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

STAFF
Paul Thayer, Executive Director
Jack Rump, Chief Counsel
Kim Korhonen, Executive Secretary

ALSO PRESENT
Matt Rodriguez representing the Attorney General
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
CHAIRPERSON CONNELL: Call the meeting to order. May I ask the clerk to take the roll, please.

SECRETARY KORHONEN: Presently, we have Chair Kathleen Connell and we have Director of Finance Annette Porini and we have Member Alternate Lieutenant Governor Lorena Gonzalez.

CHAIRPERSON CONNELL: Thank you. For the benefit of those in the audience, the State Lands Commission administers real property owned by the State and its interests. And today we're going to hear proposals that relate to the leasing and management of our public properties. And the first item of business will be the adoption of the minutes from the Commission's last meeting. May I have a motion?

ACTING COMMISSIONER PORINI: Move approval.

ACTING COMMISSIONER GONZALEZ: Second.

CHAIRPERSON CONNELL: It's been moved and seconded. The minutes are unanimously approved.

The next order of business, Mr. Thayer is the Executive Officer's Report. May we have your report.

EXECUTIVE OFFICER THAYER: Yes. Thank you, Madam Chair. I wanted to report on just a few items. You'll recall that earlier this year, some citizens at Queensway at Long Beach were concerned about the Queensway Bay
Project, which is a multiple-use project on State tidelands which have been deeded to the City of Long Beach.

I just wanted to report on the progress of reviewing that issue. Earlier this year at your request in July the Commission staff held a workshop to give an opportunity to everyone who wanted to be heard on the subject to be heard and provide evidence to the staff. The Commission was responding to a request as to whether or not it should hold a hearing on this general topic. And we were gathering evidence to make a recommendation to you.

We've completed our first couple drafts of the report. However, we would still like to submit that report to the review of the Attorney General's office to make sure that we're on solid legal ground in our response. And I wanted to let you know that that work is still in progress and that we hope to have it out sometime next month.

The second item --

CHAIRPERSON CONNELL: Are there any questions by my fellow Commissioners on that matter? Would you please keep us informed about that? I'm particularly concerned.

EXECUTIVE OFFICER THAYER: Absolutely. Speaking
of the Attorney General's office, I wanted to take note of
the fact that the long-time representative to the State
Lands Commission from the Attorney General's office,
Dennis Eagan has been reassigned. He will be in charge of
the Charitable Trusts Division. And Matt Rodriquez, who
is in Charge of the Land Use Section from which Dennis had
come is here today, but we're working with Matt to--

CHAIRPERSON CONNELL: Dennis, did we exhaust you
in our negotiation process?

(Laughter.)

ASSISTANT ATTORNEY GENERAL EAGAN: I'm limp.

(Laughter.)

CHAIRPERSON CONNELL: Dennis and I did yeoman
service together, would you not say, Dennis, in trying to
defend the State's interests with the LA Port on the City
of Long Beach -- city of Los Angeles extended discussion.
I wanted to just give a personal round of applause to
Dennis Eagan. He has been terrific, in my, almost, six
years of service on this board.

You have been amazing. You have defended us
against some outrageous theft by those who would seek to
dilute the State's interests. So I want to thank you.
And maybe we can ask the public to show that respect as
well.

(Applause.)
CHAIRPERSON CONNELL: Do you have anything you
would like to suggest as final words of caution.

(Laughter.)

ASSISTANT ATTORNEY GENERAL EAGAN: I try to be a
man of few words. No. No.

Thank you very much.

CHAIRPERSON CONNELL: Thank you. I appreciate
your personal commitments. It's been great. And welcome,
as well, to your replacement to our board. We'll try to
keep you actively stimulated.

Now, the next order of business will be the --

Mr. Thayer, did you have anything else?

EXECUTIVE OFFICER THAYER: Just one or two other
items. With respect to the Brother Jonathon shipwreck up
in northern California, as you'll recall we've taken
advantage of that shipwreck and the recovery of the
artifacts there to do a number of things of educational
value for the State. We've had an exhibit in the rotunda
of the Capitol. We've extensively put information on our
web site for use by citizens and by school children.

The latest saga on that is a little bit of a
potential at the moment. It's not firmly resolved, but at
the last recovery operation, back in September, not that
many gold coins were found.

However, some additional artifacts were found.
And one of them was a complete tool chest from that area. We understand there are preliminary plans to have that recovered and restored at the University of Texas. Part of that process, they're looking to show pictures of that in process over the Internet. And if that happens of course --

CHAIRPERSON CONNELL: That's terrific.

EXECUTIVE OFFICER THAYER: -- it means the whole, not only the tools themselves, but the process of restoring them will be available to everybody if this all turns out. Of course, if that happens we'll make sure there's a link on our site so that people will be able to get that information. So it's interesting that a year -- in the beginning this was a treasure hunt involving gold coins, of which, of course the State benefited as well, but, I think, the historical aspect of it --

CHAIRPERSON CONNELL: I think it is the historical aspect, and the fact that we've been able to create a museum of artifacts for the children of California that is particularly significant.

Are we having a lot of people visit our exhibit?

EXECUTIVE OFFICER THAYER: Many of those items are still being restored up in Humboldt County. And so it's a long process. It costs a fair amount of money to do. They've requested supplemental appropriations in the
Legislature to give them the additional funds they'll need. And I think there's some work for us, in that regard, in terms of espousing that cause.

CHAIRPERSON CONNELL: Well, we should talk about that when we get to the additional items. I'm sure that all of us would like to be passionate about your effort. I realize Finance may have some statutory restrictions in arguing for the supplement of money to any particular fund. But I certainly will carry that charge forward. I'm sure I will be joined by the Lieutenant Governor. This is important to make sure we complete our work on Brother Jonathon.

Do you want to describe for those members of the audience who are here today who may not know the treasure that Brother Jonathon represents. This is not some cartoon that we're talking about here.

Paul.

EXECUTIVE OFFICER THAYER: The facts, as I remember them, and we may have staff here who can correct me in terms of the inaccuracies. But the Brother Jonathon was a steamship that had been involved in trade, first between the east coast and the west coast and then eventually west coast only trade.

It departed from San Francisco probably enormously overburdened with cargo and passengers to the
point that they couldn't even leave at their scheduled
departure time, because they were stuck fast in the mud.
They waited for the tides to lift them up. The Captain said, you know, I don't want to go. The owner said
it's you go or it's your job and he went. And shortly thereafter off of Crescent City the ship struck a rock.
It sank. Over 200 people were lost. It's the largest loss of life in any west coast shipping accident.

And it went down with a number of gold coins.
There was bullion there that was to be payment to some of the native American groups up in Washington. There was a payroll for the Army staff up in the State of Washington, as well as really a time capsule of the different implements, clothing, tools, everything that you'd use in everyday life that was either shipped as cargo or on board as personal affects of the passengers.

That went down. Nobody could find it for years. Eventually a private salver found that, probably around ten years ago. There was some litigation as to whether the State Lands Commission, representing the State, had ownership of everything there. And eventually through some court action and some settlement negotiations, the salver was able to retain many of the gold coins. The State received a million dollars worth of gold coins. You'll recall the press conference we held in Sacramento,
and these were displayed --

CHAIRPERSON CONNELL: And a number of very
valuable artifacts, as well, porcelain and silver.

EXECUTIVE OFFICER THAYER: A wine flask that was
unopened, things of great importance from a historical
perspective. And I think it was our view and I think the
Commission's view that although gold had some value, the
historical artifacts were the most important part of that
in terms of history of the State.

And the State retained ownership of all of those,
so it was a very important thing for the Commission.

The only other item I have on the Executive
Officer's report is to point out that as per our custom,
our next commission meeting is likely to be in about two
months. And so we're looking to schedule that through
your offices, some time late January or early February.

CHAIRPERSON CONNELL: Thank you.

EXECUTIVE OFFICER THAYER: And that concludes the
Executive Officer's report.

CHAIRPERSON CONNELL: The next order of business
then will be the adoption of the consent calendar. Mr.
Thayer, may I call on you, again, to indicate which items
have been removed from the consent calendar.

EXECUTIVE OFFICER THAYER: We've taken Item 7 off
the consent calendar. In addition, there may be people in
the audience who would like to speak on some of the other items.

CHAIRPERSON CONNELL: All right. I do have some speakers here who have indicated an interest in speaking. I have individuals who want to speak on Items 19, 21, 35, 37, 49, 56, 59, and then during the public comment period.

EXECUTIVE OFFICER THAYER: I think that some --
CHAIRPERSON CONNELL: Are any of those items --
EXECUTIVE OFFICER THAYER: With your permission, I think that, for example, I'm looking at 21, and I believe that Mr. McCabe is here only if that should come off consent. I don't think he is asking --
CHAIRPERSON CONNELL: Mr. McCabe, do you need to speak on this item?
MR. MCCABE: Not if it's otherwise taken off. Thank you.
CHAIRPERSON CONNELL: Okay. Then let's go to item number 19, Mayor Shoup.
EXECUTIVE OFFICER THAYER: I believe this is the Mayor of Apple Valley who wanted to address --
MR. SHOUP: We have no comment. Thank you, Madam Chair.
CHAIRPERSON CONNELL: You have no comment. Nineteen is taken care of. I want to make sure all people who are registered to speak are given an opportunity.
Twenty-one is taken care of. I believe I have another individual for 21. I have Marc DeFrenza.

MR. DEFRENZA: No issue, Madam Chair.

CHAIRPERSON CONNELL: All right, fine. And what about Vince Abe?

MR. ABE: The same.

CHAIRPERSON CONNELL: All right. So you will --

let's see, how about item C35.

EXECUTIVE OFFICER THAYER: This item, I believe, the gentleman would like to take this --

CHAIRPERSON CONNELL: Marco Gonzalez.

MR. GONZALEZ: Yes, I'd like to speak.

CHAIRPERSON CONNELL: All right.

EXECUTIVE OFFICER THAYER: So we should take that off.

CHAIRPERSON CONNELL: Yes, let's take that off, if we may.

And item C37, that would be Linda Niles.

MS. NILES: Only if it's taken off consent.

CHAIRPERSON CONNELL: Only if it's taken off consent.

What about --

MR. GONZALEZ: I'd like the speak as well on 37.

CHAIRPERSON CONNELL: You wanted to speak as well on what?
MR. GONZALEZ: On number 37.

CHAIRPERSON CONNELL: Well, just a moment. I'm calling them in order. If your name is here, then your name will be called. If not, you'll have to fill out a form. So Linda Niles only if it comes off consent.

Okay, Tamara Smith, please?

The same.

CHAIRPERSON CONNELL: Only if it comes off.

Jeff Yazel?

MR. YAZEL: Yes.

CHAIRPERSON CONNELL: You want to speak whether it comes off?

MR. YAZEL: Yes, whether or not.

CHAIRPERSON CONNELL: Whether or not.

And Marco?

MR. GONZALEZ: Only if it comes off consent.

CHAIRPERSON CONNELL: Only if it comes off. It appears that 37 will be coming off.

EXECUTIVE OFFICER THAYER: Then finally, I have two items on 49, Andrew Mardesich.

CHAIRPERSON CONNELL: We have a new one as well, Larry Calemine; is that correct?

Hi, Larry.

Do you wish to speak, Larry?

MR. CALEMINE: I have a question for
clarification.

CHAIRPERSON CONNELL: Okay, Andrew, did you wish to speak?

MR. MADESICH: After Larry's clarification.

CHAIRPERSON CONNELL: Okay. Then we have to take 49 and put that on the discussion calendar.

CHAIRPERSON CONNELL: We are now on 56.

Curt Noland?

MR. NOLAND: I don't need to speak.

CHAIRPERSON CONNELL: Okay. Then we will keep that on consent calendar.

Number 59, Alan Allred.

EXECUTIVE OFFICER THAYER: Madam chair, that's the item which is on regular items to speak.

CHAIRPERSON CONNELL: That was going to be on anyway and then that's it. So let us read which items are now off of the consent calendar, Mr. Thayer.

EXECUTIVE OFFICER THAYER: I believe there are items 7, 35, and 37 and 49.

CHAIRPERSON CONNELL: Okay. May I have a motion for the consent calendar?

ACTING COMMISSIONER GONZALEZ: So moved.

ACTING COMMISSIONER PORINI: Second.

CHAIRPERSON CONNELL: Okay. It's a unanimous vote.
Let us then begin with item 7, shall we.

EXECUTIVE OFFICER THAYER: Item 7 is the one that we'll hear at a future date, so we won't have to hear that today. The staff has taken that off the calendar.

CHAIRPERSON CONNELL: Okay. We are then on 35 is that correct, Paul?

EXECUTIVE OFFICER THAYER: Yes. Item 35 has to do with the fill of two seacaves in the Solana Beach area. And I believe Alan Scott from our staff can make a presentation to give the background on that.

CHAIRPERSON CONNELL: Then we will call upon our speakers who have identified that they wish to speak on this item.

Go ahead, please.

REGIONAL MANAGER SCOTT: Good afternoon, Madam Chair and members of the commission. My name is Alan Scott. I'm a regional manager with your Land Management Division. I'm here to present information on this item.

The project involves the filling of two seacaves in bluffs along the south coast in the City of Solana Beach. These caves were undermining the applicant's residence, and the applicant Ronald Lucker, secured an emergency permit from the Coastal Commission in December of 1997 and filled the caves early in 1998. The Coastal Commission required that the applicant process a formal
coastal permit covering the emergency work and that permit
was heard by the Commission in June of 1999.

Several conditions were attached to the Coastal
Commission's action including a requirement that the
applicant secure a lease from this commission, that the
cave fills be monitored annually to assure that the fill
eroded at the same rate as the bluff face, and that the
fill be modified to match the coloration of the existing
bluff face.

Portions of the original material used to fill
the caves have been removed and replaced under one of
those conditions, and the material colored to match the
bluff. And the material used to colorate the cave fills
are designed to erode at the same rate as the bluff.

Staff has reviewed the first annual report which
was required of this applicant to show that these cave
fills did, in fact, erode at the same rate as the bluff
face, and believes that the current appearance and fill
material does, in fact, match the natural bluff.

Therefore, staff is recommending approval of this
item. If you have any further questions concerning this,
I'd be happy to answer them.

CHAIRPERSON CONNELL: Members of the Commission,
do you have any questions?

ACTING COMMISSIONER GONZALEZ: I do have one
question. My understanding is that these leases, we don't charge for these leases?

REGIONAL MANAGER SCOTT: That's correct.

ACTING COMMISSIONER GONZALEZ: And what other circumstances do we not charge for them?

REGIONAL MANAGER SCOTT: Normally, it's for some sort of public benefit. We believe that there is a benefit to the public to reinforce some of the facings of these bluffs to preclude them from collapsing on beach users and so forth. So we believe there is a public benefit. It's a safety issue.

ACTING COMMISSIONER GONZALEZ: Also, I know the Lieutenant Governor was concerned. In the Coastal Commission process, is there a requirement that the houses that these are provided for are in tact in the same manner in which the people bought them, it's not houses where they're building on rooms or maybe causing more weight onto the cliff?

REGIONAL MANAGER SCOTT: I'm not sure that I know the answer to that question.

EXECUTIVE OFFICER THAYER: I think my understanding is in this particular project, there's no expansion of the houses as part of the project. It was just filling up the caves. And, in fact, that application, the emergency application was made in
December when some of the erosion was occurring.

REGIONAL MANAGER SCOTT: There's been no modification that we know of to the existing residence on the bluff.

CHAIRPERSON CONNELL: Annette, did you have a comment?

ACTING COMMISSIONER PORINI: Yes. I just thought maybe staff can come back to us at a future point in time. I don't have the specific concern about this item, but I am concerned that we don't charge any fee under the circumstance. And perhaps you could come back to us with a report on whether or not we should continue with that policy, what its implications are, that sort of thing.

EXECUTIVE OFFICER THAYER: Certainly. Staff will prepare a report and bring back discussion of that issue.

ACTING COMMISSIONER PORINI: Thank you.

CHAIRPERSON CONNELL: All right. I believe then it's time for public comments. Marco, please, Gonzalez. If you'd like to come forward, identify yourself for the record, and please try to stay within the three-minute time limit of the Commission.

MR. GONZALEZ: Thank you, Madam Chairman. My name is Marco Gonzalez. I am the Chairman of the San Diego County Chapter of the Surf Rider Foundation, and legal counsel to the National Surf Rider organization.
I would like to make a couple of comments to the Commission, because I feel like we're in a situation where the public has been somewhat robbed of their outlet. Under the Coastal Commission's mandate on the Coastal Act, they have to balance the interests of private property owners against the interests of the public's right to access.

And, unfortunately, the way that the Coastal Act is drafted, there is a lot of leeway for geotechnical experts to come in and massage their data to support the building of the seawalls. The State Lands Commission, on the other hand, has a very definite and unquestionable mandate to protect the public trust and the public's interest to access and to the recreational opportunities of the beach, and therefore, we, the public, are looking to call upon you to take a more proactive role on behalf of the citizenry.

