STATE LANDS COMMISSION

TRANSCRIPTS

JANUARY 3, 1991

AND

FEBRUARY 6, 1991
MEMBERS PRESENT

Leo McCarthy, Lieutenant Governor, Chair
Gray Davis, Controller, Member
James Dwight, representing the Department of Finance

Staff Present and Participating:
Charles Warren, Executive Officer
James Trout, Assistant Executive Officer
Jack E. Rump, Assistant Chief Counsel
Jan Stevens, Deputy Attorney General
Lance Kiley
Dwight Sanders
Kita Bartoloni
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CHAIRMAN MC CARTHY: Good afternoon, ladies and gentlemen. Welcome to the meeting of the State Lands Commission.

To my left is Commissioner Dwight representing the Department of Finance. Commissioner Gray Davis will be joining us very shortly. My name is Leo McCarthy.

Without objection, we'll confirm the reading of the minutes of the meeting of December 12th.

I'd like to proceed to the first item on the calendar. Mr. Charles Warren, would you proceed?

EXECUTIVE OFFICER WARREN: Mr. Chairman, members, Item 1 on the calendar today is the consideration by the Commission of a proposal to the Legislature for legislation which would establish a California Rivers Riparian Parkway program within the State Lands Commission.

We have -- I am joined in presenting this calendar item by Dwight Sanders, who is the Chief of our Resources -- Environmental and Resource Planning Division. He is joined by Kata Barcelona, who is Project Director for the State Lands Commission's River Program, who has been the instrument by which this and other calendar items before
you has been developed and presented to you.

You have also before you a number of folks who are appearing here today to support the program. I believe their names have already been submitted to you. We also have a number of folks who have signed up on attendance sheets to speak on Item 1, all of whom appear to be in favor.

And essentially, what staff is proposing to the Commission is its intentions to have introduced legislation which would establish the program of a statewide California Rivers Riparian Parkway program.

Copies of the legislation are in your folder following the legislation itself, and I know is of considerable interest to the Commission, is a list of the projects which staff have identified within the State and which indicate local interest in river parkway programs. Those project descriptions are typified on the map, which we have as an exhibit, to your right, the California River Parkway efforts. There are almost 30 such efforts that we have identified to date. There will certainly be more as this legislation progresses, and particularly if it is enacted.

We've also appended to the presentation a five-page summary of what we have identified as potential funding sources. I know this is a matter of considerable
interest. Those funding sources involve existing State and Federal programs. There are potential programs which we know to be under consideration by individual legislators who have heard about the effort and who have, on their own -- who are on their own seeking opportunities to assist in funding.

But we are not proposing to be involved in any of those efforts today. We are only presenting to you the program itself.

I would, before turning to Mr. Sanders and Ms. Bartoloni for an explanation of the bill, I would like to give you just a little of the history of its development, if I could.

As you recall, early in 1989, we had an opportunity to enter into a boundary line agreement with a major developer on the Yolo side of the Sacramento River in the City of West Sacramento. The development project involved was the Lighthouse Marina project. There was some question as to the location of the State boundary line, high water line historically located on the river.

In the course of those negotiations, we arrived at an agreement with the upland landowner whereby the State of California would receive littoral corridor of the project for a distance of approximately one mile opposite the City of Sacramento.
We also received, as part of the boundary line agreement, title to 124 additional acres upland of the project site, upriver from the project site; 24 to 25 acres of which are on the water side of the levee and all such acres riparian; the remaining acres on the landward side of the levee and proximal, if not adjacent, to an existing county park.

We also received agreement for the complete revegetation of the one-mile strip of littoral corridor along the river, plus $200,000 in mitigation money.

This agreement is before you as Item 2.

Now, based -- anticipating the acquisition of those assets, it occurred to us that perhaps they could be best be used to create a Sacramento River Parkway program.

We contacted other State agencies. We contacted the Counties of Sacramento and Yolo, and the Cities of Sacramento and West Sacramento. All were very encouraging and all were very forthcoming and cooperative.

A memorandum of understanding between the State Lands Commission and those governments was created and is Item 3 on your calendar today for your approval.

With the experience of the settlement behind us and the Sacramento River riparian MOU behind us, staff saw an opportunity to apply similar practices and procedures in other areas of the State. And in exploring
that potential, we are presenting you today with this legislative proposal.

And I think, with your permission, I would like to turn to Mr. Sanders and Mrs. Bartoloni for details of the program that we are submitting. Mr. Sanders.

MR. SANDERS: Thank you, Warren.

Mr. Chairman --

CHAIRMAN MC CARthy: Mr. Sanders.

MR. SANDERS: -- members. The program that you have before you provides a process, a program within the State Lands Commission, a collaborative process between the State and local jurisdictions to encourage the planning and implementation of riparian parkway plans.

The legislation, as proposed, recognizes the management needs of waterways to include such uses as recreation, environmental protection, commercial development, and flood control. It is a broad-based proposal that provides planning and implementation monies via grants to local jurisdictions for the establishment of river riparian parkways similar to those that Mr. Warren described as illustrated by the map, and also the Sacramento River Riparian Parkway.

These riparian parkways, as envisioned, would provide for the preservation, protection, and restoration, of riparian habitat and would provide recreational and
access opportunities to the public.

As I indicated, it provides a process, a defined process, for cooperation with local and State jurisdictions for applications for the planning and administering grants to the Commission for its review and approval.

The Commission would lend its technical expertise to the development of such plans as well as investigate ways of mending or melding together the various assets that the State Lands Commission controls as compared to those controlled by the local jurisdictions, so that we can come up with a composite parkway plan.

As indicated by Mr. Warren, it creates a fund from which these grant monies would come -- the Natural Resources Restoration and Development Fund, which would be a repository for some of the existing State and Federal program monies we feel are available and for other monies as designated by the Legislature.

I think an important point to make here is the program will proceed so long as funds are available, but it can proceed even if funds do not become available to the extent that we envision. The Sacramento River Riparian Parkway effort I think is a dramatic illustration of what can be done with existing resources and a collaborative
effort between the local jurisdictions and the State.

With that as a brief overview, I know there are
a number of people here who wish to address the Commission
on this matter. And Kata and I will, of course, be
available to answer questions or provide comments as that
testimony proceeds, Mr. Chairman.

CHAIRMAN MC CARthy: Thank you. Do we have
any other staff who wish to comment on this?

EXECUTIVE OFFICER WARREN: No. We can hear the
witnesses now, Mr. Chairman.

CHAIRMAN MC CARthy: All right. Now, I have
listed a number of witnesses; some in support, and one or
two who -- not on this one. I guess there's nobody who's
on it. I have Mr. Michael Paparian of the Sierra Club.
Mr. Paparian, would you step forward, please? And then
Mr. Corey Brown of the Planning and Conservation League.

MR. PAPARIAN: Thank you.

CHAIRMAN MC CARthy: Gentlemen, happy New Year.
Welcome. Mr. Paparian, why don't we start with you.

MR. PAPARIAN: I'm Mike Paparian, Sierra Club
California, State Director.

We're pleased to express our strong support
for the proposals in this California Rivers Riparian
Parkway Act. We're particularly pleased that the State
Lands Commission is considering using its authority over
riparian lands for such a creative and proactive program.

We haven't had sufficient time to really fully consider what kind of helpful suggestions we might offer. I have a couple of initial comments, and I'm sure I'll be working with your staff to flesh out any additional comments we might have.

The first comment, and it's rather an obvious one, we should hope that a more specific funding source could be found for the valuable program in the proposal. Problems could definitely arise among both natural allies and enemies of the proposal if, as presently seems to be the case, the idea is for the program to compete with a number of existing revenue sources, such as the Environmental License Plate Fund or Prop 99 monies.

There's no sense in having this otherwise very worthy idea be bogged down by battles over funding if some creative ways can be found to deal with the funding issue.

The second comment that I have is that we would encourage a regional approach to the riparian parkway planning. Obviously rivers do not neatly follow political boundaries. The habitat conservation values of these plans will be greatly enhanced by specifically encouraging local governments to form joint powers authorities in order to minimize the creation of scattered islands of.
preserved areas.

The legislation should also specifically encourage the incorporation of riparian areas planning into the rest of a jurisdiction's land use planning, perhaps amendment to their general plans and so forth.

The Sierra Club's committed to working towards a more regionalized focus for land use and resource planning, which has traditionally been the exclusive province of cities and counties. One of the more deleterious consequences of the traditional fragmented approach to planning has been that the preservation of recreational areas and ecologically significant resources have often been ignored because no single jurisdiction believes that it is their responsibility to provide long-term protection for these areas.

We believe that these riparian area plans will provide an opportunity for regions to add an important dimension to their long-term land use and growth management planning.

