APPEARANCES

COMMISSIONERS
Kathleen Connell, Chairperson
Cruz Bustamante, Lieutenant Governor
B. Timothy Gage, Director of Finance, represented by Annette Porini

STAFF
Paul Thayer, Executive Officer
Jack Rump, Chief Counsel
Paul Mount
Alan Scott
Jim Trout
Kirk Walker

ALSO PRESENT
Alan Hager, representing the Attorney General
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CHAIRPERSON CONNELL: Good morning. I call the State Lands Commission meeting to order, and two of the three representatives of the Commission are present. I'm Kathleen Connell, the State Controller and Chair of the Commission. And I am joined today by Annette Porini from the Department of Finance. We hope to be joined shortly by the Lieutenant Governor, Cruz Bustamante.

For the benefit of those who are in the audience who have not attended past meetings of the State Lands Commission, it is the purview of this Commission to deal with the property and mineral rights of the State of California.

And if you wish to speak on an item at this Commission meeting, we'd ask that you fill out a speaker card and turn it in to us, so that you can be acknowledged. If you do not have a speaker card, you will not have an opportunity to address the Commission.

The first item of business today is going to be the adoption of the minutes from the Commission's last meeting. May I have a motion to approve the minutes?

ACTING COMMISSIONER PORINI: Move approval.

CHAIRPERSON CONNELL: Thank you. That is unanimous.

The next order of business is the Executive
Officer's report. May I have that report.

EXECUTIVE OFFICER THAYER: Madam Chair, I just have several brief items. I wanted to report on our progress of putting more items for each Commission meeting on the web site, so they're available more generally to the public. I know that's an item of concern both to the Chair and other members of the Commission, that we, as broadly as possible, involve the public in our function. And we're taking advantage of our web site to do that.

At our last meeting, all of the regular calendar items were placed on the web site so that members of the public could read the staff report itself without having to receive it in the mail. We've done that, again, for this meeting, and had hoped to put all of the Consent Calendar items on as well, but we're running into both legal and potential security problems in the wake of 9/11 that we want to consider fully before we take that additional step.

Nonetheless, some of the selected items that we thought there was more public interest in from the Consent Calendar have had the staff reports made available through the web site for this meeting. And I'll continue to report on that as we progress on that.

CHAIRPERSON CONNELL: I appreciate that. Now, the next order of business I think -- did you have
anything else?

EXECUTIVE OFFICER THAYER: Just two other quick things. I just wanted to note there were two, sort of, ongoing environmental problems that the Lands Commission staff has been involved in. It might not necessarily ever involve the Commission itself, but I thought the Commission should be aware of.

The first is a mystery oil spill off of the coast of northern California. It's gotten a lot of press, oiled birds have shown up on the coast, and there doesn't seem to be any specific ship involved. There's some thought that it might be a sunken vessel, a vessel that had gone down before, and the recent storms had stirred up the wreck and brought oil out.

Our staff is working closely with the Department of Fish and Game to help identify the source of that oil and determine what can be done about that.

And the other one that I wanted to highlight is that the recent invasion of the so-called killer algae, that caulerpa taxifolia. This is an algae that people use in their aquariums. Unfortunately, some people evidently dumped it out into the waters in southern California. And examples of that species have shown up in Huntington Beach and Agua Hedionda.

Biologists are very concerned that the effect of
that, it doesn't kill other species per se, but it takes over the entire area. So all of the plants, the native plants, that fish and other animals depend upon get crowded out. In the Mediterranean, thousands of square miles have been destroyed through this algae.

CHAIRPERSON CONNELL: How do you clean it up?

EXECUTIVE OFFICER THAYER: It's very difficult, because it's like, is it Methuselah, that if you cut off one little piece and it shows up somewhere else, it can start again.

What they're trying to do is make tents over each plant and then they introduce chlorine in that tent, and the tent concentrates the chlorine around the algae and can kill it, and keep it from moving out and killing other plants around it. They've had some success in doing that, but they still haven't cleared it up.

Our involvement has to do with the legalities of boat traffic. There are some sport boat users of the same waters who are concerned that if they're closed from using those waters that they may never be able to go back. We're working with the locals to try and work out legal arrangements so that this algae can be dealt with and then everything can go back to normal.