I don't have to remind you of the importance of our beaches both to our state of being, in terms of our quality of life, but also to our State's economy. More than $30 billion are contributed to our State's economy from coastal tourism, more than a billion dollars in State tax revenue.

Erosion occurs on more than 85 percent of our coastline and erosion is natural. I can think of no other
situation whereby the public's right to a State resource is compromised solely for the purpose of private property owners.

Now, the statement was just made by your staff that this is a public benefit, the safety concerns. But going to the beach and taking yourself into a natural environment, there is some level of assumed risk. And if you look at historically the amount of safety implications that have arisen, because of bluff failures, it's relatively small.

In fact, what is happening is when you build these sea walls, because they aren't just cave plugs and notch fills, they are sea walls, you get a scouring of the beach in front of them, you get downdrift from the sea walls, you get significant impacts to the bluff. And, in fact, a large portion of these sea bluff collapses occur in the upper bluff, not in the lower bluff, which are being sought to be protected.

I'm not going the ask that you oppose this particular lease, but I would ask that, as you seem to have already done, direct your staff to go back and look into some critical issues. In particular, as Ms. Gonzalez pointed out, there are situations, especially in Solana Beach, where these same property owners are coming back to you and asking for sea walls. Whereas, in the past, in
the past ten to 15 years, they've had specific deed restrictions placed on them by the Coastal Commission, which said that they would not ever come forward for coastal shoreline armory in exchange for the right to increase their -- or infringe upon their setback.

The Coastal Commission, unfortunately, has decided that these deed restrictions are not enforceable, and therefore, we, the public, are going to lose our beach so that bluff top property owners can protect their houses. I think that with impending sea level rise, with the increased focus on our coastal tourism as a necessity here in California, we can't ignore the need of the public's access to these beach areas.

I'd ask that you direct staff to coordinate with the Coastal Commission to look at some of the specifics of these emergency permits. In particular, here in Solana Beach, the City has recognized that they have run rough shod over the mandates of CEQA, and they are, in fact, going to prepare a Cumulative Impacts Analysis and a full EIR to deal with the impacts from their sea wall ordinance, which, to date, has never really undergone full CEQA scrutiny. Thank you for your time.

CHAIRPERSON CONNELL: Thank you. And I appreciate your -- did you have a question?

ACTING COMMISSIONER GONZALEZ: I do. I have one
question, I don't think you clarified. And you said this
one you're not objecting to, but what is the effect on
sand on the beaches, and I know this is what the
Lieutenant Governor is most concerned with, by allowing
more and more of these sea plugs to go forward?

MR. GONZALEZ: Well, the first thing that must be
realized, is obviously we have a dramatic shift in the
last 50 years of how sand actually reaches our beaches.
Because we have built dams and we have done other things
to take sound out of the natural flow, we don't have the
amount of sand on the beaches that we once had.

In addition, as we shore up the back ends of our
beaches, we effectively preclude any sand from eroding
from the bluff down onto the beach, which in the past, has
been a significant source of sand.

The other thing that people don't like to admit
is if you go to places where you don't have the sea walls
and you allow erosion to happen naturally, you get pocket
beaches. And in areas like La Jolla, Santa Cruz, Point
Loma, Laguna Beach, you have significant pocket beach
resources that we've come to recreate in and we rely on as
a resource of the people. So I think that the sea walls,
they increase the scour in front of them and therefore
cause the sand to go offshore and we effectively lose our
beach.
CHAIRPERSON CONNELL: Okay. I'm ready to take a motion on that. May I have a motion by a member of the Board?

ACTING COMMISSIONER PORINI: Move approval.

ACTING COMMISSIONER GONZALEZ: Second.

CHAIRPERSON CONNELL: It has been moved and seconded.

ACTING COMMISSIONER GONZALEZ: Can we make sure though, that that report then from staff includes some of the other issues that were brought up?

CHAIRPERSON CONNELL: I think they understood that.

EXECUTIVE OFFICER THAYER: Absolutely.

CHAIRPERSON CONNELL: We are now on Item 37. Item 37, Paul do you want to present it?

EXECUTIVE OFFICER THAYER: Yes. Thank you. This item will be -- has to do with an emergency situation which existed in Del Mar earlier this year, wherein a lagoon had been cut off from the ocean for about 18 months and created some health hazards as well as environmental impacts. However, Curtis Fossum will give the presentation for the staff.

STAFF COUNSEL FOSSUM: Good afternoon, Madam Chair and Commissioners. My name is Curtis Fossum, staff counsel with the Commission.
This item has been before you when the State Lands Commission was a defendant in a lawsuit that was brought in September, earlier this year. At that time the Commission did not have the opportunity to act. The public notice period had already been noticed for our last commission meeting, so our Executive Officer, under the existing exigencies that were taking place at the time, issued a letter of permission to the City of Del Mar to do an emergency excavation to relieve the stress that was existing on the habitat values, the fish in particular of San Dieguito Lagoon.

The emergency permits were issued by the Coastal Commission, permits were issued by the Corps and the approvals from all agencies necessary were made at that time.

The litigation went to a judge for a temporary restraining order. The judge issued a preliminary restraining order or injunction that lasted for approximately a week until such time as further briefing could be made to the judge.

At the hearing on the 21st, the judge found that the issues raised by the plaintiffs in the action against the State were not sufficient to justify the restraining order to be continued and so the excavation took place as scheduled and the lagoon was open.
The reports we've had from all the agencies who observed the excavation that took place is that everything went very successful. The beach was closed for a period of seven days, about 200 feet up coast and down coast from the excavation. And the reports from Fish and Game were that the lagoon was almost immediately being cleansed and that within two days people were actually going into the lagoon itself, that the fish almost immediately began to go into the lagoon from the ocean and that the alcove mat that was choking off the life in the lagoon was dissipated within a seven-day period. So it was a success on all accounts.

And what we're asking you today here to do is to ratify the Executive Officer's action and to issue a 12-months permit to the City of Del Mar to keep open the lagoon so that this doesn't occur again.

It should be noted that several exemptions are listed in the calendar item, CEQA exemptions, and that the Court took those under consideration and found that they were exempt from CEQA, the actions taken by the City. There has been an amended complaint in this case dealing with a larger project that's proposed for the lagoon, a major restoration project that is not before the Commission at this time. It will be brought to the Commission at a later date. And I think that the
Commission will have ample opportunity at that time to
determine whether or not the future project is an
appropriate one or not.

CHAIRPERSON CONNELL: Thank you. Let's call on
those who wish to speak. Linda Niles, I believe you're
first.

MS. NILES: No thanks, I don't wish to speak.

CHAIRPERSON CONNELL: Tamara Smith. And after
Tamara we will have Jeff Yazel.

MS. SMITH: Tamara Smith, City Attorney for the
City of Del Mar. The only thing I would add of factual
distinction is that the amended complaint for the lawsuit
continues to attack the work that was already done in
terms of damages and CEQA compliance, that sort of thing.
Otherwise, the City believes that the opening was a
success and that the impact on the lagoon was beneficial.
The impact on the ocean was minimal and necessary for the
health of the lagoon.

Thank you.

CHAIRPERSON CONNELL: Thank you.

Jeff. And after Jeff will be Marco Gonzalez.

MR. YAZEL: I'm Jeff Yazel. I'm with the
Zumbrunn Law Firm. We represent the Citizens to Save The
Beach. And I'd like to start off by incorporating all of
our pleadings and the like that we filed in this case.
First of all, I'd like to object to the lack of public -- or lack of notice to our firm and to the plaintiffs for this meeting. We stumbled upon notice of this meeting on the Internet. We were not mailed any sort of agenda for the meeting. And I never saw an agenda for it until just a few hours ago.

The time and the place for holding such a hearing is quite confusing. It's well known that the Sunday and Monday following the Thanksgiving holiday is one of the busiest travel days of the year. And I found it impossible to get a flight into LAX this morning. I had to fly into another airport and drive. And it somewhat precludes the public from giving a public comment in this regard.

You'll notice only a couple of attorneys are here. There were some individuals that would like to have spoken on behalf of the Citizens To Save The Beach, but weren't able to attend because of the travel restrictions on the State, that LAX is a very busy place this time of year.

On a substantive matter here, the City of Del Mar is the wrong applicant for this application for a lease. It really should be the Joint Powers Authority who is the applicant for this project. It's difficult to understand how the City of Del Mar can argue with a straight face
that the lagoon opening was not a precursor to the larger wetlands creation project that is proposed.

You're unable to piecemeal a project of that significance without going through the CEQA process and doing an EIR. What they attempted to do here and what they, so far, have been successful in doing is enabling a massive dredging project to occur without doing an EIR.

Now, I notice in the staff report it's mentioned as a minor excavation, but throughout the documents including the August, I believe it's August, 16th staff report from the City of Del Mar, they call it a massive dredging effort.

So there's some semantics that are going on in an attempt to pull the wool over the eyes of the Commission. One of those, the most significant, is that we continue to call this project an emergency project even to this day. Although, the judge ruled in denying the preliminary injunction, he did rule that that, this was not an emergency. It was clear in the law that an emergency has to be a sudden, unexpected occurrence and the lagoon closure for 18 months is not an unexpected occurrence, and therefore was not an emergency.

And thus all of the agencies who subsequently issued emergency permits were duped. They did it on the basis that this was an emergency. The judge ruled it was
not an emergency.

None of the applications, none of the preliminary documents applying for this dredge project ever mention the word emergency. It wasn't until the staff of Del Mar wanted to get emergency funding that they started calling it an emergency, and then it seemed that that was the only way they could get the dredging project done, they suddenly called it an emergency.

They still continue to call it an emergency. It clearly was not an emergency. The judge ruled it was not, and it's time to get on with that topic.

Because, it was not emergency, the staff here had no authority to issue the permit that they did and to certify it now would be wrong. They acted without the Board and they were not allowed to do that without an emergency occurrence.

In addition to that, there was no coastal -- sorry, no Corps of Engineers' permit. They say they had a Corps of Engineers' permit. That is not the case. It expired in 1993 and even if it did exist, it was limited to the excavation of 5,000 cubic yards of sand. The project here was close to 15,000 cubic yards of sand nearly three times what the permit called for that was issued in '93, which had also expired.

The public trust is one of the most important
functions that the Commission has. And when we say at the end of our staff report about the balance of hardships, this is minor compared to what the benefits are and that we have a successful project completed now, perhaps we haven't looked at the situation there in the recent past.

Today, there was a 6.2 level of tide, which has, if you go down to the beach at Del Mar, you'll see that the lagoon has completely eroded away the north side of the lagoon all the way to the sea wall of Mr. Frank Warren's home. And he's fighting to keep his sea wall at this point. It's gone well beyond the 15,000 excavated cubic yards, and the river itself is excavating sand as we speak, and there's been erosion of the beach completely for some residents there. None of that is in the staff report. And certainly an environmental impact like that would require an EIR.

The pollution control measures were not discussed. This was called a cesspool by many of our representatives including Pam Slater. She called it a cesspool. Yet, at the same time, while this emergency project was being planned, none of this was included in the Environmental Impact Report.

There's reports of hundreds of dead fish. There's reports of algae masses, all kinds of pollutant problems in the lagoon. Yet all of it was ignored in the
proposed Environmental Impact Report for the overall project.

CHAIRPERSON CONNELL: Jeff, I'm going to ask you to wrap up. I've been very generous with your time, but we need to get staff response here.

MR. YAZEL: Okay. One more final comment then. This is an attempt to pull the wool over your eyes, this business of the emergency. They're continuing to do it, saying it's an emergency. It's been ruled by the judge that it was not, and thus the action taken by the Executive Director was illegal and he should not go forward with the lease as applied for.

CHAIRPERSON CONNELL: Jeff, why don't you stay right there. Let's see if we can get some interaction and dialogue with our staff. Jack, do you want to respond or does -- who would you like to have respond to this issue?

EXECUTIVE OFFICER THAYER: On a couple of the points that I recall were particularly raised, with respect to the notice. We wanted to make sure that Mr. Zumbrunn's law firm was contacted about this and Jack Rump or Chief Counsel specifically checked to make sure that they were on the list of the people getting the mail out of the agenda. So we believe that they were noticed. And out of concern for this possibility, we double checked on that.
In terms of the emergency, Curtis can confirm one way or the other on this. But my understanding is that the judge ruled more on the nature of the emergency with respect to the CEQA exemption than the other types of emergencies which were declared by different agencies. Different agencies have different criteria as to what constitutes an emergency. I think the representative here is correct. The Judge did find it was not an emergency with respect to CEQA, but did not overturn the Coastal Commission's permit, which was issued as an emergency permit by Peter Douglas.

Curtis neglected to mention that we had a letter from -- or other communication from the County Health Department out of concern for the health impacts here, because of the mosquito breeding and the fact that, I believe in the last 20 years or so, the last major outbreak of malaria was in this area.

So there were a variety of reasons that there were concerns. The judge may have ruled on one particular aspect of the law that there wasn't an emergency, but different agencies with different definitions of emergency still continued with their permitting and the judge did not order the project stopped because of any concern that those things were done improperly.

Curtis, were there others?
STAFF COUNSEL FOSSUM: No, I think both those --

MR. YAZEL: May I respond to that?

STAFF COUNSEL FOSSUM: Both those issues were raised. As to notice, notice was given out more than ten days in advance. I personally made sure that Mr. Zumbrunn was on the mailing list, so he received a notice of the Commission meeting. We also, on the issue of the emergency, the judge did not rule that it was not an emergency, only that it was not an emergency for that particular CEQA exemption, and that the other exemptions did apply, and therefore there was no problem.

The issues about State Lands Commission action and the Corps action were raised before the Court, and the Court chose not to rule on those issues at that time.

So I think it's important to note that the opponents of this project are focusing primarily on this project that doesn't even exist at this point in time, this future project. The excavation of the lagoon. In 1983 the Coastal Commission issued a permit to the City of Del Mar, the Coastal Conservancy and the Department of Fish and Game to excavate 500,000 cubic yards from the lagoon and the lagoon's mouth.

A condition of that permit was that the City of Del Mar was to excavate it every year. And this is the first time that they had problems in keeping the lagoon
mouth open. And so the City, because it was not opened 
under the conditions that it normally was opened, it did 
become an emergency. Fish were dying. There was a threat 
of encephalitis. We spoke to all the different health 
agencies in San Diego, and they were all encouraging us to 
act as soon as possible on this item.

I'll answer any other questions you have.

CHAIRPERSON CONNELL: I think, Jeff, you may have 
a brief response period.

MR. YAZEL: Okay, as far as the '83 permit goes, 
it does require that the lagoon be opened every year. In 
April of '99 they knew the lagoon was not open. They went 
through the entire winter of '99 and did not open the 
lagoon as required by the permit that they discussed here.

The City of Del Mar cannot create their own 
emergency by neglecting to open the lagoon in '99 as they 
were required to do. Thus, they caused this massive 
bubble, caused this so-called emergency condition. And 
an emergency is not a thing that is a semantic thing, that 
one agency says another thing, another agency says another 
thing. This is CEQA we're talking about. An emergency is 
plain. It's clear. It's got to be an unknown. It has to 
be something that's like an earthquake. It happens 
suddenly.

This thing happened over a period of 18 months.
The judge did not buy the fact that this was an emergency for one minute. To keep going on that this was an emergency is ridiculous.

CHAIRPERSON CONNELL: All right.

MR. YAZEL: As far as notice goes, I'd like to see a cover letter or something that shows that you sent us notice.

CHAIRPERSON CONNELL: Jack, can you provide that?

CHIEF COUNSEL RUMP: We can do that.

CHAIRPERSON CONNELL: Thank you. Do I have a motion by a member of the Board?

ACTING COMMISSIONER PORINI: Move approval.

ACTING COMMISSIONER GONZALEZ: Second.

CHAIRPERSON CONNELL: It's been moved and seconded. That's a unanimous vote on item --

CHAIRPERSON CONNELL: I'm sorry, Marco.

I'm so sorry. Come forward Marco.

ACTING COMMISSIONER GONZALEZ: You're not going to oppose it, are you?

MR. GONZALEZ: My name is Marco Gonzalez, once again, San Diego County Chapter of Surf Rider Foundation. I want to offer just a little personal perspective. Our offices and my residents are within two blocks of this beach. I've surfed this beach for approximately 15 years. I'm very intimately engaged with the movement of sand, the
health of the lagoon and the state of the water and the public trust lands there at this beach.

The lagoon was the unfortunate recipient of an unlikely combination of nutrient loading and numerous extremely warm days, which resulted in an algae bloom which choked off the oxygen in the lagoon and caused this massive fish kill. It did create, from the public's perspective, somewhat of an emergency situation.

Now, notwithstanding, I think the Commission's obligation here is to look at what are the true impacts to the public trust here. And I can tell you on behalf of the public who recreates most often at this beach, we are more than willing to accept seven days of closed beaches to get, at least, a step in the right direction towards restoring the health of this particular lagoon.

