APPEARANCES

COMMISSIONERS
Kathleen Connell, Chairperson
Cruz M. Bustamante, Member
B. Timothy Gage, Member, represented by Annette Porini,

STAFF
Paul Thayer, Executive Director
Jack Rump, Chief Counsel
Barbara Dugal
Jim Frey
Kim Korhonen, Executive Secretary
Lynda Smallwood

ALSO PRESENT
Matt Rodriquez representing the Attorney General
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CHAIRPERSON CONNELL: Call the session to order. May I have a roll call, please?

SECRETARY KORHONEN: Present we have Lieutenant Governor Bustamante, Controller Connell and Chief Deputy Director Annette Porini.

CHAIRPERSON CONNELL: Thank you. May I have approval of the minutes, please.

ACTING COMMISSIONER PORINI: Move approval.

COMMISSIONER BUSTAMANTE: Second.

CHAIRPERSON CONNELL: Minutes have been moved and approved.

Mr. Thayer, we are moving on to your Executive Officer's Report.

EXECUTIVE OFFICER THAYER: Kim, could you check the mikes. I think the board is turned off, the sound board.

Good morning, Madam Chair and Commissioners. There's just a couple of items on the Executive Officer's Report.

First, I wanted to get back to you on a status report, the shell mounds issue. As you recollect this last fall in response to an approach from the Commercial Fishermen who were adversely affected by the Shell mounds in Santa Barbara, the Commission directed that the oil
company go out and provide two things, first, buoys, lighted buoys, marking the Shell mounds, and to provide additional satellite navigation gear for the fishermen to help them avoid the Shell mounds.

At this point, the lighted buoys are in place. An agreement was reached with Chevron to provide the GPS equipment. So far, 16 fishermen have been provided. The equipment has been installed on their boats. We did have some additional conversations in the last month with one of the fishermen down there who wanted some additional flexibility, some additional opportunity to buy different gear, that was more uniquely suited to his boat. Chevron has agreed to do that and we think most of the --

CHAIRPERSON CONNELL: So Chevron is paying for all of these expenses?

EXECUTIVE OFFICER THAYER: That is exactly right, Madam Chair. So at this point, we think that's been pretty well taken care of. There may be some residual issues in terms of the qualifications for which fishermen would receive the equipment, but we're continuing to work on that.

The second aspect of --

CHAIRPERSON CONNELL: Are there any other questions by Members of the Commission on that item?

COMMISSIONER BUSTAMANTE: Yes. Are you finished?
EXECUTIVE OFFICER THAYER: Yes.

COMMISSIONER BUSTAMANTE: The issue of doing a sampling, a core sampling, was that ever done or is in the process of?

EXECUTIVE OFFICER THAYER: Exactly. That's a good question. We're entering into a study with the Coastal Commission. We'll be doing this jointly. You, the Commissioners here at the State Lands Commission, have previously approved this. Request For Proposals went out. We do have a winning bidder at this point that came in in the last couple of weeks, L.A. Dewitt is the name of the consultant. The work will start on that study, which will include the core samples you're talking about on July 17th.

We expect that study to take about six months to complete. So sometime around the first of next year that study should come back. That will hopefully provide the information so that this Commission, as well as the Coastal Commission, can proceed unresolved in the Shell mounds issue.

CHAIRPERSON CONNELL: Excellent.

EXECUTIVE OFFICER THAYER: The next item I wanted to mention is that this Commission has been very involved in ensuring that the school lands that are present at the Elk Hills -- former Elk Hills Naval Petroleum Storage
Facility, that the State receives adequate compensation for its ownership there.

An arrangement was worked out with the administration in Washington, which provides for periodic payments every year, but there's still something of a budget fight to get that money. And I'm happy to report that the next installment this year is an installment of $36 million. It has made it out of the Senate Appropriations Committee, and we're hopeful and confident that, at this point, the State will be able to receive that money. That money is used for cost-of-living increases for retired teachers.

The next item, we have a Prevention First conference coming up in August. This is a conference that the Commission has sponsored for every other year for three or four sessions now. It's a two- or three-day conference, and it highlights the progress that's being made in preventing oil spills. The Commission is a real leader in this. We're the primary sponsor.

We have fliers that give additional information about that, that are in the back of the room for anybody in the audience that's interested in learning more about it. And I've sent letters to each of the Commissioners asking them if they would like to participate. We, of course, will make arrangements, if you want to do that.
CHAIRPERSON CONNELL: Mr. Thayer, I want to applaud this effort by the Commission. We've been doing this for a number of years, but I would just like to emphasize that this is becoming an increasing concern, as you know, now that we're at a point where we are trying to determine how we're going to retire these oil platforms off the coast of California.

And I think given the increased sensitivity and public recognition of this matter, it would be helpful if we could send a news release to the papers of California letting them know that we're doing this conference. And most of them have these sections that they publish on weekends about public educational seminars. And I think that would be very helpful.

I would like to bring it to the attention of all the County Planning Offices throughout the coastal area of California, up and down the coast. And perhaps they could give it to their citizen advisory groups as well. Most of them have formal citizen advisory groups that it could be disseminated in that fashion.

And, of course, all of those who have appeared at our Rigs to Reefs workshop should be automatically invited to the conference so that we can assure that those who have indicated a continuing interest in this matter are kept informed.
EXECUTIVE OFFICER THAYER: Certainly.

CHAIRPERSON CONNELL: And of course, we are posting it, I assume, on our web site?

EXECUTIVE OFFICER THAYER: It's already there. Certainly, we'll do that.

The next item, you'll recall that there were several people from the City of Long Beach, citizens and representatives of several groups, to voice concerns, in particular about the Queensway Bay Project, which is ongoing in Long Beach. And the Commission responded by directing that we hold a public workshop to gather information about the situation there. And this workshop has now been scheduled. Notices have gone out to those people that have expressed interest. We'll make sure the papers in Long Beach are aware of this as well. It's scheduled for July 20th at 9:00 a.m., at the library auditorium in the City of Long Beach. We also have additional fliers that are in the back of the room if there's anybody else in the audience who would like to take home one of these.

We'll be collecting the information on the concerns that people have in Long Beach. And then our intent is to prepare a staff report analyzing whatever issues come up and submitting that individually to the Commissioners, along with a transcript of all the
comments, so that you'll be aware of exactly what people's concerns are down there. And then the question before the Commission, at that point, would be whether or not they want to pursue this matter any further.

CHAIRPERSON CONNELL: I'm particularly interested in the Long Beach matter, as you know, Mr. Thayer. And I would hope that as we move through this issue that we find new ways of bringing the City of Long Beach into this discussion. I know there's been terrifically enlightened leadership on the part of Mayor O'Neill and her administration on this matter. And they have recently contacted me about their interest in continuing to be involved in this matter.

Wherever we have these efforts to do outreach, I think we should always try to bring the local elected officials into play at the end of the day. They are the ones that have greater contact with these matters than we do. So if you'd make sure that you involve Mayor O'Neill and her staff, I'd appreciate it.

EXECUTIVE OFFICER THAYER: We'll do that. And thank you very much for that. You should know that we have invited the City to make a presentation at this workshop to explain this project at the beginning. And we'll be working closely with them on that.

Thank you.
The next item I wanted to report on is that the Commission is sponsoring SB 2181. This is the bill that would give us cease and desist authority, so that if there was a problem with a potential oil spill in oil off-loading operations in our prevention program, we would have the ability to stop dangerous activities. It would also give us the opportunity to deal with situations such as we faced in some of our platforms.

That bill, I wanted to report, has passed out of the Senate, and yesterday was passed out of the Assembly Policy Committee of the Natural Resources Committee. So we're making progress. There is some opposition from the oil industry on this. I think that's unfortunate. We've worked closely with them.

CHAIRPERSON CONNELL: What is the nature of their opposition?

EXECUTIVE OFFICER THAYER: I think just generally they would prefer the Commission did not have this authority.

CHAIRPERSON CONNELL: Actually, it works to their advantage. And I think other Members of the Commission would agree with us in that matter. Obviously, we're trying to make sure we identify it at the earliest possible moment and mitigate the problem. They are the ones who have been scarred by this tremendously negative
publicity, which has occurred every time we've had one of these leaks and eruptions on any of these oil platforms. This should be a wonderful opportunity for them to show cooperation with us. Have they been testifying against this bill in committee?

EXECUTIVE OFFICER THAYER: I believe they did testify yesterday, yes.

CHAIRPERSON CONNELL: I would like to have the names of those who have testified against this bill. Maybe we can have conversations with them to help them understand that this bill works in their favor. This is something that they should be supportive of, certainly not negating.

EXECUTIVE OFFICER THAYER: We'll provide that information to all the Commissioners. And we may as well, as the bill moves through the final parts of the process, the legislative process, we may call on the Commissioners individually for their assistance in making sure --

CHAIRPERSON CONNELL: Now, where is it now, in the Assembly?

EXECUTIVE OFFICER THAYER: It's passed out of the Assembly Policy Committee and will probably be next in the Appropriations Committee, next the floor and then it would go on to the Governor.

CHAIRPERSON CONNELL: What is the cost factor of
this bill?

EXECUTIVE OFFICER THAYER: I don't believe there's any cost at all. It's just an enforcement tool. We're not proposing to -- we're proposing to provide this implementation or enforcement authority, but it would be used by existing staff.

CHAIRPERSON CONNELL: Okay. So there is not a financial matter?

EXECUTIVE OFFICER THAYER: No.
So, so far so good on that.
The last couple of items I wanted to point out have to do with items that are presently on the consent calendar on the Commission's agenda.
The first is I wanted to point out that there is yet another quitclaim of an additional offshore oil lease. This item is actually -- there are three lessees for one lease. And two out of three have a quitclaim on your agenda today.

CHAIRPERSON CONNELL: Which item is that, Mr. Thayer?

EXECUTIVE OFFICER THAYER: That's Item 87, Atlantic Richfield and Phillips Petroleum are quitclaiming their interest in this lease. The last owner is Exxon Mobil --

CHAIRPERSON CONNELL: Where is that located?
EXECUTIVE OFFICER THAYER: It's off of Santa Barbara County.

CHAIRPERSON CONNELL: Have you notified Santa Barbara?

EXECUTIVE OFFICER THAYER: Yes, we have.

There's one more lessee for this particular lease that we need to get a quitclaim for and we're pursuing that.

COMMISSIONER BUSTAMANTE: So we have only one remaining?

EXECUTIVE OFFICER THAYER: Only one remaining out of the three.

I also wanted to note that we have a final fiber optic cable project on our consent calendar today, AT&T that item is the last of --

CHAIRPERSON CONNELL: What item is that?

EXECUTIVE OFFICER THAYER: That item is number 16.

CHAIRPERSON CONNELL: I would like to pull that off. I'd like to have discussion of that item.

EXECUTIVE OFFICER THAYER: We will do that. Then I would defer further comment on that, other than to say that this is the last of the original flesh of new applications for fiber optic cables that we've received. We have no other pending applications. So the next cable
to come to the Commission would probably be at least a year off.

CHAIRPERSON CONNELL: Perfect.