As I mentioned, we're committed to working with the Commission, with the staff, and the eventual legislative author of this proposal to assure passage of a proposal and putting something on the Governor's desk during the 1993 session.

I'm looking forward to working with you and with
the others in support of the bill.

CHAIRMAN MC CARTHY: Good. Thank you. Mr. Brown.

MR. BROWN: Thank you, Mr. Chairman, members of the State Land Commission. I'm Corey Brown. I'm General Counsel with the Planning and Conservation League.

We're a coalition of approximately 120 conservation groups throughout California. I first want to congratulate the State Lands Commission for the tremendous leadership you've been providing during the last few years on environmental issues.

I had the good fortune to work on the oil spill last year, which largely emanated from your work. And your work made a tremendous difference in terms of protecting our coastline. We're very glad to see that same energy being channelled to protect riparian areas.

Riparian habitat is certainly one of the most important types of wildlife habitat remaining in California. Many species depend upon it, and whenever we have that land and water interface, there's a variety of different species that benefit.

Unfortunately, in California, we've lost more than 90 percent of our riparian habitat. The problem is extremely acute today, and that's why we're very happy to see your resources and the talent of the State Lands
Commission focused on this very important issue.

In 1984, there was a very important work --
The California Riparian Systems. Rick Warner was the editor of it. They found the central valley historically had about 921,006 acres of riparian habitat. Today, only about 102,000 acres remain.

In the report on "Sliding Towards Extinction,"
the Senate Natural Resources Committee concluded that less than one percent of the central valley's riparian vegetation is in natural high quality condition.

Today, there are many threats to the remaining habitat, and there are tremendous opportunities to preserve that habitat as well as provide our growing communities with a wonderful educational -- a wonderful educational as well as recreational resource through the parkway proposals.

But the losses of habitat I think are manifesting in many very significant ways that underscore the importance of this type of program. Again, the Senate Natural Resources Committee, when they looked at wildlife, what's been happening to California's wildlife, they concluded that one-third of our mammals, a quarter of our birds, a third of our reptiles, and 40 percent of the freshwater species in California are all imperiled if current trends continue, and that human activity is the
number one threat to wildlife through loss of wildlife habitat.

Especially as our central valley and interior parts of California -- the foothills and other areas -- grow so quickly, there's wonderful opportunities, yet a limited time, to preserve many of the riparian areas that we have left. That's why this program is very timely.

I'd like to commend staff for an excellent approach in terms of putting together the parkways program. Certainly, in Sacramento, the American River Parkway has been a tremendous local resource.

When I grew up in Southern California, in Los Angeles, the beaches where we used to go during our summer days. And I find that, in Sacramento, it certainly is the river parkway that provides that similar type of resource. It's definitely a pillar of community pride and very important wildlife habitat protection.

When I first came to Sacramento, I was amazed that you could ride about 10 minutes by bicycle from the Capitol Building and see herons, you can see river otters, beavers, fisheries, all kinds of other birds. You can see people bicycling, hiking, family picnics, and a variety of other resources.

We really see a real value in the river parkway bill in fostering those type of community resources and
long-range vision in many -- many other areas.

In some areas, a parkway may not be the best approach, as we have in the upper Sacramento River, where there's some issues that have made people realize that a wildlife refuge may be important, but there certainly is tremendous potential in many areas of the State where the parkway is the proper approach. And the type of flexible program you have here certainly provides a very good way of fostering those type of programs.

The overall approach we think is a good approach, especially in fostering good local planning efforts like we saw in Sacramento, like we're seeing on the San Joaquin River as well.

One of the most important provisions in the proposal is requiring the plans to be part of the local general plan to ensure that the planning process has a long-term stability.

We applaud you for including the general plan provisions in this particular proposal. We also applaud you for including the community conservation corps. It's an excellent way of providing youth with work. It's also an excellent way of building additional community support for these projects, and it will enhance the bill as it moves through the process as well.

We believe that the sections requiring
coordination with other agencies are very helpful, and we hope to work with you more on those.

And there's some additional specific comments we'll be offering. Overall, we want to commend you for your leadership on focusing on protection of riparian areas. We look forward to working with you on this proposal and in providing additional communities, like Sacramento has, with a wonderful resource of a river parkway.

Thank you.

CHAIRMAN MC CARTHY: Thank you very much, Mr. Brown. Any questions? Thank you.

COMMISSIONER DAVIS: If I could just comment. I wanted to acknowledge Corey's efforts last year during our merry-go-round experience -- roller coaster experience on the Keene-Lempert bill, and commend you for your steadfast support through good times and bad.

CHAIRMAN MC CARTHY: And he just commended you just before you came in.

COMMISSIONER DAVIS: Well, we should just adjourn and go home. It can't get any better than that.

MR. BROWN: As Mr. McCarthy was saying, one of the things that we're very excited about is the State Lands Commission involvement in this issue. Certainly, the oil spill issue was the major issue last year. The
work that you folks did was certainly essential to the progress that was made, and it's great seeing that type of talent and those resources, and the foresight being brought to bear on an important issue like preservation of riparian habitat.

So, thank you, as well. We look forward to keeping working with you.

COMMISSIONER DAVIS: Thank you.

CHAIRMAN MC CARTHY: Coke Hallowell of the San Joaquin River, Parkway and Conservation Trust. Hi. And Patty Hobbs -- no, no, I'm sorry. Lydia Miller, San Joaquin Raptors Wildlife Rescue Center.

Is she here? Lydia Miller here? Lydia Miller in the audience? All right. Why don't you please go ahead.

MS. HALLOWELL: All right. Thank you very much for allowing me to be here today. I'm very enthusiastic about your legislation. I see so many familiar faces. I've seen you either on or in the environs of the San Joaquin River, and we appreciate the State interest, the State Lands' interest in our efforts.

I'm here today, because Dave Kaylor has some very pressing commitments at home, and I was very pleased to take his place.

As you may know, we launched our efforts to
protect and enhance the environs of the San Joaquin River in 1988. Through strong support of Assemblyman Costa and other individuals from Federal, State, and local agencies, we have made a tremendous start. I'm very proud of what we've done.

But we really have a long way to go. And we plan a 22 mile trail, and various nodes of parks along the San Joaquin River, and some of that is already on the Planning Board. And hopefully, within a year, a year and a half, we will have a trail to show you, a loop, near Woodward Park, which is a city park. And this loop will go to the river and up onto some county property. And it looks very hopeful for that.

The dwindling riparian habitat in the State has already been alluded to, and I know that you probably know far more than I do about that. But along our river, we still have towering forests of oaks, and sycamores, and alders. We have beautiful bird habitat stringing up and down the river, the particular parkway area that I'm referring to.

Maybe some of you have seen the deer and heard the beaver slaps when you've canoed on the river. I have, and it's a memorable experience. And in Fresno, we have an effort to get people on canoes and to get them on the nature trails to become acquainted with our river, because
a lot of people say, "Is that river really worth saving? Is there something out there?" And so it's just a matter of a lot of education, too, in the community, because as Fresno goes north, it is on the fringe of the city.

The goals set forward in the California Riparian Act are very applaudable, will help efforts all over the State in communities, such as ours, who care about the rivers. We look forward to the legislation winging its way through the process, because its benefits will be for all the citizens of the State. And I'm very excited, and I share that with you I know.

Thank you.

CHAIRMAN MC CARTHY: Thank you very much.

MS. HALLOWELL: I have some brochures on our parkway. Should I pass them to --

CHAIRMAN MC CARTHY: Why don't you leave them.

MS. HALLOWELL: Thank you very much.


MS. STRONG: Thank you. Thank you for the opportunity to address you today. I represent the City of Visalia and the project along the St. John's River Parkway. The St. John's is part of the Kawea River Delta system found in Tulare County.
This project has been active for the last two years. It has been in the planning stages for 10 years. We have completed 2.5 miles of the proposed seven miles that are running along the northern boundary of the City of Visalia.

This project has taken a maximum coordination of six Federal, State, and local agencies. Your proposed legislation would dramatically -- and I cannot stress how dramatic that is -- help local communities like ours to facilitate the coordination of all these government agencies. I lived in hotels up here for a number of months getting everybody to talk to each other. We need some help in that kind of thing. And this would help people do that.

It would allow people to spend time doing what they're best at -- working within the communities and protecting the resources in their communities.

Our project could some day reach 21 miles along the Kawea River Delta and protect the valley oak riparian woodland that is found down there. With this proposed legislation, it would enable many other communities, besides the City of Visalia, to do that.

We applaud you for recognizing the need for this type of a program, and I encourage very much in carrying forward with your efforts.
CHAIRMAN MC CARTHY: Thank you. Have you given us that statement in a letter in writing?

MS. STRONG: I can.

CHAIRMAN MC CARTHY: All right. Thank you.

Any questions? Thank you.

