. Mohr just told you.

24 Their comments on the study are available, and
25 if you wish, can be released publicly. There's absolutely

1 no reason why they shouldn't be released. We also asked
2 them to comment on the public comments. Not every Peer
3 Review member had the time to do that, but that entire stack
4 of public comments, the peer review of the report, and the
5 Peer Review of the public comments is available and, with
6 your permission, I will be glad to make it available to
7 the public.

8 It turns out to be a pretty thick stack of paper
9 so we were hesitant to make up two or three hundred copies.

10 ACTING COMMISSIONER ACKERMAN: All my question
11 was just to make sure that Mr. Ledbetter's comments were
12 referencing the same document --

13 EXECUTIVE OFFICER DEDRICK: That is correct.

14 ACTING COMMISSIONER ACKERMAN: -- okay, that I
15 have looked at.

16 CHAIRMAN CORY: Let's clarify.

17 EXECUTIVE OFFICER DEDRICK: No, the document that
18 you have, the report, is not the document. Our report is a
19 discussion of all the things that have happened, including
20 the document he is talking about.

21 CHAIRMAN CORY: Okay. But the document he is
22 talking about is the Peer Review --

23 EXECUTIVE OFFICER DEDRICK: No.

24 MR. LEDBETTER: No.

25 EXECUTIVE OFFICER DEDRICK: It is the marine study

1 itself.

2 CHAIRMAN CORY: The marine study, which was then
3 submitted to --

4 EXECUTIVE OFFICER DEDRICK: The Peer Review and
5 the public simultaneously.

6 CHAIRMAN CORY: Peer Review, okay.

7 EXECUTIVE OFFICER DEDRICK: I should point out
8 that your intent in that marine study was precisely the
9 result. It was to find out what is there, not to draw
10 conclusions.

11 CHAIRMAN CORY: That was my recollection of the
12 meeting where it was raised by some people, saying you
13 should do this.

14 Yes, I think it would be wise that the additional
15 information that has been gathered be released to the
16 public for whatever purposes they wish to make of it.

17 EXECUTIVE OFFICER DEDRICK: Fine. Then if I may,
18 just to make it a possible process because of the volume of
19 paper, if we could receive requests, we will be glad to
20 respond. Is that all right with you?

21 CHAIRMAN CORY: Okay.

22 EXECUTIVE OFFICER DEDRICK: Thank you.

23 CHAIRMAN CORY: Thank you.

24 Let's see. Michele Perrault.

25 MS. PERRAULT: I am here today representing the

1 Environmental Coalition on what we had called Lease Sale
2 Numbers 53 and 73. We have been operating for about three
3 years, particularly with our concern for the Federal
4 leasing, and have tried to bring some sane analysis to what
5 we have seen in Secretary Watts' proposed five-year program
6 in that area, including the one you have up for discussion
7 today.

8 I will not go through all of my whereases, but let
9 me include some of them, because it gives you an idea of
10 where we are at the moment as a coalition.

11 The coalition includes groups you may be familiar
12 with, Friends of the Coast in Mendocino, Save Our Shores
13 Down in Monterey, Natural Resource Defense Council,
14 Oceanic Society, Sierra Club, of which I am the Vice
15 President nationally, but also the Chairman of this coali-
16 tion, and at least a total of about 23 organizations.

17 "WHEREAS, Massive industrial development on the
18 Federal OCS adjacent to this area has begun and poses the
19 threats of disruption of marine and coastal habitats, pollu-
20 tion from oil spills and the disposal of drilling muds and
21 cuttings, degradation of air quality, interference with
22 fishing activities and other significant impacts, and

23 "WHEREAS, This stretch of intertidal and nearshore
24 waters contains the nodal point (Point Conception), and lies
25 within, the California marine biogeographic transition zone,

1 and therefore contains a higher diversity of species than
2 comparable northern or southern waters, and

3 "WHEREAS, The Environmental Impact Report and the
4 supplementary data report on biological characteristics
5 indicate an unusual abundance of organisms and species,
6 including rare abalone species, and six newly discovered
7 organisms, and point out the importance of this area for
8 sustaining organisms higher on the food chain, including
9 the threatened California sea otter, and

10 "WHEREAS, Alternatives exist to satisfy the purposes
11 of this sale that have not been fully explored, including
12 cooperative revenue-sharing agreements with adjacent
13 Federal lessees, and the record of California in energy
14 conservation, and

15 "WHEREAS, The proposed development of this program
16 area threatens severe impacts to the abundance and diversity
17 of organisms both within and adjacent to the program area
18 from chronic and accidental spills and discharges which can
19 scarcely be mitigated due to the proximity of the risk
20 points to the resources and the consequent lack of response
21 time, and the ineffectiveness of oil spill containment
22 methods in the sea and weather conditions prevailing in the
23 program area, and

24 "THEREFORE, This coalition calls on the State
25 Lands Commission to use all due process and timely review

1 and consideration regarding this lease sale, and to defer
2 decisions regarding the size and timing of the leasing pro-
3 gram until: "some conditions are met.

4 We also point out that we are concerned about the
5 State setting a model for what the Federal Government would
6 propose to do, particularly if they continue in their
7 constant surge northward as they have proposed in their
8 five-year program.

9 We would like to see that the cumulative
10 impacts of offshore oil development on the adjacent Federal
11 OCS have been assessed and mitigated. That is the cumula-
12 tive between the two lease areas, the Federal and the
13 State, and that full consideration is given to the alterna-
14 tive of a State Oil and Gas Sanctuary for this region as a
15 buffer zone for impacts from the Federal OCS and as a hydro-
16 carbon reserve for the State and that the value of the
17 existing national resources, including their educational
18 and research importance, is assessed.

19 Three, that full consideration is given to
20 alternative tract boundaries and to selected lease block
21 options which will provide for assessment of one --

22 ACTING COMMISSIONER ACKERMAN: On your conditions,
23 Number 2, was that the suggestion that the entire three-mile
24 limit be set as a buffer zone?

25 MS. PERRAULT: We haven't assessed the exact

1 mileage on that. I think that would still have to be
2 determined. But we are raising the idea of a marine
3 sanctuary as a possible buffer zone, and I think that may
4 be something new and something that ought to be explored as
5 an alternative.

6 I was talking about the consideration of the
7 alternative tract boundaries. One, a two-mile buffer zone
8 parallel to the shore for protection of critical nearshore
9 resources, and two, a Point Conception buffer zone, lease
10 blocks 1 and 3, for protection of biological and cultural
11 resources --

12 EXECUTIVE OFFICER DEDRICK: Lease blocks?

13 MS. PERRAULT: One through 3.

14 EXECUTIVE OFFICER DEDRICK: One through 3.

15 MS. PERRAULT: And three, a northern buffer zone
16 to adequately assure that the sea otter protection takes
17 place in blocks 6, 7, and 8. There will be some other
18 speakers on the specifics about the sea otters, and I
19 would just refer to them for comment.