EXECUTIVE OFFICER THAYER: Then the final thing I wanted to mention -- well, two things. First, our next Commission meeting we're expecting to meet in September. We'd like to hold that in Sacramento if possible, but certainly if the Commissioners' schedules require us in Los Angeles, we can do that.

CHAIRPERSON CONNELL: Does anyone have problems in September with the location of Sacramento?

Fine, we will be doing it in Sacramento then.

EXECUTIVE OFFICER THAYER: Okay. And then we'll contact your offices to find a mutually agreeable date.

And then I need to note that unfortunately, although it's turned out not too seriously, one of our staff members was involved in an automobile accident on the way to the airport to come down here, Dave Plummer, who spent a lot of work on base closure issues and San Francisco Bay issues.

Some of our staff have already talked to him since the accident. He was hit from behind while he was on the freeway. I think there was a fatality involved in one of the other vehicles, but Dave's vehicle rolled several times. He received some cuts.
CHAIRPERSON CONNELL: This is in Sacramento or L.A.?

EXECUTIVE OFFICER THAYER: Sacramento. He was going to fly down here this morning to be here for one of the items, but we're all, you know -- we feel fortunate --

CHAIRPERSON CONNELL: Is he in the hospital?

EXECUTIVE OFFICER THAYER: He is, but he's expected to be released today.

CHAIRPERSON CONNELL: All right. Could you give that information to all the Commissioners. I'm sure we'll want to be in contact with him.

EXECUTIVE OFFICER THAYER: We'll do that.

CHAIRPERSON CONNELL: He is in --

EXECUTIVE OFFICER THAYER: Sacramento.

CHAIRPERSON CONNELL: -- good condition?

EXECUTIVE OFFICER THAYER: My understanding is that he received some stitches for some head wounds, but that he will be released today, that it's not serious. He actually spent, it was, late last night working on one of the items on a final deal with some of the people who are in here. So he's someone we really appreciate all of his hard work. He's very dedicated.

CHAIRPERSON CONNELL: We will have to make sure he appears at our September meeting in his, hopefully, recovered state. And we will so honor him as a veteran of
the commute problem in California.

(Laughter.)

CHAIRPERSON CONNELL: For those of us who commute that route daily, we understand the exposure that that represents. I'm sorry that certainly affected one of our members.

EXECUTIVE OFFICER THAYER: We'll get the information and the particulars to your offices about him. That wraps up the Executive Officer's Report.

CHAIRPERSON CONNELL: All right. I would then like -- with the removal of the item which I indicated, I would certainly call on members for a motion on the consent calendar.

Is there anyone who wants to speak on the consent calendar, first?

No one in the audience. All right, then I would like a motion, if we could, to move the consent calendar.

ACTING COMMISSIONER PORINI: Move approval of the Consent Calendar.

COMMISSIONER BUSTAMANTE: Second.

CHAIRPERSON CONNELL: Okay. It's been moved and approved.

Mr. Thayer, we are now moving into the regular agenda. Let's go to the regular calendar.

EXECUTIVE OFFICER THAYER: We now have two items.
And if the Commissioners are agreeable, I guess we could
take up El Toro, the first item, and then take up AT&T
after that.

We do have a staff presentation on El Toro, and
that will be given by -- this is a retrocession of police
and fire services from the federal government to the State
and local entities. And we do have a presentation being
made by Jim Frey, one of our staff members.

CHAIRPERSON CONNELL: Go ahead.

MR. FREY: Good morning, Madam Chair,
Commissioners. The Department of the Navy has requested
that you accept a retrocession of legislative jurisdiction
at the Marine Corps Air Station at El Toro. This is a
retrocession of partial legislative jurisdiction over a
portion of the lands at El Toro.

If you accept the retrocession, the State of
California and local government will have full legislative
jurisdiction over all of the lands comprising the base at
El Toro. California will have the opportunity and the
right to enact and enforce civil and criminal law there.

This request was first brought to you at your
December meeting in 1999. At that meeting, you heard
extensive testimony from your staff, the Navy, the
Department of Toxic Substances Control, Orange County and
many members of the public. DTSC, the Navy and Orange
County acknowledged the presence of toxic materials on the base, and stated these substances were being cleaned up through a program involving the Navy, DTSC and the Santa Ana Regional Water Quality Control Board. We will update you on the progress of these programs today.

Several groups, including the El Toro Reuse Planning Authority, or ETRPA, earlier protested the County's proposed conversion of the base to a cargo aviation facility. ETRPA has now withdrawn their objections and supports retrocession. The Commission also heard testimony indicating that Orange County and the Navy had entered into a renewable short-term lease for eight areas of the base for various activities, including a child care center, RV storage, a golf course, the Officer's Club and horse stables.

Since 1999, December of 1999, a number of events have occurred. In March, the voters of Orange County passed Measure F, requiring a two-thirds majority vote on the conversion of the property to a civilian airport.

Secondly, the US Navy has recently stated that it will terminate its lease with Orange County for the property unless there is a retrocession before July 1, 2000. Pending your action today, however, the Navy has granted a 60-day extension to the lease. The County has received protests because of the loss of the day care
center and the horse stables. A large number of public citizens believe El Toro provides a number of valuable opportunities to the community and that they should not be lost.

On June 9th, 2000, ETRPA sent the Commission a letter withdrawing its opposition to the retrocession, because it no longer believes it is subject to CEQA. In so doing, ETRPA cites the passage of Measure F and the lack of aviation uses in the project description for the draft EIR.

Finally, ETRPA notes that the Navy has indicated that there will be no aviation-related uses of the property without a NEPA document being prepared first. It is important to note that in accepting the retrocession, this will have no effect on the duty of the United States to clean up the pollution at El Toro.

Under CERCLA, the Navy may not sell property on which Toxic Substances have been stored for more than one year and have been known to have been released until any contamination has been cleaned up. Any sale of such a property must contain a notice of the type and quantity of the hazardous substances, notice of the time of storage, release and disposal of the substances and a description of the remedial action taken by the United States.

Further, the United States will include covenants
in the deeds that all remedial action necessary to protect human health and the environment has been accomplished, and that if further pollution or contamination is discovered, the United States will take on itself the obligation to clean it up.

The Navy is, of course, aware of these statutes and will not convey the property until the cleanup is finished. Orange County representatives have previously indicated that the County will not take title to the property until the cleanup has been accomplished.

DTSC reports that the Navy continues to cooperate with it and the Santa Ana Regional Water Quality Control Board in the cleanup of the property. In March 1999, DTSC had identified some 883 locations of concern, 369 of which required an investigation. In March of 2000, the number of areas requiring further investigation had been reduced to 271, approximately a 25 percent reduction.

Originally, there were 24 sites identified as installation restoration program sites and classified as contaminated. I believe that number has now been reduced to 11. The cleanup program continues, but it will be several years before it is completed. We have with us today representatives from the Department of Toxic Substances Control, the United States Navy and Orange County. Each of them would like to address you about this
situation and how it can be dealt with.

I'd like to ask three speakers to precede the general public, if I may. That is Jack Wells from the United States Navy, John Scandura from the California Department of Toxic Substances Control and Rob Richardson from Orange County.

Mr. Wells.

CHAIRPERSON CONNELL: Mr. Wells, if you would identify your affiliation, again, for the record, please.

MR. WELLS: Madam Chair, Members of the Commission, my name is Jack Wells. I'm an attorney with the Navy Base Closure Office in San Diego.

If I may, and I know it's perhaps a little bit beyond my authority, but I'd like to make sure that another Navy speaker has an opportunity to speak after I do, and that is Dean Gould, who is the person who is responsible for overseeing and coordinating the environmental activities at El Toro.

CHAIRPERSON CONNELL: Certainly. Why don't you continue, Mr. Wells.

MR. WELLS: The primary purpose of the Navy's request for retrocession is that we would like to have the ability to lease the property during the period of time prior to the time that we're able to convey the property.

In order for us to do this, we need to be assured
that the public is going to be protected in its use of the installation. Right now, the local law enforcement authorities are not in a position to enforce the laws of the State of California and the local jurisdictions that relate to traffic, the environment, to safety and everything else that the Sheriff's Department is responsible for, ensuring that the citizens are adequately protected.

So we have indicated that without retrocession occurring that we're not going to be in a position to further extend the interim use of the installation at El Toro. And therefore, the property, the golf course and the other facilities that have been mentioned by your staff are not going to be available to the public. That's going to hurt both the public and the Navy, because we would like to see the facility in active use. It reduces the requirements for protection and maintenance if that occurs.

Now, regardless of whether retrocession takes place or not, the Navy is committed, and, by law, is obligated to continue its efforts to clean up the hazardous substances that have been deposited at the installation. And as was stated by your staff, we're not going to be in a position to be able to convey the property until that occurs, because of the requirements of
CERCLA.

And I'm not sure whether the Commission is aware of this, but retrocession has been approved by the Commission at other installations where the remedial efforts of the Department of Defense are continuing. I think one of those facilities was on your agenda today. I'm not familiar with McClellan.

But in the case of the naval training center at San Diego, retrocession took place several years ago. The same is true for the Long Beach Naval Complex. And in both instances, both at NTC in San Diego and at the Naval Complex in Long Beach, the Department of the Navy is continuing its efforts to clean up those two installations. And retrocession really had no effect on those efforts, but the local law enforcement officers are in a position to enforce State and local laws at those two installations.

With respect to the specifics of the environmental cleanup at MCAS El Toro, I'd like to have Dean Gould, who is the Base Realignment And Closure Environmental Coordinator speak to you briefly about the cleanup process. And if he could do so on my time, I would appreciate it.

CHAIRPERSON CONNELL: Certainly. Mr. Gould, are you prepared? Yes, could you step forward.
Mr. Wells, does that conclude your comments?

MR. WELLS: It does.

CHAIRPERSON CONNELL: Thank you.

MR. WELLS: And I'll be available to answer any questions.

CHAIRPERSON CONNELL: Thank you, Mr. Wells, I appreciate that.

Mr. Gould, could you give your name and affiliation for the record, please?

MR. GOULD: Good morning, Madam Chair and Members of the Committee, my name is Dean Gould and I'm the BRAC Environmental Coordinator for Marine Corps Air Station El Toro. And on behalf of the Navy, I'm here to speak to you today to address the environmental impacts at El Toro.

A little bit more on the definition of my position. Amongst other things, I'm primarily responsible to represent the Department of the Navy to ensure that all of our obligations are adhered to as outlined in the Federal Facilities Agreement, and I'll get to that a little bit more in just a moment, and that all applicable requirements as outlined in CERCLA, RCRA and other environmental law are, in fact, completed successfully for the base.

The Federal Facilities Agreement that I have here was entered into in 1990 on behalf of the Department of
the Navy and the three regulatory agencies of the U.S. EPA, what was then DHS on behalf of what is now DTSC, and the Regional Water Quality Control Board. Those parties make up what is called the BCT, or BRAC Cleanup Team.

