APPEARANCES

COMMISSIONERS
Cruz M. Bustamante, Chairperson
B. Timothy Gage, Director of Finance, represented by Annette Porini
Kathleen Connell, State Controller, also represented by Cindy Aronberg

STAFF
Paul Thayer, Executive Officer
Jack Rump, Chief Counsel
Alan Scott
Maria Faulkner

ALSO PRESENT
Alan Hager, representing the Attorney General
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PROCEEDINGS

CHAIRPERSON BUSTAMANTE: I'll call this meeting to order. The two representatives which makes up a majority of the Commission are here. We have a representative of Controller Kathleen Connell. We have Annette Porini, Chief Deputy Director of the Department of Finance, and myself Cruz Bustamante.

The first item of business will be the adoption of the minutes from the Commission's last meeting.

Is there a motion?

ACTING COMMISSIONER PORINI: Move approval.

ACTING COMMISSIONER ARONBERG: Second.

CHAIRPERSON BUSTAMANTE: Motion and a second.

The minutes are unanimously adopted. The next is the Executive Officer's report.

Mr. Thayer.

EXECUTIVE OFFICER THAYER: Thank you, Mr. Chair. Good morning, Mr. Chairman and Members of the Commission. There's only a couple of items I wanted to raise with you this morning. This first is I have indicated at the last meeting in September that we were reviewing various security issues with respect to the Commission. And the two major categories are, of course, our internal office security and our security of our lessees.

I think, at this point, I can report that our
office securities are in pretty good shape. All of our offices have restrictions not to provide unlimited access to the public, but we have more work to do still on external security. And we've been in conversations with the Coast Guard and various officials involved with the port facilities, in particular. And we may very well be bringing some regulations in the near future to the Commission to beef up security, particularly at oil terminals where we have jurisdiction to prevent oil spills.

The Coast Guard does, though, indicate that they have some long-term concerns over the greater port facilities, the ones that we don't have jurisdiction over. And they may be asking for our assistance in beefing up security in these areas as well.

This may require additional legislation. And, at this point, we don't have a particular proposal to bring to you, but I wanted to highlight that for you, and to let you know that we may be bringing material to you in the next few weeks. We're still waiting for the Coast Guard to refine their ideas. They've indicated they'll send us a letter on this. And we're also involved in conversations with them, but I wanted to give you a progress report on the post-September 11th activities that we're undertaking.
The second item I wanted to bring up was the Bolsa Chica meeting that occurred before the Coastal Commission earlier this month. As you are aware, the State Lands Commission is playing a leading role in the restoration of wetlands at Bolsa Chica, and had previously approved a Memorandum Of Understanding between the various agencies involved to govern how the process that would occur that would lead to restoration of those wetlands.

An EIR/EIS has been prepared. The Coastal Commission heard this item earlier this month, as I indicated, and approved a restoration proposal. This proposal is likely to be ready to be brought to the Commission, to the State Lands Commission in the near future, and we will be in conversation with your staff about this.

But we wanted to discuss with them the various options that might be available to the Commission in proceeding on this. One of them might be to have a special purpose meeting down in the area. Another way to go would be to just have another southern California meeting and combine it with other items.

But given the significance of that --

CHAIRPERSON BUSTAMANTE: When are you suggesting that meeting take place, soon or after the first of the year?
EXECUTIVE OFFICER THAYER: As soon as January, I believe. We want to make sure that we have an opportunity to present this fully to the Commission, and perhaps let the Commission have an opportunity to go out and look at the wetlands as well. But we'll bring you more detail on that, and we'll be in conversation with your offices about that.

CHAIRPERSON BUSTAMANTE: Move forward on it.

EXECUTIVE OFFICER THAYER: Great. And that's, at least, the final item, which is that with the exception of potentially doing this special meeting for Bolsa Chica, we would anticipate the next Commission meeting would be some time late January or in February. There are some calendar items with some urgency about them, but the processing on them may require that we meet later in February.

And we'll be in contact with your staff as to the best location and appropriate time that meets with everyone's schedule.

And that concludes the Executive Officer's report, unless there are any questions.

CHAIRPERSON BUSTAMANTE: Any questions? Any there any items that have been removed from consent?

EXECUTIVE OFFICER THAYER: No, Mr. Chairman, there are none.
CHAIRPERSON BUSTAMANTE: Okay. So I would entertain a motion to accept all items on this item.

ACTING COMMISSIONER ARONBERG: Move the consent calendar as recommended.

ACTING COMMISSIONER PORINI: Second.

CHAIRPERSON BUSTAMANTE: Is there anybody in the audience who wishes to speak on any of the items on consent for the State?

Seeing none, let the record show that it has passed unanimously. I think we're at Item 87.

EXECUTIVE OFFICER THAYER: Yes, sir. Item 87 involves the issuance of a new lease to the Island Company, the Santa Catalina Island Company, and the Conservancy for the master lease for moorings at Catalina Island. The staff who will make the presentation on this item is Alan Scott.

Alan.

CHAIRPERSON BUSTAMANTE: At the request of the representative of the Controller, why don't we take one of the other items before going into 87. She is on her way. She wants to be here for that, and perhaps we can do one of your reports for a few minutes.

EXECUTIVE OFFICER THAYER: Certainly. We have two additional information only items that are on the regular calendar. And Maurya Falkner is ready. She has a
presentation to give you a status report on the ballast water program.

MS. FALKNER: It's going to take a couple of seconds to get this set up and the overheads. I was just going to give a real brief summary on the last year's progress for the ballast water program.

CHAIRPERSON BUSTAMANTE: Can you speak into the microphone. We're having difficulty hearing you.

There's no hand-held?

(Thereupon an overhead presentation was presented as follows.)

MS. FALKNER: I prepared a brief report that was in the calendar summary, and that has a little bit more detail than what I'm going to be presenting today. A lot of the information that's in this, the early part of this presentation, you've already seen so we can just kind of -- that looks pretty good.

Can you do the next slide, please.

--oo0--

MS. FALKNER: As you know, ballast water is considered the primary vector for transporting nonindigenous aquatic species around the world. Basically, vessels need ballasts in order to operate. They use it for trim and stability, taking on ballast and any organisms that might be entrained in that water and
transporting it around the world.

There have been lots of activity that happened beginning in '95 with the federal government and then in '99 the State signed into AB 703 that went into effect January 1st, 2000.

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MS. FALKNER: It sunsets January of 2004, and it's a mandatory statewide program that manages ballast water. It's got a high level of emphasis on research and development, and that was one of the reasons why the law was sunsetted in 2004. It will provide the Legislature during the 2003 session to consider all of the information that the agencies will be providing and develop, hopefully, a new law that will address the information that we've gained.

Next slide, please.

--o0o--

MS. FALKNER: It's based loosely on the Coast Guard's program. It has mandatory management of ballast water. And for California, that's primarily mid-ocean exchange. There are, at this point, no approved alternative treatment technologies, but I'll be talking about some research that's going on right now supported by State Lands Commission, mandatory report for filing and management plan.
One of the reasons our program, I believe, is so successful is we have -- we actually fund the program through fees that allows us to actually have inspectors in the field and do the research that needs to be done.

Next, please.

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MS. FALKNER: There were four agencies tagged with responsibility under the law. The Board of Equalization has the admirable task of collecting fees from a global industry, and they're doing an outstanding job of that. The Department of Fish and Game is required to conduct base line and biological surveys to see what the current status in California is with regards to nonindigenous species. They're also required to prepare a report to the Legislature in December of 2002.

The Water Resources Control Board is responsible for conducting base line research or pulling together all the information that's available on alternative treatment technologies. And they're working with us on some research that I'll be talking about a little later. They also have a report due to the Legislature. And then, of course, our agency here we're -- we've spent the first six months of 2000 setting a fee. And since then, we've implemented the program, inspection and monitoring program also with some research.
MS. FALKNER: Again, this is just a little bit more detail. We've got the fee set. It's set right now at $400 per qualifying voyage. Based on information that I just received from the Board of Equalization last week, we have nearly 95 percent compliance with paying that fee, which is pretty incredible when you consider the number of vessels, owners, operators in the world that we're dealing with.

We're doing quite a bit of data gathering and compilation. We have a new database system that we've set up with help of an outside consultant. We're sharing our data with the federal government. Actually, Canada uses our data, New Zealand, and then other states around the country are utilizing our data.

We have the Vessel Inspection Program, which is right now taking about 25 percent of all the qualifying voyages that come in. We're using a modified random sampling for vessels. We actually look at what vessels have come in, what vessels have violations and then try to revisit those vessels, as well as keeping a 25 percent coverage.

Research is what I'm going to be talking a little bit more in this talk. We've got some interesting stuff going on. And then outreach and education is -- one of
the primary jobs, I believe, of this first initial program is getting the word out to the industry and pulling together all the possible technologies. We also have a report due in December of 2002.

Next, please.

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MS. FALKNER: Just to give you some numbers. You can see that in the first, almost, two years of the program, we've had close to 13,000 different -- or qualifying voyages come in. These represent about 2,700 different vessels.

Next, please.

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MS. FALKNER: As I mentioned earlier, the compliance is up quite nicely. Early in the program, as you probably remember, we had a little bit of difficulty getting the industry to submit the necessary forms. We took some action, had some meetings with the industry, established some procedures to bring our compliance up statewide to 92 percent.

We, right now, have a monthly notification system via Email. And we contact nearly 50 shipping agents around the State, and let them know what their compliance level is. My assistant Terry Ely has been very helpful in that regard.
Next, please.

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MS. FALKNER: Discharge and just some other numbers. These are the kinds of data points that are of great interest to the rest of the ballast water community. How much ballast water is being discharged around the state? And we're working with a couple other organizations to see exactly what's in that ballast water that's being discharged.

So that will help us get an idea of, you know, conducting a mid-ocean exchange, but how much of that water is actually clean and has less coastal organisms in it.

Next, please.

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MS. FALKNER: Inspection program is going along nicely. A great deal of what the inspectors do is do outreach and education for the maritime industry. Probably, at the end of this talk, I think, Kim will give you a poster and brochure that we have been working with the West Coast Ballast Outreach Group. And we present these to all of the vessels that we board, all the marine oil terminals get them and the agents get them. So it's just kind of this is ballast water and what the problem is.

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Next, please.

MS. FALKNER: Just some more numbers. We're continuing to have violations. The majority of the violations are an administrative meeting that they don't have a formal written ballast water management plan on board or they don't have IMO guidelines.

We are still getting some ballast water exchange violations. These are primarily coastal vessels. And by that I mean they're coming down from Vancouver into California or they're coming up from Mexico into California, and they're either unwilling or unable to conduct an exchange.

Right now, we've been on -- the inspectors have been on over 1,500 of these different vessels statewide.

Next, please.

MS. FALKNER: This is the kind of the stuff that's been really happening this year, and it's been exciting from my perspective being a biologist. We're working with a small technology development company out of the midwest who was funded by the Coast Guard to look at different verification techniques.

And they actually came out in June and boarded about 50 different vessels, and pulled ballast water
samples, took those samples back, and they're conducting a
suite of tests on those. And they'll be coming back out
in March to further develop their verification techniques.

Then we're working also with the Smithsonian
Environmental Research Center on the east coast. These
folks are working out of the Port Of Oakland right now
looking at ballast water exchange efficacy, how good is
ballast water exchange, and looking at what kind of
organisms are coming out of ballast water tanks.

So we've been working with the Smithsonian folks
directing them to vessels that are good test subjects,
allowing them to go on board, ride the vessels for the
entire voyage, do some hull tests, things like that.

And so we're hoping to get some of their data,
their preliminary data, probably in the mid-spring of next
year, and we'll be able to incorporate that into our
report to the Legislature.

We've also been looking at a suite of alternative
treatment systems. We've been going to several
conferences and working with technology developers, on
both shipside and shoreside technology. Shipside, we're
looking at a suite of mechanical type of treatment
systems, filtration, ultraviolet light, et cetera.

And chemical, even though chemical has a tendency
to send a red flag to many folks, there are some promising
chemicals out there that we hope to look at in the early part of next year.