20 Four, that a complete set of stipulations,
21 including cessation of activities during the winter/spring
22 whale migration period and when current patterns threaten
23 the California sea otter habitat, and two, a sea otter
24 protection measure as proposed by Friends of the Sea Otter
25 to reflect the State Lands Commission Chairman's premise of

even stronger sea otter stipulations than those proposed by
the Governor for OCS Lease Sale 53, and precluding
discharge of drilling muds and cuttings within State waters,
have been developed and submitted for public review and
adopted.

And five, the state-of-the-art in analysis of the
fates and impacts of oil spills, and drilling muds and
cuttings, is utilized to estimate the magnitudes of impacts
likely from various alternative drilling program scenarios.

We, as a coalition, have dealt with this drilling
mud question for years, and we did understand as of recently
that there was going to be a scientific analysis federally
somewhere, we haven't seen a document, on just what are the
details on drilling muds, because the information we had
gotten from a NOAA study, Department of Commerce, a few
years back, specifically stated that the stuff we were
looking at was oil company data for the most part, and we
have yet to really see a good analysis of this that we can
feel secure has had good scientific review.

I believe it was the National Academy of Sciences
that was putting together a panel to look into a sorting
out of who says what and what can you believe in this
whole issue of drilling muds.

Six, complete documentation is provided, including
maps, illustrating the programmatical alternatives and their

relations to the biological resources. I have got two more.

Seven, adequate time periods for public notice and review are given for specified decision points, including the opportunity to review the comments of the Peer Review Committee, and you have heard about that today already, on the biological characterization study, and to review the complete set of stipulations and mitigation measures that are to be adopted.

And eight, that a final document justifying the program decisions is distributed to the concerned public and the government agencies prior to selection of lease blocks to be offered.

I do understand that there was a time period that has increased for public comment through OPR, and I am not sure I understand the details on that, something about a 25-day waiver?

EXECUTIVE OFFICER DEDRICK: I am not dead sure what you asked me about.

Rick. Rick Frank, Deputy Attorney General.

MR. FRANK: Yes, we have worked with the Office of Planning and Research to make sure that the document receives the fullest distribution, and through their ongoing activities, they have set a 25-day review period which I believe ends December 13th or 14th.

1
2 MS. PERRAULT: So that we understood because of
3 that extension of time for public comment that no decision
4 would be made at this particular meeting, that certainly
if any --

5 CHAIRMAN CORY: It is not contemplated that any
6 decision on leasing will be made, but that we release the
7 draft report and put on the public record the questions
8 that went through our minds as we read it so that everybody
9 can go ahead and react.

10 MS. PERRAULT: Okay. We would welcome that.

11 And the other question I have is for Ms. Dredrick.
12 Did you mention that the material that you had today would
13 only go to people that requested it specifically?

14 EXECUTIVE OFFICER DEDRICK: No.

15 MS. PERRAULT: Oh.

16 EXECUTIVE OFFICER DEDRICK: The draft report we
17 would contemplate mailing to the hundred and fifty or so
18 people on the mailing list.

19 MS. PERRAULT: Okay.

20 EXECUTIVE OFFICER DEDRICK: The backup material,
21 the public and Peer Review comments on the marine study
22 itself, is a very large pile of things and many of the
23 people on that list are not interested in that. Any of you
24 who are interested in that, if you would let Dwight Sanders,
25 who is right behind you, know, we will start xeroxing, but

strictly as a matter of not wasting too much State money
and too many trees, we would want to be sure that they go
to people who are truly interested.

MS. PERRAULT: Right. It would be helpful if the
people on the hundred fifty list were notified of the fact
that they could ask for that Peer Review. We have tried,
and because of --

EXECUTIVE OFFICER DEDRICK: We will add that as a
cover letter on the report which we can mail out this
afternoon.

CHAIRMAN CORY: And a picture of Dwight.

MS. PERRAULT: Yes, Dwight has been kept busy on
the telephone with many of us, and I think that part of the
reason that he has is that the expectations we have had,
for example, in following the Federal OCS Program, when
your name is on a list, you automatically continue to get
all the documents, was a little more difficult. And this is
not to say anything against, you know, Dwight's effort, but
the public has found it somewhat difficult in having to
call constantly to get the things they are missing. And
I hope that we can fix that up. It will make it much
easier for our process of review.

CHAIRMAN CORY: Okay. The staff notes that? You
will note that and make sure it is taken care of?

EXECUTIVE OFFICER DEDRICK: Yes, indeed.

1 CHAIRMAN CORY: Okay.

2 Questions from Commissioners?

3 Okay. Thank you very much.

4 Natasha Atkins.

5 MS. ATKINS: Good morning. My name is Natsha
6 Atkins. I am Staff Biologist for Friends of the Sea Otter.
7 This is the first time I have appeared before this Committee
8 but I am sure you know it is not the first time that
9 Friends of the Sea Otter has appeared before you.

10 I would like to say that Friends of the Sea Otter
11 fully supports the position that Michele has given you for
12 the OCS Coalition, so I would like to focus my remarks on
13 the proposed sea otter stipulations that we received from
14 the staff.

15 First, I would like to make it clear that we did
16 not receive a copy of the stipulations until Saturday, so
17 we really haven't had an adequate chance to review them in
18 detail. I can only say that we had hoped the stipulations
19 would have better reflected the strength of the Chairman's
20 previous assurances to include strong stipulations for sea
21 otters, and what we have seen really falls quite short of
22 our expectations.

23 Unfortunately, we never had the opportunity to
24 work with the staff on their draft stipulations.

25 Without rehashing old information, I would like to

repeat one point that I think has gotten lost in this proposed sale. When the California sea otter was listed as a threatened species five years ago, it was the threat of an oil spill that was considered to be the most serious threat to the otter population, and at that time OCS activity adjacent to the sea otter's range was virtually non-existent.

Friends of the Sea Otter has recently decided, largely because of the accelerated oil activity adjacent to the otter's range, to petition the Federal Government to reclassify the sea otter from "threatened" to "endangered," because not only has the population failed to grow in the last decade, but there is concern that there may be fewer than even 1500 animals.

In its recovery plan for the sea otter, the Fish and Wildlife Service has identified what it considers to be necessary measures for restoring the sea otter population. These measures include the protection of the existing population in its habitat, the minimization of oil spill threats and the establishment of another otter colony. To date, none of these strategies has been implemented even though the threat from oil to the otters grows more serious every day.

Well, that's why we were so grateful when the Governor recommended strong stipulations for Lease Sale 53.

1 to protect the sea otter. And his stipulations included
2 specific wording about the seasonal drilling ban, the
3 development of an effective oil spill contingency plan and
4 funding of the measures that were considered necessary to
5 secure the recovery of the sea otter population.