CHAIRPERSON CONNELL: Going back to the oil, the mystery oil spill, wouldn't we have a map of all of the
sunken vessels? I'm surprised. I thought we had that
discussion many years ago, that we had a map of sunken
vessels for obvious reasons. Why would we not have had
that ship identified if there is such a ship?

EXECUTIVE OFFICER THAYER: I think it's known
where some of these wrecks are, but it's not clear whether
or not that oil is coming off the wrecks. And so they
need to take samples of that oil and compare it with
samples that they've already gotten off those wrecks and
that kind of thing.

So you're absolutely right, some of the
information we have on locating these wrecks is going to
be useful in pursuing this issue, but it's -- the other
problem is identifying whether or not that oil came from
that wreck.

CHAIRPERSON CONNELL: How deep is the ocean at
that point?

EXECUTIVE OFFICER THAYER: I'm not sure. I don't
know. I'll find out, but, again we're devoting --

CHAIRPERSON CONNELL: Annette, you had a
question?

ACTING COMMISSIONER PORINI: Yes. One of the
articles that I read indicated that there was also the
possibility that there might be some kind of natural
fissure that was emitting oil. Do we have geological maps
where they know where these are, or it's just guesswork, at this point, in terms of being able to locate?

EXECUTIVE OFFICER THAYER: Those fissures, of course, are very common off of Santa Barbara. And those of you that have gone out to oil platforms probably flew over places where the gas and oil were coming up. But there isn't as much of that in the San Francisco area.

And to some extent because that hasn't been -- oil hasn't been produced there, there isn't as much knowledge about it, but I'm sure that's something that we can check out as well. And if necessary, we would involve our engineers like Paul Mount and the others from the Long Beach office who may have expertise and others in state government.

CHAIRPERSON CONNELL: I really would like to play a leadership role here, and I'm sure that Annette would join me in that, because this is disturbing. I mean, we certainly do want to have this incident. We've tried so hard along the coastline, particularly with the way we've taken, I think, a very strong stand on the off-shore oil wells and maintenance of those off the southern California shore, I'd hate to have this incident be a precursor of other things that might come.

EXECUTIVE OFFICER THAYER: Exactly. As you know, we have, as a whole division, devoted time to preventing
oil spills at oil terminals. And they take a lot of pride in their work. We made a significant difference in reducing the number of spills and the quantity of oil that's spilled.

And so we think some of that expertise, as well as, the expertise in our Mineral Resources Management Division that manages oil production could be useful to the State in trying to get to the bottom of this. And we'll continue to work with the other agencies and offer that expertise.

CHAIRPERSON CONNELL: Anything else?

EXECUTIVE OFFICER THAYER: That concludes my report.

CHAIRPERSON CONNELL: Thank you, Mr. Thayer.

Now, the next order of business will be the adoption of the Consent Calendar. I would like you to indicate which items have been removed from the Consent Calendar, if you will, please.

EXECUTIVE OFFICER THAYER: There are no items to remove from the Consent Calendar.

CHAIRPERSON CONNELL: Is there anyone who wishes to speak on an item on the Consent Calendar?

ACTING COMMISSIONER PORINI: Move approval of the Consent Calendar.

CHAIRPERSON CONNELL: Thank you. It's been moved
and seconded.

Now, Items 46 and 47 are off calendar. They will be heard at a future hearing; is that correct, Mr. Thayer?

EXECUTIVE OFFICER THAYER: Yes, Madam Chair.
CHAIRPERSON CONNELL: We then have three items left. We have Item 48. We have Item 49, and we have Item 50.

Now, I notice from my speaker notes here that we only have one person on Item 49, and I would like very much to handle, if it's all right with you, Ms. Porini, to move Item 49 forward so we can complete that, so that one speaker can leave, because we have numerous people who wish to speak on the earlier item.

ACTING COMMISSIONER PORINI: That's fine.
CHAIRPERSON CONNELL: So if we can move the agenda. Let's handle Item 49 and 50 first, and then we'll move back to 48.

Item 49 is consideration of Bolsa Chica restoration project. And let's hear the details from the staff on the Final EIR, and consider adoption of the proposed project. Can you begin that presentation, Mr. Thayer, and introduce your staff people and joining us is the Lieutenant Governor.

Good morning.

COMMISSIONER BUSTAMANTE: Good morning.
CHAIRPERSON CONNELL: We had just moved the agenda, so we are considering Item 49 and 50 first, because there is limited interest in that and then we'll go back to 48 where there are a number of speakers.