Unfortunately, most of the shipsides, especially the mechanical treatment systems, are barely past the conceptual phase. And so we only have one system that's actually operating on board a vessel and another system that's going to be coming on line soon.

But there's lots of people coming in with the, yeah, this is the best thing since sliced bread and it works on everything with very little background data to support that.

Next, please.

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MS. FALKNER: As you may remember, earlier this year we received two different grants, one from the U.S. Fish and Wildlife Service and one from the Port of Oakland to do a west coast demonstration project. The objectives of that project are to place on board vessels alternative treatment technology, do the full costing out, the engineering designs and everything, and then to see how these systems work under realtime conditions.

Originally, the proposals called for us to work with Washington State on doing the ship board evaluations. However, Washington State had not progressed far enough down that road to offer us much assistance, so we turned
to the State Water Resources Control Board, and they had
some dollars from the Exotic Species Control Fund. And
we've got their research team set-up protocols to go
aboard these vessels.

Next, please.

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MS. FALKNER: The two vessels that we're looking
at, the RJ Pheifer, which is a Madsen vessel, it's a
container ship that operates from primarily Hawaii to
California, although she also picks up quite a few Asian
ports. Especially this time of year, she covers her
sister ships.

And the other vessel is the Sea Princess, a
Princess Cruise vessel. We had engineering designs
conducted on both of these vessels. The Sea Princess was
actually retrofitted this late summer, and she's had two
evaluation cruises on board.

Next, please.

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MS. FALKNER: This is the system that's on the
Sea Princess now and a similar system that will be
installed on the RJ Pheifer. It's a combination of
cyclonic separation, so basically it's forcing water
through a tube that creates a cyclone action, pulling out
any organisms or material that's heavier than water, and
that material gets immediately discharged back to the
source water.

And then the cleaner water goes through an
ultraviolet treatment system. We have conducted, as I
said, two evaluation cruises on the Sea Princess, and
we're hoping to have some of the preliminary results back
in the next month.

Next, please.

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MS. FALKNER: The RJ Pheifer was supposed to have
been retrofitted last month, but because of some problems
with the sister ships, she's going to be staying in the
Asian trade until probably December, so she'll be
retrofitted in December, late December, early January.

Her shipboard evaluations will occur in January.

And we will hopefully have all of the reports, how well
these systems do at two real different vessels and
different challenges for either -- for both of them.

You have a container vessel that carries a
great -- much more water in it, but not that many people.
And you have a cruise vessel that you're having ballast
problems, gray water, black water, all the, you know,
thousands of folks on board and how to manipulate that
water effectively. So two very different vessels with the
same system, so it should be very interesting to see where
that goes.

We're also hoping to get a tank vessel company here in the next couple of months to act as a test bed for a chemical that has shown a great deal of promise. They did some preliminary work back in the Port of Maryland -- the Department of Maryland did, and it's looking like it might be a very viable option for vessels that carry large amounts of water.

So next, please.

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MS. FALKNER: Again, last year, we spent developing and continuing to do the partnership. We've worked very closely with the U.S. Coast Guard out of Washington D.C. with the goal of trying to coordinate not only our local activity, but also how the laws are going to look in the next couple of years.

We have a ballast water technical advisory group. As you may remember, it is industry folks that we meet with on a regular basis. In fact, we have a meeting coming up in December in San Francisco to talk about how the program is going.

I sit on the ballast water shipping committee subgroup of the A&S Task Force as well as the rest of these groups. So we are trying to coordinate our activities, to reduce the patchwork of regulations that
you see along the west coast, and hopefully we will
continue to lead, so the federal government has a little
bit better -- you know, they have some steps to take.

Next slide, please.

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MS. FALKNER: As I mentioned, this doesn't show
up nearly as good, but in the earlier part of this year we
worked with the West Coast Ballast Outreach to put
together a poster and an educational brochure that you all
will receive one today.

And it's been very well received by the industry.
We had some of the old curmudgeons say, you know, it's
silly, it's stupid and everything. But when you have
captains calling you up when they're in port saying hey,
can I get three more copies please, this is really a great
poster. And so it's been very, very successful.

So we work with the Coast Guard and distribute
these posters and brochures to all the vessels that are
coming into the State.

And that's all. I can take any questions if you
have any.

CHAIRPERSON BUSTAMANTE: Please.
COMMISSIONER CONNELL: I'm sorry, I came in late,
but I did read your materials that you had submitted
before. But more importantly, I'm impressed by how much
progress we have made here. I think it's a remarkable statement of commitment. And I thank you, Paul, and you for leading us in this way. In fact, I would think that probably, at this point, California is pioneering in this field.

And I'd like your response to what other states are partnering with us. I'm disappointed Washington could not, but are there other states that are moving along in this effort? I mean, it should be really a collaboration with, hopefully, other states and perhaps other nations.

MS. FALKNER: Unfortunately, at least along the west coast, the coordination and communication has been less than ideal. Washington developed its program and then Oregon state developed its program, which, in many ways, is going to compound the problems that we face here in California.

And, for example, they want, you know, discharge of ballast water exchange. Vessels that come out of San Francisco must conduct an exchange before they hit the Cape of Mendocino, regardless of the distance offshore. So they're basically discharging stuff that's right now semi-contained in the bay estuary area, out into the Farallons and out into all of those nice marine sanctuaries.

I just was asked two weeks ago, if I'd sit on the
Oregon task force, ballast water task force, to discuss how we're going to fix some of these issues, because it came up this summer. And you might imagine it was a rather heated conversation at a meeting at the Cal Maritime Academy.

So the coordination is not nearly as good as I would like and that anybody would like. Even Oregon and Washington recognize it. We also need to bring in Mexico and Canada for the west coast, if we really want to do a regional perspective.

COMMISSIONER CONNELL: Are you making headway in trying to get Mexico and Canada engaged in this issue?

MS. FALKNER: Canada is -- I communicate with folks out of Canada. Right now they have kind of a hodgepodge patchwork of regulations. The Port of Vancouver is really the only port that requires ballast water management at all. And they're kind of just don't dump it in our port. We don't care where you dump it, just don't dump it in our port. So it's kind of a not-in-my-backyard scenario.

But we are trying to communicate with them. The folks who put together this poster on the ballast outreach poster, they are trying to do quite a bit of coordination with the various states and countries here.

But, you know, any help that we can get from
folks who have better connection, especially with Mexico. They have almost no money. We've got a few Emails from folks, but for the most part there is -- we don't even -- I'm not even sure who to communicate with at this point.

COMMISSIONER CONNELL: May I ask one further question of you. I am curious what happens if we find in looking at the Sea Princess that it's not adequate what we're proposing here? What's the next step?

Because there's lots of cruise ships that come in and out of California ports, and I'm concerned that we have an alternative, if whatever this technology that is explained is in place, does not appear to be adequate --

MS. FALKNER: Well, this is -- I mean, in my mind, I'm looking at this as research, and that every -- even if it's a failure, we've learned something from it. What part of the system is not working. There are other systems that are being talked about by some of the other cruise lines.

So although, you know, let's say the OptiMar system doesn't work, there are some other things that may work. There may be chemicals that work effectively. For the Princess vessel that we're dealing with right now, under our agreement, she will be considered as an evaluation vessel through the end of the program. And then after that, depending on what the California law says
or depending on what the federal law does, it's kind of --
they understand that they may not be in compliance after
the new law starts up.

So we have a really good team of folks working on
the vessel now. And I think I'm hoping, based on some of
my earlier communications with them, that we can identify
where some of the problems are.

One of the big problems with cruise lines is that
they mix their gray and black waters, so the dishwater
water and the gross sewage water all use the same piping
as the ballast water.

COMMISSIONER CONNELL: That's really encouraging.

(Laughter.)

COMMISSIONER CONNELL: Remind me to bring paper
plates next time I go on a cruise.

(Laughter.)

MS. FALKNER: No, no. They discharge the water.

CHAIRPERSON BUSTAMANTE: They discharge it.

(Laughter.)

COMMISSIONER CONNELL: They're mixing them inside
the boat. Dishes appear a little grimy to you today?

(Laughter.)

MS. FALKNER: No. For the record, they do not.

COMMISSIONER CONNELL: We don't recycle on board,
I hope.
I'm teasing.

CHAIRPERSON BUSTAMANTE: Annette Porini has a question.

ACTING COMMISSIONER PORINI: Just --

EXECUTIVE OFFICER THAYER: If I could first elaborate a little bit. This is a fairly new issue area. And I think that Maurya is right, that science is really working hard on this and there are probably some solutions that are being -- in the back of somebody's of mind right now, that we'll see more of in the next five years and so if one particular method fails, I'm expecting that there will be other options that will be available. The base line method for treatment that's established in the law is you exchange water out at 200 miles, and that's thought to be fairly successful.

But some of these ships, particularly the ones going to Mexico or otherwise in the coast trade, that Maria was talking about earlier, don't normally go out 200 mile, so we're imposing a financial hardship, if we're saying, yes, stay an extra day or two and go out there and just change your water and come back.

So the more methods we have to deal with this issue, whether it's using chlorine or on-land treatment, which has a whole host of problems associated with it as well. But the more of those that we have available, means
that we can craft a program that has the least economic impact on the entities that are trying to be environmentally correct about this. So I expect that there will be other solutions developed as we move forward.

MS. FALKNER: And one of the intriguing new ideas that's being floated around is, again, passenger vessels create a great deal of gray water, so that's from the showers and things like that. It's not mixed with the sewage, but they create a great deal of that, more than they need in ballast.

So there has been some work -- there's been some work going on about using gray water treatment systems to make the water basically fishable and swimmable, that's a tough one to say, and use that as ballast, and then discharge that.

Now, you know that creates a whole other issue with the Coast Guard and the Water Board folks as they could take the gray water and discharge it as ballast and what are the issues with that. But it's still a potentially promising way to go for a passenger vessel.

This system, if it doesn't work on the Sea Princess, it may work really well on other types of vessels like a car carrier container vessel where you don't have the huge inputs of other stuff. So it's a very
new field. There's ozone being tested. There's lots of interesting stuff going on. And I know the technology developers have been going nuts waiting for, you know, people to set standards.

And the maritime industry is going nuts waiting for people to present them with technology, but it's -- you know, I guess the main point that I keep trying to stress to folks is this is very much a research phase and we're learning a lot. And even if it fails, we've learned a great deal about that system.

So thank you.

CHAIRPERSON BUSTAMANTE: Any other questions?
Thank you.
We're going to go back to Item number 87.
Paul, was there any additional --
EXECUTIVE OFFICER THAYER: I think Alan Scott was going to give a staff presentation for background on that.
MR. SCOTT: Good morning, Mr. Chairman and Members of the Commission.
My name is Alan Scott. I'm the regional manager with the land management division of the Commission here to present information on calendar item number 87.
This item contains a staff recommendation for approval of a commercial lease to the Santa Catalina Island Company, and the Santa Catalina Island Conservancy
for the operation of 720 moorings at various locations around Santa Catalina Island.

It continues the past actions of the Commission by providing greater public access to mooring subleases at a reasonable cost. These mooring locations are exclusive of those moorings located in Avalon Bay, which are in a legislative grant to the City of Avalon.

Catalina Island is a premier destination for boaters in southern California. Because of the island's unique location, it's been used for moorings since before World War II.

Over several years leases for moorings have been issued by this Commission. In the late 1970s, early 80s, as the lease at that time was ending, the Commission was approached by several individuals indicating a desire to compete for any new leases that might be issued for operating moorings at Catalina Island.

Because of this interest, the Commission began a process of developing an RFP. As part of the development of the RFP, the Commission held a number of public hearings. Those hearings were held in Los Angeles and in Sacramento, and both of those locations the hearings covered several days.

At those hearings, various boaters expressed concerns over the needs and desires of the boaters for
services at the island facilities.

In addition to the public hearings conducted, the Commission received several hundred letters from individuals expressing concerns with respect to the operation of moorings at the Catalina Island sites.

The results of the public input were compiled by staff and used in the RFP to identify the various services and levels of those services that would be required of any successful bidder under the RFP process.