6 Well, if anything, the proposed tidelands sale,
7 we think, poses as great or greater a threat to the sea
8 otter and its habitat than the existing Federal activity.
9 And there are numerous studies documenting the northward
10 flow of near-shore surface waters during the late fall
11 through the late winter, and I have a list of those
12 references if the Commission would be interested in them
13 for the record.

14 There are studies that specifically demonstrate
15 that surface drifters released in the proposed lease area
16 come ashore within the sea otter range, so it's obvious
17 that a spill in the project area could contaminate the sea
18 otter range at certain times of the year.

19 And we were extremely grateful when we heard
20 Chairman Cory at the September 23rd hearing give his
21 assurance that he would take care of the sea otter stipula-
22 tions, and he suggested that the Governor's recommendations
23 for Lease Sale 53 might not even be strong enough, and
24 given our expectations, that is why we were rather disap-
25 pointed with the stipulations that were drafted by the

1 Commission staff.

2 On October 15th, we presented Dwight Sanders with
3 our proposed stipulations and we discussed them briefly
4 with him. We were told that we would receive the staff's
5 draft the following week. Although we had been hoping for
6 some meaningful dialogue with the staff on the stipulations,
7 unfortunately we did not receive the staff's version until
8 Saturday, as I mentioned.

9 Well, our initial review of the stipulations tells
10 us that these proposals fall far short of what we expected,
11 given the assurances and given the length of time we had
12 waited. And they also fall far short of the Governor's
13 recommended stipulations for Lease Sale 53. And they
14 certainly fall short of what is necessary to protect the
15 sea otter.

16 Because it is a threatened species, and because
17 it is extremely sensitive to oil threats, more so than any
18 other marine mammal, the sea otter deserves a special
19 stipulation, but what we saw was nothing more than a modifi-
20 cation of a previous stipulation, the mandatory biological
21 survey.

22 Despite the staff's assurances, we do not
23 believe that the Critical Operations and Curtailment Plan
24 is a sufficient safeguard of the sea otter range during
25 the winter. The near-shore current patterns are not

1 dependent on sea state and weather conditions, and an oil
2 spill during normal operating conditions could occur and
3 oil could be carried north to the sea otter's range at that
4 time of the year, no matter how stringent the State's
5 regulations --

6 CHAIRMAN CORY: Pardon me. Could you go back to
7 that last sentence that you just completed?

8 MS. ATKINS: Yes. Okay. As I understand the
9 Critical Operations and Curtailment Plan, it provides that
10 operations will be curtailed during certain weather condi-
11 tions and certain sea state conditions, and what we are
12 saying is that these currents that flow northward during
13 the late fall through the late winter flow that way
14 regardless of the sea state and weather conditions, and
15 should there be an oil spill caused by some kind of
16 accident during normal operating conditions, when
17 operations have not been ceased, then those currents would
18 continue to carry that spilled oil north to the sea otter
19 range.

20 We don't feel that the State's regulations, no
21 matter how stringent they are, and we do understand that
22 they are more stringent and the inspections are more
23 stringent than the Federal regulations, that they cannot
24 prevent the scenario, and so we reiterate the need for a
25 drilling ban during these months.

1 The proposed stipulations also make no mention
2 of an oil spill contingency plan. I am part of an inter-
3 agency working group on oil spills and otters, and I can
4 assure you that we are far from being prepared to deal with a
5 major oil spill in the sea otter range.

6 The Critical Operations and Curtailment Plan
7 itself states that there are certain weather conditions
8 when oil spill containment techniques are not effective.

9 One other omission that I'd like to bring to
10 light concerns funding. Who is it that is going to pay for
11 the marine surveys and the behavioral studies and the
12 analyses of the project area which the sea otter stipula-
13 tion calls for? The lessees are going to be benefiting
14 from the very activities that threaten the sea otter popu-
15 lation, and we recommend that the lessees must reach
16 agreement with the State, the appropriate State and
17 Federal agencies, to assure that there will be funding for
18 the necessary studies. And we would like to see the
19 establishment of a fund derived from a percentage of the
20 lessees' revenues to support these studies and to support
21 oil spill contingency planning and equipment.

22 The stipulations are really meaningless unless
23 funding responsibilities are explicit.

24 And finally, we cannot forget that it is the
25 whole sale that must be evaluated in the light of the

1 potential threat to the sea otter population.

2 A tract-by-tract impact analysis cannot
3 adequately mitigate the cumulative impact of oil development
4 on the sea otter. Various State agencies to date have
5 expressed their concern that offshore oil activities may
6 jeopardize the sea otter, and they have recommended
7 protective measures, and if verbal commitments suffice, then
8 the State Lands Commission should be included among these
9 agencies.

10 However, the commitment in writing which we have
11 awaited so long, and which is in the form of the stipula-
12 tion, does not reassure us of any meaningful commitment to
13 the protection of the sea otter.

14 Throughout our involvement in the process in the
15 proposed sale, we have been struck by the rapid pace with
16 which the Commission has moved and we still believe that
17 the proposed area is more appropriate as a sanctuary and we
18 think the Commission should reconsider this alternative,
19 and I am considering the entire area, all three miles of
20 the State tidelands.

21 And we also urge that the Commission explore the
22 other alternatives that were presented today in the OCS
23 Coalition statement. The Fish and Wildlife Service and
24 California Fish and Game are in the process of censusing
25 the sea otter population. The report is forthcoming and

1 we feel that it is very important that the Commission have
2 this information before making any decisions on this area.

3 Indeed, we'd like to believe that the Commission
4 is committed to the protection, not only of the sea otter,
5 but of the marine resources in general that can be affected
6 by the sale, and to prove this commitment, we feel that
7 the Commission must delay any action on the sale to allow
8 sufficient time for the review of the staff's proposals and
9 the biological studies and the Peer Review and the public's
10 concern, and we would welcome the opportunity to work with
11 the staff more closely on developing stipulations that we
12 think would more truly reflect the commitment expressed
13 by the Chairman several months ago. And we would look to
14 you as Commissioners to decide that this sale is not going
15 to go through at the expense of the California sea otter.

16 Thank you. I will be happy to answer any
17 questions.

18 CHAIRMAN CORY: Specifically, the stipulation, as
19 you would like it and as the staff drafted it, you talked
20 about a ban during certain periods of time. What are those
21 specific periods of time?

22 MS. ATKINS: Well, for the sea otter, it would be
23 at least through the end of February.

24 CHAIRMAN CORY: From when?

25 MS. ATKINS: From November through February, at

1 the very minimum. Those are the periods when all of the
2 studies demonstrate that the Davidson Current is at the
3 surface at that time and flowing northward near shore. It
4 is well-developed at that time, and it obviously fluctuates
5 quite a bit outside of those months. But during that
6 period, it is very well-developed.

7 And then the stipulation, as it was originally
8 drafted, was also to include protection of the gray whale.
9 I am not a gray whale expert, but I understand that gray
10 whales migrate through the area after February, I believe,
11 through the spring, but you'd have to ask an expert on that.