Mr. Mel Dodgen of the Pacific Coast Federation of Fishermen's Associations.

Mr. Dodgen.

MR. DODGEN: My name is Mel Dodgen. I'm representing the PCFFA, or Pacific Coast Federation of Fishermen's Associations. Zeke sends his hello and Happy New Year to everyone. So, I'm covering for him today.

PCFFA feels that this is a good piece of legislation. I personally have a little experience. I worked on the 1086 program on the upper Sacramento. I know what that's taken. And they are now doing the riparian habitat study for that.

I live along the American River. I see what's happened there with the parkway, and everything it's at. And I've been in California almost all of my life, and I can name some small communities where, if this goes through, it will help them to preserve some of the riparian habitat that's going to be lost because they do not have the wherewithal to take care of these things.
And I do commend you on this. We know PCFFA worked with you on the oil spill and everything like this. And the one thing I would say about this is I hope the rest of our rivers do not wind up like the Los Angeles River. Thank you.

CHAIRMAN MC CARTHY: Thank you very much.

Mr. John Newbold. He's the Director of the Mokelumne River Alliance. Welcome. Good afternoon.

MR. NEWBOLD: My name is John Newbold. And the Mokelumne River Alliance is a group that just recently was formed in the City of Lodi, and we encompass members from San Joaquin County and other members from foothill communities and surrounding.

And we week the long-term preservation, enhancement, and restoration of the Mokelumne River and its bordering habitat for the present and future benefit of wildlife, fisheries, and citizens of the area. And two of our goals, one of which is the preservation and restoration of natural habitat along the river, and our second goal is to ensure and promote public access to the river consistent with protection of its values.

So, considering those goals, we obviously enthusiastically support the California Rivers Riparian Parkway program.

There's some considerations as far as a parkway
in our area.

We have mentioned the parkway to the Lodi City Council, and the county. And we have gotten good support from the community. But there are some realities, and we do have a very vocal group that has, you know, come up with a negative reaction. And I think that there are things in a parkway consideration that, you know, we, from our own personal experience, have really sort of butted our heads against, one of which is landowners that abut the parkways.

And we have had some issues raised -- violations of constitutional rights, telling me what to do with my property, and also the dreaded fear of condemnation. A lot of these property owners seem to sort of boil all this down into one. They think, oh, you're going to take my property away. And I think that a part of this really should be an education of people that might be impacted along the borders.

But I'm just mentioning that through our personal experience in San Joaquin County. We have experienced growth and large-scale development that encroaches on the banks of the river and threatens the natural resources that the river sustains. And in San Joaquin County, it's almost appalling to realize that there are only four points along the river where the public
has access to the Mokelumne River, one of which is
controlled by East Bay Municipal Utility District at their
regional park up at Camanche. And then there's two county
parks; a very small one, Stillman McGee; and Woodridge
Regional Park, which is a very undeveloped park; and then
the City of Lodi, which provides access, but limited
access. And you are not even to swim in the river from
Lodi Lake Park.

So we do have a very pressing need for public
access and access that is consistent with protection of
the river's values.

The City of Lodi has mentioned conservation
and a parkway in its draft general plan, which is still
under review. And it has gotten some negative reaction,
but the general populace in San Joaquin County is supportive
of any kind of parkway or parks along the river.

The river stretch between highway 99 and lower
Sacramento Road would seem to be a logical place for a
parkway. Along the south bank is really houses just
right next to each other, some even built in the flood-
plain. On the north bank is some large estates and some
ag land, which seems like there could be a parkway worked
into the program.

Other than that, we really do need and seek long
overdue help in what we're trying to do in San Joaquin
County in promoting public access. And this program, the California Rivers Parkway program, seems to really fit the bill. And we would like to encourage you to help promote it along. And we would like to offer our assistance in supporting it.

Chairman McCarthy: Thank you. Appreciate that very much.

Pamela Romo of Walnut Creek. Miss Romo.

MS. ROMO: Thank you.

Chairman McCarthy: I want to acknowledge the presence of Gene Andal of the County Parks Directors Association of Sacramento County, who is here if we want to ask him any questions. We thank you for your presence, sir. Miss Romo.

MS. ROMO: Thank you. My name is Pamela Romo, and I'm a citizen activist working in Contra Costa County.

We are currently working on a program right now in Contra Costa County to create a greenway along Walnut and San Ramon Creeks. It's certainly not of the size of river that you all have been addressing so far this morning. And because of that, I would like to encourage you to write the definition for waterway as broadly as possible.

We're very excited about this program and we think that it's a wonderful idea. And we would really
like to make sure that we're included in that as well.

As you probably know, Contra Costa County is exploding in population. And the greenways that we may be able to create in this area will really be an important element in a highly urbanized area. We would also like to expand the riparian habitat not just along the corridors, but actually into the urban environment. And so, we would really like to see some legislation to help that.

Also, one thing that I did notice in what you have written so far is that you have not noted the water quality. I think, certainly in an urban environment, that's a very important element as well, and we would really like to encourage you to include that in your legislation. Because I think that by creating protection for small waterways, we can create a whole network of riparian habitat throughout the State, and perhaps recreate much more of it than if you just concentrate on main waterways.

Anyway, overall, we are very excited about what's happening. I have passed on the legislation that was sent to me to the county and flood control people, and they're very interested in this as well.

Thank you.

Chairman McCarthy: Thank you very much.

That's all the witnesses I have listed for Item No. 1
MR. WARREN: Just two other things, Mr. Chairman.

CHAIRMAN MC CARTHY: Let me ask, Mr. Warren,

if I may, were there any other members of the audience
who wanted to testify on Item No. 1? Mr. Warren.

MR. WARREN: All right. To conclude Item No. 1,

Mr. Chairman and members, staff has received

correspondence from Heather Statton, who's Director of

Parks and Recreation of the City of Napa; and from Joe

Hall, Executive Director of the Redevelopment Department

of the City of Santa Cruz, both in support of the program.

And the correspondence from Santa Cruz has

attached a concept plan for the San Lorenzo River in that

area. And that will be made a part of the record.

Finally, Mr. Chairman, members, you have before

you a text about which I heard only recently, and copies

of which I ordered and received only yesterday. It's a

text published by John Hopkins and prepared by the

Conservation Fund. It's a story of the Greenway Program

throughout municipal areas throughout the country. From

what little we've been able to glean from it, what we are

doing here is unique in the United States, but is on

target.

I received a telephone call yesterday from

Arlington, Virginia, from the individual who's head of the

Greenbelt Alliance nationwide, to whom we furnished a copy
of the bill. He was very supportive. He would have preferred -- he had two suggestions to make, one of which makes sense to me, one of which I'm not sure we can accommodate. The latter is that he would have preferred that the word "greenbelt" appeared in the name of the program, and that's for reasons I can understand.

he also suggested that we take into consideration historical and cultural aspects of the river environment. And that's something I think the staff would like to explore.

Other than that, that concludes our presentation.

No formal action by the Commission is necessary. We will proceed with the legislation and in the course that is directed by the Commission, and report to you from time to time on the progress of the legislation.

Chairman McCarthy: Thank you very much. We want to work with the new Governor on this legislation, who has indicated a specific interest in river habitat.

Mr. Warren: Yes.

Chairman McCarthy: And the sooner we meet with Doug Wheeler I think the better all around. He takes his seat next week.

Mr. Warren: The Commission should be advised that I have, on behalf of the Commission, I've directed two letters to Pete Wilson; first, during the course of the
campaign when he made some reference to the need for the preservation of the riparian resource, acquainting him with staff activities and offering to give him information about those activities; and also, most recently, a letter advising him of our revenue enhancement activities and also to again advise him of our activities in this area, and requesting an opportunity to meet either him or his new Secretary of Resources.

At the time that letter was sent, the new Secretary designee had not been made, but we'll renew the offer now that we know who that is.

And we will again report to you on our progress.

CHAIRMAN MC CARTHY: Okay. All right.

MR. WARREN: The next item -- I'm sorry.

MS. MILLER: I'd still like to testify. I came in late. Lydia Miller on the --

CHAIRMAN MC CARTHY: Please go ahead.

MS. MILLER: Thank you. I'm Lydia Miller with the San Joaquin Raptor Wildlife Rescue Center and speaking on behalf of the Citizens for a Healthy Environment in the central valley.

We support the proposed Act as it is much needed to preserve our public trust. Our waterways, and tributaries, and floodplains are under siege from a multiuse of encroachment by special interests. These must
there must be clear direction of implementation for this 
proposed Act to truly preserve public trust. 

Our concerns are a result of working on a 
project under the Department of Water Resources Stream 
Restoration Plan in Merced County. It was supposed to be 
an enhancement of a local creek, but it turned out to be 
a flood maintenance plan of the local levee -- or flood 
district. 