A major concern of the boating public expressed over and over during the hearings held by the Commission was equal access to the mooring subleases at a reasonable cost. It became a primary goal of the Commission to provide greater public access to mooring subleases and to assure that rental for those subleases would remain reasonable. The practice of selling mooring equipment and subsequently the rights to a sublease was believed by many to be a deterrent to greater public access.

The boating public entering many number of public hearings before the Commission asked that this practice be prohibited in any future lease.

After receiving input from the equipment owners, the State's lessee and other boaters, the Commission agreed that the practice of selling equipment/subleases should cease. Stopping the practice would lead to a
greater number of subleases being available to the general boating public.

However, in recognition of the financial investment that many equipment owners have made in their equipment, the Commission agreed to allow those affected by the prohibition on sale to continue the practice of transferring their equipment/sublease for one more time during the term of the lease.

This transfer right was available to the equipment owners for the first 14 years of the 15-year lease. Thereafter, in accordance with the terms of the lease, the transfer rights terminated on December the 31st, 1995.

No new transfers have been allowed subsequent to that date. Also, during the 14-year period, the equipment owners continued to enjoy a lower rental rate than the sublessees of the island owned equipment.

This was a means of allowing them to recover the costs of the mooring equipment itself. The lease provided a notice of such transfer right be given to every sublessee, and further that the prohibition against future transfers also be given after the one-time transfer was completed.

Language concerning this notice was contained in each subleased document covering owned equipment, since
the beginning of the 1982 lease. All mooring subleases not renewed by current sublessees are filled from a waiting list. About 300 sublessees had a right of transfer. Approximately, 225 sublessees either transferred or relinquished their sublease during the 14-year period that was available under the lease. About 70 sublessees chose not to exercise this transfer right during that 14-year period.

Again, any right to transfer ceased pursuant to the terms of the lease on December the 31st, 1995. Subsequent to the termination of the right to transfer, several members of the group that chose not to make a transfer approached the staff of the Commission with a request to reinstitute the right of transfer.

They offered several different proposed programs under which the right of transfer might be extended. Among them, in instituting a transfer fee, setting aside a percentage of the sale price for either the Commission or for some other worthy cause, to allowing a transfer only within family members.

Staff considered these proposals, but believes that to allow any of them would be counter to the decision to promote more equal and affordable access to mooring subleases reached by the Commission during many hours of public hearings. Continuing the transfer would also have
a negative impact on the waiting list process by reducing
the overall number of subleases that could become
available.

The current waiting list for moorings at Catalina
Island are organized by location and contain around 2,000
names. The average time spent on a waiting list depends
on the location of the mooring desired. Some have waited
on the list for more than 20 years, while others waiting
for one of the less desirable sites can wait about eight
years, that's about the shortest time.

Currently, approximately 40 subleases are issued
to individuals for the waiting list each year. The lease
that's before you today is a culmination of many years of
negotiation of public input. It is a replacement lease
for the 15-year lease that was issued in 1982, which has
been in holdover for several years now. This lease
continues the conditions and requirements for service that
were placed in the 1982 lease as a result of the
Commission's desire to open the area to greater public
access and to control boater costs.

Staff recommends approval of this item as being
consistent with past Commission actions. And I will
remain available for questions.

CHAIRPERSON BUSTAMANTE: Could we have the
lectern turned so they're not aimed somewhere else. I
like to look people in the eye.

(Laughter.)

CHAIRPERSON BUSTAMANTE: Any questions by the Commission?

COMMISSIONER CONNELL: Yeah. You know this is a very difficult one for me. I mean, I understand what the lessees want to achieve in terms of maintaining their involvement with these leases. I think it's part of the heritage for some of these families to have this relationship. And they do think of it as a legacy that they kind of pass down from family to family.

I've boated frequently at Catalina Island, so I'm certainly familiar with the attitude and the locale and the history of this. But I think it goes beyond those families and those many people who have been waiting patiently on the list to be accommodated. I think it gets to a broader -- at least for me, it got to a broader question of access to what I see as really a public right.

And this isn't seats at the Hollywood Bowl, which someone brought to my attention. I got a call and somebody said, you know, seats at the Hollywood Bowl you can pass down. Well, this is not really seats at the Hollywood Bowl. This is a limited public access to a natural environment.

And for me I concluded that the staff was right.
I agreed with what the staff is saying. My only concern with the staff is why did it take us so long to get here. You know, being ever impatient as I am, I'm wondering why, you know, always trying to hold government accountable, why did it take us from 1995 to the year 2001 to get this before the Commission? Maybe you can explain that?

CHAIRPERSON BUSTAMANTE: Lawyers.
(Laughter.)

COMMISSIONER CONNELL: Well, you know how I feel about that, so I won't comment on that. I say my nightly prayer for my sons that they won't become lawyers. Go ahead.

(Laughter.)

Executive OFFICER THAYER: And, of course, the previous lease did expire in 1997, so it's been four years before it's come back to the Commission, and this isn't the sort of thing we normally like to do, but there were two goals, two factors here that mitigated in favor of a go slow approach.

The first is we did have ongoing negotiations with both the people who made this counterproposal and with the Island Company in hopes of resolving this issue in a way so as to avoid public controversy to satisfy all of the different factions of the public that were involved with this issue and to try and resolve that. And we think
that that's our job to do our best job for the Commission that way.

And regretfully we weren't able to do that. The second factor that allowed us to keep working on this is that this is an existing lease. The use was continuing during these negotiations. If this had been an application for a new development, where money was being lost by a developer because of a protracted negotiation like this, we would have brought it to the Commission much more rapidly.

We wouldn't have thought that to be fair, but it was only because seeing the operations were continuing as they had been before, and that people were being unaccommodated by it, that we felt it was appropriate to try and take our time to reach a solution.

COMMISSIONER CONNELL: I appreciate your trying to be open and gracious to everyone. I just think that, you know, we had prolonged, you know, some anxiety out there in the public, at least in the boating community, as it relates to Catalina Island.

I am comfortable -- I know you have a number of people to speak on this today, I'd like to hear those people speak. I'm comfortable with that answer. That was of concern to me, though, why we were so delayed.

CHAIRPERSON BUSTAMANTE: Paul, the only question

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
I would ask is that as I'm reading many of these letters, who are supportive of maintaining the existing lease arrangements is the issue of treating folks from Catalina Island, in this part of the lease, different from those of Avalon? Could you address that, because that seems to be a recurrent theme in many of the letters.

EXECUTIVE OFFICER THAYER: Certainly, I'll do that. First, let me also add to Commissioner Connell's-- my response to Commission Connell's concern which is to say, you know, that I take note of that. I think the other Commissioners feel the same way that the general direction from the Commission we believed to be to act expeditiously in evaluating these leases, and we understand that concern. I don't want to make it sound like we didn't want to be responsive to that, because, in generally, we try and bring things to the Commission expeditiously, and we would like to do so.

In response to the Chair's particular question, it is true that particularly at Avalon and also true in several other places, transfers or subleases can be transferred by payment to the former sublessee or the original sublessee.

And the Commission had that evidence before it when they considered it, at least back in 1982, but it decided not to follow that model here. And it should be
noted that in Avalon and the other places where this
happened most frequently, all of that area has been
subject to a legislative grant. We don't have control
over that, so we have no authority over the --

CHAIRPERSON BUSTAMANTE: What area, the Avalon
area?

EXECUTIVE OFFICER THAYER: The Avalon area has
been granted to the City of Avalon. So those leases
aren't subject to our review and approval.

CHAIRPERSON BUSTAMANTE: So they're responsible
for it?

EXECUTIVE OFFICER THAYER: The City of Avalon has
taken that approach. I wasn't here at the time, but Jack
attended a lot of those workshops, and he might have more
information on it, but that particular problem, as
evidenced in Avalon, where the exchange prices are even
higher, I think served as a, sort of, a negative model,
something that the Commission decided no, we don't want to
go down this road, because of how expensive it's gotten in
Avalon.

The material provided by the proponents for an
alternative way to go here, the former owners, indicates
the transfer fees in Avalon can be as much as $200,000.
And I think we've heard rumors that some of them may even
be as much as $300,000. And I think that the Commission,
cognizant of what happened in Avalon, said no, we're not going to do that.

So I don't believe that there's any consistency in what the Commission's approach is. The Commission -- there's nothing illegal about charging to the highest bidder, selling these buoys. But the Commission consciously said no we don't want to do it this way. This is not a set of moorings that are used for storing a vessel. This is a set of moorings, which is a destination point, sort of like a Yosemite, and that it shouldn't be available to the highest bidder if they wanted it.

Another distinction is this is one of the few leases, perhaps the only one in the State, and we're talking about this as a staff, where there's really a Commission cap on the amount that can be charged for the sublease.

In most cases, we allow the market to set the rate. But, again, here it was decided there as public good involved that shouldn't be based on market value, and therefore really a lot of this is caused by the fact that the annual leases are kept at a low rate by the Commission, and that causes the expansion to be a little bit more.

CHAIRPERSON BUSTAMANTE: So we're missing out on some revenue at the State.
EXECUTIVE OFFICER THAYER: We could charge more money and the State would probably be able to sell all the buoys at a higher rate, but that's the case.

CHAIRPERSON BUSTAMANTE: Okay. Why don't we start in a somewhat alphabetical order with opposition and support. Why don't we start off with David Arntzon to be followed by Ron Doutt, is that the way you pronounce it?

MR. DOUTT: Yes, sir.

CHAIRPERSON BUSTAMANTE: To be followed by John Broome, to be followed by Gordon or GT Frost Jr.

If you could make your way toward the podium and be ready to speak.

MR. ARNTZON: My name is David Arntzon. I'd be considered an owner/permittee of Alpha 7 in two harbors the isthmus.

I'd like to thank the Commission for allowing us to come and speak on this issue. I'd also like to thank Commissioner Connell for her words. This is a very important issue to many of us.

As for myself, I've been coming to Catalina for 40 years. I'm 48, so I started very young. In the early 1970s my family went quite often and had an opportunity to acquire a mooring, alpha 7, and my mother did so.

A few years later she passed on and I received that mooring and have gone ever since. My son in 1990 was
born. We've enjoyed it with him every year. He's
actually been there every single year. And so for us what
might appear to be a petty or selfish issue, to some truly
it is a heritage, it's a legacy. It's a very important
thing.

To be brief, what I would like to do, though, is
address the question of fairness. There's a lot of issues
about that that I don't even think have been addressed
here. But as for myself, I, only at luck, with a great
deal of luck, get their 18 days a year, sometimes fewer,
at which times our mooring, as all moorings --

COMMISSIONER CONNELL: I certainly hope that
isn't because you're an attorney?

MR. ARNTZON: No, no.
(Laughter.)

MR. ARNTZON: But I do prepare taxes, so if we
want to talk about fairness in life.

COMMISSIONER CONNELL: We have something
compatible. I collect a lot of taxes.
(Laughter.)

MR. ARNTZON: I was going to say, and I guess I
will, any time my son says gee, that's not fair. I tell
him to look in the first chapter of the book of life,
which is life is not fair.
(Laughter.)
MR. ARNTZON: But in fairness, our mooring -- if
you only looked at 90 days a year, at most our mooring, we
use it or our boat is on it only 20 percent of the 90
days, which means it is always available. And I think the
use of the mooring, not the subleases of the mooring,
should be considered here.

If you open up to a broader period of time, up to
six months, we're barely on at ten percent, which means
our mooring is available for all the general public to use
during that time.

So I wish to be brief, because I know a lot of
people wish to talk, and I thank you so much for listening
to me.

(Applause.)

MR. DOUTT: Good morning, Commissioners.

CHAIRPERSON BUSTAMANTE: State your name for the
record, please.

MR. DOUTT: My name is Ron Doutt and I'm
president of the Santa Catalina Island Company. I'm
speaking in favor of the lease. I'm not speaking on the
subject of sublessee ownerships.

A little later Rose Ellen Gardner, who is the
president of the Santa Catalina Island Conservancy, will
also speak in support of staff recommendation to issue
this lease.
CHAIRPERSON BUSTAMANTE: You're speaking in opposition to the staff recommendation?