12 CHAIRMAN CORY: Okay. And what other specific
13 areas do you find the staff lacking? You got it on
14 Saturday.

15 MS. ATKINS: Well, as I mentioned, funding. And
16 I think that the critical thing is that funding be avail-
17 able, and we suggested one mechanism for getting that
18 funding, to provide for the studies that have been identi-
19 fied as necessary to protect the sea otter from oil
20 development.

21 CHAIRMAN CORY: Well, does not the draft report
22 do that? Because, as I read it, it seems to say that they
23 must be done on the site specific EIR and they will be
24 funded by --

25 EXECUTIVE OFFICER DEDRICK: By the lessee, but

1 the study would be under the control of the State Lands
2 Commission. That is to say we would do it as we do all
3 EIRs with the control of the project, the study laying
4 with the staff of the State Lands Commission, and the
5 funding done --

6 CHAIRMAN CORY: The funding done by the people
7 who wish to benefit.

8 EXECUTIVE OFFICER DEDRICK: That is correct.

9 CHAIRMAN CORY: Which is what you were suggesting?

10 MS. ATKINS: That is correct.

11 CHAIRMAN CORY: Yes.

12 MS. ATKINS: We were merely proposing the estab-
13 lishment of a fund that would be available, not only for
14 the studies, but also for oil spill measures which are the
15 critical part for sea otters.

16 CHAIRMAN CORY: Okay. That is another area that
17 at some point, when we comment, I want to get to, because
18 the question of figuring out how the industry is going to
19 cope with the spill and response time are the areas
20 where I think we can put some teeth into this. But go
21 ahead, I'm sorry.

22 MS. ATKINS: I just wanted to say that in this
23 oil spill working group that I am a part of, I understand
24 that the State, California Fish and Game, is revising their
25 oil spill contingency plan, but they have expressed that

1 funding is a very serious problem for them and they don't
2 know where the money is going to come from. And we have
3 established one site as a base, and very little in the way
4 of equipment has been stockpiled, and we are not, the state
5 of the art is pretty bad when it comes to sea otters and oil.

6 EXECUTIVE OFFICER DEDRICK: Mr. Chairman, the
7 authority, as you know, lies with the SIOSC, which I never
8 can remember what those initials stand for. We are working
9 very closely with them, and in addition to that, the
10 Critical Operations Curtailment Plan does not allow
11 operations unless oil cleanup equipment is available! Now
12 that isn't enough, and the point about money is a sound
13 point.

14 CHAIRMAN CORY: Well, the definition, and it
15 would seem to me that putting up front what that requirement
16 is and the kind of equipment and response time is simply
17 we ought to start laying out to the industry to be fair to
18 them because I think they are going to have to bear the
19 burden of that if they want to play. They have got to pay
20 the band.

21 And at some point as this draft goes ahead, I
22 would like that refined, because I think it is fair to the
23 industry and to everyone else that that question be
24 addressed because I think that is the area that must be
25 addressed with respect to the otter. I don't know whether

1 it is possible to look at the question of what equipment
2 must be available, but maybe even standards of response time
3 if they want to be in compliance with the lease, because
4 the response time, to me, appears to be the real critical
5 factor.

6 Mistakes may occur, and once they occur, then the
7 question is response time as to how they can probably have
8 to deal with them.

9 MS. ATKINS: Nobody has developed effective ways
10 of herding otters away from oil spills and I think that is
11 a real problem.

12 CHAIRMAN CORY: We have to worry about herding
13 the oil away from otters rather than the other.

14 MS. ATKINS: That, too. We know the problems
15 there.

16 ACTING COMMISSIONER ACKERMAN: I think probably
17 a more detailed staff discussion of state of the art of
18 equipment in the industry and governmental agencies would
19 probably be in order.

20 MS. ATKINS: Well, we would welcome the oppor-
21 tunity to give whatever help we can in discussing our
22 concerns and how we think these could be strengthened
23 within your jurisdictions.

24 ACTING COMMISSIONER ACKERMAN: Just with
25 reference to the sea otter, that isn't the only creature

1 which is impacted by the possibility of a spill.

2 MS. ATKINS: That's right.

3 ACTING COMMISSIONER ACKERMAN: So, I think to rely
4 just the sea otter would probably be a big mistake. You
5 just have to look at oil spill possibilities as a whole.

6 EXECUTIVE OFFICER DEDRICK: That is why we
7 included the operating conditions for biological little
8 critter protection and marine mammal protection, any
9 threatened or endangered species, all in the same stipula-
10 tion. It was not intended to denigrate the sea otter in
11 any way. The problem really relates to the whole biota of
12 the area, the stuff on the bottom as well as the critters
13 on the top, and so we are trying to get the whole thing in
14 one package so that there is no question that the oil
15 company has got to address that seriously.

16 But that's the reason for the stipulation being
17 phrased that way.

18 ACTING COMMISSIONER MORGAN: Ms. Atkins, I wanted
19 to ask you a question. You mentioned that some regulations
20 of the State were more strict than the Federal Government,
21 and I didn't quite catch what you were talking about.

22 MS. ATKINS: Okay. I am not very familiar with
23 the ins and outs of the regulations, but in my discussions
24 with Dwight, he said that the inspections that were required
25 on drilling rigs by the State Lands Commission were more

stringent and more frequent than on Federal leasing sites.

2 CHAIRMAN CORY: That's why our staff is never in
3 their office! They're always out inspecting.

4 MS. ATKINS: I think he said that, too.

5 CHAIRMAN CORY: Okay. Thank you very much.

6 Ruthann Corwin.

7 DR. CORWIN: Good morning. I'm Dr. Corwin and I
8 am representing Marin County, again.

9 CHAIRMAN CORY: Welcome back.

10 DR. CORWIN: Our concerns are the same, which is
11 to say the precedent that is being set in the sale of these
12 State lands, both in terms of our concerns for the Federal
13 sales that will be occurring and also the possibility that
14 should a State sanctuary, oil and gas sanctuary, be lifted
15 in the vicinity of the Marin County coast, the procedures
16 that you establish in this lease sale will affect those
17 future sales, and we are very concerned to make sure that
18 those provide the maximum protection for the natural
19 environment.

20 I was not clear. I'd like to get a little
21 further clarification on what the 25-day review period
22 that was referred to pertains to? What report was it
23 that it pertains to?

24 MR. FRANK: We are talking about the same report
25 that has been the focus of discussion today, that marine

1 biological survey. The staff has released that report to
2 all those who have expressed an interest in the EIR last
3 October, and again, just to make sure that we have com-
4 pletely canvassed all interested parties, we are taking
5 advantage of the ongoing machinery provided by the Office
6 of Planning and Research, to use their circulation method,
7 their clearing house, for an additional 25-day review that
8 would extend through, I believe, the second week in
9 December. We are talking about the same report.