So, we do have some concerns that we feel should 
be implemented into the plan. Number one, there needs to 
be inventories. There is a comprehensive study that 
should be done on our waterways and tributaries, and this 
needs to be done. 

There also needs to be a coordination with 
other agencies. There's nothing more frustrating than 
trying to preserve an area and then have another agency 
coming in and then raising concerns or not raising 
concerns. 

Not consistent. Again, State Lands needs to 
do an inventory of what is held in trust and what has been 
devastated in the last five, six years. They're not 
consistent. One project I can bring to mind is one on the 
Mokelumne versus one on the Stanislaus. There needs to be 
consistency with the agency itself. 

Conflicts. Again, there has to be a very clear
definition of who can utilize this restoration project or enhancement/preservation. If a flood district sees an opportunity, as we saw in Merced, they will plant, but at the same time they'll go out and clear a channel. And this happened.

Cumulative impacts must be addressed. Again, if a comprehensive inventory was done of State land, we would know exactly what should be preserved, what could be enhanced, and what could be restored. No net loss of wetlands, again, we feel concern that it shouldn't just be focused in on riparian. We run into problems constantly with agencies, as well as local government, that riparian is very defined, where it should be wetlands should be incorporated in that.

And five percent should not be compromised. Again, if there's an inventory, we would know where this five percent is, and that anything else would actually be enhancement.

Public trust versus multiuse: Again, recreation seems to be the thrust of selling the public whether or not a lot of these enhancement projects go in. But we also must look at limited access or restricted access use.

Enforcement: In dealing with the Clearing and Snagging Act, one of the problems that we saw was trespassing of landowners, dumping violations, and
agriculture conflict. We would like to see enforcement
capability of the project.

Floodplain: Our floodplains are having an
urban explosion -- houses, new towns, agriculture runoff,
as well as storm runoff into our tributaries. This has to
be addressed.

Chemical application, we do have that problem
anytime you have a parkway set up; there must be
restricted type of chemical use and maintenance of so-
called nuisance species.

Buffer zones and setbacks: Again, if there's
an inventory, we would know what was biologically
sensitive.

Easements and contracts held by other agencies:
On the Stanislaus River, we're having a terrible problem,
because there are four or five different types of
 easements that control or dictate to the agencies how that
land can be used. And we're finding that they're a, old
as 20 years old. And no one really knows what the
easements entail, and there's no enforcement.

Five years is far too long for the funds to be
used. We feel that the funds should be used within a very
limited amount of time as the cumulative impacts would
change the scope of any proposal. Five years is too long.

The proposed project should also have -- or any
proposed project should have a monitoring plan, should also have enforceability, and guaranteed implementation. We don't want projects started halfway through, and then not finished.

And the revegetation plan: One of the worst scenarios is it looks wonderful on paper, and then there's one planting done for enhancement, and it doesn't happen. The vegetation doesn't take off. There needs to be a series of revegetation.

And again, we do support this project or this Act, but at the same time we feel that some of these other concerns need to be implemented for very clear direction, so abuse does not set in.

Any questions?

CHAIRMAN MC CARTHY: Yes. I was just going to ask that myself. Any questions? No. Thank you very much.

MS. MILLER: Thank you.

Now, Item No. 2.

MR. WARREN: Mr. Chairman, members, Item No. 2 is an uncontested item, I believe, and I have no appearance sheets.

The action requested of the Commission today is to authorize the entering into a title settlement agreement along a one-mile stretch of the Sacramento River
This is the boundary line agreement that we propose the Commission undertake with the project developer, Lighthouse Marina. The representative of the developer is here, Mr. Peter Crow, if you have any questions you want to put to him.

But essentially, the boundary line agreement results in a line being established setting -- identifying a one-mile littoral corridor along the river riverward of the levee. It proposes the assignment to the State Lands Commission of the 125 acre Amen Ranch, which is up-river of the project, and the one-mile littoral corridor to which reference was made.

It requires the revegetation of that littoral corridor, a part of which has been damaged -- was damaged during the course of construction, but a significant part of which remains native riparian resource.

We also will be given $200,000 for the Kapiloff Land Bank Fund as a mitigation. And let's see. Those are the major components. Mr. Blake Stevenson of our legal staff has been the principal staff person involved in the negotiation of this agreement, and he's available to respond to any questions that you may have.

As I say, I have no -- Mr. Crow, representing the project developer is here fully in support, as you might
expect. If you have any questions you want to direct to him, he's here to answer, and Mr. Stevenson.

**CHAIRMAN MC CARTHY:** Questions?

**COMMISSIONER DAVIS:** I want to make sure I understand this. The Commission essentially has reached an agreement which reflects its initial demands? This is essentially a settlement on our terms?

**MR. WARREN:** I hate to say that in the presence of Mr. Crow. Perhaps his client is here with him. I don't know. You know, in all the years I've been in public service, I don't have an answer to that question. On favorable terms, yes. I think both sides view this agreement in a favorable light.

**COMMISSIONER DAVIS:** All right. Let me ask a second question. I understand the ownership of this has changed over the last three years, and the current owners represent new investors in this property?

**MR. WARREN:** Yes. I understand that there are new majority holders in this project, new owners. They happen to be Japanese companies. I've worked with them, with their engineers and their representatives, and I found them to be straightforward in their dealings with me and with us, and it's been a pleasure to work with them.

The negotiations have been prolonged and there were setbacks along the way, but I think the final result
is beneficial to both sides.

And, of course, this will be a key component of the next item, which is the Sacramento River memorandum of understanding.

CHAIRMAN MC CARRY: Questions from the Commission? Any other Commissioner?

COMMISSIONER DWIGHT: Move the recommendation.

CHAIRMAN MC CARRY: The recommendation is moved that's before the Commission. Is there any further comment from the audience? Unanimously authorized.

Item 3.

EXECUTIVE OFFICER WARREN: Calendar 3 is an item which requests the Commission to authorize the Executive Officer to execute on behalf of the Commission a memorandum of understanding with the Counties of Yolo and Sacramento and the City of Sacramento establishing a Sacramento River Riparian Parkway.

Behind you is a diagram of the Sacramento River Riparian Parkway, which is the subject of this proposed memorandum of understanding. You may recognize the 31 miles stretch of river corridor represented by that diagram as the section of the river which this Commission considered when it undertook a marina capacity study a number of years ago.

In the early months of 1990, when the potentials
of a Lighthouse settlement became clear to us, we contacted the counties and city, as I've indicated, to suggest to them that perhaps collaboratively we could undertake to develop a parkway along this specific section of the Sacramento River.

Our suggestion was enthusiastically received by three of the four -- initially, by all four of the governments we contacted.

The counties -- both counties, the Boards of Supervisors of both counties unanimously approved the proposed MOU. Both Chairpersons of the two Boards are present today to testify.

The proposed MOU was also unanimously approved by the City Council of the City of Sacramento, and the Mayor of Sacramento is here to testify on its behalf.

The City of West Sacramento, while initially supportive, had some reservations which it communicated to me. As a result of that communication, we prepared jointly a letter of explanation, which is a part of the package. It's a letter setting forth how the MOU was to -- what the intention was of the MOU. That letter is in your package.

Subsequently, and for reasons which are not clearly understood, the MOU and the letter were not deemed acceptable to the City Council of West Sacramento, although
they continued to send representatives to our Technical Planning sessions to which they were most welcome. Nevertheless, the City Council yesterday delivered a letter -- a revised MOU, which it proposed that this Commission consider.

The revised MOU, which the City of West Sacramento has asked us to consider, was presented to the other signatories earlier. All the other signatories agreed with the State Lands Commission staff that the West Sacramento revisions were not acceptable. We think that, although this is unfortunate, we do not believe that the presence of West Sacramento in a formal manner is a matter which should delay -- is a cause for delaying the project. We believe that the State Lands Commission, with the two counties and the City of Sacramento, can proceed with our planning activities. And at such time as the City of West Sacramento can feel assured as to our intentions and our procedures, I'm confident that they will revisit their decision as to whether or not they should formally participate.

Of course, they will be more than welcome in the Technical and Planning Committee sessions. Now, on the parkway itself, as I say, we have identified public ownership of parcels along this 31-mile
stretch. We have contacted -- well, in addition to the counties, the city, and the State Lands Commission holdings, there are holdings by the Airport Authority; the Airport Authority, as you know, is acquiring sites, private residential lots. And we've discussed with them the possibility of those lots, once acquired, being dedicated to the park -- for parkway purposes.

The University of California has ownership of parcels along the parkway, which I think we are convinced can be made available to the parkway for its purposes.

We have a letter of support from the -- a very important letter of support from --

MR. TROUT: Reclamation Board.

EXECUTIVE OFFICER WARREN: I'm sorry.