All right, Item 49.

EXECUTIVE OFFICER THAYER: Thank you, Madam Chair. Presenting this matter for the Commission from our staff will be Jim Trout. Jim Trout is the former Assistant Executive Officer and is continuing to work with us as a retired annuitant. He's worked on this project for a long time and he couldn't stand to leave until we finished it.

(Laughter.)

EXECUTIVE OFFICER THAYER: We're very glad to have him working on it. And, I believe, Jack Fancher from the U.S. Fish and Wildlife Service will also be speaking on this matter. He's the one who put in the speaker's slip.

CHAIRPERSON CONNELL: Okay, fine.

MR. TROUT: Thank you. I don't know whether that indicates either dedication or an inability to complete work.

(Laughter.)

MR. TROUT: Five years ago the Commission approved a historic series of agreements involving the
ports of Los Angeles, eight State and federal agencies, which set the stage for the restoration of some significant and rare wetlands in southern California, in Orange County in the city of Huntington Beach.

The agreements provided that the project would be directed by an inter-agency agreement, four federal and four State agencies. In the past five years this group has conducted a number of public workshops in the area, completed engineering studies, briefed local government, completed an ecological inventory or survey, and a significant joint federal State environmental document.

The project that is before you is the result of all of that work. It was presented to the Coastal Commission at a workshop to be followed later in November of 2001 with a Coastal Commission hearing.

The Coastal Commission basically agreed that the project was consistent with the California Coastal Management Program. The project that was recommended by the Steering Committee was modified slightly by the Coastal Commission to require some final sediment dredging and a disposal plan to be submitted to them, a beach monitoring plan modification, some additional biological monitoring and the reduction of Pacific Coast Highway over the inlet from six to four lanes.

We have responded to all of those. And the
project we're asking you to approve today would be amended
by these requests of the Coastal Commission.

We have letters of support from the Bolsa
Conservancy, the Amigos de Bolsa Chica and the
Environmental Protection Agency. And we have previous
support from the City of Huntington Beach. I'm going to
ask Jack Fancher with the Fish and Wildlife Service to
just take a minute to summarize the project that we're
asking you to approve, since he has done so with the
Coastal Commission previously and would provide a very
consistent and brief presentation.

CHAIRPERSON CONNELL: Thank you. And, Jack,
would you identify yourself for the record.

MR. FANCHER: Good morning, Madam Chair and
Commissioners. I'm Jack Fancher. I'm the Bolsa Chica
project manager for the Fish and Wildlife Service,
Carlsbad field office.

As Jim said, we worked together for quite awhile.
And when is the last time you've heard of eight agencies
working so closely together and so well? One of the roles
that the Fish and Wildlife Service has is the NEPA lead.
We're NEPA co-lead with the Corps of Engineers. And since
it's a joint document, partnered with the State Lands
Commission.

I expect there's a strange bedfellow story in
there somewhere. But nevertheless, I think we're all very proud at our success at reaching this day.

This is your day. This is the conclusion of final approvals and the beginning of construction. Construction, of course, begins with final design, so we're a year or more away from construction in throwing dirt.

But this is the day, this is the time to step forward, declare our progress with the project. It took longer than planned because of the very detailed and careful work we've done that's in the EIR/EIS. As Jim mentioned, the reanalysis of all of the engineering issues was using state-of-the-art and best-available technology and data.

We examined a range of alternatives for restoration. As you know, Bolsa is a very damaged place, 100 years of mistreatment of the wetlands has greatly diminished its biological diversity and its biological values.

It once was a tidal salt marsh with an ocean connection all its own. It's been cutoff from the ocean. The ocean life, the moderating and regular influence of the tides dilutes, reinvigorates, enlivens, it brings biological life in a way that the isolated water regime of today's Bolsa Chica does not do.
There are some aspects of Bolsa Chica that are worth keeping, some biological aspects. Those complications, if you will, and the complications of the man-made features, such as the road, the State beach and the oil field, greatly complicated our analysis of alternatives.

Preventing, putting it back to its historic condition exactly, it's not practical. It's not possible to put it back the way it was historically because of the these modern day complications.

We analyzed the -- many alternative ways to reinvigorate the biological condition, to make it better for fish and wildlife and found that the best way to restore the biological conditions for fish and wildlife was through reintroducing tidal influence.