10 DR. CORWIN: Can you tell me what time periods
11 would pertain to the review of the material that you
12 received here today which the public has not yet seen,
13 which presumably pulls together the comments on that
14 report and pulls together the staff concerns and response
15 to the Peer Review and so forth? What is the timing on that?

16 CHAIRMAN CORY: That will probably be -- we will
17 probably have the revised staff report back before us
18 about the 16th of December.

19 DR. CORWIN: In terms of its release to the
20 public?

21 CHAIRMAN CORY: It will be released today.

22 EXECUTIVE OFFICER DEDRICK: Today.

23 CHAIRMAN CORY: As soon as we conclude business
24 here.

25 DR. CORWIN: So, in terms of an adequate period

1 of public review, then we essentially have 17 days to
2 look at that as the decision document that you will
3 presumably be responding to. Then there won't be any --

4 CHAIRMAN CORY: I am not sure of that this is
5 the decision document.

6 ACTING COMMISSIONER MORGAN: It is a status report.

7 EXECUTIVE OFFICER DEDRICK: It is a status report.
8 It is not at all intended to be a decision document.

9 DR. CORWIN: Then perhaps I'm not clear on exactly
10 what the decision is that will be made on December 16th.

11 CHAIRMAN CORY: I don't know what the decision
12 is that will be made on December 16th. That's the purpose
13 of having another meeting then.

14 DR. CORWIN: Well, okay. Let me go on with my
15 testimony and I will put that in the context, then, of the
16 difficulties that I have had in trying to follow the
17 leasing procedure and determine at what stage various
18 decisions are being made and therefore to look at the
19 materials which you have been working on and figure out
20 where they fit into your process.

21 Since the meeting on the 23rd, I have talked to
22 Dr. Dedrick and I have talked with various other staff
23 members of the State Lands Commission, with Dr. Maurer of
24 the Peer Review Committee, and I have attempted to review
25 a number of the background documents that I could get my

1 hands on. There was quite a bit of it.

2 I have a few procedural comments that I would like
3 to enter into the record. And please stop me if I speak
4 too quickly. But these are technical points on receiving
5 this material.

6 To begin with, the public received only partial
7 information. This document that was the supplementary
8 data report that I am referring to now, which has been
9 under discussion, was mailed out at the end of October. I
10 received mine at the County on October 26th and it didn't
11 contain in it the supplementary data chart which one had to
12 then have gone through the report, spotted the fact that it
13 was missing, called Dwight specifically and asked him to
14 get it into the mail. Mine came on Veteran's Day and by
15 the time I got the thing it was the same day that the
16 comments were due in on this.

17 I then sent a telegram saying that I would get
18 my comments in a day or two later than that and I did do
19 that. And I notice that other people also felt that that
20 was far too compressed a time period to be able to respond,
21 especially not receiving complete information that should
22 have been along with the documents since it was referenced
23 in the document for us to review.

24 That was a total 17-day comment period on that
25 draft, but which shrank down to zero for some of the

1 materials.

2 In addition, I didn't receive any notification
3 regarding this meeting; although I was assured that I
4 would. Your minimum notice period, I gather, is ten days
5 for a meeting. So if it had been mailed on the 19th for
6 a meeting on the 29th, assuming that it would be in the
7 mail for two to five days, this really cuts down on the
8 notification period of individuals now. Because I was in
9 contact by telephone, I was able to be informed of this
10 meeting, but I have numerous times requested that I be on
11 the mailing list to receive everything regarding this
12 subject.

13 I also did not receive the Scientific Committee's
14 review comments and I was given to understand that you had
15 to make the decision here at this meeting, whether or not
16 to release those. This seemed a little strange to me. It's
17 all part of the public process that these should be avail-
18 able, and I was hoping to get them prior to this meeting so
19 that I could incorporate those comments, but I think you
20 have heard from Dr. Mohr what the concerns are and I can
21 speak to what he said.

22 I also didn't receive the comments of the other
23 reviewers and I will make an official request in the record
24 now for the fat packet of comments. It seemed to me, with
25 the time period that the reviewers were given to look at

1 this material, if there were indeed a fair number of these
2 comments, they received them sometimes a day or two before
3 when the Peer Review was meeting and discussing this
4 material, but this is not adequate time, either. And I
5 would agree with Dr. Mohr that there has been unseemly
6 haste in this entire process dealing with the biological
7 review in terms of those of us who are giving our time to
8 look at this, fitting it into our schedules and being able
9 to give you the best possible comments for the concerns of
10 the people of the state of California.

11 In addition, since I have gone into the process,
12 have received the other documents. I have not had time to
13 prepare written comments on a number of them. I will make
14 some comments today for the record on some of the materials
15 that you are utilizing, which I don't think have had
16 adequate public review.

17 The entire biological study, Public Comment & Peer
18 Review Procedure was immensely compressed and I think that
19 this should be taken into account in the haste with which
20 you proceed with the decision.

21 A couple of specific remarks about the long-term
22 impacts. I think Dr. Dedrick mentioned that the only
23 thing of concern was the drilling muds, but I --

24 EXECUTIVE OFFICER DEDRICK: No, let me correct
25 you. I said that is of the most concern. It is certainly

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not the only thing of concern.

DR. CORWIN: Well, I would say that there are a number of long-term concerns, not just from the drilling muds, but we have had evidence from the deposition of oil from the oil spills in sediments and the interference with the breeding success of a number of organisms of long-term damages from oil spills on the biota, and I was particularly concerned in light of what you were saying just earlier about spill response. The ability to get in there and clean up spills, I have looked at oil spills around this country and around the world and I have worked with a group at MIT, which collected data on spill response capability, on the efficiency of the equipment that is utilized, and there is nothing now that can clean up in seas that is greater -- the average that they claim is six to eight feet, and with the new Norwegian booms, they can get up to ten feet or twelve' of sea state maximum, and that means with an efficiency that decreases directly as you get into the higher wave and sea state. You are talking about lease sales which are directly on top of or in the immediate shoreline zone, so that spill response time is really not a realistic factor to consider unless you have got large boats and booms sitting right out there at those platforms at that time trying to pick this material up. That's certainly a possibility that you should consider for

mitigation, but you are talking about some expensive dedicated equipment, million-dollar boats and expensive clean-up equipment to get out there and get the stuff before it can get into the shoreline. And you are on top of the shoreline. So spill response time is certainly a critical concern and I would hope that the public will have the opportunity to review your staff report of their review of the state of the art and how it applies to this region because I for one would be very interested to see what their conclusions are and what they are going to be able to tell you about the ability to respond to these oil spills in any realistic time to prevent oil from getting into the sediments, from adhering to the rocks, covering the organisms that you were referring to earlier, the intertidal organisms and subtidal invertebrate organisms which are unusual and important to the food chain in this region.