Our coastal lagoons in southern California have been inundated with sand at their mouths for far too long and it's resulted in a total lack of fish spawning habitat. It's precluded the sand from within those lagoons from reaching our beaches. And, unfortunately, in this situation we have what amounts to NIMBYistic property owners totally unable to rally support from the environmental community, coming forward under the auspices of environmental protection.

When, in fact, what we're doing should have been
done a long time ago. So I urge you to disregard the
comments to whatever extent you can and move forward with
approval of this project.

CHAIRPERSON CONNELL: We were about ready to do
that Marco, not disregarding the comments, but that we
were going the take action. We have a motion on the
floor. It's been moved and seconded and that will be a
unanimous vote.

We are now on item 49. We have some additional
speakers, but we'll first have the staff report on 49.

EXECUTIVE OFFICER THAYER: Yes, Madam Chair.

Item 49 has to do with the application of the Harbor Study
Foundation to form a new city in the Los Angeles harbor
area. Generally, they've circulated a petition and
secured sufficient signatures to bring this item to LAFCO,
the Local Agency Formation Commission, for study.

Prior to LAFCO commencing it's study, it needs to
know where the boundaries of the City would be. And as a
primary custodian for the area, the tide and submerged
lands, a section of the Government Code requires that the
Lands Commission make two decisions whenever a new
incorporation is proposed.

First, are the boundaries logical, do they
encompass the tide and submerged lands directly in front
of the proposed city, are they at right angles rather than
at some obscure angle? That's what's before the Commission today.

The second requirement of this section is that the Commission actually approve the incorporation of the new City to include these lands, not just where the boundaries are but the actual inclusion. The Commission has occasionally made both decisions at the same time. But because there's some very complex issues involving the Port of Los Angeles here, it's the staff's recommendation that it only approve the boundaries for the study of LAFCO and defer the ultimate decision about whether or not incorporation of this area, which is actually granted by the Legislature to the City of Los Angeles, whether that area should be incorporated within the City.

We think that the LAFCO study will look at a lot of the information, develop a lot of the information that the Commission needs to know before it makes that ultimate decision, things like who will obtain the taxes, who will be -- which city will be providing municipal services, a lot of the same issues that we --

CHAIRPERSON CONNELL: I think we've got them memorized, Mr. Eagan and I, in relationship to the 207 lawsuit.

EXECUTIVE OFFICER THAYER: So we're proposing to bifurcate this process. We've done it both ways in the
past, both together or separate, but it certainly seems
like the facts justify that we do it in a two-step set
process.

So for your consideration today is approval of
the boundaries as proposed. I might also add the law
provides that if the Commission does not act within 45
days of the submission of those boundaries, they're deemed
approved anyway. So that's the background on that.

CHAIRPERSON CONNELL: All right. Now, we do have
a speaker. Larry, do you want to come forward. And
identify yourself for the record, please.

MR. CALEMINE: Good afternoon, Madam Chair and
Members of the Commission. My name is Larry Calemine.
I'm the Executive Officer of the Local Agency Formation
Commission. I think my question was just answered, but I
just want to make sure I have the proper read on this.

If I read the staff report correctly, all the
lands within the boundary of the legal description on the
map would be included in your approval except those lands
currently held in lease by the City of Los Angeles from
this Lands Commission. That would be subject --

CHAIRPERSON CONNELL: Are you saying that we just
want to look forward and then we will look at their study
and then determine, is that what you just said?

EXECUTIVE OFFICER THAYER: Exactly. We'd be
technically approving where the boundaries lie, but not
approving the actual incorporation of those lands, so that
the intent here would be to provide the information to
LAFCO, the exact boundaries of the proposed new city.
LAFCO could conduct the studies. And I think Curtis has
been in contact with you about this and he'll be sending
you a letter about the information we needed.

And then once the LAFCO studies would be done,
then we would be approving as much as LAFCO would approve
the final incorporation, we'd approve the final
incorporation of these tide and submerged lands.

So the action before the Commission today does
not differentiate between granted lands to the City of Los
Angeles or nongranted lands, it just has to do with the
boundaries of the proposed new city.

MR. CALEMINE: So you're approving the boundaries
in toto, but deferring to a future date the incorporation
of State lands within those boundaries?

EXECUTIVE OFFICER THAYER: Exactly.

MR. CALEMINE: Thank you.

CHAIRPERSON CONNELL: Is everyone clear about
what we're doing here?

May I have a motion, please.

EXECUTIVE OFFICER THAYER: One other speaker, I
think.
CHAIRPERSON CONNELL: There was another speaker.
EXECUTIVE OFFICER THAYER: Andrew Mardesich.
CHAIRPERSON CONNELL: I don't have him listed in mine.

Is there anyone else who would like to speak?

MR. MARDESICH: I was listed. I even asked to speak after Larry.

CHAIRPERSON CONNELL: All right. Please go ahead.

MR. MARDESICH: Andrew Mardesich, Harbor Study Foundation. Before I make my statement, I'd like to present a video tape entitled "Lessons Learned in Los Angeles". It's a production that was made by the Galvison Preservation and Conservation Society. And it truly depicts the state of the Los Angeles harbor in graphic detail, especially in the area of Wilmington. And considering the problems that other areas have, like Del Mar, the only wish -- we only wish we could have half their problems. And I'd like to enter this into the staff.

EXECUTIVE OFFICER THAYER: Thank you.

MR. MARDESICH: Further to Larry's question, it's not clear to me when this second step of your approval process would be, because this issue has to have clarity when it goes to the ballot. And we're in support of,
obviously, the first part. And we would like to ask that this commission authorize the Attorney General to turn over data and facts of discovery in the case of this commission and the City of Los Angeles for fact finding data in our study, because one thing that needs to be clarified is that as the applicant we have the responsibility to put the proposal together, not LAFCO, and we are in need of that information to do our study.

Secondly, we would ask that those records not be sealed in the event there is a settlement shortly, which I understand there's ongoing negotiations, in that the trial to date is off calendar.

We'd also ask that the State Lands Commission create an open dialogue with our foundation to establish a criteria that they have delineated in their recommendation of what services are to be provided by the new community, how they're to be provided and to what cost, because we are the ones that will be submitting that proposal. We will be the ones that will be structuring that government, and so we need to know how high to jump.

CHAIRPERSON CONNELL: Let me respond. We are outside the agenda item that we have before us today. The only agenda item that we have before us today is whether or not we're going forward with the definition of boundaries. We cannot move the items 2 and 3, which are
not on the agenda items today or we would not have had proper public hearing notice for those items.

   We only have on public hearing notice today definition of boundaries. We have before us a staff report on how they wish this board to segregate that action, which is in step 1 and step 2. That is the only matter we have before us.

   MR. MARDESICH: Understood. I didn't expect for you to respond to those requests. I just wanted to make it apparent, it's not every opportunity we have a chance to address the Commission in Los Angeles. And for us to go to Sacramento, we're a grass roots organization. We have an established minority -- poverty level of 16 percent through the harbor area. And if we were to exclude Wilmington, we have a 30 percent poverty level. So we're not high rollers, and this is our opportunity to make a statement on behalf of the citizenry.

   Thank you.

   CHAIRPERSON CONNELL: I appreciate that. Now, do we have any further comments on this item. We have a motion before the Board by staff -- or we have a staff recommendation. We need a motion on staff's recommendation on item 49, which is to bifurcate this motion. Does anyone want to carry that motion from the Board?
ACTING COMMISSIONER PORINI: I'll move approval
of staff's recommendation.

ACTING COMMISSIONER GONZALEZ: Second.

CHAIRPERSON CONNELL: It's been moved and
seconded. The staff recommendation is unanimous.

We are going to take item number 56 now and then
we will move to a break, before we take item 59, because
we have a great deal of interest on Item 59, and I want us
to make sure that we give everyone a chance on Item 59 to
be heard.

We are now on item 56, Mr. Thayer.

Did we call this item special?

EXECUTIVE OFFICER THAYER: If we could check with
the speaker -- with the person who proposes to speak on
this, I think this is the proponent of the project.

CHAIRPERSON CONNELL: Curt Noland?

STAFF COUNSEL NOBLES: Yes. My name is Richard
Nobles. I'm a staff counsel with the Commission. Curt
Noland was here to speak on this matter as a project
proponent. It was his interpretation from the events that
this passed on the consent calendar.

CHAIRPERSON CONNELL: Then we are -- the only
item that we have remaining before this board is Item 59.
And we, as I say, have a great deal of the public who
wishes to speak to this item, so we will take a ten minute
break and then we will reconvene on Item 59, which is the only item left in open session.

(Thereupon a brief recess was taken.)

CHAIRPERSON CONNELL: Call the meeting back to order. If someone could find the missing Annette, we can move on. If somebody might seek her out. We are on Item 59, which is the only item left. May I ask for a staff report on Item 59.

EXECUTIVE OFFICER THAYER: Madam Chair, Item 59 is the Questar Conversion Project, which will convert a pipeline formerly used for crude oil transportation to gas. Our staff will present this presentation in two parts. Alan Scott will present the leasing side of it and we also have a presentation from Dan Gorfain on the environmental issues.

REGIONAL MANAGER SCOTT: Good afternoon, Madam Chair and commissioners. My name again is Alan Scott. I'm a Regional Manager with the Land Management Division, and I'll be presenting some background information on this item that's before you today.

As you may recall, this matter was before you at your meeting in September. At that time, you raised concerns regarding the safety of the project and the status of the lease negotiations with the applicant. You asked staff to investigate your concerns and bring the
matter back to you at a future meeting.

    Some of the information that I will be presenting today is repetitive of the information that was presented in September, but is made for the benefit of those in the audience not present during that meeting.

    This project involves an existing 16-inch steel pipeline that was used to transport crude oil between Long Beach and northwestern New Mexico beginning in the mid-1950s. Because it is no longer being used to transport crude oil, the pipeline line has been purged, cleaned and filled with an inert gas to protect it from corrosion.

    In 1957, the previous commission approved the issuance of seven right-of-way leases covering the pipeline to Four Corners Pipeline Line Company who subsequently changed its name to ARCO.

    The existing 16-inch steel pipeline begins at the ARCO West Hines Facility in Long Beach and crosses portions of Los Angeles, Orange, Riverside and San Bernardino counties.

    The pipeline continues across northern Arizona, where a short leg of the pipeline extends into Utah, and then continues on to terminate in New Mexico.

    Approximately 250 miles of this 675-mile pipeline is located in California. Of those 250 miles located in
California, five and a half miles of the pipeline are located on lands under this Commission's jurisdiction. The leases previously issued by the Commission for the pipeline involved one parcel of sovereign land at a crossing at the Colorado River near the City of Needles in San Bernardino county and six parcels of state school land also located in San Bernardino County.

In addition to the pipeline, two existing cathodic protection systems are located on school lands within the pipeline right of way.

On April the 13th 1999, the Commission approved the assignment of ARCO's interest in the seven leases to Questar Southern Trails Pipeline Company. The project that is before the Commission today involves the proposed conversion of the existing pipeline and associated facilities previously used for the delivery of crude oil to natural gas service.

The project applicant is Questar Southern Trails Pipeline Company, which is a wholly owned subsidiary of Questar Pipeline. In order to complete the conversion project, the applicant must construct pipeline extensions to interconnect with the natural gas supply sources, other interstate natural gas pipelines and in-use customers.

Additionally, short sections of the existing pipeline must be replaced, realigned and/or rerouted to...
meet federal safety standards for natural gas pipelines.
The construction activities that will take place on lands
under the Commission's jurisdiction include the following,
a replacement of short sections, approximately four to six
feet of buried pipeline.

Because these leases were originally issued for
the transportation of crude oil and will expire in 2006
and do not contain terms and conditions specifically
related to the transportation of natural gas, staff is
recommending that the seven leases originally issued for
the pipeline be terminated, and that the Commission
consider issuing to Southern Trails Pipeline Company, two
new right-of-way leases, one covering the Colorado River
crossing and one for the six parcels of State school land.

These two new leases would provide for the
existing pipelines use, operation, repair and maintenance
as a natural gas transmission pipeline and bring the
leases into conformance with the Commission's current
leasing standards.

Since the Commission's September meeting, we have
been working with the representatives of the applicant to
resolve issues concerning the terms and conditions of
these leases. We and the applicant are now in agreement
on an acceptable lease form. We have also been working
with them to resolve safety and environmental concerns,
and these will be addressed later in the staff presentation.

When the pipeline is converted, the pipeline will be capable of transporting approximately 120 million cubic feet per day of natural gas to customers in southern California and 90 million cubic feet of natural gas to customers east of California.

Staff is also recommending that the Commission certify the Environmental Impact Report, which has been prepared as part of a Joint EIS/EIR covering the proposed conversion project.

I would like to introduce Dan Gorfain with the Planning Division, who will provide information relative to the Environmental Impact Report, which was prepared for this conversion project. Dan will also provide information concerning issues raised at the Commission's meeting in September regarding seismic safety and environmental issues.

Thank you.

CHAIRPERSON CONNELL: Excellent. Now, did the engineer who wrote the first letter that raised our concerns in November, Mr., is it, Sydnor?

REGIONAL MANAGER SCOTT: Sydnor.

CHAIRPERSON CONNELL: Is he here?

MR. SYDNOR: Yes, a geologist.
CHAIRPERSON CONNELL: Good, excellent. We will call upon you next, after we hear from the staff, because we have two letters that are conflicting from you and maybe you can help us resolve your approach to both of them.

Fine, why don't we call on our staff on the EIR and I'd like to welcome the Lieutenant Governor to our meeting. Welcome. Let the record show the Lieutenant Governor is now in attendance. Please recognize yourself for the record, please.

MR. GORFAIN: Thank you, Madam Chairman and members of the Commission. My name is Dan Gorfain. I'm with the staff of the Commission and would like to briefly summarize for you the environmental preview process for this project, key developments since the Commission's September meeting and the issue of pipeline safety and what staff has done to address it.

The project was the subject of a joint EIS/EIR prepared by the Federal Energy Regulatory Commission, FERC, and the CSLC as the NEPA and CEQA lead agencies respectively.

The Notice Of Intent and preparation for this document was sent to over 2,000 interested parties. Five scoping meetings for the document were held in California. The draft EIS/EIR was circulated for 45 days during which
time we held three public hearings in California.

The final environmental document was issued on July 21st, 2000 and FERC approved the project on July 28th of this year.

Since your last meeting, staff has responded in detail to a September letter from John Shordike, excuse me, attorney representing the Morongo Band of Mission Indians. Also, the US Fish and Wildlife Service issued its biological opinion or BO for this project on September 22nd, 2000.

In issuing its opinion, the Service concluded that the project is not likely to jeopardize the continued existence of species could be affected by it. In preparing the opinion, the Service worked cooperatively with the California Department of Fish and Game to ensure that California's threatened and endangered species and species of special concern were addressed.

The Department has reviewed the BO and has determined that it will be able to rely on the Final EIR in combination with the biological opinion to consider Questar's application for a State endangered species permit should the Commission approve this project and, of course, in the process certify the EIR.

Mitigation measures were submitted in the BO and included in the mitigation monitoring program contained in
With regard to pipeline safety, Questar conducted an internal inspection of the pipeline to determine its condition in identifying necessary repairs. It has cleaned the pipeline and has maintained it's full of nitrogen, which is an inert gas.

As a result of the internal inspection, Questar identified 152 so-called potholes or short segments with small pipeline anomalies. These sections will be replaced as part of this project. It also identified other segments that needed to be realigned as well as one reroute in order to meet the Federal Department of Transportation or DOT standards.

Questar has also maintained that cathodic protection, as Alan has said, system on the pipeline to protect it from external corrosion. As required by DOT regulations, Questar will hydro test the pipeline at up to one and a half times operating pressure prior to operation to ensure that it has no leaks. Staff will witness this process and will review the results prior to the pipeline going into service.

Last, but not least, Questar will be required to comply with any new legislation and ensuing pipeline regulations, such as those which may emanate from this past summer's El Paso pipeline accident near Carlsbad, New
Mexico.

Questar's seismic hazardous evaluation and mitigation plan was submitted and reviewed by the Commission's engineering staff, who are here today, as well as the Staff of ENSR, the consultant who prepared the environmental document and the California Department of Conservation's Division of Mining and Geology, and Mr. Sydnor is, of course, here.

As a result, pipeline modifications include, first, nine seismically qualified automatic shutdown valves strategically located with respect to seismically active fault zones in populated areas to enable quicker isolation of pipeline segments susceptible to failure as a consequence of a seismic event.

These pressure-sensitive valves will be designed to activate and shut within 30 seconds. Blowdown times or the amount of time it would take the gas to escape and dissipate to where it no longer constitutes a public hazard, would range from two minutes at the NewPort-Inglewood fault, which is also the crossing of the LA River, to ten minutes in the Chino fault zones.