They entered into this agreement, it is legally binding, that the Navy will see through all of the items that are identified in this agreement and the methods for which it will be done. Also, there is a schedule, as Appendix A included in this agreement, which we are legally bound to adhere to. Any deviation from that schedule requires acceptance by the other three regulatory agencies that make up the BRAC Cleanup Team.

As Mr. Wells had mentioned, there has been a good deal of process, and also Mr. Frey. Just to bring you up to today as to where we're at, we have 885, what are known as, locations of concern on base. Those could be any number of things from underground storage tanks to Installation Remediation Program, IRP, sites, of which we have 24, those being the most notable and so on.

Of the 885, 642 have been closed out as no further action. And what that means is that we have gone through the environmental process, the appropriate laws, regulations and procedures and with the concurrence of the appropriate regulatory agency or agencies, those sites require no further action.
With regard to the Installation Remediation Program, which seems to be of primary concern to many people and rightfully so, eleven of those sites have been closed out as no further action. And the remaining 13 we are in various stages of progress, some are at the remedial design stage, some where the actual remedy is being designed, for other sites we are still conducting further investigation. And all of this, once again, is coordinated with the regulatory agencies.

COMMISSIONER BUSTAMANTE: We were just told of the 24 sites, there were 11 sites remaining.

MR. GOULD: Eleven sites.

COMMISSIONER BUSTAMANTE: Is there 13 sites remaining or 11 sites?

MR. GOULD: Eleven sites have received no further action status, which leaves the remainder of 13 requiring some sort of action.

CHAIRPERSON CONNELL: Well, where did we get to the 24? I mean, you started with 85. You've closed out 642. My subtraction gives us 243. What subset is the 24 of the 243?

MR. GOULD: That 24 subset of the overall 885 locations of concern, those would be, what are called, the IRP sites, or Installation Remediation Program sites. Those are the sites that were originally identified in the
Federal Facilities Agreement and have since been amended as the program has proceeded along.

I broke out those 24 from the 885 because those are probably the largest issues that we have to deal with, and those also are the critical path, both from time as well as resources typically required to close those type sites out.

CHAIRPERSON CONNELL: Well, what happens to the remaining portion of the 243?

MR. GOULD: Those, too, will have to be closed out. For example, the UST program, Underground Storage Tanks, of which there were originally 401 of them on base, 333 have been closed out.

And to give an illustration that by closed out that's not just an administrative action, 329 of those 333 have actually been physically removed from the base, so there has been a good deal of actual physical work done on the base between a variety of programs.

The balance of the 200 plus sites that you're referring to are aboveground storage tanks, PCB transformers, different types of accumulation areas, a variety of locations.

CHAIRPERSON CONNELL: And what is your intent regarding those sites?

MR. GOULD: The same thing that we have in our
program. That's a little bit different side of the house, that is under the RCRA side, Resource Confirmation Recovery Act, that we're trying to close those sites out, but each one of them is also in our current program. And on a month-to-month basis, you can see the progress that is being made, and Mr. Frey alluded to an example of 25 percent of the most notable from the last time that we had published our annual report.

CHAIRPERSON CONNELL: Do you have a timetable, Mr. Gould, for closing out those remaining sites?

MR. GOULD: Yes. In the Federal Facilities Agreement, that Appendix A outlines for the Installation Restoration Program lists, the primary 24 sites and the timetable for them. We will have -- we certainly expect to have the remaining sites, that make up that 885, closed out prior to the final IRP site. It would be roughly the middle of 2005 would be the last IRP site we expect to have closed out. By that time, we expect that the balance of all the smaller RCRA sites would also be closed out at that time.

CHAIRPERSON CONNELL: So the latest time would be, what, 2005; is that correct?

MR. GOULD: That's correct.

CHAIRPERSON CONNELL: All right. Fine. I think it's important for the audience's understanding to know
that there is a drop-dread date here that we're looking at.

MR. GOULD: Absolutely.

CHAIRPERSON CONNELL: Did you wish to continue on Mr. Gould?

MR. GOULD: Yes. To provide status for anyone who is interested actually, we publish an annual plan that was previously called the Base Closure Plan. It is now a business plan. It is available to the public and it is mailed out to a good number of individuals and agencies right off the bat. And in that it outlines exactly what our progress is over the past year and also projecting what we will be doing for the upcoming years, such as a means to communicate exactly where the program is at.

In addition to that, every other month we have, what are known as, Restoration Advisory Board meetings. That is a primary forum that we have to interact with the public to exchange information with them as to where the program is at, as well as receive input from them on their reviews of documents or questions that they may have to address them there.

CHAIRPERSON CONNELL: Good.

MR. GOULD: A couple of issues that I just want to touch upon that they have received a fair amount of press as of late. One is a study that was drafted on
behalf of the City of Irvine, which had come to the conclusion that an amount of contaminated solvents on El Toro had far exceeded what we had believed, up to that point, our program -- actually from 8 to 80 times the amount of contamination as to what our program had previously identified.

That was given to us in early February. We were briefed on it by consultants of the City of Irvine. And since that time, we have met regularly with the regulatory agencies. And as of May 31st, we briefed the public on our findings of the internal review that we did of that study and the conclusions that we reached. And in conjunction with all three of the regular agencies, DTSC, U.S. EPA, and the Regional Water Quality Control Board, we published our findings that very limited additional action will be required on site that we do not agree with the estimated amounts of contaminated solvents that the Irvine study had predicted. But there will be some very limited additional on-site sampling as a result of it.

Another issue, radio nuclides has certainly been high interest --

CHAIRPERSON CONNELL: Mr. Gould, you're going to have to abbreviate your comments, because we have a number of speakers at this point.

MR. GOULD: Yes, ma'am. I will pick up the pace.
Radio nuclides is also an issue of concern. Due to past base practices where low-level radioactive waste could have possibly been put into some of the landfills on base, there is concern that it could possibly leave in the landfills and contaminate the soil and groundwater.

We have conducted a study already to identify whether or not there has been any leakage, if you will, from the landfills. And we have the preliminary results, which are very, very favorable, that there has not been. However, we are going to continue with additional studies including a basewide historical radiological assessment.

COMMISSIONER BUSTAMANTE: Are those landfills lined?

MR. GOULD: Those are not lined, no.

COMMISSIONER BUSTAMANTE: So the chances of something getting out are pretty good?

MR. GOULD: But we have not put our remedial remedy in place, yet, for those landfills. We are just now getting into the remedial design and we have not yet implemented the remedial action to ensure that that type of leakage does not occur and put in place the appropriate monitoring wells to test for them. That is essentially it.

COMMISSIONER BUSTAMANTE: Is one of the remediations lining the landfills?
MR. GOULD: It would be premature for me to
discuss that because we have to get into the remedial
design of that and I --

COMMISSIONER BUSTAMANTE: When will that be
available?

MR. GOULD: Well, it depends on which landfill
you're referring to. Over the next two years, we will be
getting into the remedial design and remedial action,
which is actually putting the remedy into place for the
landfills.

That is essentially it, other than to say that I
certainly appreciate your time. And I did want to comment
that from last December up to present day, since this
issue has been tabled, this program has proceeded along
unchanged. And I would have to be factual in stating that
regardless of what decision you make regarding this issue
today, I do not foresee the environmental program changing
one way or the other, regardless of your decision.

We are bound legally by the agreements that are
already in place and that we have signed up to, and we
will make sure that we carry through.

CHAIRPERSON CONNELL: Thank you.

COMMISSIONER BUSTAMANTE: The one major change,
however, is that we have a lot more information in front
of us to know what you're doing.
MR. GOULD: Terrific. I'll be glad to give you anything more you'd like.

CHAIRPERSON CONNELL: Did you have some additional speakers?

MR. WELLS: Yes, Madam Chair, Mr. John Scandura from the Department of Toxic Substances Control.

CHAIRPERSON CONNELL: Okay. We need to abbreviate those comments. I'm going to ask each speaker to stay to a three-minute time period. Let's go.

MR. SCANDURA: I'm John Scandura with the Department of Toxic Substances Control. Many of my remarks are going to overlap Mr. Frey's and Mr. Gould's remarks, so I'm going to be abbreviating these. The Department of Toxics, the Santa Ana Regional Water Quality Control Board and the U.S. Environmental Protection Agency are the regulatory agencies overseeing all the cleanup activities out at the base.

It is correct that there are about 885 locations on the base where contamination may have been present. These locations breakdown into three categories. The first category is your 24 historic contamination sites. Your second category is your 425 underground and aboveground storage tanks. And then your third category is all these miscellaneous areas of concern, your 435 or so sites ranging anywhere from paint lockers and a
single-piece PCB transformer to possible accumulation areas.

The most significant sites are the historical contamination sites, the so-called IRP sites, which you heard earlier, and they include old landfills, explosives demolition range, chemical disposal sites, and your groundwater contamination.

It's correct, 11 of those 24 sites have been designated no further action either because when they went out there and investigated the sites they didn't find contamination that was significant to warrant remediation or actual removal action did take place. Remedies, cleanup remedies, will be in place for all of the other sites by the year 2005.

Certainly, the most difficult contamination to address is going to be the groundwater contamination. Just the nature of that kind of work can take years, if not decades, to actually remove contaminants from groundwater. And there's an awful lot of information that we now have available about the groundwater, including some very good information provided by the City of Irvine. Dean alluded to the evidence of radiation in the groundwater. A radiological study was performed to identify possible areas where radiation may have been. They found that 13 areas do require further investigation
and may require even remediation. And so that further
investigation work is going to take place this fall. The
Department of Health Services is actually going to be
overseeing that. And, certainly, I think the timetable
for any remediation for those sites may be within -- will
probably be within the next five.

I mentioned earlier about 425 or so above and
underground storage tanks. As of our current, our latest
date, of December 31st, 1999 indicates that about 75
percent of those sites, maybe a little bit more, have now
been closed out. By close out, either they went out and
removed the tanks and didn't find any leaks associated
with them or when they did find leaks, they went in there
and removed the contaminated soil and substances. Work on
the rest of those tanks should be finished by 2003.

And then I mentioned earlier about all the
miscellaneous areas, the 436 locations. These were
identified through aerial photograph searches, interviews
with former employees and base personnel, searches for
base records. To date, two-thirds of those locations have
been investigated and either found to not have
contamination as was previously suspected or they actually
went in there and took out the contaminants. And then the
rest of these locations should be addressed by the year
2003.
COMMISSIONER BUSTAMANTE: Now, the IRPs, those that you indicate we have action dates of 2005 and we have a fall study that's coming in to take place, that doesn't mean that those things are going to be remediated by those dates?

MR. SCANDURA: Yes.

COMMISSIONER BUSTAMANTE: It could take 20, 30 years to remediate some of those areas, correct?

MR. SCANDURA: For sites strictly with groundwater contamination. Soil remediation, no, usually it's something that can be accomplished within a matter of months. If you have soil vapors in there, it could take maybe a year.

COMMISSIONER BUSTAMANTE: You see the difference between you and McClellan is that McClellan at least knows its problems. And it's got a major activity in trying to deal with their problems. We know exactly what's taking place. They're in the process of cleaning it up. They know it's going to be 20, 25 years to finish theirs, but you don't have that here.

MR. SCANDURA: We have quite a bit already about that.