So again, in terms of making a decision on December 16th, I would hope that in fact you would make public then the information that the staff provides to you in response to those comments. A couple of other areas, and I am referring now to Page 2-3, this is in the Finalizing Addendum of the EIR on the resumption of exploratory drilling operations by the Shell Oil Company, and this is called the Pierpont Prospect Study that was done by the State Lands Commission, and this is the one to which

you refer in your Environmental Impact Report on the discussion of drilling muds and so forth comes up. There is a summary in there that states that "Short-term impacts of a cumulative nature include increased vessel traffic, temporary decreases in air and water quality, temporary loss of fishing space, aesthetic impact, increased risk of oil spill and localized destruction of benthic organisms."

I have already pointed out, in fact, some of those are not necessarily short-term impacts. They are long term, and possibly cumulative impacts, particularly giving in terms of the question of chemical uptake in organisms of materials that are dispersed, whether it is through oil spills or through drilling muds that are deposited, toxic or stress conditions that may be exceeded for already stressed species. Now, this is particularly of concern in relation to the cumulative effects of the Federal Lease Sale. And the concern there is that we haven't had any analysis to say whether or not there are any species that might be pushed over the borderline, particularly some of these rare species, the endemic species and the new species that we have really not even had a location given for. We've just had an indication that they have been found in that area.

The increased risk of accidents, the permanent effect possibly, certainly in terms of the human spirit of

1 the change of Point Conception from the American Indian
2 perspective. Those are all long-term effects, and they are
3 in the latter case probably not mitigatable there unless
4 there is a way found to avoid any kind of aesthetic impact
5 on that development as well.

6 So these are statements that are in a document to
7 which you refer which I have questions which I am entering
8 into the record which there is evidence that contradicts
9 the statement that these are only short-term impacts, and
10 which I think that you have to pay increased concern.

11 CHAIRMAN CORY: What do you call short term and
12 long term?

13 DR. CORWIN: Well, to give you an example, a
14 short-term impact might be something that disappears in a
15 month or perhaps a year, but a longer-term impact might be
16 five to ten years or you might think of a generation, a
17 lifetime of a human being. When you have platforms, for
18 example, in an area, you are talking about a 20- to 40-year
19 field development lifetime, so in terms of the aesthetic
20 impact, I would say that would have to be considered a
21 long-term impact. It's going to be there for most of the
22 enjoyment of the seashore that people will be expecting to
23 have over their lifetimes. A 20- to 40-year period is a
24 pretty long-term effect. In terms of oil spills damages,
25 we now have studies from spills that have occurred elsewhere

1 in the country showing effects up to ten years and more.

2 The spill that occurred in San Francisco Bay,
3 which affected Duxberry Reef, the striped crab out there
4 has not yet returned and may never return to the numbers it
5 was in prior to that spill. That has been over ten years
6 and that is an example, I think of a serious long-term
7 effect to the marine biota, Duxberry Reef, from that spill.
8 And these are things that you will not see in the oil
9 company reports. These are things which tend to get over-
10 looked also in the Environmental Impact Report, and you
11 have to ask Dr. Gordan Chan directly what the story has
12 been since that spill occurred, and you will find out what
13 the long-term effects are.

14 Let me turn briefly to the schedule and raise
15 this question that I began with. It was clear to me that
16 the staff made a fundamental error in not pursuing more
17 information on the biological resources of this environment
18 earlier in the planning schedule. Now, I was relying on
19 the figures for what was called the Point Conception
20 Energy Project that was in the report submitted to the
21 Legislature in December of 1981 and the Supplemental Report
22 of May of 1982. And there is some strange gaps in the
23 schedule, and I think Dr. Dedrick tried to explain earlier
24 that the process was changed this summer. Well, I have not
25 seen any documentation indicating what the actual schedule

70

1 is and what the time table of when the sale was to occur.
2 If you look, there is an extremely simple sort
3 of vague kind of schedule. There was an earlier schedule
4 which showed that these studies began back in 1981 and were
5 to be completed by December of '83. And this included the
6 Site Specific Hazard Cultural Survey and the exploratory
7 EIR and so forth, the specific site studies.

8 At that time it said 1985 you would then make
9 the sale decision. There is a gap period there when I
10 wondered what exactly the specific stages of the decision
11 process were. There is no point on this chart that says
12 sale at this point. Now, from what I am hearing you say,
13 you are talking about holding the sale or possibly making
14 a decision to go ahead and accept bids. I take it you
15 are not scheduling that for December 16th, then, but that
16 is an option that you are leaving open to yourselves?

17 That is a question regarding December 16th.

18 EXECUTIVE OFFICER DEDRICK: Ruthann, I think you
19 have a fundamental misunderstanding of the process.

20 CHAIRMAN CORY: No.

21 DR. CORWIN: Well, I think I have been following
22 leasing processes for a number of years. When you put a
23 point on a chart and you say "sale," that is the point at
24 which a specific area is offered to the company and bids
25 then are received.

1
2 CHAIRMAN CORY: No.

3 EXECUTIVE OFFICER DEDRICK: No.

4 CHAIRMAN CORY: The sale is when you conclude the
5 deal. You don't have a sale until you have entered into
a contract.

6 DR. CORWIN: When you have accepted the bid, you
7 call that the sale?

8 CHAIRMAN CORY: I think that's the sale.

9 DR. CORWIN: Then what do you call the decision
10 to then go ahead and offer a specific area?

11 CHAIRMAN CORY: I don't call it anything.

12 DR. CORWIN: Well, I think in a public process
13 where individuals are trying to follow and to say what the
14 stages are of the procedure, to look at the studies that
15 you are doing and assign them to specific decision points,
16 which is what open government is about, it makes it very
17 difficult if you do not specify what the stages of the
18 decision processes are and when each of these things is
19 supposed to be prepared for them.

20 Now, I was making the assumption that at this
21 point receiving a program EIR you would then indicate
22 specific areas and these areas would be the areas where
23 the site specific studies would be done. I am very sorry
24 to hear that you have decided to give that over to the oil
25 companies and say that all that work would not be done by

1 the State in the sense that Glaire was saying earlier you
2 said that you would have control of those studies by the
3 State Lands Commission but these would be funded by the
4 oil companies.

5 I have looked at a number of the proposed sale
6 studies that have been done by the oil companies on Sale
7 Number 53. These were biological surveys. They do not direct
8 themselves specifically to the question. It was very
9 difficult to decide from them what the decisions were that
10 you could make to mitigate the circumstances that were
11 turned up.

12 There were new organisms turned up. There were
13 interesting and unusual habitats. Since it was post-sale,
14 there was very little you could do. The State does not
15 want to put itself in the position of having to buy back
16 leases. Once they have been leased, if you find out new
17 and interesting information from post-sale studies, it is
18 far better to do that work in the pre-sale stage. And it
19 seems to me that there is an avoidance of a clear specific
20 sale process and the stages, based upon looking at these
21 various schedules that have been made public and the
22 statements that the Commission has made to the public about
23 what decisions will be made when.

24 The staff is confused. I have gotten very
25 different stories talking to the staff about what kinds of

1 decisions would actually be made when. And I think that's
2 something that I hope you will clear up today for us.