Our engineering tells us the only way to achieve tidal influence is with an inlet. An inlet, new inlet, across the state beach and the coast highway creates engineering problems and complications that are essential parts of the EIR/EIS, which we spent a great deal of time reanalyzing and documenting.

Once you restore tidal influence, Bolsa Chica will come back to life. That is, the tidal waters will recreate inter-tidal mudflats or shore birds; fish, the fish community, which is virtually nonexistent in Bolsa
now, will come back. It becomes a nursery for marine fishes.

They actually enter the coastal wetlands to grow large and go back out into the ocean. California Halibut is of particular interest to recreational fishermen. Of course, there are the birds with the tidal mudflats and salt marsh, shore birds, and large numbers of water fowl, fish eating birds in great profusion.

We also propose to do things that are very good for threatened or endangered species, the bird grass shelf will directly benefit the Light-footed Clapper Rail, the most endangered Pacific Coast mainland bird, an extremely rare and very endangered species, the Light-Footed Clapper Rail, as well as California Lease Turn, the Western Snowy Plover, which is a federally listed threaten species, and Belding's savannah sparrows, is date listed an endangered species.

The biological benefits of this tidal restoration are very large. The environmental impacts are minimal and fully mitigated.

This document is thorough and complete and we're preparing the Record Of Decision and the Corps permit now at this time.

The proposed alternative has the largest biological payoff and the least impact of all. We hope
you agree and that certify the EIR/EIS as complete and adopt the proposed alternative.

Thank you.

CHAIRPERSON CONNELL: And thank you, Jack, for being here today. I thank both of you for your presentation. Thank you, Jim, for your commitment and your continuation, despite your retirement status on this issue.

Both Annette, and in the capacity of Gray's role as Lieutenant Governor and now as Governor, has played a role in Bolsa Chica. Those of you who are in the audience may well remember this was one of the really precedent setting agreements between the federal government and the State. I certainly was proud to be a party to that early on in the Commission's history. I think it was '97, was it '97 that we did that --

MR. TROUT: Yes.

CHAIRPERSON CONNELL: -- signature down in Huntington Beach? I remember that meeting well. The Department of Interior was on the phone trying to get permission to -- Cruz, this was an interesting thing, we had the Department of Interior people flew in to sign the agreement, but Gray and I didn't agree. So we were last minute negotiators and inked some amendments in green and signed our signature. But that meant the Department of
Interior had to get approval from Babbit back in D.C., got him on the phone and he agreed at the final moment to sign that agreement. And so his representative signed it.

And it was a very, very important day for Bolsa Chica. I want to thank all the people who are not here today on behalf of the Commission for the work that they did, and, again, congratulate our own staff for the fine work that they've done, for the cooperation which has been reflected not only in the Department that you represent, Jack, but in all of the federal agencies and the other State agencies who played a role here.

It was really a remarkable point in time to get us to move forward. The community has been just extraordinary in their support and their persistence and their unwillingness to allow this to collapse at any point. I think there were negotiations that were preceded by ten years my own involvement on the Commission in 1997.

So I am simply here at the moment in time in which this has been completed. So I thank all of those people for the many decades of work that they have done that has brought this to today's action.

Mr. Bustamante, do you have any comments or questions you'd like to address?

COMMISSIONER BUSTAMANTE: I'd like to find out what is the total cost of the restoration projected to be?
MR. TROUT: We have an engineering estimate that shows that the construction costs would be about $63 million. The overall costs would run about $78 million, but we won't know until we have the final engineering design done whether these preliminary estimates are correct or not.

COMMISSIONER BUSTAMANTE: How much has been currently allocated for this project?

MR. TROUT: There's about $56 million available right now.

COMMISSIONER BUSTAMANTE: So we're about $22 million short.

MR. TROUT: We are short -- if the engineering estimate we have is correct, we're short as much as $22 million dollars, that's correct.

COMMISSIONER BUSTAMANTE: It could be more?

MR. TROUT: I doubt it. It could be, of course.

COMMISSIONER BUSTAMANTE: And where are we anticipating receiving that $22 million from?

MR. TROUT: Well, the steering committee agencies have been working at both the federal and State level to find some additional money. We've been looking at potential bond sources. The staff of the Commission has submitted a budget change proposal to the Department of Finance for consideration. The federal agencies are
reviewing their budgets. We're looking at various environmental and ecological support groups that might provide grants.