COMMISSIONER BUSTAMANTE: Do you?

MR. SCANDURA: Yes. We have quite a bit about contaminants out there.
COMMISSIONER BUSTAMANTE: It's not in this report?

MR. SCANDURA: As far as?

EXECUTIVE OFFICER THAYER: We gathered some --

COMMISSIONER BUSTAMANTE: The groundwater issue. Because you have a groundwater issue here that basically says it's not applicable. You have a groundwater issue here that says the estimated completion of cleanup is 2005. You have another groundwater issue that says -- and we're talking about PCB. I know about PCB's and pesticides. And you don't just sort of take those out of the groundwater just because you want to or because you remove a little soil.

MR. SCANDURA: That's correct.

COMMISSIONER BUSTAMANTE: And so it says completion date of cleanup is 2005. Additional groundwater soil, PCB's and contamination in another area. Now, some of these are just a transformer issue, but some of them are in something that's gone through several layers of soil, could be in the groundwater at this point?

MR. SCANDURA: That's correct. Some of those sites, the actual groundwater contamination plume, is much smaller and much easier to clean up. The biggest problem is going to be, what we call, the regional groundwater plume. That's the plume of groundwater contaminants that
have gotten down into the deeper aquifer and they've
actually extended three miles.

   COMMISSIONER BUSTAMANTE: But you've investigated
these. You understand exactly where these things are at
and you're moving.

   MR. SCANDURA: Yes.

   COMMISSIONER BUSTAMANTE: And you feel confident
in being able to remove them?

   MR. SCANDURA: Yes.

   COMMISSIONER BUSTAMANTE: Okay.

   CHAIRPERSON CONNELL: Any other comments?

   Annette, do you have a question?

   ACTING COMMISSIONER PORINI: Well, just a brief
question. In your experience, do you think that this has
been a thorough examination of all of the possible
contamination sites on the base?

   MR. SCANDURA: Yes. There's been 885 sites that
have been investigated and identified and explored. I
will say this, that given a base of this size, 4,000
acres, of which 2,500 acres where the actual air
operations took place, it takes an awful long time to be
able to go through all the records and interview employees
and identify areas. And that's why it's taken a good 15
years to come up with 880 sites.

   There is the possibility in the next few years
that they could identify even more sites. It's just the complexity of the beast with hundreds of buildings and different locations out there. But my branch oversees cleanups at all the bases in southern California as far north as Vandenberg and Barstow, and Fort Irwin, and all the way down into San Diego and this has been a very thorough investigation. And we're continuing to sometimes hound the military to make sure that they clean up to State and local laws and regulations and protection of public health and the environment.

CHAIRPERSON CONNELL: You know I have a question in that regard. What will your role be if we move today to retrocession?

MR. SCANDURA: Essentially, our role is going to be unchanged. We're going to continue to oversee cleanup of that site out there. By oversight, that means we're going to be reviewing all the reports and commenting and imposing requirements. Our staff is going to be out there inspecting the work done by the Navy and verifying that cleanup is adequate and continuing to ensure that they comply with all the laws and regulations and requirements necessary.

The one thing I do want to say, and one thing that I am concerned about, and I don't want to say that I'm an expert on retrocession or I understand the
retrocession issues completely, but I do understand that a key element here is law enforcement authority and actually having law enforcement presence out there. When the Marines were on the base and when they had all their civilian and military personnel out there, they took tremendous precautions to make sure that all the hundreds of monitoring wells and soil vapor probes that were out there were protected and kept from vandalism and tampering.

Likewise, they also made sure that all the historical sites and the old landfills, people stayed out of those areas. They kept them fenced and posted. Since the military has moved out of there, it's been my understanding that there's just been a minimal presence of federal enforcement officers. I feel, by having local enforcement officers out there, it will keep vandals from going in there and tampering and destroying monitoring wells. And these monitoring wells could cost tens of thousands of dollars to install. And they can yield hundreds of thousands of dollars worth of data. They can also keep people out of areas that had not yet undergone remediation, such as the landfills. The landfills still need to be capped.

We've had reports of people going onto some of those landfills. And I feel they need to be kept out of
there. When you don't have people out there patrolling, people breach the fences. They steal the signs.

CHAIRPERSON CONNELL: So you feel we're at risk in the interim period until we deal with retrocession, that's basically what you're suggesting here?

MR. SCANDURA: That's correct.

CHAIRPERSON CONNELL: Thank you. I appreciate your input.

Do you have a question?

Thank you.

Can we move on then. I believe we had one final speaker before we move to the public and then we will move to all members of the public.

Yes, please identify yourself.

MR. RICHARDSON: Good morning. I'm Rob Richardson from the County Executive Office, Director of Public Affairs. Good morning, Members of the Commission. It's a pleasure to be here.

I'm here today on behalf of the Board of Supervisors for Orange County. They have a board meeting taking place this morning and wanted to take care of that, so I apologize for them not being able to be here. There are two members of their staff who are here from Supervisor Spitzer's office and Supervisor Wilson's office who are here today.
First of all, the Board of Supervisors is unanimously in support of the Department of Navy's request that retrocession be approved by your body today, and we urge you to take that action. As Mr. Wells mentioned in his preliminary comments here today, the County is engaged in the community services program activity on the base during this interim period of time.

The Navy had indicated to us that they required that retrocession take place in order for a master lease to be concluded with them for the ongoing use of the civilian activities that take place at the base. They have granted a 60-day extension of the bridge lease, so that those civilian uses can continue in an uninterrupted fashion. And in the interim period of time, county staff is working with the Department of Navy to conclude a master lease, which would be brought to the Board of Supervisors probably as early as next month for approval to go forward.

Additionally, we have representatives who are here today from the Orange County Sheriff's Department. And we presented a letter to your staff from the Sheriff's Department, from Sheriff Mike Carona, indicating, again, the Sheriff's strong support of this retrocession request.

CHAIRPERSON CONNELL: We all received that letter.
MR. RICHARDSON: Okay. And so in owing to your time today, I simply want to say, again, on half of the County and the Board of Supervisors, the entire Board is in support of this request. You have received a letter from the Board Chairman on behalf of the entire board, and you have also received letters from Supervisor Spitzer and Supervisor Wilson as well.

And we urge your approval here today and support the staff's recommendation.

CHAIRPERSON CONNELL: Thank you, Mr. Richardson, and please give our appreciation to the Board for communicating with us.

MR. RICHARDSON: Yes, Ma'am.

CHAIRPERSON CONNELL: It's always helpful to know the position of local government on these matters.

MR. RICHARDSON: Thank you.

CHAIRPERSON CONNELL: Thank you. Now, I'm going to move to members of the public. And before I do that, may I just indicate all members of the public will have a chance to speak on this item. We are going to go on the basis of those who have submitted their requests to speak. It is a rule of the Commission that we limit your comments to three minutes. So as I identify you, I'm going to identify three or four people at a time, so that we can move forward in an orderly fashion. If you can just be
prepared to make your remarks, that would facilitate this agenda.

I'm going to begin with, I believe it's, Gail Reavis. Is Gail Reavis in the audience still?

Gail Reavis and then she will be followed by Marcia Rudolph and then we've already had Rob Richardson, so Lynne Dunn will be the third speaker.

MS. REAVIS: Thank you, Madam Chairman, but Marcia and I have been members of the Restoration Advisory Board, myself for six years and she --

CHAIRPERSON CONNELL: Would you identify yourself, Gail, for the record.

MS. REAVIS: Gail Reavis of Mission Viejo. We asked for ten minutes, is that possible?

We're members of the Restoration Advisory Board.

CHAIRPERSON CONNELL: We would ask that you keep your comments to three, both of you each. If you'd like to do a joint presentation, that will give you six.

MS. REAVIS: Okay. I'll do the best that I can. I'd like to start out by saying a lot of things. One of them is a picture is worth a thousand words. And as he talks about the base and how the things that are on the base have been cleaned up or will be cleaned up, this plume that you're looking at, this toxic plume, is not on the base. It's under the City of Irvine. And what we've
been told is that natural attenuation is the way to clean it up and it will take 50 to 75 years. And that answers one of your questions.

I wanted to bring up a lot of things. There was a great article in the paper this morning from the Los Angeles Times, *Navy Seeks Limits On Its Cleanups At El Toro*. And it said in there that under the proposed settlement signed by the Department of Justice this month, the Navy would pay $8 million of the $35 million required to clean up the three-mile wide tainted groundwater plume in exchange for not being held responsible for any future liability that could result from unknown contaminants.

So a lot of that stuff that you just heard from Dean Gould is not true. They don't want to have responsibility for things that they dig up later on. They're specifically asking to be let off of that kind of a commitment. And they're not going to pay for the cleanup. They're already saying let me out of this I don't like it very much.

I had an anecdote that I'll throw in here anyway, even though I'm short on time. In New York City, when they're having a trash strike, the way that they get rid of their trash is to wrap it up in a pretty ribbon and bow and set it on the front seat of the car and not lock the doors.
That's what they're trying to do here. They want us to take over their problems. And I'm sure the Department of the Navy is having a big party over the State of California accepting the environmental responsibility for this.

I gave you a letter from Dr. Charles Bennett, who was here last December. And the Members of the Restoration Advisory Board, the members, the citizen members, are still opposed to any retrocession based on the cleanup issues. We've been hearing about radio nuclides. The admission here today was that there are 13 areas that need to be further investigated. Areas that have been previously closed are now open again.

And, again, Mr. Gould referred to what was on site, they don't talk about anything at all about what's off site, like what's drifted towards the Newport Backbay. It's not about the horses. I know that we're going to drag this out here today and we're going to have the children and the horses. It's not about them. It's about the liability of the State of California in future cleanup and the liability of the County of Orange.

Now, I've already heard from some very high sources here that your votes are in the bag. They supposedly were in the bag the other way back in December and that they're supposedly in the bag now. I think
that's a shame. We're willing to accept whatever it is that you're going to do. But I hope, especially the Lieutenant Governor would understand that the future, financial concerns and responsibilities from all of the taxpayers in the State of California are resting on this right now and there are just too many unanswered questions.

Last year you had decided to postpone a lot of this because there were questions that were unanswered. Those same questions, if that reasoning held any water last December, still holds as much water today. Those questions are not answered. In fact, things that we were told had records of decision that were closed have since been reopened.

I don't see that there's been a whole lot of work going on with us to find out what's going on at these meetings. We don't have a whole lot of faith in a lot of the people that are coming to these meetings. Mr. Gould has been in charge of the RAB for about two years. As I said, I've been there for six and Marcia's been there for at least eight. Not that we have anymore knowledge about this, but we do have a lot of time going into this.

And I want to say Marcia and I, in particular, we don't get paid a penny for this. We are not here looking out for any better interests. I lived in Irvine for
years. This toxic plume is what brought me to this issue in the first place. It is not about the airport. It is not about the horses. It is about cleaning up that piece of property to the highest possible standards, the ones that we've been promised.