This compares with 30 to 45 minutes, considered acceptable by Southern California Gas Company.

Second, increased pipeline wall thickness along new sections of the Delano extension, the Orangevale-Olive...
reroute and the Cabazon relocation or bypass to increase their structural strength and ability to withstand stress caused by ground shaking, earth movement and liquefaction.

And the third modification of the process is an internal smart peak inspection of the pipeline in the populated portions of southern California from 29 Palm Station, which is Mile Post 141 in the east part of California to the Watson Refinery in Long Beach by the end of the third year of operation.

On the basis of these modifications and their review, I might add that the Division of Mines and Geology, in its second letter you referred to Madam Chair, has concluded that Questar's revised project adequately addresses their concern, their geologic concerns, raised earlier. And this concludes my presentation.

CHAIRPERSON CONNELL: I want to call on the geologist. But before you leave, I have a question. These valves that you are talking about being at intervals to close down the pipeline if there is an earthquake and allows escape of the gases, I guess, for the two-minute to ten minute period that you're referring to, that assumes what kind of earthquake, what level of earthquake is impacted by that?

MR. GORFAIN: I can't answer that question, but what I can tell you is that that is for what I believe to
be a complete breakdown of the pipeline for whatever level of earthquake would cause that failure of the pipeline. So I'm not sure that that's associated to a particular magnitude of earthquake, but it's associated with what happens to the pipeline. And if the pipeline breaks completely open, that's how much time it would take for the gas that was in the pipeline, plus the gas that entered the pipeline while the valve was shutting down to escape and dissipate.

CHAIRPERSON CONNELL: Let me approach this a different way then. This thickening of the pipes that you refer to as the second modification, I believe that is occurring, the pipes have been thickened to withstand what level of earthquake?

MR. GORFAIN: I can't answer that question. Is there anyone here who might? Greg, would you like to take a crack at that.

CHAIRPERSON CONNELL: I mean, we've obviously tested these modifications for withstanding some level of earthquake. I'm just curious what is that level of earthquake.

EXECUTIVE OFFICER THAYER: While he's coming forward, with respect to the valves, I think the idea was if the pipeline broke for any reason, whether it was a small earthquake or a big one, then the loss of pressure
triggers these valves to shut, so --

CHAIRPERSON CONNELL: Well, this is exactly my point, Paul. I do not want us to be protecting ourselves only against the ultimate earthquake here. I'm very concerned that we are protecting ourselves against the more common level of earthquake that might shake the southland here. And I'm curious as to whether or not we have satisfactorily met that safety precaution.

Greg, maybe you can respond and can you identify yourself for the record please.

REGIONAL MANAGER SCOTT: Yes, my name is Greg Scott. I'm an engineering manager with the State Lands in the mineral resources group.

To your question on the wall thickness of the pipeline, as far as what level seismic event that could withstand, pipelines are not designed to withstand a certain seismic event. They are designed to withstand certain pressures and to withstand certain axial stresses. If there were a seismic event that could cause a fault to occur, that would cause a pipeline to actually be displaced in a shearing direction. I don't know what level of seismic event it would take to shear that pipeline, but certainly it would -- I can't give you a number.

CHAIRPERSON CONNELL: So what you're saying to
this board is that any shearing of the pipeline, any breaking of the wall of the pipe would result in this closure of the pipeline through these valve systems that you've set up; is that correct?

REGIONAL MANAGER SCOTT: That's correct. We had made the assumption that if there were a seismic event that were to cause a catastrophic failure of the pipeline, the valves would automatically close and the gas that was escaping would be limited to that length of line between the two shutoff valves and that limited amount of gas would escape.

CHAIRPERSON CONNELL: Why is there such a significant difference between the two-minute interval and the ten-minute interval? Why would we be able to close down the gas line so effectively in parts of this pipeline and get control within a two-minute period while in others we're exposing the environment to a ten-minute leakage.

REGIONAL MANAGER SCOTT: The interval is a function of the distance between the valves. We had designed the placement of the automatic shutoff valves to be much closer together in the highly populated areas of the pipeline. In those areas where we have identified seismic activity but the population is less dense, we have, you might say, broadened the distance between the automatic shutoff valves, but still staying within the
requirements of the Department of Transportation that
requires a certain valve spacing.

The automatic shutoff valves, I should add, are
above and beyond what the DOT requires. This came about
because the State staff, engineering staff, was asked to
suggest any enhancements that it could think of to improve
the public safety in the event there were any type of
catastrophic event. We had discussed with Questar that
certain valves should be replaced without automatic
shutoff valves. They have agreed to do that. And, in
fact, they have decided to add a substantially greater
number of valves than we had originally requested.

However, when the seismic hazard study was
brought forward, we had identified a number of other
locations that we felt it would be prudent to place these
automatic valves. These are placed in a much more
frequent spacing than is required by DOT.

CHAIRPERSON CONNELL: Perhaps it shows my lack of
understanding, what occurs -- if we had this breakdown of
the pipeline because of one of these seismic events or
some other shifting as you would call it in the plane
land, and we have an escape of these gases for a period of
two minutes, how do we resolve that problem? What kind of
damage do we expect to have in the environment and to
people who are in the immediate vicinity?
REGIONAL MANAGER SCOTT: Well, that was the point of trying the minimize the release of gas in the highly populated areas. If there were to be a failure, an actual pipeline rupture, we wanted to be sure that the spacing of the valves was minimized, to the extent that we could practically install these in the pipeline, to cause that release to be as small as possible.

Now, a two-minute release, you know, the gas in the pipeline is lighter than air once it is released. If it is not ignited, it will dissipate into the atmosphere. If it is ignited, it will burn. Worst case would be that there could be an explosion if the conditions were right.

But once you have a pipeline rupture, 80 percent of the gas is released within the first 20 percent of the total release time. So most of the gas that escapes goes to the upper atmosphere and some of the other gas that escapes over the remaining period of time could be subject to ignition. And the consequence, of course, would be if there were some, you know, public, if there were people in the area or if there were facilities or any public dwellings, then certainly they would be in that area that could be impacted by an explosion or fire.

EXECUTIVE OFFICER THAYER: If I might, for the Commission's benefit, Mr. Gorfain investigated what the common practice was for other pipelines that existed in
the area, so that there would be some context.
Personally, I didn't know whether two-minute blowdown time
was good or bad. If it would be helpful to the
Commission, I think he has some information about what
other --

CHAIRPERSON CONNELL: Well, yes, I think it would
be helpful for the Commission to hear Mr. Sydnor's, who is
the one who opined on this originally and now has created
a second opinion also to come forward.

Go ahead.

EXECUTIVE OFFICER THAYER: Dan, if you could
briefly --

MR. GORFAIN: As I mentioned in my opening
remarks, for what I noticed Class 3 areas, which are
populated areas, the Southern California Gas Company
considers 30 to 45 minutes as an acceptable blowdown time.
I also talked to PG&E. It's a little bit of a different
example, but there is a pair of automatic shutoff valves
around the San Andreas Fault, one of the crossings of the
San Andreas fault going to Half Moon Bay. And I was told
that the blowdown time would be somewhere between ten and
30 minutes, ten minutes in case of the complete breakdown
of the pipeline and 30 minutes if it were a slower leak of
some kind.

COMMISSIONER BUSTAMANTE: Densely populated area?
MR. GORFAIN: I'm not sure whether that is a populated area. The specific crossing is a populated area. I don't know.

EXECUTIVE OFFICER THAYER: But the SoCal Gas was in a populated area.

MR. GORFAIN: In a populated area, yes.

EXECUTIVE OFFICER THAYER: And furthermore the valves that would allow for a 35-minute blowdown, were those automatic or manual valves?

MR. GORFAIN: That is just the acceptable blowdown time, so they work their valves to whether they are automatic, manual or exactly where they're placed with that kind of guidance in mind.

COMMISSIONER BUSTAMANTE: So those are on State lands?

MR. GORFAIN: No.

COMMISSIONER BUSTAMANTE: So we have no jurisdiction over it?

EXECUTIVE OFFICER THAYER: No, we do not.

CHAIRPERSON CONNELL: Mr. Sydnor, thank you for -- please go ahead.

COMMISSIONER BUSTAMANTE: Before you start, sir. These valves, are these like in places where the pipe breaks or are these -- I mean, if you're going to -- if it's going to break someplace, are they planned to break
in certain areas or is this just any place that might break?

MR. GORFAIN: We specifically positioned them -- asked Questar to position them with respect to the more serious fault zones.

COMMISSIONER BUSTAMANTE: So there is some form of attempting to obviously mitigate where the breaks might occur, so do you plan these so that they break and have the shortest amount of time?

MR. GORFAIN: Yes.

COMMISSIONER BUSTAMANTE: And in a populated area, a ten-minute, what did you call it a blowout?

MR. GORFAIN: Blowdown time.

COMMISSIONER BUSTAMANTE: Blowdown, okay. In ten minutes, how much gas is that and how would it affect a populated area where there's likely to be all kinds of activity taking place, everything from gas lit heaters and stoves and cars and all kinds of things taking place, if not open fires? I mean, how much of an area does that encompass before there becomes a danger or what is the danger zone?

MR. GORFAIN: The hazard footprint, if you will, that's a term of art. I'm going to ask one of our engineers from the New Facilities Division to do some calculations. I can tell what they are, but they might be
in a better position, if they would like to tell you what
they've calculated for that. To answer your question, I
think that might be better.

COMMISSIONER BUSTAMANTE: Yes.

CHAIRPERSON CONNELL: Please come forward.

MR. GORFAIN: Martin Eskijian of Marine

Facilities.

CHAIRPERSON CONNELL: And again identify yourself
for the record.

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: Madam
Chairman and Commissioners, my name is Martin Eskijian,
I'm the Supervisor of the Engineering Branch of the Marine
Facilities Division of State Lands Commission. We did the
calculation, one of my engineers, a registered mechanical
engineer, did a calculation for one of these blowdown
times, I believe it was six minutes with the pressure that
the pipeline was operating at. And we came to a number
approximately a hundred meters in diameter, so you can
think of it as a football field as a sphere with the
football field diameter, that size would be the natural
gas that would be released during that short blowdown
time.

COMMISSIONER BUSTAMANTE: So outside of that we
wouldn't fear ignition?

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: It
depends on which way the wind is blowing and what's upstream as it goes up. So it's very hard to say ignition.

COMMISSIONER BUSTAMANTE: Given your best case scenario, I'm assuming that's what that is.

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: That's the amount of gas that is released.

COMMISSIONER BUSTAMANTE: Or is that a worst case scenario?

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: That is the amount of gas released, not whether or not there would be ignition. So within a football field, the chance of ignition --

COMMISSIONER BUSTAMANTE: Within that, what's the possibility of ignition?

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: In a populated zone, I would say it's probably pretty fair, because --

COMMISSIONER BUSTAMANTE: Within what space of that break?

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: Within that hundred meters.

COMMISSIONER BUSTAMANTE: Within that hundred meters, it's possible to have ignition.

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: Yes.
COMMISSIONER BUSTAMANTE: How many areas of population are subject to that kind of -- I mean, we're not looking at a break someplace where we're not expecting one. Let's put that off to the side for a moment.

Let's look at those areas where we are expecting the potential of a break to occur, things that we've planned for, right?

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: Right.

COMMISSIONER BUSTAMANTE: So taking those areas that we've planned for where we're trying to beef up those areas, a six minute blowdown encompassing an area that size of a sphere of a football field, how many population areas are subject to that potential risk?

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: Well, I don't have that memorized, but if you look at the spec services report, there are a number of, what's called, Class 3 areas.

COMMISSIONER BUSTAMANTE: Do they go through any towns?

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: Yes, it's in populated areas. Yes, it is.

COMMISSIONER BUSTAMANTE: Do they go by schools?

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: I don't --

MR. GORFAIN: Yes.
ENGINEERING BRANCH SUPERVISOR ESKIJIAN: It's close to those areas, but this is not uncommon. I would refer you to the Northridge earthquake where there were breaks under the street, where there was no quote, "fault causing the failure," but you did have a failure and it did have a gas explosion in the gas fire in the middle of a populated street. It happened in Northridge.

COMMISSIONER BUSTAMANTE: In that particular situation, you bring it up, I'm assuming you're bringing it up because there's a parallel?

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: Yeah, there's a parallel that it didn't cause --

COMMISSIONER BUSTAMANTE: Is there a difference in having that accumulate out in the open air or is there a difference in terms of it accumulating under the street somehow?

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: They're both buried pipelines. It's analogous.

COMMISSIONER BUSTAMANTE: They're both buried pipelines and so coming up in both those situations?

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: Yeah.

COMMISSIONER BUSTAMANTE: In that case were there any ignitions of any kind taking place?

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: Yeah, there was. There was a fire in Northridge. And I don't
remember -- it wasn't catastrophic. It didn't burn down the city. I would also mention I was in Kobi a week after the earthquake and saw what happened there. And in that case there was no way to get fire vehicles in. There was no fire water. There was no way to shut off the source and so you did have a different situation.

COMMISSIONER BUSTAMANTE: In Northridge?

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: In Kobi.

CHAIRPERSON CONNELL: In Northridge did they have shutoff valves?

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: Northridge, I don't know whether they had shutoff valves, but they got the fires under control quickly.

COMMISSIONER BUSTAMANTE: Now, is it possible that a valve could be blown out and then ignite yet another section?

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: I think that's unlikely and I think we need to be clear that these valves are seismically qualified and we've said that the valve will work in an earthquake and that's important.

COMMISSIONER BUSTAMANTE: Right. But what I'm suggesting is that there's a break.

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: The valves are away from the break.

COMMISSIONER BUSTAMANTE: The ignition occurs, it
has sufficient force to blow out yet another valve. Does it have that ability?

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: I don't think that's a scenario --

COMMISSIONER BUSTAMANTE: I'm just wondering if there's some possibility of some chain reaction of valves blowing out and there being a huge area that continues to just proliferate in terms of its blowdowns.

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: Maybe Questar can answer that. That's one scenario beyond what is commonly addressed.

COMMISSIONER BUSTAMANTE: So that's an extreme?

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: That would be an extreme case.

COMMISSIONER BUSTAMANTE: I mean, it's something we shouldn't even contemplate?

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: I would think that's right.

COMMISSIONER BUSTAMANTE: In terms of engineering, there is -- I mean that shouldn't even be on the table.

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: It shouldn't be on the table.

COMMISSIONER BUSTAMANTE: All right.

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: A
seismically qualified valve is on the table and that is important and they are going that far.

COMMISSIONER BUSTAMANTE: All right.

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: I may mention one other thing about the earthquake and the pipelines is that the problem with the pipeline is that when you have this very large displacement, no pipeline can withstand the ten or 20 foot separation in an earthquake fault. And so what they're saying here is the pipeline will fail, that's what's going to happen. You have nothing besides that.

But where you don't have that, you don't have the entire fault rupture occurring. If it's one strand of the fault, the pipeline may remain intact. And that's what they try to do to the best of their designability in the performance standards for the pipeline.

COMMISSIONER BUSTAMANTE: Were you involved with the EIR?

ENGINEERING BRANCH SUPERVISOR ESKIJIAN: No, I was not.

COMMISSIONER BUSTAMANTE: Who is the person with the EIR. Just one question for you.

Thank you, sir.

The rock quarry, there has been brought to my attention that there is an issue involving the pipeline
going over a rock quarry, that apparently had been
mislocated originally.

MR. GORFAIN: I don't know about mislocation and
perhaps Questar can answer that question later on. But
there is a rock quarry at Mile Post 31 and the pipeline
has existed in that location for a long time. There was
an agreement between ARCO and the quarry regarding
operations of the quarry. And my understanding is that
Questar has been in negotiations with the quarry owners
and that there's no problem, there's no conflict or no
particular problem in terms of expecting that that
agreement will be reworked between Questar and the quarry
operator.

COMMISSIONER BUSTAMANTE: I still understood what
you said, but I don't think you answered my question.
Maybe you did, and I don't understand.

In the original EIR, the rock quarry was located
in a certain place and the pipe on the EIR on the map was
located in a certain place. The rock quarry was not put
in the place where it should have been, are you familiar
with that?

MR. GORFAIN: I can't relate to this off the top
of my head. I'm going to try and get the answer for you
before the afternoon is over.

COMMISSIONER BUSTAMANTE: It is my understand
that that's an issue that is being raised. And is the --
are the tribal folks here? Is that one of your issues.

If it is, come down and speak to it to the
microphone.

CHAIRPERSON CONNELL: Well, we have a whole list
of people who are signed up to speak. So what I would
like to do is hold the public speaking until we get the
staff report and the geologist report. It wouldn't be
fair to call anyone up at this point.

So what we need to do is get -- I'm very
concerned about getting the geologist's report before this
board, since we seem to have two different geologist
reports here, and I'm sure all the commissioners share my
concerns about why we have such different reports here.

So if you could identify yourself for the record,
please.