But until we have the engineering design completed and the final estimate, it's very difficult to go to someone and say we need exactly this much money. We're working on the shortfall right now.

COMMISSIONER BUSTAMANTE: On page 6 of the calendar item it indicates "...the proposed project will require an additional $30 million to $50 million. Is that --

MR. TROUT: That would be absolutely worst case. We don't expect that, but we've tried to indicate the potential magnitude of it.

COMMISSIONER BUSTAMANTE: There's a huge difference between 22 and 50. What does that mean by worst case?

MR. TROUT: I think when we put some of this together, we were sort of reaching and expecting it to be considerably less. Right now, based on the funds that we have, we're short $22 million.

COMMISSIONER BUSTAMANTE: Okay. Is there any other clarification of the writing of the 30 to 50 million?

EXECUTIVE OFFICER THAYER: I'm not sure why
that's in there, because we've been --

    COMMISSIONER BUSTAMANTE: I'm not sure either.
    EXECUTIVE OFFICER THAYER: It's much lower than
    that. We'll correct that for the record.
    COMMISSIONER BUSTAMANTE: Okay. Then I'll assume
    that the staff is on record saying it's about 22 million.
    EXECUTIVE OFFICER THAYER: That's correct.
    COMMISSIONER BUSTAMANTE: Okay. Now, there were
some concerns that not every environmental group had
supported the project. There was a group of, oh, surf
riders that were concerned about beach erosion and other
kinds of things. Was that resolved?
    MR. TROUT: As far as we know, it is resolved.
They were concerned primarily about water quality, to some
extent regarding beach erosion. They did not appear in
the final Coastal Commission action to oppose it. And we
continued to work with them.

    So as far as I know, we have done studies that
indicate that water quality will not degrade the existing
condition or cause more beach closures, and the
engineering studies indicate that there will be no
significant change in the search.

    COMMISSIONER BUSTAMANTE: Okay. I know that a
lot of the environmental groups did work with you and try
to get off of that closed position and into either a
support or neutral position. And I hadn't quite heard yet if this particular group had finally reduced -- we hadn't heard from them since the new work has been done. And that was passed by the Coastal Commission?

MR. TROUT: That's correct.

COMMISSIONER BUSTAMANTE: Okay. Otherwise, with everything else Madam Chair, I agree this is a great program. It's a great project. Everybody is to be commended. I just like to see a little clearer how we're going to get the $22 million to make sure that we don't have something that's going to be half finished.

EXECUTIVE OFFICER THAYER: I think your concerns are well expressed, and they're ones that the steering committee has been working on for the last several years. I think to some extent the view is that Bolsa Chica is the last greatest wetland in Southern California. And the fort money that's largely going to restore this is going to get the bulk of the work done, but I don't think any of the State or federal agencies believe that they will let this thing become half finished. Too many people are interested in seeing this fixed.

COMMISSIONER BUSTAMANTE: Okay.

CHAIRPERSON CONNELL: Annette.

ACTING COMMISSIONER PORINI: Well, yes, I thank the Lieutenant Governor for his questions with regard to
the continuation of the financing. And so I'll take my Department of Finance hat off and put on my State Lands' hat, and just say that I think this is a fabulous project and it's wonderful that it is finally coming to fruition, and personally thank Mr. Trout who gave up the better part of the day to take me through the wetlands and to really understand it.

I spent a little time watching birds, although, you know, I can't claim that I know all of the different birds that are there, but it's a fabulous project, and I'm pleased that we're moving ahead.

COMMISSIONER BUSTAMANTE: Move approval.

ACTING COMMISSIONER PORINI: Second.

CHAIRPERSON CONNELL: Okay. It's been moved and seconded. That's a unanimous vote. I thank both of you gentlemen.

And can we move now to Item 50, which is the staff report on the status of the statewide safety audit program. And, Paul, who's going to begin that presentation?

EXECUTIVE OFFICER THAYER: Thank you, Madam Chair. This presentation is a status report on our fairly new safety audit program that we have had in place the last couple of years. We've gotten an augmentation of our budget to fund this.
And, basically, it was a recognition at the
direction of the Commission, out of the Commissioners'
concerns about potential oil and gas leaks and accidents
from off-shore oil development. We wanted to try and stop
that from happening. And that simply moved from an
inspector based program to an engineer based program to
better review our progress there.