3 I was prepared today to point out to you that I
4 didn't feel you are ready to do an adequate job for the
5 entire site in terms of programmatic decisions which need to
6 be made. I requested, called up this morning and asked
7 whether or not you were going to have a bulletin board.
8 Dwight said he thought there was some kind of a chart up
9 here, some kind of board, but I am going to put this up on
10 the wall anyway and talk to it very, very briefly.

11 (Thereupon the aforementioned chart was put on
12 the wall.)

13 DR. CORWIN: Well, I can't point too directly,
14 but I will do my best.

15 Okay. The line along the top shows the 20-year
16 period over which the sale was considered and the letters
17 that are in circles, starting with A at the year zero, and
18 going on are the two scenarios that were considered in the
19 draft EIR.

20 EXECUTIVE OFFICER DEDRICK: Excuse me, for the
21 record, you are referring to the draft EIR.

22 DR. CORWIN: Yes. The leasing schedule, the two-
23 scenario schedule that is in the EIR. There was a distinction
24 between a high end and a medium end but I will ignore
25 that for these points.

Now, what I have put on the chart are a rough sketch of what I believe are the leasing blocks 1 through 8. The circles and the red letters are the centers of the hypothetical prospect areas which were analyzed in the Environmental Impact Report. One of the problems and one of the things that people have been saying here today is that we have never had any maps that pull all this information together and allow you, the Commission, to look at these areas and to look at what has been learned about these areas, look at what the knowledge, the state of the knowledge is on these areas, and ask the questions, which areas are advised to go ahead and release now, given the information that we have?

I notice that in area A which you have first on both scenarios on there, is the one in which -- I have to leave this to point.

ASSISTANT EXECUTIVE OFFICER TROUT: Hold your breath for a moment and I think I can give you some more wire.

CHAIRMAN CORY: With all these engineers in here, a non-engineer is going to handle the technical problem.

(Laughter)

DR. CORWIN: I think you have got it.

Okay. This is the area here which is of high interest and has a potential for a fair amount of oil return

1 on it, but the biological surveys, these little red xs
2 here and here, just in the near-shore area, almost nothing
3 covering this tract A area, it's in an area that slopes off
4 very suddenly out here to depths of 459 feet at the base of
5 this tract, and the biological studies didn't go out beyond
6 200 feet.

7 Now, somewhere in this area, I presume the six
8 new species were found. We were not given the specific
9 locations of these new species but I would not be surprised
10 if there were not other new species to be found.

11 These are also area locations of endemic species,
12 the high commercial abalone species value is in this area,
13 the unusual abalone species were found, these are the rocky
14 areas and so forth. We don't have enough data to have A
15 up here at the beginning of your schedule. A should be
16 moved back farther and the areas where you feel you have
17 less environmental concern, perhaps should be moved up
18 forward in that schedule.

19 I think Dr. Mohr made a very clear point when he
20 said you only have the ability at this stage to make some
21 very vague distinctions between these areas in terms of
22 the type of decision that you are supposed to be making
23 when you are making a programmatic decision, and you are
24 laying out that this is a program option and this is a
25 program option and you are trying to compare these two

options and ask which of them then would lessen the damage to the environment and would provide the income and revenue to the State and would give the State the greatest benefit for the costs that are likely to be incurred?

This is the kind of thing that people are talking about when they are saying they need better maps and they want to understand what is actually going on out in that area.

Now, my second one.

(Thereupon another map was placed on the wall.)

DR. CORWIN: Okay. This illustrates about what you know now from the biological survey that came in. It doesn't pull together a lot of the other information that is in the EIR and in the report that should be taken into consideration, but it seems pretty clear that an awful lot of your interesting and important species, your important species from a commercial perspective, in terms of the unusual features that were found in this area, organisms that have not been found, for example, *corymorphā bigelowi* which is a hydra that has never been found in a form that it was found in this area before down in this sort of rocky reef area here. This area is considered to be soft, sandy, silty bottom area. There is a very high density of organisms here which we would be concerned about in terms of what the drilling mud impact might do to that area. And

again, up in the northern part, you have got rocks, you have got marine bird colonies up there, you have the harbor seals, as you have down here in the Point Conception area, and so forth. So you can begin to make a picture for yourself of what the sensitivities, the various sensitivities, are of the different tracts, of the hypothetical lease sales, the circles that are on the map, and then make your schedule of which of them you will offer when, based upon when these various forms of information may come in.

That, to me, is a programmatic type of decision and the sort of thing I was expecting to see in the Environmental Impact Report or in the Finalizing Addendum to it. I will now be looking at the staff report, the one that came to you today, and that may be revised and again come to you on December 16th to see whether this kind of analysis has even begun.

The concern that we have is that this analysis does not take into account what you have heard, which is the distribution of materials on the sea floor, the distribution of oil spills, because you don't have the current data yet, the impacts, the interactions with the sea otters, the effects on the grey whale migration and the interference with marine productivity in the fisheries. Those four areas, in particular, if you had begun environmental studies at the same time as you began the geophysical studies and

1 the cultural resource studies, you would have this data
2 and you would be able to make good programmatic decisions
3 along those lines. But you do not yet have them, and on
4 that ground I would say that your Environmental Impact
5 Report is inadequate.

6 I would also point out to you that you have not
7 discussed alternatives in terms of the value of the renew-
8 able resources to this region. For example, I went through
9 just a few things in the literature and I came out with
10 pharmaceuticals for marine organisms and agricultural
11 chemicals for marine organisms. These are things like
12 anti-inflammatory agents, biocides, insecticides, things
13 that interfere with insect growth. They come from red
14 algae. They come from sponges. They come from soft corals,
15 brown algae and a number of other species that are found in
16 this region. There is a value to that to the State. There
17 is a growing industry in this State that is trying to take
18 advantage of these marine resources, and this being an
19 extremely interesting area genetically and evolutionarily.
20 It is almost a laboratory for that kind of research,
21 research which the Japanese have been doing for hundreds of
22 years which we have just barely begun doing on our species
23 here. So there is a cost benefit to be considered in terms
24 of the total impact only going for hydrocarbon resources
25 from this area rather than considering the value of other

resources." Certainly the value of the commercial abalone
and the value of the halibut trawling grounds which is up
in blocks 7 and 8 in the north end of this leasing area,
at a minimum comparison of what the impacts of the develop-
ment might be on those areas versus the benefits of oil is
something that the State should consider.

To summarize, and I haven't even talked much
about the cumulative impact, the effects from the Federal
sales, I didn't draw all the tracts on here, but they are
right immediately adjacent to the red lines, and the large
finds are out there, you are talking about adding another
182 wells.

Even if you have a mitigation measure that
requires --

CHAIRMAN CORY: What?

ACTING COMMISSIONER ACKERMAN: What?