And we have no guarantees. We've been told that it's going to cost millions to clean this base up, but we don't see the check. And we know that there's been too many other base closures where the Department of the Navy has gone back and said gee, we don't have the money. Somebody else is more important. That's already happened at the Tustin Base closure, they're already coming up short. They're already trying to work deals with the Water District in saying we don't want to pay that kind of money. There's a lot of games going on here and we, the citizens of the Restoration Advisory Board, do not agree with what's going on here in the toxic cleanup.

Please vote no for retrocession.

Thank you.

CHAIRPERSON CONNELL: I'm going to be asking Mr. Gould to respond to some of these concerns.

MS. RUDOLPH: I'm sure his answers will be very interesting.

CHAIRPERSON CONNELL: Marcia, go ahead.

MS. RUDOLPH: Good morning, Commissioners. My
name is Marcia Rudolph. I happen to be wearing one of my other hats, which is Counsel Member of the City of Lake Forest. Lake Forest is directly adjacent to the base and adjacent to the City of Irvine, but I'm speaking to you today as a member of the Restoration Advisory Board.

Since its first meeting in January of 1993, I have been involved. I was community co-chair for two years, and I am an active member. There have been over 44 official meetings of the Restoration Advisory Board and countless numbers of subcommittee meetings. In fact, there is a subcommittee meeting tomorrow night.

I have some serious, serious concerns about a retrocession. I spoke to you in December, and at that time recognized the fact that, you know, you are sitting there with an awesome job of protecting the environment of the State of California.

I think the Navy has done an awesome job. And what they've done an awesome job of is putting together pro-airport, anti-airport, the County, South County or Orange County together to say please retrocess. They've done it in the name of the people-friendly uses that are currently on the base, the horse people, you know, the RV storage, the commissary, the day care. Those things they have pulled out a cheap violin. They've played it, and they've said we're going to close this base, and all these
uses are going to have to go bye-bye.

They have said we just heard that we're going -- you know, if you don't do retrocession, we're going to have people wandering into who knows, we don't know. We haven't had any description of whether there's any unexploded ordinance on the base yet, but, you know, we'll be walking around on things that they shouldn't.

It's interesting to me that for the past year we have had the uses continue on the base. It seems to me that where there's a will, there's a way. My concern goes back to the issues of the contamination on the base.

Things are different than they were in December. We know more. Why do we know more? Because the volunteers, such as myself and Dr. Bennett and Mrs. Reavis, and several other members of the Restoration Advisory Board, pick up those documents and do a forensic review of what we see. We've got Mr. Gould and others who have talked about the fact that we have no further action records of decision. What if the no-further action recommendation goes back to 1997, when, frankly, I saluted the Navy and thought that they were the best thing since sliced bread.

I no longer feel that way, I guess you've gotten that feeling. Site 25 has a record of decision for no further action. At Site 25 are three washes, Agua Chinon...
Wash, the Borrego Canyon Wash, and the Bee Canyon Wash. The Borrego Canyon Wash took a 500-year project flood through El Nino.

What is very interesting is you've alluded to the Irvine study, the solvent study, which we had a rebuttal from the Navy. The Irvine Study has a bound document. It has boxes of backup information. We were given six pages of overheads and no backup information in the Navy's rebuttal. Their rebuttal basically said, well, we didn't use the sanitary sewer system, we put it all in the storm drains. Where do the storm drains go? To the washes. Where do the washes go? Backbay Newport Beach.

It seems to me that a no further action record of decision on Site 25 certainly needs to be resurrected. And that's one of the things that our group is going to be trying to do.

It seems to me that retrocession and the issues that you deal with that you were setup as sort of the firewall, the last bastion, so to speak, of whether the State wants to get involved in accepting and letting local agencies accept land, and that environmental issues are important to you. And I can tell from your agenda, your consent calendar, they definitely are, from your questioning they definitely are. I sympathize with the issue that you're set into. It's the Navy that has put
you in this position, not the County of Orange, not the
horse people, not the people who want to keep their
services on that base. It is the Navy.

It seems to me that if the Navy is allowed to get
retrocession, the next step may be to walk away from their
cleanup responsibilities. And I think the article in the
newspaper this morning that indicates that they are not
interested in paying more than $8 million, that they're
trying to offload the liability, gives us an indication
that they will also try to offload the liability of the
base as a whole.

It is a difficult task that you are set to having
to make a decision on. I wish there was an easy answer.
It seems to me that where there's a will, there's a way,
and the way should be some kind of interim bridge lease
that gets us a couple of years down the line so we really
find out what there is and we can really determine the
liability of the Navy, so that they really have to clean
it up and pay for it.

Thank you.

CHAIRPERSON CONNELL: Thank you.
Now, Mr. Gould, I want a quick and very
abbreviated response to these specific charges, because we
were more than generous with your time originally.

MR. GOULD: Certainly.
CHAIRPERSON CONNELL: Yes, there were a number of charges. One was the failure of the Navy to adequately clean up Site 25. I think there was a concern about your continuing responsibilities should we vote for retrocession today. Would you like to address both of those?

MR. GOULD: Yes, I would. Concerning Site 25, that was, in fact, part of a no-further action record of decision in 1997, as correctly stated by Ms. Rudolph. Sites that are closed out for no-further action, that is after going through a very comprehensive CERCLA process, there is the remedial investigation, a feasibility study, there is a great deal of on-site field work, sampling and testing that is done.

And with regards to that site, it was determined that no further action was needed as proposed by the Navy and as agreed upon by all three of the regulatory agencies. Given the technical data that came back, if the contaminants are not found there as a result of the sampling and looking at the historical records and support of that, then that is how the site was closed out. And it is correct, that's the no-further action status of those sites right now. And we feel very confident about that today. We see no need to go back to those locations.

CHAIRPERSON CONNELL: And your comment about the
concern, I think, that was expressed by both speakers about the Navy's lack of responsibility moving forward post retrocession.

MR. GOULD: Post retrocession, that's an interesting comment. As I mentioned earlier, the Federal Facilities Agreement, which legally binds us to seeing this program through, and also is outlined in the Base Closure Plan or what is now the Business Plan, there is a table in there which indicates that, to date, just on the Installation Remediation Program, that is not taking into account all the RCRA costs, the tank programs and so forth, we have spent over $85 million to date just on the Installation Remediation Program. And we are budgeting an additional, as published in March of 2000, an additional $74 million to complete the Installation Remediation Program alone. So that does not sound to me like somebody that is in a hurry to leave town.

ACTING COMMISSIONER PORINI: Can you respond to the issue that was raised regarding the amount of money that would go into the contamination cleanup of the three-mile wide plume of tainted water.

MR. GOULD: I can comment very broadly on that. That is an ongoing discussion right now between the Department of Justice, who is negotiating on behalf of the United States. And that negotiation is taking place with
the Irvine Ranch Water District and the Orange County Water District. This particular issue has been going on for approximately six years. And right now the negotiations are actually getting very, very close to closure. There are a couple of issues that have come up recently that cause the water districts concern, being radio nuclides, possibly, and MTBE. Working very closely with them and as supported with our contractors and regulatory agencies, we are conducting an additional round of radio nuclide sampling specifically for the water districts at the locations that we all agree upon to make sure that that is not the case. They are going to do their own independent study through the Lawrence-Livermore Laboratory.

In addition to that, the Navy is going to conduct what will now be a third round of sampling through the laboratories at MIT. So with the first round and now these two follow-on rounds, I feel very, very comfortable about the radio nuclide issue being satisfactorily addressed.

CHAIRPERSON CONNELL: I guess the question is who pays for it?

MR. GOULD: Who pays for?

CHAIRPERSON CONNELL: The cleanup.

MR. GOULD: Well, it's a shared cost. I am not
able to get into the terms of the settlement agreement, 
but I know that it is a shared cost. The bottom line 
amount and the exact amount that will be split between the 
parties, that is all part of the ongoing negotiation right 
now. And if I'm not mistaken, I believe that 
representatives from, at least, one of the water districts 
are meeting with DOJ at the DOJ offices this week to 
further negotiations on that.

CHAIRPERSON CONNELL: That is going to be the 
decision of the water districts as to what they're willing 
to give in that negotiation?

MR. GOULD: As a result of once we get this 
technical data back concerning the radio nuclides, and 
we'll have to explore the MTBE issue a bit further. Once 
those have been technically addressed and the terms of the 
settlement agreement, as agreed upon, it will have to be 
in agreement between the water districts and the DOJ 
before the deal can go ultimately through.

COMMISSIONER BUSTAMANTE: Staff, what part do we 
play in this whole process or do we not play a role in 
this at all?

EXECUTIVE OFFICER THAYER: Our only role at this 
base has to do with who has jurisdiction for police, fire 
and other municipal services. We don't have any land. 
The State Lands Commission isn't managing the land that's
affected, that I know of, by any of this at the base. So
we have no participation in the toxics program because
that doesn't relate directly to the retrocession issues
that are there.

COMMISSIONER BUSTAMANTE: The Department of
Toxics, are they involved with this particular issue of
the plume?

EXECUTIVE OFFICER THAYER: They're here today. I
would prefer that they respond.

COMMISSIONER BUSTAMANTE: Toxics, are you here?

CHAIRPERSON CONNELL: They were here. He already
spoke. That was Mr. Scandura, is that right?

MR. SCANDURA: That's right.

COMMISSIONER BUSTAMANTE: You mentioned nothing
about this plume.

MR. SCANDURA: That was the regional groundwater
contamination plume. And understandably the Navy is
reluctant to talk about this, because there's settlement
negotiations going on. But what we have is a regional
groundwater contamination plume that's located directly
west of the base.

COMMISSIONER BUSTAMANTE: But it was estimated
that it would be maybe about a $35-million cleanup.

MR. SCANDURA: Right.

COMMISSIONER BUSTAMANTE: That was prior to the
MR. SCANDURA: The problem with this area of groundwater out there is it's very high in salts, pesticides, fertilizers, things from historical farming operations. And so the $35 million cost, as I understand it, to actually cleanup all that groundwater out there, is the portion of money that the water districts are going to have to pay to remove all the salts, the TDS, the fertilizers and those kinds of things.

And then roughly about the $8 million to $10 million number that you heard in the paper, that's the Navy's share of putting an activated carbon unit onto the water district's treatment plant to remove all the TCE out of there.

Certainly, first of all, under CERCLA substances like TDS and the applied pesticides and fertilizers --

COMMISSIONER BUSTAMANTE: What happens when they find other activities or other kinds of contaminants that are coming from the base, what happens to the $8 million to $10 million cap of liability?

MR. SCANDURA: That is a part of the settlement negotiations. I'm not familiar with it, other than I've been told that there are contingencies in place in case they do come up with other contaminants such as radiation or MTBE or those other kinds of things.
I also understand that what the water districts plan on doing is using reverse osmosis to remove all those substances. Well, also reverse osmosis is quite effective in removing radiation and also MTBE, so there's a lot of people that feel that if the MTBE and radiation were to reach the treatment system, then the reverse osmosis unit would actually take it out.