MR. DOUTT: I am speaking to urge your issuance of the new lease.

COMMISSIONER CONNELL: In support of the staff recommendation.

MR. DOUTT: In support of the staff recommendation.

Actually, I've got a four-fold purpose. I want to give you some background about the Conservancy and the Island Company and its qualifications. I want to describe the mooring operation. I'd like to be available to address any of your concerns, and, to repeat what I said at the outset, request that you authorize issuance of the lease.

Joining us in the audience are members of our staff and members of the crew that operate the day-to-day operations. They're here also to help us answer any of your questions. They will not mercifully be providing formal testimony.

CHAIRPERSON BUSTAMANTE: Thank you.

MR. DOUTT: The Santa Catalina Island Company is a 100-year old -- 107-year old enterprise that is based in Avalon. With only one ownership change, and that being 82 years ago, we'd like to think we're awfully stable.
Our primary purpose is to assure that all visitors to Catalina Island have a quality experience. We've long recognized that what primarily draws people to Catalina island is its natural beauty and priceless serene environment.

The preservation, stewardship and promotion of Catalina has been the key focus of the Island Company for years. With the formation of the nonprofit conservancy in the mid-1970s and the simultaneous transfer of ownership of 88 percent of Catalina Island from the owners of the Island Company to the Conservancy, and even more effective overall stewardship, a conservation program has become possible.

We, at the Island Company, are proud to have the conservancy as a co-lessee in this commercial lease.

Your submerged lands area of Catalina are an equally precious resource for the enjoyment of the visiting public.

These waters also deserve to be managed with a high degree of care and customer service. And that is exactly what we've tried to do for you over the past 51 years.

We look forward to continuing in this role for the next 20 years, which is the term of the proposed lease. We have the experience, the financial wherewithal,
and the commitment to provide first rate service. And surveys have shown that the boating public is also satisfied with the trust you have placed in us. And I'll have a little bit more to say on that later.

CHAIRPERSON BUSTAMANTE: Hopefully, not a lot more.

MR. DOUTT: I'll try to speed up, sir.

We conduct the mooring services through a California Limited Liability Company. It is described in the lease. It is endorsed by staff. And that limited liability company, the members of which are the Conservancy, and a wholly owned subsidiary of the Santa Catalina Island Company.

Our mooring operations are based in the village of two harbors. It's roughly a 200-person community, and it's an hour's drive from Avalon. We have 18 support vessels dedicated to the service. And we need this fleet because, as you can see from the maps, the 720 moorings we manage are widely dispersed.

They are dispersed from along 15 nautical miles along the northern side of Catalina Island plus in Catalina Harbor on the backside of the island. In addition, we're responsible for eight anchorage areas. And, as indicated earlier, none of these 720 moorings are
in or adjacent to the Bay of Avalon.

We feel human resources are equally, if not more, important to the success of our mooring operations, as is the physical equipment. And we feel our employees are the best, and comment cards confirm this.

Our year-round staff has 170 years of experience, and they're augmented by 30 additional people in the summertime, many of whom come back annually.

I think it's important for all of us, and this will help you in weighing the testimony from the people who are talking about their sublease transfers, for all of us to understand the unique nature of the mooring operations on Catalina Island.

Catalina's moorings are one of the few overnight destinations available to southern California recreational boaters. Unlike marina operations on the main land, our moorings are more widely dispersed, they're in varying water depths, and are subject to title and current conditions.

Whereas, the chief purpose of a mainland slip is more like a boat garage, people use our moorings and view our moorings differently. Very few are used for long-term stays. Instead, our customers look forward to their brief escapes to Catalina.

It's a way to get away from the hustle and bustle
of mainland life. It's a home away from home. Our customers, therefore, are intensely loyal and are very supportive of Catalina.

Use patterns, and the previous gentleman made reference to this, very dramatically, depending on location, weather, day of the week, month of the year, the overall annual use rate is only 21 percent. In the winter it's only five percent, but in August it jumps to 61 percent, and in summer weekends it's 100 percent.

Because of this widespread mooring use, our work force expands and contracts. We use the slow winter months to repair the moorings, to vessel overhauls. And we, in the winter, we're just going 100 miles an hour to handle the needs of our visiting customers.

The last area that I'll cover is the subject of boater satisfaction. And this past summer, we did a comprehensive customer satisfaction survey. We used the Research department of BVD of Chicago, and it was at our cost. We wanted to find out just how well we're meeting the boating customer's needs and their expectations.

We surveyed the entire spectrum of customer base, sublessees, overnight renters and anchorers. The results we just got earlier this month. Nearly half the respondents indicated that the overall mooring service experience was excellent, which is the highest rating
We're gratified with these results, but we pledge not to become complacent. This survey gives us a base line against which our future performance can and will be measured. And Commission staff has a copy of the survey.

In conclusion, we have the experience and the desire to continue as your lessee. We have consistently achieved, we believe, the performance expectations that you expect. We also feel that the boating public is satisfied with the services we provided. We, therefore, encourage you to authorize the issuance of this new lease.

And I'll be happy to come back and answer any questions. I'll stay now or I'll come back anytime later.

CHAIRPERSON BUSTAMANTE: Do you have any questions?

COMMISSIONER CONNELL: Yes, I would like you to, just as abbreviated as you can, try to explain the major difference between your position and that of those who will be arguing against the staff recommendation.

MR. DOUTT: We have taken no position on this matter. We're here to administer the will of the Commission on the subject of collecting for you funds to transfer sublessees from one sublessee to the next.

COMMISSIONER CONNELL: What would happen to your entity if we voted against the staff recommendation today?
MR. DOUTT: If I understand what you're asking, I believe what you're asking is if you voted against the staff recommendation, you would be voting against the issuance of this lease. And to me that would mean we'd go back to the drawing board and work with staff to draft another lease.

The staff, in their due diligence on the subject of mooring transfers, has deemed that the previous Commission was very clear that in 1995 there will be no further transfers of subleases. We don't argue with that.

If you vote it down because you would like to reverse the previous Commission's position on that, to me that means we go back and rewrite certain sections of our lease, which we would be fully happy to do, working with staff.

COMMISSIONER CONNELL: And if we went in a different manner, we didn't go for the staff recommendation, we voted against the staff recommendation and said that we didn't feel that there needed to be a lease arrangement at all in Catalina, how would that affect your revenues?

MR. DOUTT: How would that affect our revenues? Significantly.

ACTING COMMISSIONER PORINI: Just one question. How frequently are the moorings inspected for safety?
MR. DOUTT: May I ask my staff to help me on
that?

ACTING COMMISSIONER PORINI: Once a year?

ACTING COMMISSIONER CONNELL: You can't be hard
on the record. You need to identify yourself.

CHAIRPERSON BUSTAMANTE: Your name, please.

MR. ODEN: Doug Oden, harbor master at two
harbors. I've been with the company or with the operation
now for 23 years. As far as the rigging of the mooring,
the maintenance of the moorings, the care of the moorings,
I don't know if you've seen the physical system of a
mooring, but it's pretty basic and simple with two weights
and chain and lines.

Those are reworked every year completely. They
pull, inspect, replace chain and line as necessary. Every
day we do visual inspections of the moorings to see that
everything is in order. If there's any chaffing or if
there's anything wrong with it, we're patrolling routinely
for that type of thing.

ACTING COMMISSIONER PORINI: Thank you.

MR. ODEN: The mooring service, when they service
the moorings, two or three -- every two or three years,
they change all the chains. The weights don't have to be
changed, they're always secure. So it's a diligent thing.
It's done annually. It's done weekly. It's done monthly.
And as damages occur, they're repaired.

ACTING COMMISSIONER PORINI: Thank you.

CHAIRPERSON BUSTAMANTE: This is a sole source.

EXECUTIVE OFFICER THAYER: Yes.

CHAIRPERSON BUSTAMANTE: There's no RFP on this?

EXECUTIVE OFFICER THAYER: That's correct. We had considered -- the Commission had gone through an RFP process last time it was issued. And, Jack, maybe you have more detail on this, but ended up deciding that for a variety of reasons, the Island Company was best suited to carry out -- to continue to carry out that function, partly because they have the land base there and other entities don't have it in order to provide the shore services. Jack was there.

CHIEF COUNSEL RUMP: Yeah, that is correct.

CHAIRPERSON BUSTAMANTE: Okay. Can you tell me a little bit more. Can you tell me about why did staff decide that, I mean, other than they had the land base.

CHIEF COUNSEL RUMP: Particularly probably having gone through the long process. The last time around it was over a year in consideration of granting the lease. The last time there were two other entities that wanted to put in proposals, and those were detailed considerably in terms of all the terms and conditions which we see now.

And the Commission then, at that time, evaluated
the financial capability, the ability to deliver the
services that the boaters required, and also the benefit
of some of the experiences that the Island Company had.
So, at that time, they granted it. So, at this time, you
know, it seems logical. Scotty, have we had any other
interest in this item?

MR. SCOTT: No.

CHIEF COUNSEL RUMP: So it's a renewal lease,
similar to a lot of other leases that we have performed.

CHAIRPERSON BUSTAMANTE: Has the cost changed?

CHIEF COUNSEL RUMP: Scotty, can give you the
details.

CHAIRPERSON BUSTAMANTE: Have they gone up or
down?

MR. SCOTT: It's gone up. We've increased the
percentage to the State. We did that about five years
ago, almost six years ago now. We looked at the market
again for this lease, as we proposed it, to enter into a
new lease with them. The market has pretty well stayed
stable. It's a percentage of gross lease, so as their
fees increase, the market share to the State increases.

The lease itself contains provisions that limit
the Island Company's ability to increase the rates to the
boaters based on the Consumer Price Index, so that the
boater and the daily day use folks, in addition to the
sublessees, don't get priced out of the market. And then the State Lands Commission collects a percentage of the gross income generated by the moorings.

CHAIRPERSON BUSTAMANTE: So their fees are based on the CPI as well?

MR. SCOTT: That's correct, Governor. The fees that they're allowed to charge under the Commission's lease is regulated by the CPI. They cannot exceed the CPI or the accumulation of the CPI over a fixed period of time of the lease.

EXECUTIVE OFFICER THAYER: And the actual rates that we collect, that the Commission and the State obtains are shown on the first page of the staff report, it's 25 percent of the mooring subleases. And then the varying percentages for other types of services. This compares with most marinas. We get about somewhere between four and six percent of the gross, because there's much higher costs in maintaining the docs versus the moorings, and so that's why we have a high percentage here.

And so any increase in revenues -- so, for example, if the occupancy rates went up from say 60 percent as it averages during certain times of the year, to 75 percent during that period of time, there would be an increase in the revenue to the Island Company, but we would share in these same percentages, any increase.
There's also a minimum annual rent to ensure that the State is going to be paid the minimum amount, no matter what, which is $210,000.

CHAIRPERSON BUSTAMANTE: Okay. Any questions?

MR. SCOTT: In addition to that, Governor, there is a provision in the lease that will require us to review this rent at the midpoint of the 20-year lease to determine whether or not it still meets market conditions.

If it does not meet market conditions at that time, then --

CHAIRPERSON BUSTAMANTE: When is the midpoint?

MR. SCOTT: In ten years.

CHAIRPERSON BUSTAMANTE: Next we have John Broome. How are you, sir?

COMMISSIONER CONNELL: Very patient I would add.

MR. BROOME: Good morning, Commission. It's a pleasure and a privilege to be able to participate in your deliberations. I have to empathize a little bit with you all, because I sat in a comparable position in the Channel Island Harbor during the course of the development. I was on the Harbor Commission for a number of years. And I can understand the various proposals that are coming before you. And I won't attempt to delve into all the ramifications of it.

I am a boater owner. I've been a boat owner for
a number of years, a third generation boat owner, and I have two generations following me that are also excellent sailors.

In reviewing your item as promulgated here, there's only a couple of comments that I'd like to make. One is I do think that there should be a fee, and I don't know whether it is or not that is annually paid to purge your ever-growing list of applicants for moorings.