MR. SYDNOR: Hello, my name the Robert Sydnor,
spelled S-y-d-n-o-r. And I'm a Senior Engineering
Geologist with the California Department of Conservation,
Division of Mines and Geology.

The State Lands Commission and the Division of
Mines and Geology are all under the Resources Agency, so
we're a sister agency.

Last spring we received through the State
clearinghouse a normal copy of the Draft EIR for this
project. We were very dismayed to see on the map atlas that there was this zero geology of any kind on the map bands. That is there is no indication of active faulting. There was no indication of liquefaction, no indication of landslides or any notation about ground motion that might be expected.

We, the California Department of Conservation, turned in an official response to that through the State clearinghouse that was published and that was our comment on the Draft EIR. And we suggested that proper geologic information that was pertinent to the safety and stability of the pipeline be included in the map atlas and discussed in the text of the Environmental Impact Report.

During the months of May and June we sent a number of materials to the consultant that was preparing the Environmental Impact Report, that is ENSR of Fort Collins, Colorado. And they used about half of our materials. It is not our job to do all of their work. Certainly, we're not consultants, but we're the State's geological survey.

They used some of the material and it plotted some of the faults on some of the pages and indicated liquefaction zones for the first time. I want to say in Orange County, the State's geological survey has legally zoned both areas of active landslides that are seismically
induced landslides and areas that we have a potential for
seismically induced liquefaction.

As early as 1973 we have zoned the
Newport/Inglewood fault, the Whittier/Elsinore fault, San
Ysidro, of course, San Andreas and the Pinto Mountain
faults have all been well known. We did get some 14 fault
crossings that were finally identified in the August --
actually, it's dated July issue of the Final EIR.

We made no comment at that time, but we were
concerned that not all the faults were plotted very well.
We thought well, it's the best we can do -- we normally
don't comment on the Final EIRs.

Later on in the autumn there were still questions
about the adequacy of the report. And in the phone call
that was a group phone call that we had in early November,
it became clear that the pipeline managers and the
administrators in Salt Lake City hadn't received all of
our materials, neither had FERC officials, apparently,
although I wasn't sure about that, and we felt it was a
good time for all the materials that we had informally
sent to ENSR, Fort Collins, to fully go on the record of
what did the State's geological survey possess in the way
of fault maps, in the way of comprehensive geology
bibliography, in the way of our maps, in the way of the
ground motion that we had calculated in many places along
the pipeline.

I am the former Orange County geologist. I'm a native-born southern Californian, so I certainly know the pipeline route very well. I did my thesis right in San Gorgonio pass on Mount San Jacinto. So when I was a graduate student at the University of California Riverside I certainly knew much of the 250 miles this pipeline traverses in California.

I think there was some supposition we might distance bureaucrats in Sacramento and that was not so. We certainly know this site very, very well. Pipeline after pipeline mile are personally known to me.

I have further, as a peripheral note, I've certainly worked on the Alaskan Chill gas pipeline that comes nearly 800 miles out of the Arctic. It's never yet been built, but that's a four foot diameter large gas pipeline that's -- and I'm familiar with all of the work that is needed on gas pipelines. I worked on that for four years in the Arctic while I was a consultant to the Fleur Corporation in Irvine. This is before I entered State service in 1982, so I am familiar with chill gas pipelines.

We wrote on November 9th just a brief letter that indicated our concerns. We wanted to show that landslides had not been evaluated at all. And we wanted to show that
our published geologic maps had not been utilized, and so particularly like the Green River landslide. We wanted to show landslide after landslide throughout the Peralto, also known as the Anaheim Hills. We wanted the get these on the record, so that all the pipeline managers and government administrators would be precluded from remonstrating that they had never seen this material before. These are official, legal maps that we have zoned. I brought a complete set of those today.

So my report of November 9th simply is a collage of all the information that we had informally sent forward, only half of which was being used. We also had a very useful meeting. Based on those concerns, the Questar Pipeline Company have hired a very excellent firm called Earth Consultants International. Two very good geologists that are familiar with pipelines, landslides active faults and liquefaction, Eldon Gathe and Tony Gonzalez, both California Certified Engineering Geologists, as am I, worked on this project very intensively and they presented a very fine report.

Their earlier one had no landslide material which they pointed out that they had -- that they were aware of but didn't plot all that. We reviewed carefully the November 17th report, which has a lot of new information on it in landslides. And we also had a very useful
meeting on November 21st in the offices of the State Lands Commission in Sacramento.

And, at that time, I got a very useful map that shows the -- of the NewPort/Inglewood fault crossing, an area which I think I focused on very heavily, which showed the Los Angeles River. It showed the Union Pacific Railroad, it showed the 710 freeway, and it showed the Metro Rail Blue Line and it showed the railroad trestle. It also shows nearby housing, which are mostly a trailer park and two schools, one public school and one private school.

There's nothing like a more detailed map to help everyone reach a better conclusion. This map is called an orthophotoBASE because you actually see what's the correct culture that's there today. And the scale is one inch equals 200 feet approximately. And we can see that there's about 400 lateral feet between the bank of the LA River and where the metro rail and the freeway are located, where the pipeline would actually cross there.

I'm not a specialist and I'll defer to my pipeline engineering colleagues within the State Lands Commission on the diameter of a blowdown area of how big a fire ball would be. But we can begin to see now some reasonable distance it would be from where the railroad trestle would cross.
We also on November 21st learned something very important from Questar officials that there will be a brand new railroad trestle built there. And this is a wonderful opportunity because I'm sure the trestle will be much stronger than the present one. All of this area is zoned for seismically induced liquefaction, which is over half of Orange County.

However, this is a problem area where we think there would be lateral spreading because of the free face of the Los Angeles River channel. And that was a particular concern to us that you would have surface faulting. Amplified ground shaking and lateral spreading of the ground would actually crush the railroad trestle at the very time that the pipeline is being carried under it.

And we felt that because this was close to a large population center, that this would be of concern because of people on the freeway, Metro Rail. I think my letter was pretty clear about that.

We now see they are more spaced apart. And certainly there is two things that we learned November 21st from Questar that there is -- they've got seismically qualified block valves that would be close to this. Now a new one was added. And we have a brand new railroad trestle. They're not the owner/builder of that trestle, but they'll work, they and their geologists will work
closely on the design of that.

I think the rest of my report of November 22nd is brief and clear to the point. We feel all the geology information contained in the earth consultant's report dated November 17th is finally getting all the cards on the table. And we think the geology information contained in it is new, relevant and suitable.

We find it adequate, that it answers questions that we had as late as last spring, where there was no geology whatsoever on the Draft Environmental Impact Report atlas maps. No geology, as if the pipeline was hung up in the air. And we were very concerned about that.

So I hope my letter of November 22nd is clear. We now know the places where the pipeline will cross active faults, and I think all the geologic hazards, and the four of them are surface faulting, ground motion, seismically induced landslides and seismically induced liquefaction. All four of those geologic hazards are carefully identified in the new consultants's report, which dramatically changes the July Environmental Impact Report that was called FEIR, the Final EIR.

CHAIRPERSON CONNELL: Thank you. I really appreciate your detailed review, because there was some concern. The reason I asked you to be with us today, and
again I thank you for coming down from Sacramento, is that clearly we're reviewing a project that has serious potential for impact on public safety and we want your expertise as we dialogue here today.

I have a couple areas of concern I'd like to have you review for us. Your first letter suggested rerouting the pipeline. And you made your rerouting recommendations, I believe, for the Del Amo Crossing of the LA River, the Green River landslide and the Pinto Mountain fault zone.

Now, I understand from your comments here today as I understand your letter, that the mitigation you believe is now incorporated in the project and therefore you don't recommend any longer any rerouting; is that correct? Do you feel that your previous recommendations regarding the rerouting are no longer needed?

MR. SYDNOR: Yes, substantially that's it. There was more information and I believe Questar management is here and can describe that in detail, of why there would be exposure to more people and more obstacles if they went in a different route. This wasn't that clear. I'm speaking here of the Del Amo Crossing, crossing the Los Angeles River in some manner. And I think my original report showed we were like why not consider other routes? We didn't feel they had enough full consideration of that.
In the two meetings we had with Questar officials, I think they fully answered those questions and I believe Dan Gorfain can answer them also. I'm not a specialist in opening up streets and that sort of thing, but my approach simply as a State government geologist was to try to cross a hazard one at a time and not try to cross five things in one place. That would be an unsuitable and an unacceptable hazard to too many people.

This orthophoto map certainly helped persuade me about some distances and some vacant -- there is some vacant landlocked areas of this commercial storage and lay down here where no one is going to live, but that's certainly -- we were glad to see that.

CHAIRPERSON CONNELL: Are we assured that that's going to stay the same as we move forward? What is that land zoned for?

MR. SYDNOR: Well, others can answer it better, but we noticed that it's a landlocked area and has no good access, so it will just be an occasional storage area, because there's no way to -- you have to come in straight off the 710 freeway. And I think the Highway Patrol would limit that substantially. I think there's just a gate with a dirt road. I'll let others explain that.

I did not take a position on some of the other possible reroutes, say the Green River landslide. They've
showed how this is now a State Wilderness Park and they are unable -- they're going to have to stay within their present right-of-way. We feel now that the presence of a large landslide is now fully up on the table and Questar officials have added another blocked valve for that area and have shown it's not as close to the freeway as was previously supposed.

There was no other easy way to reroute that. But if that landslide moves, it would probably be during a large earthquake on the Whittier/Elsinore fault system. It's not like this is a huge, thick, deep landslide. It's not -- say a winter erosion is not the issue there of gullying or something like that, but it's a big landslide. It would move like all or nothing for a long time. Most geologists would agree to that.

Now, Questar's consulting engineering geologist is here and Tonya Gonzalez can answer detailed questions on her analysis along the pipeline route.

CHAIRPERSON CONNELL: Thank you. I have one further question before you leave, though, if I may Robert. Your first letter reserved your most severe criticism, as I read it, on the Del Amo Crossing. And on page two of your letter you stated, "I have 27 years of experience in geological hazards. I cannot recall any project that has this many public safety issues in one
single location." I believe that was your quote.

What has caused you now to be satisfied that these public safety issues have been addressed?

MR. SYDNOR: Well, the pipeline certainly could still fail at this location. I believe the State Lands Commission pipeline engineers and I are in agreement of that. We're simply now realizing they're more spread out laterally, they're some 400 feet apart, and I didn't have a very good map. We're just looking at the Thomas Brothers guide or the USGS quadrangle map, which is -- we looked at a map that was more than ten times more detailed and we see they're simply spread out a little further.

The hazard is still there, but they're spread out one after another a little better. I also felt the brand -- I'm optimistic about a brand new railroad trestle that would be especially designed to carry the gas pipeline on its undercarriage and be able to withstand strong shaking and perhaps some axial compression due to liquefaction. I don't know that it would -- certainly this is -- no one has purported that this pipeline is free of all geologic hazards. We can't do that.

We necessarily have to cross several dozen places that are adverse. And I think we're doing them serially now. And a lot of my concerns have been allayed that we're not doing five or six or ten things. Adverse items
do not occur in one location. They're a little more spread out than I realized.

CHAIRPERSON CONNELL: Well, thank you. I really appreciate that. That's very helpful to put your first letter in context. We have, as I said earlier, a number of people who have signed up to speak. If there's anyone who is not signed up to speak, could you bring your request to speak down to the platform here and I will certainly offer you the opportunity as well.

I'm going to just take these in the order in which they were received. Alan Allred is the first one to speak. And then there seem to be a number of people here from Questar. Are you coming together or are you all speaking individually, what is occurring here?

There's Alan and then there's Tad Taylor, Marian Harvey.

MS. HARVEY: Madam Chair, if I may clarify, Marian Harvey, Latham and Watkins on behalf of Questar Southern Trails.

CHAIRPERSON CONNELL: So you're going to handle all these Questar speaking engagements here --

(Laughter.)

MS. HARVEY: That's right.

CHAIRPERSON CONNELL: -- of which, am I incorrect, there's one, two, three, four, all four of you
are going to be encompassed in your comments; is that correct?

MS. HARVEY: Actually, Madam Chair, what we would suggest is that I have just a couple of brief comments to make and then I was going to introduce Alan Allred, the Vice President for Questar Southern Trails. And a number of other Questar members of the Questar team are here primarily to answer questions, give more detail, if that's helpful, but we really just have the two speakers.

CHAIRPERSON CONNELL: Well, what I would like to do is call upon you, if I may, and then Alan.

MS. HARVEY: Alan Allred.

CHAIRPERSON CONNELL: And then I'm going to ask the representatives of the tribe to make their comments, so that we can engage in a dialogue here, as I understand that you may have some concerns. So we will ask you to speak and then we will go back to all the other speakers who evidently wish to speak as well. So we will exchange views, hopefully in a positive manner.

Please begin. And, again, recognize yourself for the record.

MS. HARVEY: Thank you Madam Chair, and Commissioners. I And Marian Harvey from Latham and Watkins, representing Questar Southern Trails on this interstate pipeline.
We are here today to request that the Commission act to certify the EIR. The FERC has already approved the final EIS on behalf of the federal government. We're here today to request your certification of the EIR and to request your approval consistent with the staff recommendations of the leases over the State lands.

I do have three items I just wanted to submit for the record, which may or may not already be in staff's possession, but I wanted to submit them today with your indulgence.

The first is the FERC order from October 1999, which was their preliminary determination on all nonenvironmental matters from October 1999.

CHAIRPERSON CONNELL: Do we have that, staff?
EXECUTIVE OFFICER THAYER: It's in the file.
MS. HARVEY: The second one is the July 28th year 2000 FERC order issuing the certificate of public necessity and convenience and approving the final EIS. So in case we don't have those copies, I will now submit those for the record.

I also have a brief safety overview here of the Southern Trails Pipeline Safety Overview, which is a background summary of the safety features that have been included in this project, along the length of the project, keeping in mind that this addresses the whole length of
the pipeline.

This serves as a helpful background summary, we think. In addition, there's a great deal of information in the Final EIS/EIR that is before you. And additionally in the emergency response plan, which has been prepared in draft form, which is a requirement of the US Department of Transportation, and the Seismic Hazard Evaluation and Mitigation Plan, which has been prepared and submitted previously, consistent with the mitigation measures in the Final EIS/EIR.

I would like to introduce Alan Allred, who is the Vice President for Questar Southern Trails. And as you mentioned already, we have identified a number of the other members of the Questar team who are here to answer your questions and provide you more detailed information, particularly on our efforts to impose additional safety features on this project above and beyond the requirements of the federal government, and respond to the concerns that we've begun to hear about today, the concerns of staff here at the State Lands Commission, concerns submitted during the environmental review process by the Morongo Band as well as the State Division of Mines and Geology.

I think a number of people here can provide a great deal of information how those issues have been
addressed and responded to and I appreciate your time today.

CHAIRPERSON CONNELL: Thank you very much.
Alan, please identify yourself for the record.
MR. ALLRED: I'm Alan Allred. I am Vice President of Questar Southern Trails. I'm glad to be here today to have this opportunity to address the California State Lands Commission.

What I wanted to do is three quick things. One, just give you a little bit of overview of who Questar Corporation is, tell you about our interest in this project and what we're trying to accomplish, and then finally to urge your adoption of the staff recommendation relative to certifying the EIR and also approving the State Lands leases.

Questar Corporation is headquartered in Salt Lake City, Utah. We're an integrated energy company involved in oil and gas exploration and production, interstate pipelines and a local distribution company that serves most of the state of Utah.

In terms of pipeline operations, our Questar pipeline has provided reliable and safe natural gas transportation to areas in Colorado, Utah, Wyoming for the last 70 years. In addition, we are involved in a trans-Colorado pipeline project that transverses the
western side of Colorado, bringing Rocky Mountain gas down
to the El Paso gas system, that eventually could come to
California. And we are also a partner in an over-thrust
pipeline that moves gas from the Rockies east towards
Chicago.

I'd just like to say that as a pipeline operator,
certainly safety and many of the concerns you've expressed
here today are important to us also. We pride ourselves
in a long record of safe operation. I think the
discussion today is also good in that we all need to
recognize that moving natural gas through a pipeline
system does have some inherent dangers, but the history of
the industry has been remarkable in terms of the few
number of accidents that occur.

But I share your concern that when they do occur,
there is potential for damage. And I think those concerns
are recognized by your staff and we appreciate the chance
to work with them to make this pipeline as safe as we
possibly can. And we feel like that the changes that have
been made and told about have helped to do that.

In terms of our interest in this project, we
recognized several years ago that there was a need for
additional pipeline capacity to bring natural gas to the
southern California market. The existence of this oil
line, which was no longer in service, was an ideal
opportunity to accomplish that in a way that's environmentally sound and that you don't have to put new pipe into the ground, and also economic, because it could be put into service, we hoped, in a rapid manner.

As we've been involved in that process, over the last couple of years the need for additional natural gas in the southern California market has become even more apparent. The need for gas to generate electricity and the need for more energy in this market are clear and well documented. And we believe that this project will help accomplish that in bringing additional gas supplies into this market.