But as far as, you know, does the Navy suddenly start kicking in money for that, I mean that is a part of the settlement negotiations. The key thing I wanted to, you know, make sure of that the $35 million is the total cost of treating that entire aquifer to drinking water standards and providing it to users, and that includes the water district's cost of taking out the salts and --

CHAIRPERSON CONNELL: Which would have occurred regardless of the other contamination, is what you're suggesting?

MR. SCANDURA: Exactly.

CHAIRPERSON CONNELL: So they're portioning it?

MR. SCANDURA: Portioning it.

CHAIRPERSON CONNELL: Fairly typical.

MR. SCANDURA: That was something that wasn't clear in the LA Times article.

ACTING COMMISSIONER PORINI: What will DTSC's role be going forward since State Lands doesn't have a
role in terms of the environmental cleanup? DTSC
obviously is there now, what will your role be in the
future?

MR. SCANDURA: Correct. The plan is that before
the Navy can actually implement a remedy, what it has to
do is it has to produce a proposed plan that goes through
public review and comment. Then once they've responded to
comments they signed along with the regulatory agencies a
record of decision. And the current plan for remediating
the regional groundwater out, that is essentially this
shared -- this treatment plant operated by the water
district's shared cost with the Navy. That's the concept
that we're looking at for a cleanup plan for that.

And our job is going to be to make sure that this
cleanup plan complies with all the federal laws and
regulations of the procedural requirements, so we're going
to be involved in that. And then our agency, along with
the Water Board, is also going to be monitoring and
inspecting the actual construction of all the units, the
extraction wells, the treatment plant to make sure that
they've complied with the record of decision and other
kinds of things. So we're going to be actively involved
in that to make sure they meet all the standards.

CHAIRPERSON CONNELL: Regardless of any decision
we were to take today?
MR. SCANDURA: That's correct.

COMMISSIONER BUSTAMANTE: And does this $35 million include well-head replacements?

MR. SCANDURA: That I don't know.

COMMISSIONER BUSTAMANTE: Because it cost a million dollars in the city of Fresno to replace a well to put the kind of well-head treatment on it that's necessary to extract the DBCP and other kinds of contaminants in the soil that come from historical farming and other kinds of contaminants.

So I don't know if -- are you looking at once you have to replace a well, is anybody, is the City or is the Water District also included not just any kind of remediation that's taking place, but also the replacement of well heads that are no longer functional because of total contamination?

MR. SCANDURA: I don't believe any well heads, at least for drinking water, were actually lost because of this TCE plume. I believe this is going to be for an actual construction of a groundwater extraction well and treatment unit from scratch. This is something the water districts have been planning for 20 years.

They discovered the TCE when they were designing this system. Dean, am I correct, no well heads are being replaced?
MR. GOULD: Not to my knowledge.

COMMISSIONER BUSTAMANTE: Just one last comment, the folks indicated that the Navy went back on its word in Tustin. Are you familiar with the Tustin situation?

MR. SCANDURA: Yes. I'm trying to remember all exactly what happened, but a lot of it actually related to the City of Tustin's request to take title to the property sooner rather than later, and I just don't have all the details of that. But I don't believe it was all related to the cleanup issues itself. Rather it had to do more with the real estate type of issues of, you know, the Navy transferring a piece of property over to the City of Tustin, but I don't recall the cleanup issues as being, you know, an integral part of that.

COMMISSIONER BUSTAMANTE: Well, your department would be familiar with it if it happened, right?

MR. SCANDURA: Yes, we have heard about it. We heard about it through the press, through some conversations with the people from the City of Tustin.

COMMISSIONER BUSTAMANTE: But your review doesn't bring up any toxic or groundwater contamination issues?

MR. SCANDURA: At Tustin we do have groundwater contamination issues.

COMMISSIONER BUSTAMANTE: I mean issues that are not being worked out with the Navy?
MR. SCANDURA: Right.

COMMISSIONER BUSTAMANTE: That are not being worked out with the Navy?

MR. SCANDURA: No, I mean, we're basically involved in all the groundwater contamination issues and investigations, our Agency and the Water Board.

COMMISSIONER BUSTAMANTE: So you believe that those other issues were real estate issues?

MR. SCANDURA: That was my recollection.

COMMISSIONER BUSTAMANTE: Okay.

CHAIRPERSON CONNELL: Fine. I appreciate your being available to stay present, Mr. Scandura. We may need you again.

Now, we are going to have Lynne Dunn, if we may please. And Lynne has been very patient waiting. Following Lynne we will have Jack Golden and the next speaker following Jack will be Charles Griffin.

MS. DUNN: My name is Lynne Dunn and I'm from Long Beach. Madam Chair and Commissioners, thank you for giving us a chance to speak today.

I am a patron of the El Toro Marine Base stables. I'm not as evil as the previous two speakers would make us out to be. We care about cleanup just as much as they do. However, we want to see that the stables remain. The stables are home to 159 horses, a 4-H Club, a pony club
and a handicap riding club. These organizations will be forced to close if retrocession of the jurisdiction is not approved. This cannot happen. Orange County has lost more than 30 percent of their publicly accessible horse stables in the past three years.

Orange County cannot afford to lose yet another recreational facility. The El Toro Stables has access directly from public roads. It does not require entering the base property and it does not have toxic waste on the property.

Yet, we are threatened with losing this facility if retrocession does not occur. This facility benefits the residents of California. Local families can take riding lessons, and with retrocession, equestrian competitions will draw competitors from all over the State. I urge you to approve retrocession of jurisdiction today.

Thank you.

CHAIRPERSON CONNELL: Thank you.

COMMISSIONER BUSTAMANTE: Just so that you know partial retrocession would do the same thing.

MS. DUNN: Okay, that would be great, too.

CHAIRPERSON CONNELL: Moving on. Mr. Golden.

MR. GOLDEN: Good morning, Madam Chair and Members of the Commission. I'm Jack Golden, Deputy County
Counsel for the County of Orange.

Title 2 of the California Code of Regulations, Section 2605 states that, "After all the evidence is received, the State Lands Commission shall decide the matter at its next regular meeting."

Your staff set a deadline last fall for written information, testimony was received last fall and testimony is being received today. You've also received additional written information. We believe your Commission is under a legal obligation to make a decision today and not to cause any further delay with continuances waiting for more information. We believe if you did delay the matter further, you'd be violating your own regulations.

The substantial evidence before you supports only one outcome, and that's approval of retrocession. To defer and delay until all toxics issues are resolved, when such issues are subject to the jurisdiction of other federal and State regulatory agencies, would be an abuse of your discretion, so we ask that you do make a decision today and that that decision be the approval of retrocession.

Thank you.

CHAIRPERSON CONNELL: Thank you.

COMMISSIONER BUSTAMANTE: Thank you for reminding
us of our duty.

(Laughter.)

MR. GRIFFIN: I'm Charles Griffin from Newport Beach and the first thing that I want to reiterate is probably something that's obvious. And that is that first I want to encourage you for retrocession.

And number two, what is obvious is that we need an airport at El Toro. And the reason that we do and that California needs it is that it's projected that there will be probably 30 million annual passengers within the next 20 years, 30 million annual passengers.

And it takes roughly an hour to go to Los Angeles or Ontario. And the average wage in today's wage is roughly $50 an hour, what you pay for a plumber or what you pay for your mechanic on your car. And $50 an hour times 30 million, that's a billion and a half million dollars a year that's lost to our California economy, a billion and a half dollars a year.

And that does not take into account the cost of traveling that hour, which is another $25 an hour. So that's another half a billion dollars a year. So you're talking about $2 billion a year lost to the economy of California which could be utilized to help us be competitive.

The other thing that is obvious and that is that
retrocession, of course, would, if it does not take place, would be an obstruction to proceeding with the Environmental Impact Reports and the conclusion of a design of an airport that's appropriate there.

And as far as the contamination is concerned, I notice that for McClellan Air Force Base, which you approved today, that because of the contamination the United States cannot convey any of the base properties to Sacramento County until it is restored. Thus, Sacramento County will take title to the property in piecemeal fashion after each parcel has been cleaned up. Any contamination discovered after conveyance will also be removable by the United States. It is anticipated that the last parcel will be conveyed in 2037, 37 years. And that's something related to this ground plume.

Now, the ground plume is coming primarily from the base, part of it from the southwest parcel of the base. And that is across the railroad tracks from our railroad station, our multi-mode transportation mode. And if you look across the street from Hilton, you'll see a facility called the United States Postal Service Post Office, a distribution center, based here at LAX. A similar one is next door to the Union Station where all our checks are sorted and sent out to the appropriate banks.
Now, that property, which is contaminated, very well will likely end up to be the logical location for such a distribution center by the United States Parcel Service, which will be a United States government agency. So that property probably will remain in title to the United States government, and thus will remain responsible for the contamination in that area for years to come, if there is any.

And that's probably the main items that I wish to bring to your attention. And I want to encourage you to continue retrocession.

CHAIRPERSON CONNELL: Thank you, Mr. Griffin. Now, the next three speakers will be, and I apologize if I'm not getting this pronunciation correct, Seda Yaghoubian.

MR. GRIFFIN: Can I say one more sentence, Ma'am, I'm sorry.

CHAIRPERSON CONNELL: Yes.

MR. GRIFFIN: And that is that we have legislation right now before the Senate, which you people have in the State, controlling the Airport Land Use Commission being funded -- and it's a mandated Commission funded by the State -- by the County, which the present legislation is to have it funded by the State. And it's appropriate that that also gets passed, because that
certainly relates to preserving the land and the air space leaving the land to the southwest.

CHAIRPERSON CONNELL: Thank you. Now, just a moment, Seda, before you speak. Stephen Spernak will be the second speaker, and Shelley Candelario.

Yes, Seda, how badly did I damage your name?

(Laughter.)

MS. YAGHOUBIAN: You did pretty good. Seda Yaghoubian. Madam Chair, Members of the State Lands Commission, good morning. I'm representing ETRPA today. And I'm here to express our support for the retrocession of partial jurisdiction for the former MCAS El Toro.

For several years the base has been home to several community service facilities, which have provided very needed services to the citizens of Orange County. ETRPA has consistently supported these facilities and the operations of those programs.

These community facilities are going to have to cease operation if the State does not assume jurisdiction on the property, and that there isn't a lease agreement between the Department of the Navy and Orange County.

While ETRPA's central mission is to oppose a commercial airport at El Toro and to promote a non-aviation use for El Toro, the loss of these valuable community facilities and services is not a good option for
ETRPA is now confident that the overwhelming passage of Measure F has practically eliminated the possibility of any interim aviation use of El Toro. In addition, the Department of the Navy has clearly stated that any aviation use of El Toro would require a full environmental review pursuant to the National Environmental Policy Act.

Additionally, drafting Environmental Impact Report 573, prepared by the County of Orange, does not include any interim aviation uses as part of that environmental documentation. Therefore, under these circumstances, we believe that there is practically no possibility of any interim aviation uses at El Toro.

We have discussed the details of our position in that letter that we sent to you earlier this month, and we would like to express our support for retrocession at this point in time.

Thank you for your consideration.

CHAIRPERSON CONNELL: Thank you very much.

Stephen.

Is Shelley in the audience?

And following Shelley will be Cinnamon Gulley.