Reclamation Board; a copy of that letter is in your packet.

And I can't underestimate the importance of the support that we have from them, and we appreciate it very much.

Let me ask Kata. What other public and private ownership interests have we identified along the river?

MS. BARTOLONI: We've also identified the Sacramento County Regional Sanitation District, which has a large parcel in the south that they already allow fishermen
access to just in an informal way. And I think Audubon Society manages some of that property as a wildlife area, also somewhat informally. But they've expressed interest. We've identified them as an owner, and they've also expressed interest.

The U.S. Government has some ownership -- that is, like the U.S. Army Corps of Engineers. And we have begun discussions with the Army Corps. They may or may not be able to allow access along some of their properties. In some cases, Army Corps and Reclamation Board have easements along private parcels, which would expand the areas that we've even indicated as being public ownership. They have management easements along large private property parcels, and those may also be available for restoration activities. They may not be available for a lot of access and recreational activities, but they would be willing, if we can work out the details, to do some planting and restoration of original habitat in some areas.

We have discussed with the Army Corps of Engineers, in addition to that, the possibility that they may be able to participate with us in some recreational property development.

EXECUTIVE OFFICER WARREN: In short, Mr. Chairman and members, I'd like to point out that in the space of a
very few months, working collaboratively with local
government and using existing resources -- both funds and
physical resources -- without the need for additional
funding, we have -- we have, in the process of creating
a 31-mile river riparian parkway, I think it's a good
example for what I hope will be the lesson to apply in the
statewide program, and that's creative resource
management on a collaborative basis between the State
and local governments.

It's creative in the sense that each proposal
will involve different considerations, but I think things
can be done with limited resources. Now, admittedly, and
this is important to recognize for us, it will take
years for this parkway to mature. But we are stitching
together parcels now, and we'll soon have it completed,
in our opinion, to provide parkway amenities.

I might point out that it's taken years for the
American River Parkway to reach the point of maturity
that it now experiences, and it's still not complete.

So, while I -- you know, I think this is an
excellent first step. It's a good example, and one on which
we can build in the event the statewide program is
successful.

And if I may now, I'd like to call on our
scheduled witnesses. Mr. Chairman?
CHAIRMAN MC CARTHY: We'll start with Mayor Rudin. And may I also ask Supervisor Collins to step forward, and Supervisor Thompson.

Supervisor Illa Collins representing the Sacramento County Board and Supervisor Helen Thompson representing the Yolo County Board.

Mayor Rudin, let's start with you, please.

MAYOR RUDIN: Thank you, Mr. McCarthy and members of the Commission.

I really appreciate the chance to be here today. I am Anne Rudin, Mayor of the City of Sacramento. And I want to thank you for giving us the opportunity to speak to the need for riparian planning along the Sacramento River.

I'll tell you right off that we are supporting this wholeheartedly. Our staff is behind it. Our City Council is behind it. We are ready to work with you, and we appreciate the cooperation that the State has shown.

Our city is graced with two beautiful rivers, I think two of the most beautiful in California. And on the face of our water treatment plant, there is inscribed a phrase from the Bible that says, "...and everything shall live wheresoever the river cometh." And that really is true. I think that's a beautiful description of our city.
Certainly, these rivers provide the water we need to sustain life, to sustain commerce, to sustain recreation, as well as provide a habitat for diverse populations of flora and fauna.

One river, the American River, is already protected by the American River Parkway as you've already heard. The plan was adopted more than 15 years ago. And we had the cooperation of our regional body and the County, of course, working with the City. And I must say that we've adhered to it faithfully.

Once we establish limits, then it isn't so hard to stick to those limits, because people know what to expect. They know what they may or may not do. And I think both the City and County have shown a great deal of strength in resisting pressures to intrude and to invade that parkway. And we are keeping it in its natural state.

We recognize, though, that we are a city, that this is a thriving and a growing urban area. Nevertheless, we do want to preserve these resources, and we believe that it can be done in ways that accommodate people's needs as well as to allow humans and wildlife to coexist in an environment that's compatible for both.

We recognize that, as you go through the different jurisdictions, there are different jurisdictional needs, different issues that have to be addressed. But
we think that can be done with hard work, of course, to try to reconcile all the points of view.

We know that Sacramento as a city is only one of a number of jurisdictions that share responsibility for the Sacramento River. Our vision can't take us beyond our own boundaries, so somebody else has to have that vision, the broader view. And we think the State Lands Commission in establishing MOUs with regional jurisdictions on a regional basis can provide that broader, long-range vision.

And we need the cooperation of many jurisdictions. I'm very pleased that we have the two counties along with us. I hope that our neighbors across the river in West Sacramento will come along in some way or other. We certainly don't want to delay our planning for the river. And we look at them. They are what we see from our side of the river. We want to give them a nice view. We hope that they will do the same thing for us and protect what we hold very dear.

I haven't seen the revision yet, but I hope that we won't hold up our own cement and lose the opportunity and the momentum that's been established. I think it's very important.

But with the rate of growth that's going on and the increased demands for urban development, we really don't
have any time to lose. We must begin now to plan or continue with our planning process for the appropriate and compatible uses of the Sacramento River.

And I'm very pleased that at least the counties are in unison on this, though sometimes it's not easy to get that kind of consensus. We have it, and we hope that we can work out something with our neighbors across the river in West Sacramento.

So, thank you very much.

CHAIRMAN MC CARTHY: All right. Supervisor Collin?

SUPERVISOR COLLIN: Thank you very much. My name is Illa Collin. I'm the incoming Chair of the Board of Supervisors for Sacramento County.

And I also have a great deal of enthusiasm for this memorandum of understanding. And I was interested as Mr. Warren presented some of the parcel descriptions and some of the cooperation that has occurred so far, that we are governing body for the Department of Airports. We also sit on the governing body, as does Mayor Rudin, for the Regional Sanitation plant. So I would feel that, with those bodies also showing their enthusiastic support and cooperation, those are some major parcels along the river.

Now, certainly, I think that from the past experience -- I served three years on the State
Reclamation Board also, and so I know the incredible jurisdictional difficulties in terms of groups trying to plan for the future of the river. And I think the Sacramento River is going to be an extremely difficult e to plan for.

And so, I am glad that State Lands has taken the leadership position that it has. I'm glad that the jurisdictions are working together. I think all of us recognize we have an incredible resource. If we were to do it over again, we probably would set those levees back a lot farther, and we would have more to work with. But we have a river very tightly constrained by levees as it goes through this urban area. So, it creates a real challenge for all of us in terms of how best to plan and how to balance the demands of property owners for commercial development with I think the long-range State demand -- that should be there anyway -- for the riparian values and habitats for the State as a whole.

We certainly are in great agreement with the goals in the memorandum that call upon us to preserve, protect, enhance, and restore the riparian corridor. We're hopeful that with all of our joint work together, we can get that done.

And we really are enthusiastic about continuing working with the jurisdictions and with the Commission. And
I am very grateful that Gene Andal is here today, because he's also, as our Park Director, played a very key role in terms of his leadership in recognizing this for a wonderful opportunity here in the Capital City for us to be doing something cooperatively.

Thank you very much.

CHAIRMAN MC CARTHY: Thank you. Supervisor Thompson of Yolo.

SUPERVISOR THOMPSON: Thank you very much. As Chair of the Board of Supervisors, I am here to report that on August 21st, our Board in a rare show of unanimous support voted by vote to enter this MOU.

I would like to just give you a personal reflection on what I believe is the importance of this project before you today. When much of what I deal with as a Supervisor is influenced by our dreadful lack of financial resources in Yolo County, such as the perilous existence of our county hospital, the rapid service deterioration of our mental health system -- once one of the finest in the State -- and I could go on and on. Our 75 percent turnover, for example, in our Social Services staff. This project gives me some spiritual hope. And I need that.

So, I am really pleased to be a part of this whole effort as is our County Board of Supervisors. For
many years, the Yolo County Board of Supervisors has had a very long and historic environmental tradition. That's reflected in the fact that 73 percent of the land that's in the unincorporated area in Yolo County is in the Williamson Act. It's also one of the reasons we're broke.

But nevertheless --

(Laughter.)

SUPERVISOR THOMPSON: -- nevertheless, we have
rended off development in a lot of areas, and we look to
the river as a source of pride and enjoyment, of
spiritual renewal, of recreational opportunities. We have
three parks along the river at a time when our park
budget is absolutely at minimum standards for any standard
whatsoever.

We have the Knights Landing fish access and
boating access, the Clarksburg area, and the Elkhorn
Park, which, as you look at the Amen acquisition, and I'm
pleased to know that we'll be dealing with you so you're
not the ones taking the soil off to the American River
from that project, we really do believe in this
environmental opportunity to enhance, protect, and to
participate in the regional effort. And, of course, this
is a regional effort, and we do want to support that.