In Santa Barbara they had a list that went for 100 some years, and they finally charged a fee, an annual fee, to be on the list, which I think is appropriate, and they didn't have to go through and analyze each one.

As far as a transfer fee, a change of ownership, I think it's a wonderful opportunity, because I've often said that my mooring in Cherry Cove was my most irreplaceable asset. And I think that's true. There's a great demand for them, and I think if a reasonable fee could be charged that would be distributed among charities, we've participated in the Boy Scouts fund raising there in Cherry Cove for as long as we've been there, and I think that would be a good thing.

I think just to terminate -- is this coming through all right?

CHAIRPERSON BUSTAMANTE: Yes.

MR. BROOME: To terminate the ability to transfer
a mooring, I think would work a hardship on the owners that have been there and have paid for the maintenance. And I might say that I think the maintenance there is superlative. The moorings are kept in a splendid condition, and if it is a deterioration, they're fixed right away. I believe that if some arrangements could be made to a fee, a reasonable fee, and someone else I think will speak on what they think is fair, it is only right.

But someone who's been there a long time, I would think, should have consideration and ability to select and transfer the fee.

Ms. Connell, you said something about the Hollywood Bowl. And, I'm a little bit involved in that. If I have a seat and I can't use the seat, I don't have to turn it back in. I can ask a friend to sit in my seat. And the organization at the Hollywood Bowl doesn't get a chance to resell it, just because I personally can't use it. And I think one of the most onerous things over there for a boat owner is when he owns, pays, pays a possessory interest of tax on his mooring that he can't loan his mooring out to a friend or a relative without having them incurring a nightly fee for it.

I consider what I've paid for it mine to -- the mooring, to do with what I want and I just don't think it's right to have to encumber a guest with a nightly fee.
I would like to think today is a start of another 20 years and not necessarily looking back on what the previous Commissions did under different circumstances, who knows, and 20 years is a long time for any kind of lease. We do a little leasing of property, and most of our leases are five years, and then they're reconsidered. I would like to see maybe some provision made for in the event circumstances change that it not be set in concrete for 20 years.

There will be other people who will probably say things much more articulately than I. If there's any questions, I'd be happy to try to answer them.

CHAIRPERSON BUSTAMANTE: Thank you, sir.

MR. BROOME: I asked our commodore, if you could take my place, sometimes a speaker defers to another one, I know, and he has it more prepared.

Well, thank you very much for giving us your time and we appreciate it very much.

CHAIRPERSON BUSTAMANTE: Thank you, sir.

Thank you for coming.

G.T. Junior.

MR. FROST: Well, my name is Gordon Frost, Junior, and I go by my initials G.T. Frost and I thank you for the opportunity to make a few comments. When I filled out the speaker's slip, I think I put that I was for item
number 87. And I did that because I think the Island Company has been doing a superb job and I encourage you to renew their lease for this 20 years.

At the same time, as a family member of the Frost family, we have a 75-year old boat that has been coming up to Catalina every year for those 75 years. Seventy-three of those years have been in the Frost family ownership. We own the tackle at Cherry Cove and we send our boat out during the summer months. And the boat is called Helen, and there's been -- well, my kids represent, I guess, the fourth generation of Frost people that have enjoyed and supported the island and it's a very dear spot to us.

I felt it was pretty important to come up and let you know that we encourage you to look favorably on at least studying the mooring owner's position. I think it's fair. I'd love to see the opportunity for future Frost generations to continue to enjoy Catalina Island and I would be very disappointed if we didn't have this opportunity. So that's the reason I'm here to speak and I appreciate your time.

CHAIRPERSON BUSTAMANTE: Thank you, sir.

Next we have William Davidson, Philip Stein, Richard Whilden.

MR. DAVIDSON: Mr. Chairman, Commissioners, thank you for allowing me the opportunity to speak this morning.
I'm concerned that there's been a lot of talk about public access. And I certainly share your belief that part of your responsibility is to promote public access, but I really don't think the issue here today is about public access. It's about balancing public versus private interests.

The only difference between the owner of a mooring and the lessee of the mooring is that the owner paid for it and the lessee got it off the waiting list. And I think it's important that the Commission realize that this is not an annual lease to somebody that came off the waiting list. Many of the people that have leased moorings in Catalina have been leasing the same morning for 40 years. So you really are not increasing public access by transferring it from a private individual who paid for it to a private individual who got on a list. You're just changing the person that has the first right to use the mooring.

One of the things this Commission did in the earlier lease, was mentioned earlier, was to say if the lessee or owner of a mooring is not using it, the public has the right to use it. In the past that was not the case. And I think that's contrary to another speaker here this morning. I think it's excellent that when I'm not using my mooring, the public has the right to use it.
But I don't think it's fair to say, for your staff to say, they're promoting the public interest by taking away from one person and giving it to another. Now, the staff also mentioned that well, we've had a lower lease rate for the owners of these mornings since the last lease. I believe it's $100 a year less that I've been paying.

If you take that for the 15 to 17 years of the lease and you compare that to what the investment in these leases were by the owners of these moorings, there's still no way that we've been close to compensated for the value of the tackle that we purchased.

And therefore, if you are going to take away the private ownership, I think you have to address the issue of compensation for the taking of that tackle.

I'm also concerned, and it's been brought up briefly and Avalon only was mentioned, that your Commission is treating the Catalina mooring owners differently than others. If you look up and down this State you've got private owners that have docs in front of their houses and slips that are on the tidelands that transfer freely, you've got private yacht clubs that control slips and moorings and harbors up and down the states that they transfer freely. And yet for some reason we have decided that Catalina, the private owners should
not have this right to transfer. And I think you really need to look at the equity in that.

I think if you're honest, you will have to reach the conclusion that the public is not benefited by taking away the private ownership and giving it to a person that's signed up on a list. That person, as was mentioned, may have been there 20 years.

So the majority of the population of this State wasn't even here to sign up from that list. So somebody who's a recent resident of California still has no right to be the lessee of that mooring.

Finally, I think that it would be suggested to you later that there's a wonderful opportunity to compromise the interest here, if that's the right word, and allow the private ownership to continue, while creating a public benefit of significant dollar value.

And if you miss this opportunity, then those public benefits and the contribution to the welfare of the people of California is lost. So I ask you not to have your mind made up, at this point. I think you're hear today to hear testimony, and you hopefully will do that with an open mind.

And I also ask you to look realistically at the issues that are here. It's not public access. It's the right of a private person to continue to own something
versus another private person to lease the same thing with
the public having the same right of access in either case.

    Thank you.

    (Applause.)

CHAIRPERSON BUSTAMANTE: Paul, the question was
raised that there are other facilities in the State of
California that we, in fact, do have control of, Avalon
being regulated under the City of Avalon. Are there other
facilities that are treated differently than Santa
Catalina.

EXECUTIVE OFFICER THAYER: I think the chief
difference here is that this is a set of moorings that's
not used for storage of the boat. And so I think in some
of the -- I'm not sure what the circumstances are in every
marina where slips -- how they're transferred. But the
reason the costs have gotten so high for transferring the
facilities here is because, again, the Commission has
adopted this policy of making the moorings -- of buying a
buoy or buying a sublease to be affordable, and that's
generated this tremendously long waiting list.

    And so the individual owners of mooring buoys had
the opportunity to sell them at these higher costs,
because the Commission has decided that this is not like
every other mooring, and so we have, in effect, rent
control here.
CHAIRPERSON BUSTAMANTE: And the issue of compensation is raised.

EXECUTIVE OFFICER THAYER: The Commission when it acted in 1982 gave the tackle owners a choice, if they wanted to remove tackle, they could do that. But if they would prefer to stay there, they could keep it. I don't know how much -- perhaps the Island Company could provide some information about how much the tackle costs, but it's nowhere near the 45 -- or the $40,000 it is now -- that those subleases are sold for.

That the value there is to be able to get the sublease more rapidly, but I'm sure direct information about that can be provided. But in short, the Commission said if you want to keep your tackle there, that's fine, but you'll only be able to transfer it once in the next 14 years.

And then after that, they can still keep the tackle there. It's no longer owned by them, it's owned by the State, and that's the situation we're in today. There are no private owners out there today, but they will be able to continue to use that tackle by renewing their annual lease as long as they're alive, so we're not kicking anybody off with any leases.

So they were given a lower sublease rent. They were given the opportunity to remove their tackle. They
were given a final right of transfer. And those were the methods that the Commission used previously to provide them compensation for their tackle.

COMMISSIONER CONNELL: So are you saying, following up on the Lieutenant Governor's question here, that you believe that they have been fully compensated, is that what I hear you saying?

EXECUTIVE OFFICER THAYER: That's correct. The second thing about that -- the second thing to note is that the Commission commonly, in its long-term leases, provides for ownership of the improvements, as I think occurs in other long-term land based leases, become the property of the property owner at the end of the lease.

And so, for example, some of the oil facilities, some of those others -- it's at our option to either require the lessee to remove them at the end of the term or to take ownership of them. It's at the Commission's option. And so that provision is in this lease as it is with most others.

COMMISSIONER CONNELL: As it would be in any property lease.

EXECUTIVE OFFICER THAYER: That's right, the longer term leases.

COMMISSIONER CONNELL: That is how it works in any property lease. We deal with that matter all of the
time on the Board Of Equalization on property matters and
the evaluation of property. If you add value to a fixed
property as a result of installing an appliance or
lighting or whatever, you have one of two choices, either
you remove that item at the time that the lease is ending
and expiring and return the property to its original
condition or that additional improvement becomes the added
value of the property owner. That's a typical requirement
across the Board in any legal valuation of property. So
that would be no different here.

CHAIRPERSON BUSTAMANTE: Why then, as was
mentioned earlier, why is it that the leases are scheduled
for 20 years instead of for lower, like a five or ten
year?

EXECUTIVE OFFICER THAYER: The master leases
typically for marinas or for other facilities that have
fixed costs and organizations that have to be built up
often need to secure financing from banks. So in most
cases, we allow for those leases to be that period of
time.

CHAIRPERSON BUSTAMANTE: But in this case, we're
sole sourcing the contract. The financial availability is
already there. It is an atypical facility. Why wouldn't
we allow for the lease turnover to be quicker or that
those who are administering the lease would be looked at
over a shorter period of time rather than waiting ten years before we even look at the change of either rate or their management or the changeover of leases for the boat owners.

EXECUTIVE OFFICER THAYER: There's nothing fixed about either the lease term or the rent revision period of time, and in some leases it's five years. And certainly, if the Commission wanted to see a shorter period --

CHAIRPERSON BUSTAMANTE: Why are some five and why are some --

EXECUTIVE OFFICER THAYER: I think in this case, because things had already been connected -- those rates had already been connected to the CPI, and that we had some experience with this lease over a period of time, we thought the rates, particularly since their percentages, they're not fixed amounts, but percentages, so that as income goes up our return goes up as well. So that there's a correlation there. Whereas, if we charged them, say, a flat rate --

CHAIRPERSON BUSTAMANTE: How long was the last lease period?

EXECUTIVE OFFICER THAYER: Fifteen years.

CHAIRPERSON BUSTAMANTE: And the one before that?

EXECUTIVE OFFICER THAYER: Fifteen.

COMMISSIONER CONNELL: Is this a compounded CPI
adjustment? In other words, it kicks in regardless of whether the lease is 15 years or is five. If it's compounded, it wouldn't matter in terms of return to the State, if we had a lease of five years, Cruz, versus 15. If it's not compounded, I'd be very concerned we'd be shorting ourselves dollars here.

EXECUTIVE OFFICER THAYER: I think it's recalculated annually if the amount exceeds a certain amount -- stop me if I get this wrong, Alan, then each year the lease amount to the sublessees goes up by that amount. If it's less than that amount, and it's not raised in that year, but that's counted as part of the next one, too, it's not like you've given it up.

COMMISSIONER CONNELL: I guess the question from a mathematical viewpoint, you adjust the base every year even if you don't raise the rent? Is the base adjusted each year?

EXECUTIVE OFFICER THAYER: Yes. And the rent is adjusted each year as well to the sublessee, so it's not done every five years in terms of the sublessee. It's done every year.