MR. SPERNAK: Good morning, Chairman and Members of the Board. My name is Steve Spernak and I'm an
Executive Assistant to Orange County Supervisor Todd Spitzer. It's my pleasure today to submit comments of support from the Supervisor and encourage you to authorize the retrocession of the base at MCAS El Toro to the jurisdiction of the County of Orange.

Supervisor Spitzer, who is unable to attend due to board obligations, submitted last week his three-page letter of endorsement for your approval. Supervisor Spitzer, although a proponent of non-aviation El Toro, believes that the County can provide services and resources to the community at this facility and continue the good faith gesture, extended by the Navy, in their master lease agreement listed on page two, paragraph two of an attachment I have here for you.

It contracts that no aviation will take place on the base during the term of the master lease. With this non-aviation guarantee from the Navy and the continued efforts by the County of Orange to continue coordinated cleanup, remediation and restoration, Supervisor Spitzer remains confident that this approval today will take us one step closer to the final disposition of this property for generations to come.

Thank you, again, on behalf of Supervisor Spitzer and for your support of retrocession of the base today.

CHAIRPERSON CONNELL: Thank you.
Shelley.

And after Cinnamon we'll have Priscilla Barrett.

MS. CANDELARIO: Hi, Madam Chair and Members of the Committee. I do support retrocession at MCAS El Toro in Orange County. I'm here because without retrocession our treasured natural open space for children, families, horses, wildlife, in an increasingly urban Orange County, may have to close down. And I am very for environmental cleanup, and I appreciate your detailed attention to it, but I don't feel retrocession will change that.

From what I've been hearing today, it does seem, for one, it's the Navy's responsibility or whoever it is, you know, policing the base or not. And the El Toro base there is direct access and we are environmentally cleared, as I understand it.

Also, I'm curious whether the settlements are to do with, you know, changing what's acceptable or is it just about money? I'm curious about that after hearing this. And I'm also kind of interested, listening to this today, that the open bases, why aren't they monitored in this way, because there's -- this is wonderful, because it's still going on when the bases are open, and it's nice that it's finally being taken care of. I mean they're the worst environmental offenders.

So, anyway, I feel that also from what I've seen,
like the Military Police, extremely detailed when they
were there. And it's really changed. It seems lax. I
think retrocession could help that.

Anyway, thank you very much.

CHAIRPERSON CONNELL: Thank you.

Cinnamon Gulley and you are joined by someone
today.

MS. GULLEY: This is my little sister, Celeste
and she's up here with me for support.

CHAIRPERSON CONNELL: Welcome, both of you.

MS. GULLEY: Thank you. My name is Cinnamon
Gulley and I'm a resident of Newport Beach.

Our family houses our horses at the El Toro
Stables. And I'm a 17-year old teenager. I just finished
my junior year in high school. And I know all of you have
been 17 at some point and you probably remember this --

CHAIRPERSON CONNELL: I skipped 17.

(Laughter.)

CHAIRPERSON CONNELL: I went from 16 to 18.

(Laughter.)

MS. GULLEY: With the exception of you, perhaps.
I'm sure you remember the stresses of being a
teenager. I'm getting ready to go into my senior year,
and so I've been, you know, worrying about college. And
this year I'm going to have to start applying and looking
for scholarships. And I play soccer, and I want to play soccer at the collegiate level as well, so I'm doing my extra curricular activities. I coach soccer, teach Tae Kwon-Do, and do it myself.

And life is really stressed by trying to have a social life and a family life as well. And the stables is a place where I can go and kind of have my downtime and have time for me to refocus. And I'm sure, I don't know if any of you are horse owners, but I'm sure some of you at least have pets and, you know, the effect that it has on you. You know pets make you just kind of slow down and take a minute, because you have to relax and you have to give them a chance.

You know they're not judgmental of you. They just want to be accepted and love you and be loved by you. And so it's a nice place to go and just have that when you just look at your horse and they just love you and you just love them back. And the unique thing about the El Toro Stables is there's the big open pasture in the back, with trails and you can just go with your horse and really experience the nature. Like I've seen vultures out there and coyotes and, you know, the little bunnies and the squirrels and everything. It's a place where you can go and just relax and refocus and just be away from all the stress.
As well, my little sister and I, there's eight years difference between the two of us, so there's not a lot of things that we share in common. But being out there and having a chance to be at the stables with her is a way that I feel I've been able to be a part of her life that I wouldn't always otherwise have had the opportunity to be, because it's something that we both have an interest in and can do together. So I ask you to please approve retrocession for us.

CHAIRPERSON CONNELL: Celeste, did you want to make any comments?

MS. GULLEY: No.

(Laughter.)

CHAIRPERSON CONNELL: Thank you, both. We appreciate it.

And, let's see, Priscilla Barrett.

MS. BARRETT: Good morning. For the record, my name is Priscilla Barrett. I live in the city of Orange and I'm here to represent the stables at El Toro.

Basically, everything I thought about saying has already been said. I'm just requesting that you approve retrocession, so that, at this point in time, we can continue. And I don't know anybody that's here that can address this issue that somehow we can separate the stables from the environmental mess that's going on in El
Toro. Not that I don't want it cleaned up, but it seems to me we always get dragged into the bigger picture. And we really can exist independently and continue.

And I think that it's just very important to -- Orange County is becoming very unfriendly to horses, at this point. Lot's of stables are closing down and people need horses or some type of recreation in order to cope with life as it is and stresses. And, in fact, I've had several people say to me, it would be the horse which people consider a luxury or it would be paying $500 a month for a psychiatrist. So I think overall it's a better tradeoff than ending up in that situation. And then health care, of course, is not considered a luxury, but horses are, so that's unfortunate.

But anyway, I am requesting that you approve retrocession at this point. And anyone who's out there who can control this whole thing, let's keep the stables open.

Thank you.

CHAIRPERSON CONNEL: Thank you. Now, we have taken, I think, all of those who have asked in the public to speak. We have the item before the Commission at this point.

What is the pleasure of the Commissioners?

COMMISSIONER BUSTAMANTE: Madam Chair, the first
time that we went through this item, I felt that there was a tremendous amount of information that wasn't here before us. I believe that in asking staff to put together information and for the Navy to come forward and tell us exactly what's taking place, something similar to what took place, as I mentioned earlier, at McClellan, gives us a clearer understanding of what's taking place. Don't just try to shove something down our throat.

Somehow retrocession is only something very, very small, somehow retrocession doesn't mean a whole lot, somehow retrocession, in terms of what we do, is a very, very minor part of all that's taking place in the county. Well, it may be a small thing, but it's the only thing that, as one person said, is a firewall between the federal government and local government. And it's an important process to go through, so that the federal government, in fact, comes before us and tells us exactly what's taking place, giving us full disclosure.

And so I think that there has been a lot of that that has taken place so far. There are issues that are continuing to come up. And let me tell you, there are going to be more. There are going to be a lot more things that are going to come up. For anybody who thinks they've got the final report in their hands, I'll tell you, you are wrong. You are very wrong.
And the County and the City is -- you know, the gentleman who made the compelling argument about $2 billion, that is a compelling argument, truly a compelling argument.

The issues that are brought up by the services, those are compelling, but I don't think that they're as compelling as an issue of trying to deal with the issues of plumes and the kinds of public safety issues that are engaged in this kind of a debate.

I think that as many have said already, even those who want those services to continue, they're saying we want these services, but we definitely want that cleanup to take place as well. And I think that that clearly demonstrates that we need to make sure that we're going through our duty and we're making sure that the Department of Toxics, the Navy and everybody else is on their job and make sure that this thing, in fact, takes place.

I think that there has been some progress. I feel some confidence in what has taken place so far. And so, Madam Chair, I'm willing to move retrocession.

CHAIRPERSON CONNELL: I will second that. And Annette, I assume you will --

ACTING COMMISSIONER PORINI: Absolutely.

CHAIRPERSON CONNELL: We will then have a
unanimous support for retrocession.

(Appraise.)

CHAIRPERSON CONNELL: I would like now to ask that we schedule, if we can an update by you, Mr. Gould, on where we are on this matter at the end of the year at our end-of-the-year calendar. If you would come back and update us on the progress that you're making. If you would also update us on what agreement has been reached with the Department of Justice. Even though we are officially taking action today, we are continuing to be interested as we are going to be facing this issue with the Department of the Navy on other bases as we continue our efforts forward.

COMMISSIONER BUSTAMANTE: And before we finish, if the gentleman who came up here to tell us how to do our job, if he could please submit his comments in writing, I'd love to be able to review them before every single meeting that I have.

MR. GOULD: To respond to your request. Yes, I'd be glad to come back in coordination with your staff to answer any questions that you may have on the status of the program at year's end or from any point forward.

CHAIRPERSON CONNELL: Thank you. We are going to take a five-minute break. Our reporter is about ready to have broken wrists. We don't want to have a carpal tunnel
syndrome lawsuit here.

Thank you.

(Thereupon a brief recess was taken.)

CHAIRPERSON CONNELL: I'll call this meeting back to order. We are now on, Mr. Thayer, I believe on the matter of --

EXECUTIVE OFFICER THAYER: AT&T, I think, Madam, was taken off of consent, C16. And we have a staff report that we can give you.

Barbara Dugal.

MS. DUGAL: Good morning, Madam Chair and Commissioners. I'll be presenting to you a brief overview of the Japan-US fiber optic cable project that is before you today.

The applicant for the Japan-US Cable Project is AT&T. AT&T is a member of a multi-member consortium. And they are responsible for obtaining all authorizations to construct the Japan-US cable system.

Once the cable system is constructed, the consortium will own the cable system. The proposed project involves facilities in both Mendocino and San Luis Obispo counties. In Mendocino County, the project involves the construction of five steel conduits that will extend approximately 3,200 feet seaward from AT&T's existing onshore Point Arena Cable Station.
These conduits will be installed using the horizontal directional drilling methods, which will allow the conduits to be installed beneath the surface -- excuse me, beneath the ground without disturbance to the surface.

Once this phase is complete, AT&T proposes to install two new fiber optic cables and they have a sample in front of you.

CHAIRPERSON CONNELL: Thank you.

MS. DUGAL: AT&T proposes to install two cables in Point Arena and one cable into Morrow Bay. One cable is designated as Segment 8. And if you have a map in front you, you can see that. I can point to that. Segment 8 will provide service directly from Point Arena to Japan.

The other cable, which is designated as Segment 9, will provide a link from Point Arena to Morrow Bay. AT&T proposes to install the Segment 9 cable into conduit that is to be constructed by MFS Globenet. This conduit was approved by the Commission on February 8th, 2000.

At that time, it was contemplated by MFS Globenet and AT&T -- excuse me, that AT&T would use the empty conduit to land the Segment 9 cable. Both parties understood that any future cable would remain entirely with the discretion of the Commission and would be subject to compliance with the California Environmental Quality
Act. Once these cables are installed, there will be three empty conduits at Point Arena. At this time, AT&T knows of no future proposed cables at that site.

Additionally, pursuant to the Public Utility Code Section 7901, telephone corporations may construct and operate lines and equipment on any public road, highway or navigable waters of the State without payment of rent, provided that the lines and facilities do not interfere with the public use.