We are thankful for the opportunity we've had to work with your staff. We think it's been a good relationship. We think the project is a sound project. It has been improved through this process. And, as I said, we urge your adoption of the recommendations.

Thank you.

CHAIRPERSON CONNELL: Thank you. Now, let's see, do I have your names in here? I hope I do somewhere here. Just a second. Come forward while I try the find your names here.

Are you Lata?

MS. MATHRANI: I'm Lata Mathrani.

CHAIRPERSON CONNELL: Thank you for coming.
MS. MATHRANI: Madam Chair and Commissioners
thank you for having us here today. My name is Lata
Mathrani, and I'm from Morongo Band of Mission Indians.
I'm accompanied by Dr. Pantel, who is our Environmental
Director and I hope you allow me to defer to her when
questions are beyond my ability.

The Morongo Band of Mission Indians is a
federally recognized indian tribe. The proposed pipeline
crosses the Morongo tribal lands. We've reviewed the
Southern Trails Pipeline Project Final Environmental
Impact Statement, Environmental Impact Report and the
Commission's November 21st, 2000 responses to the tribe's
September 1st comments.

The Morongo tribe has two primary interests here
today, a long cultural tradition of protecting and
honoring the animals and plants on our lands, especially
those who have already been designated endangered, and
public safety in and around the reservation community.

The tribe appreciates the work of the Commission
to strengthen the endangered species and public safety
analyses in the EIR. However, we ask that the Commission
postpone approval of the EIR until further analysis is
completed. A number of areas remain where the EIR fails
to meet CEQA requirements. The documents should be
revised and recirculated accordingly.
The tribe remains concerned primarily about the following matters, in appropriate deferring of endangered species analysis. As we noted in our comments on the draft EIR, a Project level EIR should contain adequate analysis to allow the public and decision makers to make an informed evaluation of the project's environmental effects. The practice of deferring studies necessary to such an informed evaluation have been uniformly rejected by California courts.

Deferral is only permitted if the information is not necessary to determine project impacts. Even assuming all these issues will eventually be worked out in the permitting process with each responsible agency, that does not satisfy the CEQA analysis and the disclosure requirement now.

The final EIR defers a number of studies essential to identifying project impacts, particularly endangered species impacts to the post-construction period. It assures readers that Questar will not be allowed to move ahead with the project until these studies have been conducted. However, such an approach deprives the public of information and input on the studies through the CEQA process.

Instead, it relegates the analyses and the review to a nonpublic process involving only the approving
agencies and the Applicant. This is a plain violation of CEQA. Impacts on endangered species should be analyzed, disclosed and mitigated now in public as CEQA requires, not later in private.

In addition to the deferred studies, the EIR also identifies numerous future plans, agreements and reports as mitigation, and assumes that preparation of those documents will mitigate project impacts.

However, absent the plans and agreements, there is no evidence that such mitigation will actually occur. CEQA is not satisfied by behind-the-scenes agreements between applicants and agencies. It is not a trust-us statute, but rather a show-us statute. Absent these studies and plans, the Final EIR repeated assertions of effective mitigation of the relevant impacts are unsupported and the impacts remain potentially significant.

Our second point of concern is incomplete public safety analysis. The EIR still does not adequately address certain potentially significant issues. These include pipeline hazards. A similar pipeline near Carlsbad, New Mexico recently suffered a major explosion. The Questar pipeline goes right through critical infrastructure and economic development areas of the Morongo reservation, which is a fancy way to characterize
what we fondly refer to as Section 8.

Section 8 is the small section of tribal lands where we have now concentrated some of our businesses. Section 8 is, to us personally, the little piece of land which has enabled the tribe to pull itself out of a hundred years of poverty and complete disenfranchisement. The November 21st response to our comments suggests that the Commission staff has not yet completed its review of these issues. It should do so before the Commission approves this EIR.

And then to directly address the Lieutenant Governor's questions with regards to mine hazards. We refer to this as the sand and gravel pit. In addition, Commission staff has apparently had discussions with the operator of the sand and gravel mine operations in Cabazon.

However, this operator has plans for significant expansion, which are presently pending in front of the Riverside County Development Commission. The new parameters of this mine operation apparently have not been addressed by the Commission. The tribe's own hydrogeology consultants are very concerned that the new operation will threaten erosion and slope instability or even failure of the embankment that will contain the Questar pipeline. And I respectfully remind the Commission that the San
Andreas fault does go right through the Morongo reservation.

There must be complete analysis of these factors based upon the actual expansion plans to be proved by the county. Although substantial new information has been added to the EIR, it still has deficiencies with respect to full disclosure and full CEQA compliance. These gaps should be filled.

Also, the EIR appears to include significant unmitigable impacts not identified in the Draft EIR. Such impacts require recirculation of the document. The tribe would appreciate the opportunity to work with the Commission staff to assure that these matters are fully addressed.

And I would also just like to thank the Commission for inviting us here today and asking us for our comments. It was not too long ago that tribes were not invited and not asked to speak on these matters.

CHAIRPERSON CONNELL: You are always invited and always will be. I hope that you will speak. Let's take your three concerns. I hope I wrote them down correctly, help me if I am wrong. And who from our staff or from our consultant group needs to respond to those concerns on the EIR.

EXECUTIVE OFFICER THAYER: Dwight Sanders, who
heads up our environmental analysis unit, I think will
respond to most of these.

CHAIRPERSON CONNELL: The first issue was that of
endangered species, I believe, help me if I get this
wrong, endangered species. The second was the incomplete
public safety hazards, which deals with the mine
operations and Section 8. And then the third is the
recent action by Riverside County.

Is that correct.

MS. MATHRANI: I believe so.

ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: Those
are the same I have, Madam Chair.

CHAIRPERSON CONNELL: Okay, fine. If you could
respond.

ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: My name
is Dwight Sanders. I'm Chief of the Division of
Environmental Management with the Commission.

Let me address the points, if you will, in
reverse order perhaps. As to the sand and gravel mining
operation, we are aware that the operator has a request
pending before the County. We are informed, however, that
the request does not affect the area of this sand and
gravel mining operation that would be involved in closest
to the pipeline.

According to our information, the existing county
permit allows or stipulates that the maximum extent at the
top of the fully expanded pit can be no greater than 89
feet from the railroad right of way. That, coupled with
the distance the pipeline is set within the right of way,
results in distance of approximately 150 feet from the
pipeline to the top extension of the pit.

The slope is mandated from the top extension of
the pit to the bottom, is mandated to be on a 2-to-1 ratio
from that lip. So the lip of the expanded mine should be
no closer than 150 feet from the proposed pipeline right
of way.

EXECUTIVE OFFICER THAYER: And, Dwight, how far
from the railroad itself would it be?

ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: Well --

EXECUTIVE OFFICER THAYER: One hundred and
eight-nine feet, because the railroad is right in the
middle of the 200-foot right of way?

ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: Two
hundred, two hundred and fifty foot right of way, the
railroad is approximately in the center of that.

EXECUTIVE OFFICER THAYER: So even if this
pipeline were not put in place, the county planning people
need to ensure that the expanded portion, even if there
were expansion here of the sand and gravel operations, it
wouldn't expand so greatly as to threaten the railroad,
which is existing. So this pipeline is going in the same area, so it's just another feature that will be protected.

ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: The pipeline is proposed to be located between the railroad and the furthest extent of the mining operation.

COMMISSIONER BUSTAMANTE: Does that resolve the issue with you and your environmental person?

I'm assuming your environmental person is listening and --

Does that resolve the issue ma'am?

CHAIRPERSON CONNELL: You need to come forward. Out reporter cannot hear you.

Can you identify yourself for the record please.

DR. PANTEL: My name is Susan Pantel, environmental manager for the Morongo Band of Mission Indians. We don't have all the details of their pending application with the County. We were just told that the application could impact the extent of their operation which should be evaluated in the Final EIR.

COMMISSIONER BUSTAMANTE: Does it make sense that they're going to protect the road or that they're going to protect the pipeline area and that would resolve the issue or not?

The pipeline is between the railroad -- the pipeline would be between the railroad and the sand and
gravel pit. I also have no -- I'm not an expert at all in protecting railroads versus protecting pipelines, but it seems to me a pipeline could fracture more easily than a railroad could break, but again that's not my area.

CHAIRPERSON CONNELL: Yes.

ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: Madam Chair, I'd like to just add also, that there are evidently other existing pipelines between the proposed pipeline right of way and the full legalized extent of the mining operation, which is, at least for this proposed project, approximately 150 feet away.

CHAIRPERSON CONNELL: Well, who has the other pipelines?

ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: I don't have that information at hand.

CHAIRPERSON CONNELL: They're already on Indian land?

ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: No. These lines are not on the Indian land. These are within the railroad right of way at Cabazon.

EXECUTIVE OFFICER THAYER: Which is offsite, the land owned by the Morongos, is my understanding.

ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: Excuse me, Paul?

EXECUTIVE OFFICER THAYER: And this whole area is
not contained within the land?

ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: That's correct. The Cabazon area is not within the Indian land in question.

CHAIRPERSON CONNELL: All right.

ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: Questar does have the information as to the other pipelines, if you so desire that.

CHAIRPERSON CONNELL: Is there an interest on the Members of the Board having that information submitted for discussion?

If not, we'll move on to the second item, which was the incomplete public safety hazards.

ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: As I understand it, the existing pipeline does pass through the Morongo lands. I also believe that there has been a reroute proposed by the applicant that would go around the Morongo lands; and is that not correct?

MS. HARVEY: That's correct.

ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: I believe the proposal that is being advanced, at this time, is the reroute around the Morongo lands.

CHAIRPERSON CONNELL: So the Indian reservation would not be impacted at all.

COMMISSIONER BUSTAMANTE: Around the Morongos.
ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: That's correct.

COMMISSIONER BUSTAMANTE: If it was rerouted around the Morongo, would that resolve the issue or is it still so close that it still could have an effect?

MS. MATHRANI: Commissioner, I have neither the authority nor the background information to answer that. We will say as of 9:00, 10:00 o'clock this morning we had no knowledge of this rerouting.

CHAIRPERSON CONNELL: Maybe we can call upon Latham and Watkins.

MS. HARVEY: May I respond to that? Thank you.

COMMISSIONER BUSTAMANTE: Were the attorneys given the information, do you know?

MS. MATHRANI: I spoke to the tribe's attorney at approximately 9:00 or 10:00 o'clock this morning and he didn't advise me of any notion of rerouting.

COMMISSIONER BUSTAMANTE: Okay.

MS. HARVEY: Perhaps I can clarify. Marian Harvey, Latham and Watkins.

The EIS addresses the alternative route. The pipeline -- it's correct to say the pipeline today, the ARCO pipeline, is on the Morongo property. The EIS addresses a route which would avoid that area and puts the new pipeline in a new area off of the Indian land, off the
Morongo's land. So that's the proposed alternative
that's -- the preferred alternative that's in the EIS and
is addressed in the environmental review.

COMMISSIONER BUSTAMANTE: Well, is it within a
hundred meters?

MS. HARVEY: I'm sorry. I don't -- I'll have to
get the dimensions from Questar. I don't know the
distance from the boundaries of the property.

CHAIRPERSON CONNELL: Do you want to comment,
sir, on this matter?

MR. GREENWOOD: Yes. Thank you. My name is Ned
Greenwood. I'm project coordinator for Questar Southern
Trails pipeline. And I have been dealing with the Morongo
Tribe for almost two years now, and specifically with John
Shordike. And in my opinion, he is very well aware of us
doing a reroute around the pipeline, because he has told
us before he doesn't think that we can legally do that.
And I have spoken to him as late as last month and we
discussed it again about the reroute. He's well aware of
that we're using the railroad right of way. He's known
that for at least a year.

CHAIRPERSON CONNELL: So that he knows that this
option exists, the EIS reroute.

MR. GREENWOOD: That has been public information
for almost two years, that the reroute is on the railroad
right of way. So I --

COMMISSIONER BUSTAMANTE: It goes around the Morongo.

MR. GREENWOOD: Around the Morongo reservation. While the existing line is there, that line is not going to be used as part of this project. We are going to be using the railroad right of way and a new pipeline that we will be putting on the railroad right of way.

CHAIRPERSON CONNELL: Well, that kind of eliminates the first concern about endangered species, because if you're not on the land, the endangered species problem is vacated.

COMMISSIONER BUSTAMANTE: Well, I think the concern is that -- although that is a concern, the bigger concern is how close it is to their economic development area, which is basically their businesses, and whether or not that is -- is that what I heard, that there was a concern with respect to the population and the businesses being affected by some kind of a break. How far away from their reservation, how far away from their land is this pipeline?

MR. GREENWOOD: I would say it's at least 60 feet away from their property line.

COMMISSIONER BUSTAMANTE: So 60 feet away from the property line is within the 100 meters that are being
discussed by the -- what did he call that, the --

MS. HARVEY: Do you mind if I ask a question.

COMMISSIONER BUSTAMANTE: -- the explosion zone, the hazard footprint, right.

CHAIRPERSON CONNELL: It would have been nice to have a little overhead map for the Commission to look at this. Paul, may I remind you in the future, it would be helpful to have an overhead map at all times.

MS. HARVEY: We're going to take just a second to look at the map and try to clarify the answer to your question.

CHAIRPERSON CONNELL: Well, where is the Section 8 land, is it in the middle of the reservation?

MS. MATHRANI: It borders Interstate 10.

CHAIRPERSON CONNELL: Well, is that on the edge of your reservation?

MS. MATHRANI: Well, no, we have land on both the north and the south side. We have a large contiguous piece of reservation and then we're checker boarded throughout. So even if there is a railroad right of way, it's still Indian land.

COMMISSIONER BUSTAMANTE: But your business area, I'm trying to estimate how close the population centers are to the pipeline.

MS. MATHRANI: Our business area, what we call
Section 8, is surrounded by -- surrounds the railroad, is that right, Susan?

DR. PANTEL: The railroad right of way passes through the reservation, which is checker boarded, so on the north and the south there is reservation land.

COMMISSIONER BUSTAMANTE: I know, your businesses aren't on every single piece of land. Where are your businesses?

DR. PANTEL: Section 8. I don't know the exact distance between that and the railroad right of way. He says 60 feet, I don't know.

COMMISSIONER BUSTAMANTE: I think the point here is that just because -- let's not make it a small point, that just because the route is rerouted off of Morongo land, doesn't necessarily mean the affected areas could, in effect, land on the Morongos. It's not a small point here and we shouldn't trivialize the fact that or say that somebody knew already. It still could mean that knowing it a year ago raises the issue, which has not yet been addressed here, I don't know.

MS. HARVEY: May I?

COMMISSIONER BUSTAMANTE: Please.

MS. HARVEY: Thank you. Certainly, on our behalf, we had no intent to trivialize that issue, and clearly that's the point of the environmental review
process that's been engaged upon in the last year or so by both FERC and the State Lands Commission is to address just those very safety and biological issues and other environmental issues associated with this project.

My point was to clarify that the route that's in the EIS is the one that's being proposed and has been cleared by environmental. There's no surprise associated with that route which has been approved by FERC and addressed in the environmental reports.

I was wondering if I might address a couple of the other points that were raised in this discussion when you're ready?

CHAIRPERSON CONNELL: Yes, go ahead.

MS. HARVEY: Two of the other points that were raised were a concern about deferring the studies. And I just wanted to clarify that the EIS/EIR, as any document of that type, will have a number of mitigation measures in the document. And we've already seen the benefits of the completion of some of those mitigation measures and the further steps that are always required through the regulatory process, including the biological opinion which has been submitted and has determined that there's -- has determined a non-jeopardy conclusion on behalf of the Fish and Wildlife Service.

The other studies I actually had to clarify
myself, because a question was raised here about whether those studies were being deferred to post-construction, which didn't make any sense to me. And so I've clarified that, in fact, the studies will be done before the pipeline is turned on, whatever the proper --

MR. ALLRED: In service.

MS. HARVEY: In service. There are follow-up studies, of course, being done consistent with the federal regulations and the mitigation measures and the EIR/EIS that is further information that will be submitted after the service has begun and as follow-up to those studies.

Secondly, I wanted to point out that these mitigation measures will be implemented through the mitigation monitoring program that was adopted -- that is described in the EIR/EIS document and has been modified with the final recommendations of staff and is in your package today.

And pursuant to the requirements of CEQA that is an enforceable mitigation plan and those mitigation measures can be monitored according to the requirements of CEQA, and that is the assurance that they will be implemented consistent with the documents that are before you today.

And finally, I wanted to just address the point, of course, everyone is concerned about the tragedy that
occurred in New Mexico, but I hate to see this pipeline described as being similar to that situation.

That pipeline had not been inspected. This pipeline has been thoroughly inspected before it's even come to you. The length of the entire pipeline has been inspected. Your staff has been reviewing that data, and it was an older line not inspected, not subject to the safety requirements of the new in-service line that is before you today. So I hate to see it compared to a pipeline of much older vintage and not subject to the same safety requirements that are being imposed on this project.