CHAIRPERSON BUSTAMANTE: It's done on both.

COMMISSIONER CONNELL: It is compounded.

Okay. Mr. Stein.

MR. STEIN: I'm going to defer to Mr. Whilden.
CHAIRPERSON BUSTAMANTE: Mr. Whilden.

MR. WHILDEN: I have copies of the briefing that I'd like to present for you plus some other documents.

(Thereupon an overhead presentation was presented was follows.)

MR. WHILDEN: Please don't be alarmed about the size of that package, I'm going to be brief. But I am speaking also for some other people in the audience who chose not to speak. And if I could, could I have a show of hands of the people who are tackle owners who are here today.

(Hands raised.)

MR. WHILDEN: Many of them have chosen not to speak, but have asked me to make this presentation.

I'd like to make a couple of observations. First, the Island Company and its staff, I think, does a great job. The discussions are easy to talk about when you are thinking about a nice warm summer day, but one should be on the island when there's a storm, and boats are tearing up their moorings.

These are exposed coves in Santa Anna conditions, very unsafe. And the people on the shore who operate the shore boats are out there in their boats saving mariners and saving their property. So it's a wide range of activities over there, and the Island Company, I think,
does a phenomenal job with very dedicated people.

Secondly, I'd also like to commend the staff. We have been working with them over a number of years, Phil Stein and myself, who deferred, with the support of the other owners of the tackle here. And the staff has been uniformly informative, helpful to us, and in every way tried to facilitate the discussions that we've had. I greatly appreciate that, Paul, for you and your staff.

And what we've come down to is we have basically an honest difference of opinion in terms of what should be done here.

If I could have the next slide, please.

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MR. WHILDEN: I'll try not to repeat things that you're already familiar with. But the basis of our proposal is that tackle-owned moorings outside of Avalon be freely transferable during the life of the current lease.

We would propose to set up fees on initiation of this right again and transfer of fees. We think we could generate about a million dollars in the first year and about $150,000 annually thereafter. And that these funds are vitally needed for the public trust on the island of Catalina.

And I'll come to that with the second slide.
MR. WHILDEN: There are two significant facilities as well as minor facilities that provide health care services. These services basically support the visitors and the mariners. And I've spoken a number of times with the City Manager of the City of Avalon, over half of the people who use the municipal clinic there are actually visitors to the island, and they're, of course, all waterborne visitors.

The clinic has typically operated in a deficit funding situation. Even today, although there's been some new tax's applied, they're still running in a deficit and the City is supplementing the budget of the clinic. And the clinic has mandated earthquake retrofit requirements, which we believe total about $2 million. And, at this time, they have no funds to meet those mandated retrofit requirements.

So I think there's a genuine need here. I think we provide some help to that genuine need.

CHAIRPERSON BUSTAMANTE: Paul, is that -- are these funds general fund monies or would it take legislation to dedicate it or would -- is there anything that allows us to segregate those funds here?

EXECUTIVE OFFICER THAYER: The law is explicit about us forwarding all those revenues, and I think an
effort to do --

COMMISSIONER CONNELL: I would ask for every penny.

(Laughter.)

EXECUTIVE OFFICER THAYER: 6217 talks --

COMMISSIONER CONNELL: Wouldn't you insist? I think the Governor would insist that the Controller sweep all accounts. I mean that was my last directive. I'm to be sweeping every account in the State and putting it into the general fund as we do have this little fiscal burden that is upon the State now.

So I can't imagine that we would be sitting there with funds sitting in an account that wouldn't be transferred into the general fund immediately. We sweep every 30 days, so these funds would be transferred into the general fund.

It would then require budgetary action as part of the annual budget to reallocate these dollars. It would have to be part of the budget bill, the trailer bill in order to reallocate these dollars out to any kind of use on an Avalon or Catalina.

ACTING COMMISSIONER PORINI: And I think it would require a statutory change.

EXECUTIVE OFFICER THAYER: That's correct. The other barrier is even if there's someway to do it
administratively, the Commission would have to decide that the uses proposed are consistent with the public trust. And although there are some facilities that are part of the hospital that perhaps could be found in terms of the diving bell and that kind of thing. Otherwise a hospital is a municipal use, which like schools or like condominiums or city halls generally is not allowed to either be on public trust lands or to be funded from the public trust.

COMMISSIONER CONNELL: Yeah, but I don't think we even get to that point. My point is that it would go to the general fund and it would be then seen as part of the general revenue flow to the State. It would have to be reallocated at the time of budgetary, you know, decisions of the Legislature and the Governor.

CHAIRPERSON BUSTAMANTE: I apologize for the interruption. I wanted to make sure we clarified that point.

MR. WHILDEN: Absolutely. It's very important.

CHAIRPERSON BUSTAMANTE: Go ahead, sir.

MR. WHILDEN: I would reiterate the one point and that is more than half of the users of the municipal clinic are actually visitors to the island who all come by waterborne means, whether that would help in the legal situation or not, I'm not sure.
Incidentally, there are about a million visitors a year to the island of Catalina per the visitors' statistics. And of those million visitors about 800,000 come by ships and tours, and then about 200,000 come by private boats and some private airplanes. The need there is clearly great for health care, for emergency services. The people do a phenomenal job over there.

The dive chamber itself is staffed by volunteers. When a diver gets in trouble, the volunteers leap into work and so on. It's a remarkable community over there. It's really a great place to go.

And, of course, there's a real need for the workers of Catalina as well, the service workers of which there are many.

Now, I'd like to go to my next slide.

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MR. WHILDEN: We make the point here that we presented a preliminary program plan to you. Participation in the program is voluntary for tackle owners. I'm not sure all will take advantage of this. They may or they may not. Not everyone incidentally has family to pass their moorings on to.

In fact, a number of people over the past few years have spoken to me and said will I be able to sell my mooring, either my children are not interested in boating
or I have no children, and I would like to get some value from my State from this asset because I'm not a wealthy individual. So I think that's an important point to take here, but not all will take it, and as a consequence, some moorings even now will continue to revert to the wait list under our proposal.

Now, three special fees would be assessed. We described those in the detail in the back of the proposal that there would be a setup fee and annual maintenance and a fee of transfer as is done in Avalon. There would be no change, as bullet three suggests, in the regular annual maintenance fee that we all pay. And the regular annual maintenance fee is somewhere between $1,000 and $2,000. And what you're doing for this $1,000 to $2,000 fee that you're paying is getting the right to reserve a mooring for maybe ten or 15 days a year, a very interesting financial arrangement there.

In this particular case, if you were to agree to this to be done on the Island of Catalina, Mr. Doutt has agreed that the lessee would agree to administer the program at no cost. If that's not permitted by the Code, then that's a moot point.

And obviously the details of the fee plan would be negotiated with the State Lands Commission staff.

If I could go to the next slide, please.
MR. WHILDEN: It's pretty apparent that the benefits are obvious health care services on Catalina to save lives and increase the number of visitors. If there's not adequate services there, the tour ship cannot stop. They cannot bring their passengers ashore and that would be certainly a detriment to the economy of Avalon.

Our program certainly solves the inconsistency of sublessee treatment by the State, and the issue of who actually owns our tackle. I don't think anybody wants to take our tackle away. And if they said to me you could have your tackle, I'd say no it's yours, I'll give it back to you.

On the other hand, it never has been clarified as to who really owns that tackle other than ourselves. The funds and appointments made by Bill Davidson come from a completely new source of income that we're proposing that doesn't exist today. It's a substantial amount of money. And if we don't take advantage of this, it will be lost forever.

And one other point I would make is that people involved here, as well as others, are active supporters of this island giving to it many times, joining the conservancy, real contributors to the future of that island and the ongoing operations.
Now, if I could go to the next slide.

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MR. WHILDEN: I think that you've recognized --

CHAIRPERSON BUSTAMANTE: Before you go to the next slide, you indicated earlier that the tackle was the owners, and that unless they decide to leave it, that then it becomes a property of the State.

Let's put it this way, can you provide a clear letter of who owns those moorings and what tackle and equipment belongs to whom so that the owners have a clear understanding of what that is?

EXECUTIVE OFFICER THAYER: The tackle, as a result of the operation of the Commission's previous lease, the '82 lease, became owned by the State, I'm going to ask Scott, Alan Scott, to confirm this, because he does the day-to-day stuff on this lease, became the property of the State December 1st, 1995.

CHAIRPERSON BUSTAMANTE: What about that equipment that was purchased after?

EXECUTIVE OFFICER THAYER: No equipment has been purchased after that, except for maintenance items that was purchased by -- that were purchased by the Island Company as part of the routine maintenance, not only these buoys but the other buoys that they owned.

CHAIRPERSON BUSTAMANTE: So Mr. Whilden, nor any
of the other owners would have purchased moorings or any
tackle equipment of any kind?

EXECUTIVE OFFICER THAYER: No, not since 1995. I
mean --

MR. WHILDEN: Let's see, we've had to, in my own
case, I think pay for a tackle upgrade where I had to add
weights to my mooring. I think I paid for those weights.
Doug, do you recall?

MR. ODEN: Not, since '95.

MR. WHILDEN: Not since '95, I didn't get charged
two years ago? I thought I did.

MR. ODEN: Prior to '95 we did.

MR. WHILDEN: That's right.

CHAIRPERSON BUSTAMANTE: I just want to make that
there's a question in the minds of the owners that it's
resolved. I mean, it's silly not to have it resolved.

COMMISSIONER CONNELL: Can I just --

CHAIRPERSON BUSTAMANTE: We have to have a
complete record, so if you'd like to come up and make the
comment quickly.

COMMISSIONER CONNELL: Mr. Chair, I'd like to ask
Dick a question before he leaves.

CHAIRPERSON BUSTAMANTE: Why don't we have the
gentleman make his comment quickly.

MR. DAVIDSON: The name is William Davidson
again. I asked the Catalina Island Company for such a letter when they came out with the revised lease form saying show me that the moorings are no longer owned by us, and I will probably accept that.

They did not. They changed the lease form back and gave us the old lease form we had before. The prior lease says the right of transferability stops, but it says nothing about the ownership of the mooring tackle. So I think if you conclude that we do not own the mooring tackle, then we're entitled to a letter saying the State now owns that mooring tackle and we can do with that letter what's in our best interests to do.

CHAIRPERSON BUSTAMANTE: Yeah.

EXECUTIVE OFFICER THAYER: We'd be glad to provide that.

COMMISSIONER CONNELL: Now, I have three questions.

CHAIRPERSON BUSTAMANTE: We'll follow-up on making sure that his --

EXECUTIVE OFFICER THAYER: Absolutely.

COMMISSIONER CONNELL: I have three questions. It appears going back to your letter dated November 19th that you've raised three issues. You discount the issue of public access. Although, I think myself and other Commissioners do think that that is an issue. We, I
think, would respectfully disagree with you on that.

The second issue is the inconsistency of the subleases as they relate to other parts of the State. And, Paul, are you saying that you either are not certain that they're inconsistent or you don't think they're inconsistent with other leases of the State.

EXECUTIVE OFFICER THAYER: I don't think they're inconsistent. But the primary reason that that is true is that there is not, in effect, rent control on other leases. That's what happened here is that the State has said that they want to make these buoys affordable and therefore it's restricted the amount that the Island Company can charge for the subleases. The Island Company could make a lot more money if we let them do that.

And so, as a result, this lack of transferability is linked to that, is taking away the transferring, because what had happened was the secondary market had sprung up to --

COMMISSIONER CONNELL: It placed the inefficiency of the rent control situation -- so is the problem of inefficiency? There's a, you know, black market for apartment units in a rent controlled environment as well.

EXECUTIVE OFFICER THAYER: It's exactly the same. In other places there may be transferability and there may be sales occurring, but the rates haven't gotten
comparable to this.

COMMISSIONER CONNELL: The third issue was this issue of benefits, which is a novel thought. I mean, I must tell you I admire the fact that you -- my children go to camp on Catalina, so I have a personal interest in always making sure the health care is adequate on the island where my children go to camp, but I then would like to go back to the fact that I don't think we have any legal way of maintaining a fund even if we were to impose this fee of keeping it on the island of Avalon.