In order to qualify for the rent-for-use of these lands under Section 7901, an applicant must be authorized to provide telecommunications services within California, and the facilities must be operated for the purpose of providing telecommunication services to the public.

Projects meeting the foregoing criteria are entitled to rent free per month. Private carriers not undertaking the duty to provide telecommunication services to the public are not entitled to the rent-for-use of public lands.

The cable landing license issue to AT&T by the Federal Communications Commission for the Japan-US Cable System states that it would be operated as a private carrier. Therefore, staff has determined that a rent-based lease is appropriate for AT&T's Japan-US Cable Project.
I would now like to introduce Dwight Sanders with the Planning Division. He will be presenting an overview of the environmental process.

Thank you.

CHAIRPERSON CONNELL: Let me abbreviate this, since I called it special, if I may. The reason I called this special is that I am concerned that, as we look at this new technology, fiber optic technology is just at the very beginning of its journey forward. We are going to have many, many more users, potentially, of this technology and much more interest on the part of those who wish to supply this service.

I am concerned that we do not have the entire ocean wired with cables. Therefore, I personally would like to see a moratorium imposed on any further actions after we take action today on the AT&T matter. And I would urge that our staff work cooperatively with the Coastal Commission and other entities to try to come up with a better understanding of what we're going to do in the future regarding laying of these cables across the oceans.

We've had three that I'm aware of that we've dealt with just this year alone. We had Global Photon, which went up and down the coast. We had Global Crossings, which came across from abroad. We have this
one, which is the Japan-US Cable Project. We've already
had the China project. So those are four cases in point.

It seems to me that it is necessary to begin to
put emphasis on the need to do some further study, further
reflection, a greater effort at understanding where we go
long term with this effort, not five years out but 40 and
80 years out.

I do not want to be in a situation where we have
a Fishes to Fiber Program in the future without being
aware of what we're doing today.

(Laughter.)

CHAIRPERSON CONNELL: I mean this Commission has
inherited the Rigs to Reef program, because others have
taken action before us. And I'm not in anyway castigating
the actions that they took regarding the oil wells. That
was decisions that they made in their times. And if I had
been there, perhaps I would have made a different
decision, but nevertheless here we are.

I do not want us to be in a situation where we
are creating the next generation of issues that a future
Lands Commission has to deal with. So that is why I
called the item special.

I'd like you to comment, Mr. Thayer, on what we
can do in that regard.

EXECUTIVE OFFICER THAYER: Certainly, Madam Chair
and Members of the Commission. This is an issue which two
or three years ago, when we first were faced at the Lands
Commission with a lot of new applications, the four or
five you've mentioned, for new fiber optic projects, it
was clear that we could no longer continue the approach
that we've taken in the past. The Commission had approved
previous cables with a much more minor environmental
review, the Negative Dec, Negative Declaration, through
CEQA.

We bumped up the analysis to require
Environmental Impact Reports to look at some of these same
issues that are of concern to the Commission and some of
the outside observers. We've now returned back to what's
called a Mitigated Negative Dec, somewhere in between the
two. Because of the additional study, we think we've got
pretty much of a handle on it.

But nonetheless, the concerns that the
Commissioner, that the Chairwoman is mentioning today, and
I think the other Commissioners share, is something that's
of -- these concerns are common not only to this
Commission but to the Coastal Commission and other State
agencies.

We had a meeting last week of the relevant State
agencies at the Lands Commission. We're going to have
another one next week and try and examine some of the
issues you're talking about. We're going to construct a
grid of all of the issues that we've heard about that,
have been raised by environmental groups, by fishing
interests, by the cable companies and do a comprehensive
review on how the State is addressing these issues, so
that I think we will be able to return to you with the
kinds of information you're talking about.

It's also true, as I mentioned earlier, that we
have no pending applications before the Commission, so
this provides us with a window of opportunity to do this
to gather that additional information without adverse
impact, competitive impact to different companies.

CHAIRPERSON CONNELL: Do you think we might be
doing workshops?

EXECUTIVE OFFICER THAYER: We could certainly do
that. I think what we're doing at the moment with the
Resources Agency is to determine what our informational
needs are. We've certainly done workshops on each of
these environmental reviews for these individual cables up
and down the coast. I think for Global Photon, as many as
six, we gave opportunities for all these interest groups
to show up. In most of the cases, we've noticed them, but
there wasn't that much interest in them.

But we certainly want to reach out to the people
that are concerned about this and we will be looking for
opportunities to involve outside groups.

CHAIRPERSON CONNELL: Thank you. Are there any other comments by Members of the Commission?

COMMISSIONER BUSTAMANTE: Any of the, either Negative Decs modified or the EIR's, has there ever been any issue that's been raised that is a negative in terms of how, either the routes were taken or the actual distribution of the cable or the cable itself, has anything negative ever come up?

EXECUTIVE OFFICER THAYER: From the actual cable upon habitat, we haven't found anything. I think --

COMMISSIONER BUSTAMANTE: Have we checked on just the composition of it? I mean, does this disintegrate over a period of years, do we know? Does the saltwater disintegrate this and that disintegration of whatever that is, does it then affect the ocean floor or anything else?

MR. SANDERS: That concern was also raised at the Coastal Commission meeting.

COMMISSIONER BUSTAMANTE: I heard about that. In fact, I heard a Commissioner say that he wouldn't put anything in the ocean that he wouldn't put in his mouth.

(Laughter.)

MR. SANDERS: My fellow Commissioner Pedro Nava made that remark and that was appropriately made at that time.
There has been nothing examined there. Nothing is coming out of examination within the documentation. There are representatives, however, here from AT&T that may be able to better address the material that is being used as a tar-based material on the outer coating. And perhaps, if a representative of AT&T is still here, they might be able to get the Commissioner a better understanding of that issue.

CHAIRPERSON CONNELL: Is anyone here from AT&T?

My concern was not on the immediacy of the materials that we have before us today, Mr. Bustamante. Mine is on the, perhaps, expansion and proliferation of these items as we move forward. I mean if this, indeed, becomes the way we're going to communicate in the future as an alternative and a more attractive alternative than the satellite, then I want to know how many thousands of those cables are going to be laying out there in the ocean.

It's the proliferation of these cables laying at junctures throughout the ocean that concerns me. I can see a situation where the entire ocean floor or segments of these routes are going to be wired.

COMMISSIONER BUSTAMANTE: I understand that, but I'm linear, so I need to start from here.

(Laughter.)
CHAIRPERSON CONNELL: I meant to a digital thinking process here.

Go ahead, yes.

MR. DUNGAN: Michael Dungan with SAIC. I've worked with the State Lands Commission staff on preparation of the Mitigated Negative Dec for this project.

And with SAIC the research we've done indicates that the material is inert and insoluble and harmless in the marine environment. There are observations made by our biologists who did the marine survey work in Montana De Oro and up at Manchester. The cables, within a fairly short time, within a few years, based on this happening to the TBC 5 cables become encrusted with marine invertebrates and plants, basically in places where they have been exposed. They become covered with organisms, so there's nothing obviously harmful in the cable that we can determine.

I've talked with AT&T engineers who report pulling cables up that have been out there for 25 years, and admittedly this is anecdotal, and they report that, you know, they look the same except for being heavily encrusted with critters that grow on them as a hard substance.

CHAIRPERSON CONNELL: My Fish to Fiber thing is
not far off.

MR. DUNGAN: I didn't want to go there.
(Laughter.)

MR. DUNGAN: I'm sorry.

COMMISSIONER BUSTAMANTE: Cable to critters.
(Laughter.)

MR. DUNGAN: But, you know, as to long-term fate of the materials, 25 to 50 years, I have to tell you, I don't know.

CHAIRPERSON CONNELL: Thank you. Any other comments by anyone?

Yes, Annette.

ACTING COMMISSIONER PORINI: I just wanted to ask staff, you indicated that you're having some preliminary conversations with the Resources Agency about cables, in general, and that means that they are also looking at some sort of study?

EXECUTIVE OFFICER THAYER: Yes. I think it's probably preliminary to say that an additional study is necessary. I think the first we're doing is we're pooling the resources of all the different agencies. We may have the information together already that will respond to these concerns. But I think what the logical result, if we find that we don't, is that we'll be looking for an additional study. But I think the first step is let's
find out what we all know and see if we can resolve these issues.

COMMISSIONER BUSTAMANTE: And the idea would be to develop pathways and other kinds of things; is that correct?

EXECUTIVE OFFICER THAYER: Exactly.

ACTING COMMISSIONER PORINI: So maybe as opposed to a moratorium, at this point in time, maybe at our next meeting in two months we could ask staff to come back and give us a report on --

CHAIRPERSON CONNELL: Well, the only reason I suggested the use of the word moratorium, is we have nothing in the pipeline; isn't that correct?

EXECUTIVE OFFICER THAYER: That's right.

CHAIRPERSON CONNELL: So if you want me to extract a different word other than moratorium, I would just like to have a continual update. I just do not want to continue to take actions into the future, have another three or four of these permits hitting us next year and find that we are not prepared to deal with these larger issues, because I think we are setting a paradigm here in this commission.

ACTING COMMISSIONER PORINI: I agree.

EXECUTIVE OFFICER THAYER: Well, if it meets the Commissioners' concerns, what I could do is certainly give
you an update in the Executive Officer's report at the next meeting. And then at some such time as the taskforce reaches any conclusions, we'll have a fuller briefing that we explain the conclusions they reached.

CHAIRPERSON CONNELL: That's correct. That would be good. I'm comfortable. I'm willing to take a motion to move the project forward today.

ACTING COMMISSIONER PORINI: I'll move approval of this project.

COMMISSIONER BUSTAMANTE: I'll second.

CHAIRPERSON CONNELL: And I will, so that's a unanimous motion. So we have now approved the AT&T Cable.

We are now, I believe, at the end of our formal meeting.

I just want to make a comment. Mr. Al Willard is going to be retiring from our agency after 40 years of remarkable service. And I know he's going to receive his resolution tomorrow, but I just wanted to personally, as a Member of this Commission now for five and a half years, extend my appreciation for the dedication that Mr. Willard represents, and, in fact, the dedication that we see represented throughout this Commission staff. It is a pleasure to have this kind of support on this board and we wish him well in his retirement.

EXECUTIVE OFFICER THAYER: I'll certainly pass on
the comments of the entire Commission to that effect. And
I think it's an example of the dedication, they didn't
wait, they went back to the office once it turned out none
of their items were coming off consent. That's why he's
not available.

(Laughter.)

CHAIRPERSON CONNELL: Hopefully, safely. We have
now completed our public calendar, and I will ask that
those who are not needed for the closed-door session
please exit at this moment.

Thank you.

(Thereupon the State Lands Commission meeting
was adjourned at 12:00 p.m.)
CERTIFICATE OF REPORTER

I, JAMES F. PETERS, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing State Lands Commission meeting was reported in shorthand by me, James F. Peters, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of July, 2000.

JAMES F. PETERS, CSR, RPR
Certified Shorthand Reporter
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