CHAIRPERSON CONNELL: I assume that pipeline did not have these valves that had been discussed here, these safety valves?

MS. HARVEY: From what I've seen, even in the press, that's absolutely true, the automatic safety valves were not in place and are not required by any regulations of the federal government today, and are being imposed, you know, at staff's request, in order to respond to the comments and the concerns about this project.

CHAIRPERSON CONNELL: Well, have we been able to get some sense to the Lieutenant Governor's question on distance? I think there was an issue of distance here. I still am confused. I understand the checker board nature
of the reservation layout. I just don't know where this
Section 8 land, which of the parcels is this land on?

MR. MOUSE: Yes, Madam Chair, Members, Jerry
Mouser, engineer, project coordinator for Questar. I'm a
registered engineer in the States of Utah and Colorado. I
am not a registered engineer in California, but I am
registered in the other states. We have engineers doing
our business that are registered.

But to answer the question, the pipeline as it
exists, passes through Section 8, and that is the Section
that goes just north of the casino area, which is north of
Interstate 10. The proposed reroute that Questar has
planned and has obtained consent, at least a pipeline
license agreement from the UP Railroad, the reroute that
has been studied by the EIS/EIR is within the railroad
corridor south of Interstate 10 and away from the current
development area. And we're aware of the development
area, it's sizable out there.

I would guess that as that pipeline runs through
Cabazon and it runs south of the railroad corridor, it
runs south of a lot of the streets in Cabazon, it is
probably, I'll say, 500 to 1,000 feet, closer to 1,000
feet, south of the casino area there. So we are rerouting
it from that area to get it off the land from the Morongo
Band.
I wish I had an overhead of this. This just happens to be the seismic study.

EXECUTIVE OFFICER THAYER: If you're working from this map, I think we can put it on.

CHAIRPERSON CONNELL: I think we're able to track that 500 to 1,000 -- did you say 500 to 1,000 feet?

MR. MOUSER: Yes, ma'am, 500 to 1,000 feet or more south of the casino development.

CHAIRPERSON CONNELL: Well, that's certainly outside the 50 yard or the 50 -- the hundred meter -- the football field diameter that we're supposed to be mentally choreographing here against this leakage field; is that correct?

I mean, are we talking a 50-yard radius here for leakage, if one of these pipelines breaks?

MR. MOUSER: That is a number that the Lands Commission --

CHAIRPERSON CONNELL: A 50-yard radius is here and we're talking 1,000 feet, which is three hundred and some yards. Are we three hundred and some yards away from where we need to be?

MR. MOUSER: Yes, ma'am, we are.

COMMISSIONER BUSTAMANTE: I'm speaking to the tribe, is that outside your economic expansion areas?

MS. MATHRANI: No, Commissioner. I'd like an
opportunity to review this more carefully. Section 8 is what we talked primarily about, because that's what's keeping -- those are the businesses in operation now. But our plans for expansion, our master plan, go beyond Section 8. And so I don't know how this rerouting would affect those other -- that expansion --

MR. MOUSER: And, again, for the --

MS. MATHRANI: -- which is still Indian land,

excuse me, I'm sorry.

MR. MOUSER: I'm sorry. Again, for the pipeline it would run through the eight-mile alternate sections of Morongo land, the pipeline would be in the railroad corridor. Also, this area would be new pipe. This area was also studied by our seismic reports and we have taken some additional pipe precautions in the area.

EXECUTIVE OFFICER THAYER: You could put that map up there and project it if you'd like.

MR. MOUSER: Because the San Andreas Fault does exist in the area just north of the casino area and not along the pipeline.

CHAIRPERSON CONNELL: So we are, in other words, and let me see if I can try to summarize what I'm hearing as someone who does not have the map, but is geographically able to visualize this. Are you saying that Section 8 is north of the highway, the casino is
north of the highway and the San Andreas Fault is north of
the highway? Your proposed alternative route is south of
the highway and about 300 and some yards away from the
Section 8, the casino and the San Andreas Fault; is that
correct?

MR. MOUSER: Yes. And this map -- this wonderful
technology, we should use it more.

MS. HARVEY: Jerry, would you identify the map
for us. I just want to point out there's a map with the
alignment, it won't show up as well on the projector, but
there's a map with this proposed alignment in the EIS.

MR. MOUSER: Yes. This information was all
included in the Draft and Final EIS/EIR.

The Section 8 is basically this section. The
existing pipeline runs across the section, and I'm having
a hard time tracing it.

CHAIRPERSON CONNELL: Can you show us where the
freeway is?

MR. MOUSER: Yes. The freeway is this corridor.
There is the interchange. I believe that's either Fields
Road or Apache off of Interstate 10. The existing casino
sits about that vicinity. The freeway continues, of
course, eastward on Interstate 10.

The railroad corridor is south of the freeways
skirting the freeway and then becomes about 750 or 1,000
feet away from the freeway as it goes through the community of Cabazon. This right of way is up to 250 feet wide, this railroad right of way, previous Southern Pacific and now Union Pacific. There are a number of utilities, pipelines, fiber optic lines, gas lines in that railroad corridor already. Questar has as a license agreement from the UP to place its new 16-inch pipeline in that railroad corridor.

And as you can see, the scale is such that we are on the other side of the Interstate, on the other side of the railroad crossing and to a certain extent on the side of the City of Cabazon from the development area that's being discussed.

COMMISSIONER BUSTAMANTE: So is the pipeline north or south of that red -- southern most red line?

MR. MOUSER: The pipeline is basically intended to be the red line that is -- it's hard to look -- it's the red line in the railroad corridor, yes, sir.

EXECUTIVE OFFICER THAYER: Where is Interstate 5 the, I'm sorry. I thought that was --

MR. MOUSER: This is Interstate 10. And this distance from here to here is a mile, so this distance from there to there is about 1,000 feet. Also of interest, this is the work that was done in our seismic evaluation. You see our earth consultant has plotted the
San Gorgonio segment of the San Andreas fault where it affects the pipeline. This particular fault does not cross the pipeline, but we have included design mitigation measures through this area also.

COMMISSIONER BUSTAMANTE: So you're not sure if it affects you, because you don't -- I mean, your folks know where the route is, right, your attorney knows where the alternative route is?

MS. MATHRANI: I'm sorry, Commissioner, I cannot confirm or -- I can't comment on that.

COMMISSIONER BUSTAMANTE: I guess I'm trying to find out is your attorney saying that the proposed expansion that you're looking to do is going to put you in the middle of that area or not?

MS. MATHRANI: Yes. Our master plan extends north, south, east and west. And as a checker boarded reservation, we have land in all four directions from that.

COMMISSIONER BUSTAMANTE: Because it is that checker board?

MS. MATHRANI: That's exactly what we are.

COMMISSIONER BUSTAMANTE: That's why it expands in that kind of odd --

MS. MATHRANI: Right.

CHAIRPERSON CONNELL: Annette, did you want to
ask something?

    ACTING COMMISSIONER PORINI: Well, I wanted to
get staff's comment on that, because I know that you have
been in touch with the attorney with regard to the
original letter. Did we get any indication with regard to
this expansion of the master plan or the alternate site?

    EXECUTIVE OFFICER THAYER: Dwight, you can
conform this, but I don't believe there was any discussion
about impacts to the development within the reservation.

    ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: No, sir.

    EXECUTIVE OFFICER THAYER: It was much more
focused on the very issues that the representatives spoke
of initially, seismic impacts and biological impacts would
be the primary ones.

    COMMISSIONER BUSTAMANTE: Now, those talk about
the affect on their -- they said today --

    EXECUTIVE OFFICER THAYER: Today, you're right
today. They did, but I don't recall that being in the
letter unless I missed something.

    ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: No, it
was not.

    CHAIRPERSON CONNELL: Well, having had some
exposure to the EIR process as well when I was in the
private sector, it is really very hard for the EIR to
address prospective activity if it is not noted at the
time the EIR is going through the process.

So I certainly respect the concerns about
endangered species. I am very concerned about that. I am
very concerned about public safety issues, which is what
cause me to have our speaker from Sacramento to be with
us today to try to explain the difference in his original
letter and his second letter, which is why you might
recall we delayed this for the period of time and also to
get any additional feedback from the Morongo tribe. But
it's very hard for us to address issues if we don't know
where prospective development is going to be.

We should certainly respect the other issues of
endangered species and public safety hazards. And I think
what we've attempted to do in discussing this today is to
determine whether you have sited this alternative pipeline
in such a way to address those issues. It appears from
what I'm hearing that you have.

Now, whether it is impacting some future
potential business development is something that we cannot
possibly define today nor can the tribe. So I don't know
how we can continue to discuss that point because it is
not yet clear where that's going to be or what kind of
development that would be or what kind of population would
be brought to that area. So I would like to try --

COMMISSIONER BUSTAMANTE: Unless there's
something already in some plan that's already been
submitted to the Board of Supervisors or that's already
been approved.

CHAIRPERSON CONNELL: Would that have not been
detailed? Aren't all public documents accessed in an
EIR/EIS, that's at least my understanding?

COMMISSIONER BUSTAMANTE: So your review would
have checked to see if there is any other planned
development that would have been approved and that would
have been taken into account?

ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: Yes,
sir.

EXECUTIVE OFFICER THAYER: And to some extent, we
rely on circulating the EIR, which describes where the
project is going to go to groups, such as the Morongo Band
to obtain their comments to see if there is going to be
that kind of conflict. The counties, for example, receive
the copies, so that they could review it in terms of their
own general plans, that kind of thing. You know, these
are the entities that know best whether there are future
plans and that was the reason for broad circulation.

COMMISSIONER BUSTAMANTE: If I could just ask the
representatives, is there any, currently, any approved
development that would conflict with the current routing,
any approved --
MS. MATHRANI: Approved by our governing body, I believe so.

COMMISSIONER BUSTAMANTE: Would that have been reviewed in your documents? Was it recently or was it during the time? Was it just --

MS. MATHRANI: I believe it's been within the terms of this most recent tribal council.

COMMISSIONER BUSTAMANTE: So you mean like last month or something or last week?

MS. MATHRANI: Since June, I believe,

EXECUTIVE OFFICER THAYER: I don't think we're --

ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: The document was finalized in July. That information was not available to those who prepared the document.

COMMISSIONER BUSTAMANTE: In researching for the EIS and EIR, is it normal to check with tribal governments as well as county and city governments.

MR. GORFAIN: May I respond? The answer is yes and we did. And unfortunately the Morongos did not appear at any of the scoping meetings. The first time that they actively became apart of the process was in commenting on the Draft EIS/EIR. And during their initial letter on the Draft EIS/EIR and on the final, they did not bring up this point. And I'll plead ignorance, I have never heard of this until today.
CHAIRPERSON CONNELL: I, again, go back to my comment, we have initially two concerns that were raised, which was the endangered species and the incomplete public safety hazards as it related to both the mine operation and the existing Section 8 project.

Now, it appears that we have met concerns on all of those. No one here at this meeting seems to know where the future Section 8 is going to go or what it will encompass nor has that been communicated to anyone in this room.

COMMISSIONER BUSTAMANTE: Except that it was stated that, in fact, that has occurred. It occurred within the parameters of the EIS or the EIR and that the information -- well, you know, maybe there should be an attorney somewhere fired or maybe a staff person terminated for negligence or something, but if, in fact, actions were taken within the parameters and that information had not been taken into place, seems to me that that should now be taken into consideration.

CHAIRPERSON CONNELL: Well, let me ask as a question of the many lawyers who are in the room, it sounds like a Florida recount here.

(Laughter.)

CHAIRPERSON CONNELL: And I would just like to disclose for the record that neither the Lieutenant
Governor or I are attorneys, for which we shall be forever thankful given curious developments that are occurring here, not here but as in Florida.

At what point do you have to close the books on additional information coming into an EIR process? In other words, if action was taken last week, last month, by the tribe and they had knowledge of the siting of this alternative pipeline, is it the responsibility of the tribe then to make sure that they are not putting themselves in the way of a potential, what they might see, as a hazardous condition? I mean, we cannot continue to evolve information. At some point, the information has to be final, an EIR has to be certified, and it seems to me we had a final EIR.

What I am conflicted with here is why there would be action taken by a tribal council if there was such action taken, that would want to endanger the tribe or the tribal operations following what appeared to be a fairly clear and complete EIR?

MS. MATHRANI: Madam Chair, I don't know that that would be correct. And I hesitate to speak on behalf of the tribal council, in fact, I could get in big trouble for doing that.

But I will tell you that there has been an attempt to create a master plan over the past few years.
and, you know, there has been some dreams written down on our part. But I hate to take the Commission's attention of some of the points that we've discussed today.

CHAIRPERSON CONNELL: So you are not able to say today, definitively, that there is such a thing as a conflicting potentially approved Section 8 activity near our alternative pipeline?

MS. MATHRANI: Well, I will tell you that within less than a thousand meters of that bottom section of Section 8, that bottom left corner of Section 8, is an existing restaurant. And I don't know how much further we have to expand from that corner.

ACTING COMMISSIONER PORINI: For clarification, that's the top red line, when you say the existing pipeline?

MS. MATHRANI: It's nearly at the intersection where the two red lines meet.

EXECUTIVE OFFICER THAYER: Because that's right at the interchange of the freeway?

MS. MATHRANI: That's right. And I'm a little surprised that CalTrans isn't here, because my environmental director just reminded me that there's a $33 million interchange project, which is on the record along that bottom red line, if I'm not mistaken.

EXECUTIVE OFFICER THAYER: CalTrans was sent a
copy of the EIR/EIS and draft, and I believe their comments primarily said that they wanted to be consulted as traffic management plans were developed on a county-specific basis during the construction periods and for any other impacts, but had no other comments about this sort of thing.

CHAIRPERSON CONNELL: So they haven't expressed any concerns?

EXECUTIVE OFFICER THAYER: That's right.

COMMISSIONER BUSTAMANTE: I believe that was approved in the July budget.

EXECUTIVE OFFICER THAYER: To put in that.

COMMISSIONER BUSTAMANTE: Yeah, I believe that was approved in the July budget.

MR. MOUSER: May I make a point, if I can be heard from this point? Jerry Mouser from Questar.

The freeway development, as we understand it, is north and outside of the rail -- north of the pipeline railroad corridor right of way and is completely separate from the new proposed routing of the pipeline. Again, the pipeline is proposed as inside the railroad corridor. It's between our existing two-and-a-third railroad spur, our high-speed railroad track that's being built. It's nestled in very tightly with other petroleum pipelines, a 30- or 36-inch Southern California Gas natural gas
pipeline, fiber optics lines, power lines. This is a utility corridor within this railroad corridor and it is within this corridor that the pipe is proposed, outside of any potential development of land.

CHAIRPERSON CONNELL: So what you're saying is that if there's an exposure here, the exposure is certainly more than just this potential pipeline?

MS. HARVEY: May I? I hate to barge in, but since you suggested this might be interactive, I think that it really addressed two points. Number one, there are existing utilities, the Union Pacific right of way as well as the freeway in the immediate adjacency.

Number two, while the Morongos may indeed have development plans, of which we're currently unaware, it's impossible to conceive that those plans will occur within the UP, the Union Pacific, right of way or within the CalTrans right of way area.

Moreover, I think I hate to lose site of the key point here, which is that through the CEQA process and through the NEPA process that this project has already gone through, consideration of these types of safety issues has been paramount and is, indeed, the key point of the FERC regulations and the DOT regulations, so that we can all be provided natural gas throughout this country in as safe a manner as possible.
It's already been pointed out that the risk cannot be completely eliminated, that's consistent with the finding in the final EIR/EIS, which identifies a potential significant seismic issue impact. We all recognize that the risk cannot be completely eliminated, but the point of the FERC regulations, the DOT regulations, the findings in the Final EIR/EIS, the conditions imposed on this project by FERC when they approved the certificate this year, the mitigation monitoring program, the seismic hazard evaluation mitigation plan and the emergency response plan, all of those regulations and conditions go to the issue of making this pipeline as safe as it can be, and have been developed in the context of the route that's proposed and in the context of the populated world in which we live.

I don't think that the adjacency of the Morongo's development area changes that in any way. So while it's unfortunate that that information has not been presented, previously, I don't think that it raises any new issues or identifies any potential risks that are outside of the realm of the regulations and the conditions that have already been adopted and proposed for this project.

COMMISSIONER BUSTAMANTE: Except that they are saying that it does.

MS. HARVEY: I'm sorry?
COMMISSIONER BUSTAMANTE: Except that they seem to be saying that it does.

MS. HARVEY: I recognize the difference of opinion.

CHAIRPERSON CONNELL: Well, we have no evidence that that indeed is true nor does the tribal representative want to commit that that is indeed true. She said she could not speak for the tribe today, but that was their intent; is that correct?