That just isn't the way the State's finances work. You know, we have a singular general fund. And unless it is an appropriate and segregated account, which has to occur either through an initiative like the water fund or through statutory action of the Legislature, and a signature by the Governor, we don't run segregated accounts. It just isn't done.

So unless there would be a legal reason why this would become a trust fund, under the Lands' Commission account, this money would be swept into the general fund. And I don't see anyway that this could become a trust fund. I mean, I don't see how we could do that.

So it would seem to me that your generous offer would not -- all you would be doing is enriching the general fund. And I personally hate to see people
imposing a fee on themselves to enrich the general fund. It becomes like a tax that only you bear, because you won't get the benefit of the services that you hope could be delivered, as a result of the tax.

So while it's a very novel and generous idea, I don't think it would result in improved benefits unfortunately at Catalina.

MR. WHILDEN: I can't respond to that. And unfortunately our attorney, John Brisco, could not be here this morning. He is San Francisco available by phone. I can call him. He thought he had some ideas. I wonder if the staff and our attorney might not be able to solve that problem in some way through.

COMMISSIONER CONNELL: I don't think it can be solved by the attorneys. I think it's a financial -- the way the accounts and budget of the State of California are set up. If that was true, every department could set up subaccounts, and that would be a nightmare given, you know, the over 400 agencies and departments that we have.

That's why we have to, for obvious efficiency and management reasons, sweep the money into a general fund, so that we can maintain control over cash flow for the State. I don't think that there's anyway you can do this. I mean, do it on your own, but you know --

MR. WHILDEN: If I could comment on your three
points, by the way, I didn't discount public access. I believe public access is well maintained and protected. And I'll come to that in a subsequent slide.

And although, I don't want any new taxes, I do think that, from what I read in the newspaper, the State does have need for funds. So we're offering up these funds to intelligent public use, public trust use.

If I could now just continue with a couple of points here. We've talked about subleases being salable in other -- and tackle being salable in other areas of the State. Clearly, there's a table volume that I sent to you -- the proposal I sent to you that shows that. And I think we are being treated disparately here, although Paul seems to think that it's reasonable.

I would also make a second comment here and that is that although the statement is made that there was a great deal of public input in 1981 or 1982 about these moorings being sold privately, our recollection differs. We don't recall that. Many people were in that hearing, and what they heard is a great deal of contention in that hearing over should a chicken company run these moorings from a barge? Are there stealth moorings that someone is running and not generating the revenue for the State.

I'm told that for three weeks there was a delay in the hearings while divers went to look for stealth
moorings. I wasn't there, but the point of all of that
was that there was extraordinary contention in these
hearings. This decision came through somewhere in the
midst of that contention.

I don't think the public record clearly states
that there was a great deal of public uproar over this. I
think there was many other issues that really took the
headlines there.

Finally, I would make the point that no
compensation has been offered for the loss of our tackle. I
have never recognized, in any document that I've seen,
that my tackle now belongs to the State.

Instead, I read in the write-up here something
that I think is erroneous, and that is that we were
compensated for our tackle by a difference in the mooring
rate versus -- for tackle owners versus lessees. That
difference was always explained to us in that we were
responsible for our own maintenance.

So as Doug just said a moment ago prior to 1995
other than at the annual rigging time, if I needed a
repair on my mooring or if I needed to add new weights, I
had to personally pay for that as a tackle owner. And
that difference was about $100 a year and that was the
difference. It was not to compensate me for my tackle, I
believe. Doug; is that correct?
MR. ODEN: Yeah.

MR. WHILDEN: That was my understanding at least.

MR. ODEN: Mooring weights only. You had to pay for it if you wanted to have your weights.

MR. WHILDEN: So I think we would say that no compensation has ever really been offered for the loss of our tackle and the assignment, right, which we had purchased. And as various people have said there is a fair amount of money that has been paid for these assets.

I'll push on here so that we can continue the discussion.

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MR. WHILDEN: In my summary chart, there are two key points I would like to make. One is related to the public access, Commissioner Connell. We believe that the public access is well served. The harbor patrol does a very fine job. Catalina is interested in listening to the VHF radio over there, while they work mightily to be sure that people are given mooring assignments on busy weekends and so on.

As Mr. Arntzon said in the beginning, he used his mooring 17 days last year. I used my mooring three days this year. Mr. Stein, a year ago used his mooring not at all. His boat was in Mexico. My guess is that the typical sublessee uses his mooring or her mooring seven to
15 days a year, leaving it open 350 days plus a year.

I don't think there's any question that there's good public access for daily rental. The question then comes down to who should have control of being able to reserve a mooring. Should it be someone who's paid for that asset? And Bill Davidson very wisely put, "or someone who has now given it." It's important to recognize the numbers here.

There are about 688 moorings, as I understand it, that generate revenue, about 160 of those, I'm told now, are considered tackle owned moorings, which means there's 528 available for other lessees who come from the wait list or wherever. If you were to reject our proposal, indeed some moorings would be added to the wait list. Those moorings that would be added to the wait list would probably be about five a year versus generating a million dollars that could be used here for the public benefit.

We think that that's really a negligible benefit over a period of time. We think that the public access, as described by people being able to go over there and rent a mooring, is clearly protected. And the only difference is who gets to reserve the mooring out of a total of about 688 moorings.

The other point that's on the summary chart here is that if the tackle owner of the mooring is
relinquished, it goes to someone else without compensation. I've emphasized that a couple of times. We think this is really not fair.

If I could now go to my final chart which is recommendations.

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MR. WHILDEN: We think the proposal makes economic sense, is a new source of funds and treats the original purchasers fairly. It's interesting, we're looking for a right that it seems to us that other people in the State have, but we'd like to get it and we're willing to pay for that right, and that's the essence of our proposal. And, Ms. Connell, you did recognize indeed we are willing to pay.

We think that a proposal, if it could be directed to Catalina, does significantly benefit the island, which serves all of southern California, 15 million or the 30 million people of southern California go to this island. We think that the public access in the broad sense is protected. We would say let's proceed with the planning of incorporating this into the lease, which we otherwise have no objection to, Mr. Chairman.

We'd like to incorporate this into the lease. We'd like to say please don't treat us differently and allow us to participate in this plan.
That's it.

COMMISSIONER CONNELL: Thank you. Why don't we have rent control, as you term it, at these other moorings throughout the State?

EXECUTIVE OFFICER THAYER: My understanding is that the need hasn't arisen as in places like Catalina. Catalina is a destination point in southern California where the demand is great enough that people are willing to spend the amount of money that they have in the past for these buoys from the former owners here as well as in Avalon.

We just haven't run into that problem. There aren't that many other circumstances where there are destination mooring buoys. I'm thinking in San Francisco at Angel Island there are destination buoys there where people go. And I think that's --

COMMISSIONER CONNELL: What about Tahoe?

EXECUTIVE OFFICER THAYER: There's a fair number of owners who are there and some marinas, but that is a potential place that we might have that problem. There are these property owning associations that --

COMMISSIONER CONNELL: We've had the problem before at Tahoe.

EXECUTIVE OFFICER THAYER: Yes. And there are some illegal buoys in Tahoe that are going to be an
enforcement problem for the Commission for us in the future, but that's a good example of a place where the same situation may eventually exist. The difference, of course, there is that in southern California most people already have a place where they have their boat. They either have it in the yard or frequently it's in a slip. And then they're going across the bay to Catalina.

Whereas in Tahoe, people who launch -- you either launch a boat or trailer it up there, and that puts a limit on the size or you already have a place where you have a legal buoy or a legal slip to park your boat, so there isn't as much visitor destination problems of having a separate set of buoys where people are traveling to.

COMMISSIONER CONNELL: Because access is more limited.

EXECUTIVE OFFICER THAYER: That's right.

CHAIRPERSON BUSTAMANTE: Okay.

MR. WHILDEN: Thank you very much.

CHAIRPERSON BUSTAMANTE: Bob Graham.

(Applause.)

Mr. Trang and then Richard Landes and Rose Ellen Gardner.

MR. GRAHAM: Thank you. I'm Bob Graham. I'm a mooring sublessee. I generally agree with a good deal of what was said, but I have a few more comments I'd like to
Again, I think the Island Company, the mooring -- the Catalina Mooring Association, or whatever they call it, that maintains the mooring, they do an excellent job. I have no argument about that. I don't think there's any question that the organization that's in place, the Island Company and the conservancy, should be renewed as the lessees from the State of California. There's really no argument about that.

The basic argument has been, in my mind, is whether or not we're dealing with mooring tackle owners properly. As one, I speak from some experience. When I first started going to Catalina, as a youngster, and I'm 75 now, so that's some time ago, you either put down an anchor or there were occasional buoys you could tie up to.

When I bought my mooring in 1976, 25 years ago, I bought it because going to the island meant you either were a poacher or an owner. And if you were a poacher, you were subject to being thrown off the mooring you picked up. If you didn't own it and the mooring owner arrived, he could kick you off at night any old time.

But it didn't cost anything to the poacher to use a mooring. Now, that's not true in Avalon, I'm sure. But on those places in the island where we went to to be boaters, access was totally free. You picked up a mooring
and it didn't cost anything. Now, a little while later on, we were given a different kind of a lease structure where if we would allow the Island Company or whoever was operating the moorings at the time, to allow them to rent out our moorings, then they would give us a lesser cost to maintain the mooring. So they were encouraging us to let them rent our moorings out at no compensation to us.

So those of us who decided what we really want to do is to keep these moorings free for public access said no we'll pay the higher price, so that the public had access for free. That no longer exists. There are no free moorings, and there's no free lunch at Catalina, but there was before they decided to start having people allow their moorings to be rented out.

Now, we don't have a choice. You go to Catalina, either you own your mooring and you call ahead and say I'm going to be there or you pay for it. And I think if you talk about fairness, if you talk about public access, that's what they have killed is really public access, because Joe Six-pack can't afford to come over there and spend $16 or $20 a day just to hang his boat on a mooring.

Now, there are some kind of interesting things that have been spoken to. And it appears that there's a great interest on the part of our Commission in enhancing whatever they can, the budgetary situation in California.
COMMISSIONER CONNELL: No, no. You got me wrong. I don't think you should have to enhance the budgetary situation. Why should you, out of all Californians, of which there are 32 million of which last count 16 million paid some form of taxes, why should you have to pay anymore than anyone else.

My concern is I think you have a novel proposal here, but the money isn't going to go back to Avalon. The money is going to come to the general fund of the State of California and you will not see an enriched benefit in Avalon.

MR. GRAHAM: I think I'm addressing that. If the funds go to the State of California, it helps everybody in California, but those funds won't go to California if the proposal that Mr. Whilden has put forward is rejected.

COMMISSIONER CONNELL: Yes. I agree the funds would come to California, but the second half of Mr., is it, Whilden?

MR. WHILDEN: Whilden.

COMMISSIONER CONNELL: Whilden's proposal is that the money would be reverted back to Avalon to help the hospital and the dive chamber and the other facilities that exist on Avalon. That half would not happen. I mean we're always happy to take more money in California. The problem is we wouldn't be directing it back to Avalon.
MR. GRAHAM: I understood what you said, but the State of California would benefit from this program as proposed. I don't have anything more to say.

CHAIRPERSON BUSTAMANTE: Thank you, sir.

(Applause.)

CHAIRPERSON BUSTAMANTE: Mr. Trang.

MR. TRANG: My name is Frank Trang, I'd just defer to Mr. Whilden's presentation.

CHAIRPERSON BUSTAMANTE: Thank you, sir.

Mr. Landes.

MR. LANDES: Good morning, Mr. Chairman and Members of the Commission. Thank you for the opportunity to address you on this matter. My wife and I own a mooring in Cherry Cove, and her family has had an interest in that mooring since the mid-1950's. I wanted to make my presentation very brief this morning in light of the comments made by Mr. Frost, Mr. Davidson and Mr. Whilden.

I disagree with the staff conclusion that compensation has been paid to the owners of the moorings. I think the moorings obviously need to be looked at as an asset in place with value in place not merely salvage value, and this is a common question in appraisal practice as you well know.