DR. CORWIN: From the Environmental Impact Report,
the maximum development in this area, you have talked about
25 exploratory wells and 110 production wells and 47 waste
disposal wells. Every time you drill a well you have got
cuttings and you have drilling muds to be disposed of.
Even if the muds are barged ashore, when the cuttings are
sifted out and dropped, they still retain usually about
20 percent of the mud on them, and these muds, as Dr. Mohr
testified, have all kinds of things in them which are

1 harmful to the marine organisms. So that unless you have a
2 stipulation requiring everything that is brought up, and
3 that's tons and tons of material of cuttings, that would
4 be disposed of on land, then you are bound to have effects
5 from this many wells on the organisms in those regions. So
6 you are going to have some kind of interference with the
7 productivity and a potential for damage to the unusual
8 marine organisms, particularly in the area around the
9 two rocky points, around Point Conception and Point
10 Arguello. The damage to the areas in the sandy bottom
11 may be slightly mitigated by that fact of the turnover and
12 the change in that area, but then we have to ask the
13 question about the uptake of cumulative effects of metals,
14 heavy metals, and other materials that may be in those
15 drilling muds.

16 Michele Perrault was correct, there is a National
17 Academy of Science study ongoing that has run into enough
18 problems trying to deal with this issue that they originally
19 were going to come out in December and they are now
20 talking about coming out with their findings next year.
21 And it would certainly be in the State's interest and in
22 the interest of the people of the State who are concerned
23 to take a look at those findings and see how they apply in
24 terms of the effects of drilling muds to this area before
25 we go ahead and choose specific areas which you are going

1 to lease.

2 I had just a quick comment on the issue of the
3 value of speeding up this lease sale. It doesn't seem to
4 me that if you were deciding next December 16th to actually
5 offer specific areas for lease, that you will have answered
6 the questions that we have raised. Your own documentation
7 points out that the value of the hydrocarbon resources will
8 go up over time. Now, I know it takes a few years to bring
9 things on line, but you will get some immediate value now,
10 but because of the debate that we have had on the Federal
11 Lease Sales over whether or not the glut on the oil market
12 is depressing the prices at this time, I wonder whether it
13 is even wise from the economic perspective to throw
14 additional leases on the market and thus add to this
15 situation for the oil companies which may then depress the
16 bidding prices.

17 Time would allow for better consideration of the
18 alternatives for development and for meeting the State's
19 goals through alternative means. It would allow for a
20 better definition of the State's resources and a setting of
21 the value of specific parcels for the sale area.

22 Your staff asked for more time on September 23rd
23 just to define the hydrocarbon resources down in the Point
24 Conception region. And it would seem to me reasonable to
25 take the same time to also look at the biological resources

in the areas that haven't been studied and answer some of these questions about biological resources and the cumulative impact.

I would suggest that the certification of the EIR be suspended today and that you finish the biological supplement and come out with a final report on that document, that you complete the other studies that have been recommended and come out with a complete program EIR and then recertify the EIR. You would then set a leasing schedule by the prospect area and then choose and do your site specific EIRs. That would be a leasing process that would respond to the public's concerns, I think, and would make us feel that the State is doing the kind of job which we can hold up as a model for the Federal Government.

CHAIRMAN CORY: Any questions?

Thank you very much.

Is there anybody else that wishes to comment from the audience?

Any comments from Commissioners?

ACTING COMMISSIONER MORGAN: No.

ACTING COMMISSIONER ACKERMAN: No.

CHAIRMAN CORY: In terms of reviewing the staff report, the question I mentioned earlier, both the spill containment and if somebody finds oil and develops oil, some reference to what our options are in terms of getting

1 that to market and whence to market, because that seems to
2 me the impact on the question of the amount, location and
3 response time of spill containment.

4 We are going to be shipping it out by pipeline.
5 There is another draft in there which I had asked somebody
6 to take a look at, the question of force majeure and make
7 sure that that language has not been expended to what I
8 would consider the overutilization of force majeure because
9 the price went up and you don't want to change it, but we
10 ought to just at least make sure what we are doing on that
11 section.

12 And the question of the boundaries of the tracts.
13 I guess the comparison of Exhibit 2 and 3 --

14 EXECUTIVE OFFICER DEDRICK: Correct.

15 CHAIRMAN CORY: -- that's one I in my own mind
16 am not sure where I am on that one. And so, to the extent
17 between now and the decision date, whenever we get around
18 to that, the recommendations in 3 are to conform the outer
19 boundaries to the outer boundaries of the Federal Lease.

20 EXECUTIVE OFFICER DEDRICK: As far as it can
21 reasonably be done, yes.

22 CHAIRMAN CORY: Any other reason for that is
23 unitization?

24 EXECUTIVE OFFICER DEDRICK: Well, it's to reduce
25 the kind of property argument that one gets, yes, when

1 unitization is necessary.

2 CHAIRMAN CORY: I guess what I am troubled about
3 is how that relates to the onshore as opposed to the off-
4 shore and there may be a reason to only correlate them to
5 the offshore, but at some point I am looking at if you
6 guys can explain to me why you did it that way rather than
7 the other. You have got the same problems with multiplicity
8 of ownerships onshore, and we have just said that maybe the
9 end is so large that you can't conform, so to hell with it,
10 but I would just like to know why we are doing that.

11 And those are the general areas that I would like
12 to see answered. I may have missed the part or misun-
13 derstood it, so if the staff can come over, those are the
14 areas that I have concerns about. But I would think that
15 the staff report of the current status should be released
16 to the public and I presume that's what the other
17 Commissioners wish as well?

18 ACTING COMMISSIONER MORGAN: That's fine.

19 ACTING COMMISSIONER ACKERMAN: Yes.

20 EXECUTIVE OFFICER DEDRICK: Thank you.

21 CHAIRMAN CORY: Okay. And our next meeting is
22 scheduled for when, the 16th?

23 EXECUTIVE OFFICER DEDRICK: The next scheduled
24 meeting is the 16th.

25 CHAIRMAN CORY: Okay. If you can get that back

1 on the agenda?

2 EXECUTIVE OFFICER DEDRICK: I will calendar it.

3 CHAIRMAN CORY: Yes, if it can be, so we can
4 keep updating our process.

5 Any other items to come before us?

6 ACTING COMMISSIONER ACKERMAN: None.

7 ACTING COMMISSIONER MORGAN: No.

8 CHAIRMAN CORY: Okay. We stand adjourned.

9 (Thereupon the November 29th meeting of the
10 State Lands Commission was adjourned at 11:55

11 A.M.)

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CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

3 I, RONALD J. PETERS, a Certified Shorthand
4 Reporter of the State of California, certify:

That I am a disinterested person herein, that
the foregoing Public Hearing of the State Lands Commission
was reported in shorthand by me, Ronald J. Peters, and
thereafter transcribed into typewriting.

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

12 IN WITNESS WHEREOF, I have hereunto set my
13 hand this 2nd day of December, 1982.

Ronald J. Peters
RONALD J. (PETERS
Certified Shorthand Reporter

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