We are, I would like you to know, buying 11
acres of stand of oaks from the University of California Regents. We have that about to be, we hope, finalized. And again, that’s near the Elkhorn Park. And so, we do have a very strong heritage of wanting to preserve our environment while we know we exist in one of the fastest urbanizing areas in the State.

And it’s for those reasons that we are supporting this effort, and thank you and thank your staff for the development of this, and look forward to participating in what will be a very fine thing for us all to leave for the future.

Thank you.

CHAIRMAN MC CARTHY: Thank you, the three of you, very much. I wanted to thank you for your leadership and the very cooperative, positive help from your staffs.

Questions from Commissioners? Thank you very much.

CHAIRMAN MC CARTHY: Steve Evans, Friends of the River? Mr. Evans?

MR. EVANS: Happy New Year.

CHAIRMAN MC CARTHY: Thank you.

MR. EVANS: Thank you for soliciting public input on this. And I appreciate, Friends of the River in particular, being invited to comment on the establishment
of a Sacramento River Riparian area and Parkway.

I'm conservation director of Friends of the River. We have 10,000 members in California and throughout the West dedicated to the preservation of free-flowing rivers. And particularly, one of my favorite rivers is the Sacramento. I've been on Sacramento River issues for many years now. Friends of the River strongly supports the establishment of a Sacramento River Riparian Parkway as proposed in the memorandum of understanding signed by the State Lands Commission and other local governments.

We think it's long overdue. It's something vitally needed, and it will provide a unique balance to the development and other uses along the river.

We think it's unfortunate that the City of West Sacramento has not joined in as yet. We hope they will in the future, although I don't know exactly what their concerns were. I would like to receive copies of their comments if we could to see if we can generate a little citizen support from the good people of West Sacramento in support of establishing the parkway.

One thing I would like to mention is, as was mentioned earlier in earlier testimony on the general issue of riparian parkways, is -- it's very important that we preserve our riparian habitat along the rivers, in particular
On the Sacramento. The Sacramento is a migration corridor for many species of fish and wildlife, including California's multimillion dollar salmon fishery, but also threatened and endangered species, which several migrate up and down the Sacramento River to various islands of refuge, as you will, such as the proposed Stonelakes Refuge in the south, and the currently being established Sacramento River National Wildlife Refuge upstream of Colusa, where the U.S. Fish & Wildlife Service hopes to acquire and preserve over 18,000 acres of riparian habitat.

Establishment of a riparian parkway in the Yolo County/Sacramento County area will provide an important connection between those two. And we hope that once the bugs are worked out, if there are any bugs, that the Commission will consider joining in a partnership with counties and other local governments upstream of Sacramento and Yolo Counties to extend the parkway to at least Colusa where a vital segment of the Sacramento remains unprotected.

As Corey Brown mentioned, the river above Colusa is the target of the acquisitions for the Sacramento River National Wildlife Refuge, and probably does not require the kind of protection a riparian parkway would provide.

I didn't want to come up here twice, but I also
want to support our support in the concept of the legislation for establishing riparian parkways throughout the State. We think it's a vitally needed piece of legislation, and we're looking forward to working with the Commission for the passage of that legislation.

Thank you.

CHAIRMAN MC CARTHY: Thank you very much.

Questions? Thank you.

Mr. Newbold, I had you down for Items 1 and 3. Do you want -- is Mr. Newbold still here? Did he leave?

EXECUTIVE OFFICER WARREN: Pardon me for interrupting, Mr. Chairman. I think you overlooked Paul Knepprath.

CHAIRMAN MC CARTHY: Well, I didn't --

EXECUTIVE OFFICER WARRILON: Is he not here?

CHAIRMAN MC CARTHY: I was told that he was absent. Did Mr. Knepprath come in? Would you step forward, please? I'm sorry. When we checked at the beginning of the meeting, apparently they didn't see you.

MR. KNEPPRATH: Sometimes the name gets a little bit confusing, as well, when it's spelled the way it is.

My name is Paul Knepprath. And I'm here representing the Sacramento River Preservation Trust. And I appreciate the opportunity to speak before you today.

We're an organization that represents members
throughout the watershed of the Sacramento River from the headwaters above Shasta Dam to the place where it dumps into the Bay, and into the estuary. And we certainly are in support of the Sacramento River Riparian Parkway.

We are currently -- although we're not a signatory on the MOU before you, we are working with the participants, the other signatories, in a technical working group to plan and to carry out the concept of the river riparian parkway for Sacramento.

It's a great opportunity. I really want to congratulate the Commission, the staff of the Commission, for taking the leadership on this issue, and providing the vision that I think Sacramento has long needed in terms of doing something with the Sacramento River. It has long been the dumping ground, I believe, in this community and now I think we're really going to elevate it to the status that it deserves. So, I appreciate your support and what you're doing today.

CHAIRMAN NC CARTHY: Thank you very much. I appreciate your testimony.

Now we have two witnesses who perhaps want to express some reservations about this proposal. Mr. Val Toppenberg, who is the Redevelopment Director for the City of West Sacramento, and Mr. Howard Wexler, representing McCuen Properties.
Why don't you both just come up here.

MR. TOPPENBERG: Thank you, Mr. Chairman and members of the Commission. I appreciate the opportunity to address the Commission today. The previous speakers --

CHAIRMAN MC CARTHY: Could you start with your name, please?

MR. TOPPENBERG: I apologize. Val Toppenberg. I'm representing the City of West Sacramento.

Having heard the previous speakers, one would believe that the City of West Sacramento does not support the establishment of a riparian parkway. Let me express that nothing could be further the truth. The City of West Sacramento is very supportive of the planning process and the establishment of a Sacramento River Riparian Parkway.

In fact, the recently adopted West Sacramento general plan calls for a bikeway and public access the length of the Sacramento River, and we are putting in the first piece of that parkway in the Lighthouse Marina project. And that was a requirement of the City of West Sacramento to have that as well as the public access that's included.

The general plan also identifies open space and natural areas, including a terrific natural area called Dea's Lake in West Sacramento, which is a wonderful habitat
for many of the species that we're concerned about these
days.

We -- the City of West Sacramento City Council
first considered the adoption of a memorandum of
understanding provided by the State Lands Commission back
in October. We did have some concerns, and the Director
of the Commission staff, Mr. Warren, did provide us with
a letter of clarification, which we provided to the City
Council at that time.

The City Council accepted that and directed us
at that time to go back and revise the MOU to reflect
many of the things and many of the concerns the city has
and include in the MOU those issues that were addressed
in Mr. Warren's letter.

And let me express that the staff has been very
cooperative, and we appreciate the cooperation and the
assistance that the staff has given us in that regard.

We have revised the MOU to meet the particular
needs and concerns that the city had with the MOU. And
specifically contained within the context or addressed within
the context of West Sacramento's particular position, as
you may be aware, the City of West Sacramento incorporated
just four years ago. Prior to that, it was -- the area
was under the jurisdiction of the Yolo County Board of
Supervisors. And for 100 years, it developed in the
manner in which it has, and we're attempting to address many of the problems that occurred with regard to unincorporated growth.

We have what we think is a terrific community, and we'd like to continue to address those opportunities that are provided by not only the location with respect to Sacramento, but the location with respect to the Sacramento River.

The City Council did adopt on December 19th the revised memorandum of understanding, which I provided to you today, along with a letter and a resolution by the Council, and a letter by the West Sacramento Mayor.

The Sacramento River contains many areas. Some of those areas are natural and environmentally sensitive areas. Some of those areas are industrial areas which have been developed and began developing in the early -- just after the turn of the century. And our interest is in redeveloping those areas and making those areas something that not only West Sacramento citizens can be proud of, but we can attract and have members of the public from all parts of the State join us in celebrating the river and enjoying the opportunities that that river provides all of us.

Our concern specifically is in providing a balance between the natural habitat areas and the areas
in which the citizens and members -- and other members of
the community can enjoy the river, and enjoy not only
looking at the river, but enjoy dangling their feet in it
if the mood strikes them.

Thank you very much. I will answer any questions
that the Commission does have.

CHAIRMAN MCCARTHY: Thank you. Why don't we
hear from you, Mr. Wexler, and then we may have some
questions.

MR. WEXLER: Yes. Thank you very much,
 Commissioners, for the opportunity to be here.

I'm Howard Wexler of the law firm of Feldman,
Waldman, and Kline in San Francisco, representing McCuen
Properties, who own property in West Sacramento. And on
behalf of the owners of the property, I want to express
their support for the concept of the riparian parkway
plan and also their support of the revised MOU that has
been adopted by the City of West Sacramento.