COMMISSIONER BUSTAMANTE: Well, the tribe only speaks for the tribe. The council --

CHAIRPERSON CONNELL: Well, but I mean the tribe has not taken action. We cannot withhold action based on some speculation that action might occur at some point by the tribe.

COMMISSIONER BUSTAMANTE: She said that action was taken in June.

CHAIRPERSON CONNELL: Action was taken in June, that cited specific business developments, that isn't what I heard her say.

MS. MATHRANI: No, I wasn't able to confirm that. Our tribe operates by tradition and custom, which disallows me from speaking on behalf of the tribe, except to read this brief document. I apologize for that.

CHAIRPERSON CONNELL: So she has not made that as
a clear statement. So we don't really know what action has been taken.

EXECUTIVE OFFICER THAYER: I've tried to, as the discussion has gone forward, quickly review their September 1st letter, which is their comment letter on the final EIR, which raises, you know, some of the same issues. And I don't see any mention here of there being conflict with plans for future development. It may exist but in terms of what we were aware of and our best efforts as a staff to respond to, you know, a fairly lengthy letter here, with very comprehensive comments, you know, we tried to be very thorough in response to that.

And this issue wasn't addressed, because it wasn't raised in that comment letter from the Morongo Band.

COMMISSIONER BUSTAMANTE: What would take place, Madam Chair or staff, if we were to postpone for one more meeting in order to be able to get a tribal representative here who, in fact, could speak on behalf of the council, who, in fact, could lay out exactly what it is that their letter is attempting to say? I mean, what adverse impacts would take place?

EXECUTIVE OFFICER THAYER: Well, I think the primary -- at least as expressed to me by Questar. In terms of the Lands Commission itself, I don't believe
there's any specific adverse impacts. There is a requirement that we complete our CEQA review by a certain date, which is -- a joint document, so it doesn't concern, so there's no particular dead line that we're facing. However, Questar I think probably has a view as to what sort of financial impact that there is to them and they might want to respond to that.

CHAIRPERSON CONNELL: Annette has a comment as well.

Annette.

ACTING COMMISSIONER PORINI: Well, I'd like to hear the comment from Questar. I was going to thank the Lieutenant Governor and Controller for raising the safety issues, because those have been paramount in my review of the issues. And I'm very concerned about the impact of the existing pipeline, but I can't come to any conclusions with regard to the lower reroute of the pipeline relative to development. So I just wanted to make that clear.

COMMISSIONER BUSTAMANTE: That's why I think it would be important to hear a representative from the tribe.

CHAIRPERSON CONNELL: Why is there not a representative from the tribe here today? We delayed this with the request specifically. I made the request on the record that there be a representative of the tribe here to
speak to this issue today. Why has that not been accomplished?

COMMISIONER BUSTAMANTE: Well, she's the representative of the tribe, she's just apparently not able to speak on behalf of the tribe.

MS. MATHRANI: Well, I'm representing the tribe, Madam Chair, but I'm unable to make any binding commitment or comment on council action that has or has not been taken since June.

CHAIRPERSON CONNELL: Well, again, I get back to the operative point here, at what point do we finalize this EIR/EIS? What happens if the tribe meets and takes action in December after we've delayed if the request of the Lieutenant Governor is heard and voted on, how do we not know that there will be action taken that later creates a conflict with the EIR/EIS? The EIR/EIS documents were complete as of June.

So I'm not interested in what is occurring between June and December. I'm concerned about what should have been known in the EIR/EIS prior to June. And I'm particularly concerned, going back to my original points, about whether we have been sensitive to the endangered species potential here and to the incomplete public safety hazards. And it appears that we have addressed that by relocating the pipe. Now, at some
point, action has to be taken.

COMMISSIONER BUSTAMANTE: But the EIR, I believe, was not complete until July not June.

CHAIRPERSON CONNELL: Well, use the July date then, but the date then is July, it is not October, November or December.

EXECUTIVE OFFICER THAYER: Dwight, when did the comment period end on the Draft EIR?

ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: The comment period ended, I believe, in October -- no, excuse me, the draft.

COMMISSIONER BUSTAMANTE: The question as to adverse impact on Questar.

MS. HARVEY: I'd like to ask Alan Allred to respond to your questions on that.

MR. ALLRED: From the company's point of view, we've been through a long, lengthy two-year process of getting an EIS, an EIR completed. We think we've addressed the issues.

In terms of your specific question about what is the cost of a delay, we are now at the stage where the carrying costs of continuing this project are amounting to about $500,000 a month. Those costs add to the ultimate cost of the project. So, I guess, the impacts are two. One, if we are delayed further at the tune of about
$500,000 a month, those costs will be added to the cost of the project, ultimately paid by customers who use the project to bring natural gas into the southern California market.

To us, this is a time when that project is desperately needed, and additional capacity would help the southern California energy market.

Beyond that, we had hoped to have the project in service by near this time or by next year. We're obviously a ways away from that because we haven't even gotten through the process to get the conversion done. And the conversion process itself is going to take a substantial amount of time a year to a year and a half.

You know, we are currently evaluating how long can we stay with this project. I can't tell you that a delay would precipitate that action, but we are -- the cost of the project is getting to the point where if we delay much longer, the economics themselves will dictate that it's too expensive.

CHAIRPERSON CONNELL: I have a question about notification. Have you made any effort to notify the attorney and speak to the attorney of the Morongo Tribe? You were directed to do so, I believe it was the September meeting we had at the last commission.

EXECUTIVE OFFICER THAYER: We attempted to do
that without success. And further more, in terms of
process, this letter that arrived on September 1st,
comments on the Final EIR, and although we took it very
seriously and went back and reviewed these issues, and in
some respects thanked the Morongo Band for having, you
know, brought these to our attention, there's no place in
CEQA for this final set of comments.

In other words, there's no opportunity, at this
point, for us to make additional changes to the EIR. Now,
on our own, we went on and reviewed all of these issues,
especially with the additional seismic safety review,
 Improved the safety of the pipeline as a result of that
input.

But we've been in contact with Morongos previous
to that, especially because they had written a comment
letter on the Draft EIR. And in that context, we are
required by law to respond to their comments. And, in
fact, the Final EIR point by point, responds to each of
their comments. So both before and after, you know, we've
been in contact with them. They've been interested, as I
say right along, that's why it was a surprise to me to
hear about these conflicting plans.

I don't doubt that that's true, but what I'm
trying to say is we've been through this letter in
attempting to respond to all of their issues, and that's
why we hadn't responded to the plan issue, it hadn't been identified.

COMMISSIONER BUSTAMANTE: But when you said you failed, what does that mean, you called them and --

EXECUTIVE OFFICER THAYER: That's right, we never received a response.

COMMISSIONER BUSTAMANTE: So you called them --

EXECUTIVE OFFICER THAYER: The last time we successfully --

COMMISSIONER BUSTAMANTE: -- once?

EXECUTIVE OFFICER THAYER: I don't know exactly the number, but the last time I know that we successfully commented or talked with them was the day after the last commission meeting, when they called up and said what happened at the Commission meeting. We told them what happened. We said we'd talk with them and then nothing else happened, they never got back to us.

CHAIRPERSON CONNELL: So you did have a direct conversation with them at that time?

EXECUTIVE OFFICER THAYER: The day after the Commission meeting.

CHAIRPERSON CONNELL: And they knew that it was scheduled.

ACTING COMMISSIONER PORINI: And you sent them a copy of the letter in response to their letter?
EXECUTIVE OFFICER THAYER: That did not go out --
ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: It was
hand delivered by us.
EXECUTIVE OFFICER THAYER: Hand delivered, but
not until last week because in some respects the final
seismic issue was not resolved until we had our meeting
with Mr. Sydnor from Mining and Geology this last Monday.
COMMISSIONER BUSTAMANTE: So this letter could
be, in effect, an appropriate response from a council that
hasn't had a chance to have a full review by their
attorneys of what took place. You said it was hand
delivered last week.
CHAIRPERSON CONNELL: No, but that was our letter
to them.
EXECUTIVE OFFICER THAYER: That's right. In
other words, the final EIR was already done. We then took
their letter, which was, I guess you would call it, extra
CEQA. There's not really an opportunity to make
additional changes to the EIR once it was finalized. They
sent us an additional letter. We, nonetheless, went back,
in spite of the fact that's outside the CEQA process, we
went back and reviewed all issues they raised, attempted
to deal with them, and sent them a letter back. Not
required by CEQA, but just to say okay here's what we did.
We couldn't complete that letter until we'd taken our
final steps on Monday to do the additional mitigation with additional --

COMMISSIONER BUSTAMANTE: Right, so they didn't receive a response from you to their letter --

EXECUTIVE OFFICER THAYER: Until Tuesday.

COMMISSIONER BUSTAMANTE: -- until Tuesday.

ACTING COMMISSIONER PORINI: And the representative was nodding her head that the tribal attorney did, in fact, receive the hand-delivered letter.

MS. MATHRANI: I believe it was delivered to our tribal attorney on Tuesday.

EXECUTIVE OFFICER THAYER: Yes. I think we -- yes, on Tuesday, that's right.

MS. MATHRANI: Of last week.

EXECUTIVE DIRECTOR THAYER: That's right.

CHAIRPERSON CONNELL: Well, couldn't he have responded in writing?

MS. MATHRANI: I'm sorry, I don't know.

CHAIRPERSON CONNELL: Who is your tribal attorney?

MS. MATHRANI: I think the attorney handling this matter is John Shordike.

EXECUTIVE OFFICER THAYER: That's who signed the comment letter we got in September.

COMMISSIONER BUSTAMANTE: This was the date, this
was on Tuesday.

EXECUTIVE OFFICER THAYER: Yes.

COMMISSIONER BUSTAMANTE: And then so between Thursday and Friday, when we had Thanksgiving, much like the Florida recount, and so we had a letter from the tribe that was confirmed somehow today probably through some kind of phone action among the tribal members on agreement of a particular letter that was then read after we received -- they received some kind of official response from us on their September letter.

EXECUTIVE OFFICER THAYER: That's right. And the three issues that I heard discussed are the same ones that the Chair was asking us to respond to. Two of them had been previously raised in the September 1st letter, the completeness of -- the deferral of the environmental sensitive habitat or endangered species questions and the seismic review.

ENVIRONMENTAL MANAGEMENT CHIEF SANDERS: And the Corps.

EXECUTIVE OFFICER THAYER: And the Corps.

CHAIRPERSON CONNELL: Annette.

ACTING COMMISSIONER PORINI: I think maybe to help facilitate this, I'm going to make a motion that we approve staff's recommendation.

CHAIRPERSON CONNELL: I will second that.
Do you want to vote with the group?

COMMISSIONER BUSTAMANTE: (Commissioner Bustamante shakes head.)

CHAIRPERSON CONNELL: Okay. We have a motion to approve the staff recommendation. It's been seconded. That motion passes two -- are you abstaining or voting no?

COMMISSIONER BUSTAMANTE: Abstaining.

CHAIRPERSON CONNELL: Two, zero.

That item has completed. We are now finished with Item 59. I believe this concludes the regular calendar. Are there any other speakers who wish to address this meeting at 6:15 at night before we go to closed door session.

Yes, if you could do so briefly, we'd appreciate it.

MS. DIMAGGIO: I promise not to keep you long. I'm Lisa DiMaggio. I don't know whether the Commissioners remember me from a meeting on February 8th, 2000, a very interesting meeting that was. It's not one I'll soon forget.

The reason I'm here today is to thank you, each one of you, for the insight that you showed us at that meeting to recognize the difference between passion and disparity of facts. I would also like to thank you for directing your staff to become integrally involved at, I
think you used the word higher level or more involved level.

I can tell you that Curt Fossum has had a workout, Alan Scott maybe even more of one. Because of their actions and their involvement and your engineers that came down to meet with us and look into the port things, this Commission was spared the proverbial bullet. Tomorrow on the Port District's agenda is going to be the recommendation of their staff to allow the lease that was proposed in front of you in February to die of its own accord and to initiate a new RFP process.

I'd like to call that a victory, but I can't. I am happy to say that the issues and concerns that we raised were serious enough and taken serious enough by this commission and by the staff, that I think the Port District has had to capitulate and concede that some of these just cannot be effects. You can't unkill a dead man.

With that said, I can't believe I said that on the record, I would ask that -- I'm sorry to ask for your help again, but I would ask this one thing. Tomorrow is going to be a very tense day for me in San Diego. There's a lot of people swallowing some bitter pills. I'm going to try to not make it more uncomfortable for them, but I do want to put on record that I am concerned about
retaliation, not for myself, but that because of the passion involved that the Commissioners and their staff may not be comfortable really sitting down and negotiating with us the terms that are favorable for all parties, that's number one.

And number two is, I think it was Ms. Porini who took a pretty hard stand on public process and wanted to be sure that we got notice properly and had meetings properly. That did not happen. From February 8th until now there has not been a single public meeting.

I have had the benefit of being called in by Dennis Bouey, the Director of the Port. I've met with his senior counsel, David Chapman. I have met with the risk, and finance and management. I've met with Maritime Services, General Services, you name it. But I don't consider a meeting with Lisa C. DiMaggio to be a public meeting. And CC Sayer was never invited to one either.

So the reason I'm bringing this up is if I could beg you to please just keep an eye on this as we go forward.

CHAIRPERSON CONNELL: Well, I appreciate this. We certainly sent a very clear message, I think. And I'm sure Ms. Porini would be happy to restate her message, which was one that had the unanimous support, I believe, of the entire commission. I think we all are dismayed.
Speaking for myself, and I'm sure Annette agrees, that our caution and our encouragement was not followed. I thought we were rather direct at that meeting.

MS. DiMAGGIO: I had a transcript and it didn't get more direct than that.

CHAIRPERSON CONNELL: I don't know, at this point, what we can do except to urge our staff to, again, communicate the very sincere concerns that we've stated on the record before. And if there needs to be a follow-up, may I suggest you do so with persuasion and continued support of the Commission to the members in San Diego.

EXECUTIVE OFFICER THAYER: I understand. In fact, what I would like to do is send each of the commissioners a copy of the letter that Mr. Fossum, Curtis Fossum, the gentleman that Lisa DiMaggio referenced, was sent to the port last, what, two weeks ago?

MS. DiMAGGIO: Last Wednesday, sir, November 21st. I have a copy with me.

EXECUTIVE OFFICER THAYER: Which reiterated the same concerns that you all have expressed at the previous meeting on this and ask the port to look at all of these again, because we didn't --

CHAIRPERSON CONNELL: Well, maybe we need to revisit this issue.

EXECUTIVE OFFICER THAYER: Certainly.
CHAIRPERSON CONNELL: And perhaps you can speak to us at some later point about how we might do that, Paul, because I think the Commission feels that we try to operate with respect for our local ports and their independent authority. And yet we also like to believe that, you know, when a message is sent that the Commission is respected.

EXECUTIVE OFFICER THAYER: I think what --

CHAIRPERSON CONNELL: And I think that was a very strong, unanimous feeling. If I remember, the Lieutenant Governor spoke on the record as well about the importance of having an open process. And we'd like to believe that our words are viewed with at least some interest.

EXECUTIVE OFFICER THAYER: And I think, actually, Ms. DiMaggio's initial point that they're allowing these to lapse indicates that they're firmly aware of the Commission's concern, they understand it, unless they adhered to or addressed all the concerns they had, they weren't going to successfully bring it back to the Commission.

MS. DiMAGGIO: I might have to beg to differ with you on that, sir. I think that the reason why the Port District is pulling away from this now is reluctantly and bitterly. The phrasing of the letter from Curt Fossum -- I mean SLC attorney to David Chapman, port attorney, was
basically here's the laundry list of the issues that were raised in February. Some of them are unresolvable, but I don't believe that that letter took a step to say what isn't resolvable.

And more importantly, a letter between one attorney to another attorney is not a public meeting. And the public deserves to know what has stopped this process, where we are and what can we do to fix it. And there are people in my camp, if you can call it that, that are absolutely willing and ready to sit down and find solutions.

CHAIRPERSON CONNELL: Well, I appreciate that now. I think we hear your concerns and we respect them, in fact, we share them, as you know, having stated them on the record before.

So what we need to do is get advice from our staff, perhaps, following this meeting as to what we might do to, again, indicate the Commission's position. We have already said we will communicate it verbally and in writing. We have already communicated it in writing, and we will continue to move the issue forward.

I do thank you for sitting through a very, very long and engaging meeting. We did not mean to delay you to 6:30 to have a chance to speak. If I had known that this was your issue, I certainly would have accommodated
you earlier. I apologize.

Are there any other public speakers who wish to join the Board, prior to my gaveling us to a close and asking that we move to closed-door session?

No? Then this meeting is adjourned and we will move to closed-door session.

Thank you.

(Thereupon the State Lands Commission meeting was adjourned at 6:30 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 California State Lands Commission hearing 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 hearing nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of December, 2000.

JAMES F. PETERS, CSR, RPR
Certified Shorthand Reporter
License No. 10063