I won't belabor that point, but I simply wanted to raise the issue that it's not merely salvage value that
we're talking about here. As many of the other speakers have mentioned, it is a form of ownership, which is very, very difficult to describe, but nevertheless it is something in that bundle of sticks, that bundle of rights that constitutes ownership of any asset.

One of the things that's included in that bundle of rights is the right to pass along that asset to your family, to your children and possibly to convey it. I also wanted -- before I belabor that point, I wanted to mention that there's comments about certain rights that were extinguished as of 1995 at the conclusion of the prior -- perhaps it was 1996 at the conclusion of the prior 15-year lease.

I would point out that we are and have been in a holdover position and continue, at this stage, to be in a holdover position. And I would argue that all the provisions of the lease were held over and none of them expired at the conclusion of the base term. So that's another point that might be looked at. I believe many of those rights are being held over as well as the basic terms.

My point is that there should be a recognition of the ownership rights. There should be an ability to pass those along to family members. And if there is a right of conveyance, which I believe there should be on these, I
personally would not be opposed to some type of transfer fee as Mr. Whilden mentioned. I understand the difficulties that Commissioner Connell has raised about not going to Avalon.

It seems to me that we're talking here of the tidelands asset. It seems to me this is tidelands revenue in a sense. It seems to me that, in fact, with some effort, the funds could be set up to be retained as tidelands funds, perhaps they could be -- portions of them could be in turn used for Department of Boating and Waterways Grants or something analogous to a tidelands, and within the scope of a tidelands purchase.

So if the Avalon proposal doesn't work, my point is that I would ask you and the staff to be creative and see whether we can find a suitable use for these funds other than Avalon hospital that would promote tidelands uses, that would promote boating, and at the same time recognizing the possible revenue that Mr. Whilden mentioned to you that could be raised from either a flat fee to be charged at the time of transfer or a percentage against a minimum fee.

And those monies could be used for tidelands trust purposes. I would encourage you to consider that alternative. But my main point in appearing here, like so many other people in the audience today, is to express to
you our very deep feeling that this is an ownership right. We purchased it in various types, various ways and various years.

It may not fit the norm, but just like at Big Bear Lake, there's some people who have cabins on what used to be forestry land. I mean there are these historic things that do arise and that does not invalidate the fact that they are property rights. And I would respectfully ask you to recognize that in your consideration.

Thank you very much.

(Applause.)

CHAIRPERSON BUSTAMANTE: Paul, for the purposes of clarification, can you give us a little clarity on what is purchased when they have both purchased ownership, what is it that they've actually purchased?

EXECUTIVE OFFICER THAYER: I think it's probably in the past, and the transfers that occurred under the most recent lease up until 1996 involve purchase of the tackle, but predominantly, it was the purchase -- the amount of money reflected the value of a sublease that could be obtained immediately.

CHAIRPERSON BUSTAMANTE: So that area of water was not purchased?

EXECUTIVE OFFICER THAYER: It wasn't purchased, but they purchased the sublease. They purchased the
CHAIRPERSON BUSTAMANTE: They didn't purchase, in perpetuity, the area in which water flows back and forth through? They don't purchase that area forever?

EXECUTIVE OFFICER THAYER: I think that under the existing procedure that was established before '82, that when they purchased a mooring, they also purchased a sublease, and a sublease that could be transferred in the future to whoever they wanted to transfer it to.

And so I think their primary value of what they purchased was something under $10,000 worth of tackle. And people in this audience know much better than I how much it costs at the time they were put in and that kind of thing. And the rest of the money was for public -- a right to use public lands.

CHAIRPERSON BUSTAMANTE: So what they purchased were moorings or property, that type of property, that type of tackle, and that tackle, those moorings, have value at the end. The issue of whether they are an asset and whether they should be looked at in terms of their valuation is either salvage or some other type of cost.

EXECUTIVE OFFICER THAYER: That's right.

CHAIRPERSON BUSTAMANTE: And the evaluation of that shouldn't it be for the actual value and there should be an opportunity whether or not the Island Company says
we'll give you X amount because the value of those costs
or if the offer is not -- the owner's -- I mean, it seems
like we're taking over the moorings and the equipment,
then we should pay something other than just some salvage,
is what the term was, some salvage of cost.

    CHIEF COUNSEL RUMP: If it's helpful in reviewing
some of the records of this item when it came up last
before the Commission, and particularly as the
Commissioners were going over the specific details, their
meeting of December 17th, 1981 addresses some of that
concept.

    Maybe if you hear a little bit of what they were
talking about at the time. Commission Morgan, which was
the representative for Finance says, "We struggled at the
last meeting to try and resolve the difference between the
public's right to use this facility and the rights of
people who I consider to be trespassers."

    So these were dropped without permission from
anyone. So, in effect, her consideration said that
basically, "...but they've been there a long time. And in
my feeling allowing these people an opportunity to have a
lease, a guaranteed right of a lease, if they wanted to,
that we extended ourselves sufficiently to take care of
their concerns."

    So from her perspective these people were given a
right and a benefit that perhaps they didn't have to buy, have an opportunity, a lease or a sublease from the Commission to begin with. And a lot of the things we're talking about, compensation those clearly were items that were discussed and considered.

In fact, the Commission was debating whether or not to grant the transfer term of six years, 15 years whatever. They finally decided on 14 years as compensation in a way for those that made a purchase somewhat without much to hang a property right on to give them an opportunity to recapture that profit if they wish to. So they were put on full notice of each annual renewal that they had that right.

In fact, Chairman Cory said, "I'm willing to vote for the 14 as long as we get it resolved that the future Commissioners don't have the same problem we do. I'm not denying your side of the argument. It's just that when I meet with people who paid $30,000 and give them a maximum time to amortize it, which I consider to be a foolish expenditure, that we provide more equity."

So it's precisely to the point what the Commission tried to do previously to balance all of the arguments we've heard today by giving them the opportunity of a one-time transfer to reduce rental rate and also giving them lease status, which they formally really had
historically.

CHAIRPERSON BUSTAMANTE: Commissioner Porini.

ACTING COMMISSIONER PORINI: Yes. So one of the points that you made, people got notice every year, that this 14 years was going to expire and when it was going to expire?

CHIEF COUNSEL RUMP: That is correct.

EXECUTIVE OFFICER THAYER: It was part of the renewal lease that they have to sign every year. And it's stated that they had this last chance to transfer one more time before the 14 years were up. And then that would be the end of any opportunity to transfer. They weren't going to get kicked off their buoys. They would continue to have the ability to stay at that buoy, as long as the current lessee held that lease, but they just wouldn't be able to transfer it.

COMMISSIONER CONNELL: So they had been notified for 14 years is what you're saying, since the previous Commission -- actually, it's longer than that, because it was a 14-year lease, plus, you know, a period of years that's expired since then, so it's another five. So it's actually about 19 years, 20 years, is that what you're saying?

CHIEF COUNSEL RUMP: The lease term -- the transfer termination rate was buy-in expressed in a number
of years. And the thought of the Commission was it was a 15-year lease. It gave them 14 years, because at the termination of the 15-year period, they wanted no further discussion about who could transfer and who couldn't.

So it wasn't continued over. That date it became final, there were no more transfers after December 31st, 1995.

COMMISSIONER CONNELL: So 1995 was the final date, everyone knew that at that time?

CHIEF COUNSEL RUMP: That's correct.

COMMISSIONER CONNELL: So any of the speakers who have referenced any other understanding were misinformed at the time they signed this?

CHIEF COUNSEL RUMP: Or not reading the various things which they received annually.

COMMISSIONER CONNELL: So we have definitive reason to believe that everyone who signs a legal agreement here on a lease would be notified that that was the condition at the time of the signature of the lease?

CHIEF COUNSEL RUMP: That was exactly what the Commission wanted. That is exactly what was done.

COMMISSIONER CONNELL: So everyone in the audience then would have known that they were signing that kind of an agreement.

CHIEF COUNSEL RUMP: I would be shocked if they
didn't.

COMMISSIONER CONNELL: So that is our understanding though, that people were so informed. So, at that time, then they knew they did not own quote, "own" any tackle, is that your position?

CHIEF COUNSEL RUMP: The ownership of the tackle -- I'm looking at the lease document. There are references that at the termination of the lease, it would become the property of the State.

To be honest, I think this is a Red Herring issue, because whether it's owned or not, what we're talking about here is a transfer right. There is no further transfer right whatsoever. So ownership of tackle is a relatively minor matter. We can look into that research, that would give them the definitive answer, but ownership makes no distinction about transfer.

COMMISSIONER CONNELL: So the issue you're saying is one of transfer, at this point?

CHIEF COUNSEL RUMP: That seems to be what the essence of the proposal is is transfer right.

EXECUTIVE OFFICER THAYER: And that goes to the question of the Chair about what was being bought when they were doing this. It was a small amount of money was being paid for physical improvement, and the rest of the money was being paid for a sublease, a transfer or
sublease of State property public property.

COMMISSIONER CONNELL: And since 1995 that hasn't been possible?

EXECUTIVE OFFICER THAYER: That's right. And it was available only once previously to that, so for many --

COMMISSIONER CONNELL: So if we were to be voting today on your staff recommendation, your argument would be, and the Attorney General should speak to this, the Attorney General's representative, that there would be no taking and therefore no compensation; is that correct?

ASSISTANT ATTORNEY GENERAL HAGER: That's correct.

COMMISSIONER CONNELL: So that it would be the legal position of the State, that there is no taking and no compensation if we take a vote on the staff position today?

ASSISTANT ATTORNEY GENERAL HAGER: That's correct.

CHAIRPERSON BUSTAMANTE: We have one last speaker, Rose Ellen Gardner for brief remarks.

MS. GARDNER: Good morning. I'm Rose Ellen Gardner, president of the Santa Catalina Island Conservancy. And I would just like to speak just briefly in support of the staff recommendation regarding the lease. Over the past 26 years that the conservancy has
owned 88 percent of the island and 48 miles of coastline, we have learned how important a well-run mooring operation is to our efforts in carrying out our stewardship mission. We feel that the lease you are considering today provides for that operation. I am concerned somewhat that if our relationship is terminated, there is no lease, that there will be no service to the moorings such as shore boat and trash pickup and collection, items like that.

I think that the issues that you're talking about today, addressing mooring ownership are really separate from a lease operation. And I'd like to urge that you accept the staff recommendation.

Thank you.

CHAIRPERSON BUSTAMANTE: Thank you. Okay, we've had nine people speak against and one person -- well, two people kind of, two people for the administration.

Is there any other questions by the Commission? Is there a motion?

ACTING COMMISSIONER PORINI: I would move approval of staff's recommendation.

COMMISSIONER CONNELL: I'll second.

CHAIRPERSON BUSTAMANTE: There's a motion and a second for the staff recommendation on Item number 87. Let the record show that it's a unanimous decision on Item number 87.
We have one other item on, Item number 89. Can we postpone that? Do we have to do that today?

EXECUTIVE OFFICER THAYER: Yes, sir, we may. That's an informational item about our audit program, but I'm sure we're capable of giving that at a future meeting.

CHAIRPERSON BUSTAMANTE: Yes. Why don't we go ahead and do that. I don't have any other items. Do we have a closed session or anything?

EXECUTIVE OFFICER THAYER: No, sir. There is not a closed session today.

CHAIRPERSON BUSTAMANTE: Okay. Just a comment. It sounds as if there are some folks here who believe that they have perhaps some legal recourse. I would hope that staff would provide them with all documents, all clarifications to hopefully not involve themselves in a legal matter. But if they feel that they have a legal course to follow that we are supportive and cooperative with their efforts to give them any information that is public information that they should have.

EXECUTIVE OFFICER THAYER: Yes, sir.

CHAIRPERSON BUSTAMANTE: Okay. If that's it, if there's nothing else, meeting adjourned.

(Thereupon the State Lands Commission meeting adjourned at 11:45 a.m.)
CERTIFICATE OF REPORTER

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of December, 2001.

JAMES F. PETERS, CSR, RPR
Certified Shorthand Reporter
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