If I could just take a moment or two to point
out one or two things so that you may be able to follow,
because as Mr. Toppenberg said, most of the revisions
provided by West Sacramento are really elaborations and
followup on the clarification letter that Mr. Warren was
good enough to send to Mr. Toppenberg, dated October 10th,
which I believe is in your packet.
For example, if you look at paragraph 6 of the MOU, it says that during the preparation of the plan, each agency shall take no action which is detrimental to the proposed parkway or provisions or intent of this agreement.

That could be interpreted by some to be a moratorium that nothing could be done during the time when the plan is being prepared, because it might be viewed as detrimental to where the plan is going to come out.

Mr. Warren was good enough to provide in his letter of October 10th in the last paragraph on the first page, where he says about the concerns that no action which is detrimental to the provision of the parkway, "This provision is not intended to preclude the City of West Sacramento from proceeding with the redevelopment of its waterfront."

The provision that West Sacramento has proposed to put in paragraph 6 is that this provision is not intended to preclude any local jurisdiction from proceeding with any planning or implementation of any development within the Sacramento River riparian corridor during the preparation of the plan.

Again, clarification of what has already been clarified in the letter. But I have to say, as a lawyer,
when parties sign an agreement, a letter from the Executive Director, which I know is an honest interpretation on his part, may not be found by a court to be legally binding, and the interpretation that language itself provides could serve as a moratorium.

Another example is the first point of Mr. Warren's letter, where he recognizes that it's not the intention of the corridor to have everything within it be restored to its natural state.

His last sentence says, "Indeed, it is recognized that urban and recreational development in certain areas of the waterfront may be appropriate and desirable."

The City of West Sacramento has added at the end of paragraph 3 of the MOU a third objective, which is to identify areas of the Sacramento River which are appropriate for urban development and the standards for such development. Again, very much in keeping, I believe, with what is in the letter.

The agreement -- just one last example, because I don't think it's worthwhile to go through each one, but one last example is that the agreement could be read as something giving the powers to the Park Directors from the counties to sign -- the signatories to this, that their action, without ratification by their local governmental
agencies -- either their Board of Supervisors or their City Council -- could put the plan into binding effect.

Again, Mr. Warren clarifies on page 2 of his letter that that's not the intent, and paragraph 8 in the proposed revision would make that clear.

So, I think that most of these things could be--that West Sacramento wants I don't think there's any real conflict on. And whether it's to send a revised one back or to have amendments considered, I would hope that a solution could be found that brings everybody together behind the same set of documents, and that really carries out, I think, what is everyone's intent.

Thank you very much.

CHAIRMAN MC CARTHY: Mr. Warren, you want to make any comments?

EXECUTIVE OFFICER WARREN: Reference was made to my letter of October 10th, a copy of which is in your packet. The letter represents the product of discussions between State Lands Commission staff and representatives of the City of West Sacramento.

In fact, I think candor would reveal that most of the letter was drafted by representatives of the City of West Sacramento.

MR. TOPPENBERG: Yes.

EXECUTIVE OFFICER WARREN: Yes. The letter,
before it was signed by me, was taken to the other
signatories of the MOU to make sure that it was
acceptable to them; that this reflected their understanding
of the MOU as it did mine.

They all agreed that it did. And they approved
my sending the letter of clarification to the City of
West Sacramento.

It was also represented that this letter would
be submitted to you when your approval of the MOU was
sought, it being understood on the record and
officially that the letter interpreting the MOU would be a
part of your approval.

The other signatories of the MOU understood
that, we understood that, and we communicated that
intention to the City of West Sacramento.

Despite that representation, despite the fact
that we said this would be on the record as the --
expressing the intention of the Commission as to the
meaning of the language of the MOU, this was still not
acceptable.

As I say, for reasons which are not clear to me,
and they're still not clear to me after the presentation
by the counsel for the developer, McCuen, it was -- the City
of West Sacramento has seen fit to change the MOU itself
in ways other than set forth in my letter. There are very
subtle and very significant differences between their amendments to the MOU and to the intentions as set forth in my letter.

They had previously communicated to us their proposed amendments to the MOU. Whereupon, State Lands Commission staff took the proposed amendments drafted by West Sacramento to the other signatories -- the two counties and the City of Sacramento. All refused to accept the amendments.

Whereupon, we decided that the best thing to do was to proceed without West Sacramento officially. We did not see the need -- if West Sacramento was still suspicious of our intention, then they could go their own way in terms of their own planning for their own community and for the river.

We welcomed and invited their continued participation in all the Technical and Planning Committee activities, and they, in fact, have participated at every meeting. They have been fully involved.

They, for some reason, unlike the other jurisdictions, are still suspicious of what's going to happen. We hope that the time will come when those suspicions will be removed, and they can formally adopt the MOU.

But whatever, whether they formally adopt it or
not, they can continue to participate. They're most welcome. They can still take -- if they want to feel free to go ahead and do whatever they want, they can. So, we're not asking them to do anything right now, except to bear with us and when they're comfortable, to come along and sign the MOU as the other governments have, and as that MOU has been construed in the letter which -- as I set forth in my letter of October 10th.

If the amendments were accepted by us, they could well be rejected by the other governments as they have already. I don't see any way to proceed but to go ahead with the MOU. The other governments have indicated their unanimous approval. I hope we will have the unanimous approval of this Commission to go ahead.

And at any time in the process, if the City of West Sacramento feels comfortable, then they can so indicate by approving the MOU.

If their -- you know, I see to them no harm.

We are causing them no harm. We would like to have them with us.

CHAIRMAN MC CARTHY: They can go forward with any developments --

EXECUTIVE OFFICER WARREN: They can go forward with whatever they want. Mr. McCuen can go ahead with his building proposal or whatever it is he has in mind for
West Sacramento. The City can go ahead.

COMMISSIONER DAVIS: Is it possible that at a future point, maybe a different set of amendments or revisions to the MOU would be acceptable not only to us, but to the other signatories to that? I guess what I'm trying to figure out in my own mind is whether our adopting this MOU today precludes, as a practical matter, West Sacramento ever coming on board in any way other than just accepting our MOU as written?

EXECUTIVE OFFICER WARREN: No, it would not.

No. You know, once we get this officially launched, you know, if West Sacramento has some suggestions to make it any -- or any signatory has some suggestions to make as to the amendment -- as to amending the MOU, they would be welcome.

In point of fact, any signatory to the MOU can withdraw at any time they want. The MOU, if it was to be examined, is very loosely drawn. It imposes no real obligations on anybody. It calls for the joint preparation of a plan. Now, what the ultimate decision will be, once that plan is prepared, what happens? Well, it's going to have to be approved by each of the signatories.

If it's not approved by the signatories, you're not going to have a parkway. And then the decision's going to have to be made by the signatories who's going to run
this park? I would assume that there will be some formal
authority established for the management of this multi-
jurisdictional parkway. I don't know what the answer is to
that. You know, the cities and the counties will have to
work that out.

It would be my present feeling that the State
Lands Commission's role at that time would be minimal.
And limited only to the extent that we would make sure
that no use of our lands was made contrary to the public
trust, which we have -- of course, for which we have
responsibility.

But other than that, you see, I really can't
quite understand what it is that troubles them. They say
that the only thing -- they say that their amendments are
only clarifying or expressing the intentions set forth in
my letter, the letter that I sent to them, which was
drafted by them.

But they should be assured by our assurance that
this letter is part of the MOU itself, and that that is
acceptable to all the other signatories. I'm truly
confused. I don't know what is going on.

CHAIRMAN MC CARTHY: Mr. Wexler, you said the
court would interpret this differently. Tell us what you
meant. Do you think that on the specific three points that
you raised, you referenced in Mr. Warren's October 10th
letter, that the memorandum of understanding is going to legally bind the City of West Sacramento in some way that precludes your development? I take it that's your appropriate interest. Is that the point you're trying to make? Are you subject now to some legal constraints because of the -- you just heard Mr. Warren say that signatories could withdraw from this memorandum of understanding at any time they want.

This is not the point where I think you're facing legal constraints. That would come down the line if the local jurisdictions agree to collective action.

MR. WEXLER: I think it's -- in terms of withdrawing at any point, that is not within the MOU as it's now written. One of the proposed changes that West Sacramento put in at the end of paragraph 7 is to put in the specific provision that parties can withdraw at any time, because that isn't clear.

The provision that I was speaking to was in paragraph 6, that assuming that a jurisdiction has signed this agreement, as I read paragraph 6, it says during the preparation of the plan, each agency -- and then it goes on to say, shall take no action which is detrimental to the proposed parkway or the provisions or the intent of this agreement.

Now, if a court were to say that this letter is
in fact a part and incorporated in, even though it hasn't been approved by any -- officially approved by any of the local jurisdictions, then that wouldn't be a problem.

But if they look at it and say, what you have here is an agreement that says no action shall be taken that could negatively impact on this, and the letter is an interpretation by an executive of the staff, then they could come to a very different result.

And that's why the -- the whole purpose, I think, of West Sacramento's amendments are to clarify and put into the MOU -- and if there are things in here that create a problem, then it seems to me the way to deal with that is to sit down, and I would assume those could be worked out by City of West Sacramento and State Lands.

Because, as I look at it as an outsider --

CHAIRMAN MC CARTHY: There is no question in your mind that as long as the City of West Sacramento is not a signatory to this, your proposed development is not in jeopardy in any way?

MR. WEXLER: That's correct.

CHAIRMAN MC CARTHY: Okay.

MR. WEXLER: But my client's purpose is not to keep people out of that. We would like to see it participate.

CHAIRMAN MC CARTHY: These discussions have been
going on for a fair amount of time with all local
jurisdictions participating. We have three jurisdictions
now that have unanimously endorsed this, including the
Yolo County Board of Supervisors. So, the City of
West Sacramento is free to make its own public policy
judgment in this regard. We have three jurisdictions,
plus a number of other agencies, suggesting they want to go
forward at this time with this.

MR. WEXLER: And I'm certainly not suggesting
to you -- that's why I didn't put myself down in
opposition -- that this not go forward. I was just
hoping to find that there might be some way found to take
the desires of the City of West Sacramento, as they've
adopted it, and coalesce those so that everybody could
be on the same page.

CHAIRMAN MC CARTHY: I think the sense I get out
of this discussion, if I may sum it up, is that while
there isn't anything really constraining about the
memorandum of understanding, it's trying to set a tone of
collective cooperation which will lead to a legally
binding judgment in the future. And if you open up with
a wishy-washy articles of confederation, which is nothing
more than prefatory language, and doesn't send a message
of clear, strong purpose coming from all the jurisdictions,
you're not ultimately going to end up with a mutually

So, in fact, the City of West Sacramento is really totally free to go its own way and need not be a part of that collective action ultimately. But after a series of discussions now, it stands alone in that position, which is its right.

I don't think the Commission, after hearing all of this, is interested in delaying action on this memorandum of understanding. However, I would state that we are very open to continuing discussions with the City of West Sacramento and ultimately very much want the City of West Sacramento as part of whatever agreement will be reached to create this parkway.

We think it's damaged by the lack of participation from the City of West Sacramento, but we respect the wishes of the community leaders.

MR. TOPPENBERG: Mr. McCarthy, if I may, again, I may state -- must state that the City of West Sacramento is very much interested in participating in a formal manner, and also is very much interested in executing a memorandum of understanding. Our concern is that some third party litigant comes in and sues and holds up this MOU and says, I'm sorry. You guys can't do planning on your waterfront, and that is a real concern. And you know,
I would be happy to show you what we're facing in West Sacramento at any time it's convenient. We are, again, very concerned about participating. We want to participate. We want to be a partner of this. We want to sign an MOU. We want to sign an MOU that respects both of our interests.

CHAIRMAN MC CARTHY: Well, if you're sued, perhaps we can send Mr. Warren over to testify as to the points raised at this hearing.

EXECUTIVE OFFICER WARREN: We are asking that the MOU, as interpreted by the letter, be approved. The letter was a part of the MOU. I'd like that understood.

CHAIRMAN MC CARTHY: Do you have anything further you'd like to add?

MR. TOPPENBERG: No. Thank you.

MR. DAVIS: I just want to make a comment. I'm very impressed with the consensus that's been achieved between three jurisdictions and the State Lands Commission. I believe it's our obligation, as servants of the public, to proceed and forge ahead. And West Sacramento is welcome to join at any time and may well, in fact, come up with an idea that improves upon this MOU.

As the Chairman pointed out, whatever clarity this MOU provides to what I call a permit gauntlet must subsequently be validated by individual jurisdictions.
So, it's not at that point would any legal obligation obtain to your particular jurisdiction. As to your client, Mr. Wexler, I've always believed that someone serves their own self interest by operating in the public interest.

And I'd strongly suggest that he or they grant the kinds of access and provide the kinds of recreational opportunities on their own initiative, whatever West Sacramento does, because I think you'll find the best endorsement for their next project is the attractiveness of their last project.

So, as they say in Hollywood, you're as good as your last movie. So whatever West Sacramento does, I would advise you, if your client is so inclined, to structure his development in a way that reflects the spirit of this MOU.

MR. WEXLER: Thank you, Mr. Davis. My client is very interested in providing public access along the waterway where he has -- owns property there, and very much shares your view.

EXECUTIVE OFFICER WARREN: If I could impose just for one minute, Mr. Chairman and members, I met with -- I have met with Mr. McCuen. I thought we had a very cordial meeting frankly. I was very excited about the opportunity of working with an urban developer in West Sacramento to involve this concept into urban planning.
And my impression from that meeting, frankly, was one of enthusiasm on both sides. So that's why I continue to be puzzled.

I only bring this to your attention today, so in the presence of Mr. McCuen's lawyer, we would welcome further opportunities to explore with Mr. McCuen his plans for the river to see to what extent we could facilitate, if not accommodate, his interests.

CHAIRMAN MC CARTHY: Thank you. Anybody else in this audience wish to testify on Item No. 3?

The matter's before the Commission. Motion by Commissioner Davis. Seconded by Commissioner Dwight. Unanimously adopted.

Item No. 4.

EXECUTIVE OFFICER WARREN: Finally, Mr. Chairman, Item No. -- well, it's not finally.

CHAIRMAN MC CARTHY: Oh, it's Item No. 5.

EXECUTIVE OFFICER WARREN: Well, to use that expression, we're not on the same page. Item 4 is next. We have one more item after 4.

Item No. 4 --

CHAIRMAN MC CARTHY: We authorize you to execute the memorandum of understanding. Now we're on Item No. 4.

EXECUTIVES OFFICER WARREN: All right. This is
another memorandum of understanding between the State Lands Commission and the United States Coast Guard formalizing the relationship between the two agencies concerning the Marine Terminal and Platform Inspection Program.

I think this again is a unique agreement of a State agency -- involving a State agency and a Federal agency. It's largely a result of Chairman Davis' meetings with the Coast Guard. We think it's one of communication, coordination, and joint inspection. We're eliminating redundancy. We're -- in other words, it establishes a nice working relationship between the State Lands Commission and the U.S. Coast Guard on a formal basis.

And we request -- I would like to say this has not been -- Admiral Gilbert -- this has been staffed by everybody in the Ninth Command. Admiral Gilbert himself has not signed it. So, today, we're only asking you for authority for the Executive Officer to enter into this or some substantially similar MOU, depending on Admiral Gilbert's --

CHAIRMAN MC CARTHY: Any questions from members of the Commission?

COMMISSIONER DWIGHT: I'd like to put on the record a discussion that we had about this yesterday
so there won't be any confusion in the future. If I could summarize that, perhaps Mr. Warren can agree with it, and that is that the discussion was to the effect that there's nothing in this MOU that would prohibit any other appropriate State agency to enter into an MOU similar to this one that would affect its responsibilities in this general area of State institutions.

EXECUTIVE OFFICER WARREN: That's correct. And we would -- in fact, we commend such an effort, and would assist any other State agency into entering into any such arrangement.

CHAIRMAN MC CARTHY: With that, unanimously authorized.

5 was taken off calendar.

EXECUTIVE OFFICER WARREN: I'd like to formally request that this item be removed from calendar and to point out the significance of that. The significance of staff's request is that it thereby signals the withdrawal of any effort to appeal the decision of BLM denying to State Lands the indemnity selection process for the subject properties.

This action will result in the abandonment of any appeal by us of that ELM determination. However, it keeps open the negotiations with the Viceroy Mining Company concerning its desire to have access to our school lands and
to wells which get inadvertently dug on those lands.

We have received a letter today, this morning, from Viceroy Mining Company indicating its desire to negotiate a lease with us for those -- for that water resource.

CHAIRMAN MC CARTHY: Any questions?

COMMISSIONER DAVIS: Is there any opposition, either written or oral, to the Commission about the proposed staff action here, or the proposed recommendation?

EXECUTIVE OFFICER WARREN: No.

CHAIRMAN MC CARTHY: Okay.

EXECUTIVE OFFICER WARREN: That concludes the agenda, Mr. Chairman and members.

CHAIRMAN MC CARTHY: Thank you, ladies and gentlemen. That concludes the Commission meeting.

(Thereupon, the meeting was adjourned at 4:00 p.m.)

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CERTIFICATE OF SHORTHAND REPORTER

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I, Nadine J. Parks, do hereby certify that I am a disinterested person herein; that I reported the foregoing proceedings in shorthand writing, and thereafter caused my shorthand writing to be transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of January, 1991.

Nadine J. Parks
Shorthand Reporter

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