I believe this presentation is going to be made
by Paul Mount.

MINERAL RESOURCES MANAGEMENT DIVISION CHIEF
MOUNT: James Hemphill.

EXECUTIVE DIRECTOR THAYER: James Hemphill.
CHAIRPERSON CONNELL: It's going to be made by
who?

EXECUTIVE OFFICER THAYER: James Hemphill, who's
an engineer with our Mineral Resources Management
Division.

CHAIRPERSON CONNELL: Thank you. May I just add
something broadly in the context in which we explore this
issue today. Commissioners, as you recall, we have had
some unfortunate leakage in the off-shore oil wells in
southern California. And upon visiting one of these whole
oil platforms, I believe, it was Platform Holly, was it
not, Paul?

EXECUTIVE OFFICER THAYER: Yes.
CHAIRPERSON CONNELL: The very day that I was on Platform Holly there had been an oil emission, which I was concerned about. And we brought it to the attention of the federal department that was there with us. And they happened to have tighter audit standards than the State did.

So I inquired why we could not increase our audit standards to a level of maintenance and management controls that the federal government had. And as a result, the staff was very responsive and has created, and I must thank the Governor, for funding the new audit management program that we have in place today.

And so this is, I believe, the first program update. I've asked that it be put on the agenda to find out how our direction as a Commission has materialized and what progress we're making.

COMMISSIONER BUSTAMANTE: Will this also harmonize the reporting requirements, so that there's not two sets of reporting requirements?

CHAIRPERSON CONNELL: Can you comment on that? I think the standards are still different.

EXECUTIVE OFFICER THAYER: I think that we believe that this program is showcasing and increasing our watch-dog review of these facilities. It was based more on that, and making sure we got resources that are going
out there on a dedicated basis looking at facilities one by one, and sort of stepping back and ensuring, for example, that changes that have been made to facilities, physical changes, operational changes have been incorporated in the hull of the facility in a way that they're all going to work.

And in the past we've had inspectors that basically checked to make sure well, do you have this safety gauge here and that safety gauge. But we didn't have engineers out there ensuring that new pipelines were properly connected or that the systems all harmonized together.

So this has less to do with reporting by the individual companies and more to do with our own review of those company operations to make sure we understood that they were operating correctly.

COMMISSIONER BUSTAMANTE: Does that mean no?

EXECUTIVE OFFICER THAYER: It means no.

COMMISSIONER BUSTAMANTE: And, let's see, the report. I'd love to be able to see the report. I know that you guys have done a lot of work on it, and let's go ahead and do your report.

EXECUTIVE OFFICER THAYER: Sure.

MR. HEMPHILL: Madam Chair and Honorable Commissions, I'm James Hemphill, Senior Process Safety
Engineer for the Mineral Resources Management Division.

(Thereupon an overhead presentation was presented as follows.)

MR. HEMPHILL: We've prepared a brief presentation on the status of the Oil and Gas Safety Audit Program.

At the June 14th, 1999 meeting, the Commission adopted a zero tolerance policy for environmental pollution.

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MR. HEMPHILL: As shown, we implemented this policy by conducting safety audits. MRMD established a safety audit program to perform these engineering and technical audits.

Three audits have been completed and a fourth audit, the Comprehensive Long Beach Unit Audit, is nearing completion.

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MR. HEMPHILL: The Safety Audit Group verified that the comprehensive safety and environmental programs are in place, and validates the engineering design of the facilities and compliance with regulations and standards to best achievable protection.

--000--

MR. HEMPHILL: This demonstrates a number of
action items generated through the three completed audits.

CHAIRPERSON CONNELL: I'd like to hold on to this one for a minute, continue on, but don't flash as you -- whoever is flashing the slide, because I have a comment about this one.

MR. HEMPHILL: The preliminary Long Beach unit audit preceded the assignment to Occidental Petroleum. Each of the items, the action items, are ranked from one through three, with the Priority 1 items being the most serious.

All of the Priority 1 items must be fixed immediately. The Priority 2 and 3s are addressed within two to six months, and then completed within a timely fashion based on engineering analysis and fabrication time for equipment. Operating procedures are also modified to reflect a higher state of alert.

CHAIRPERSON CONNELL: Do we have a legal authority to shut down the operation of these platforms if there is a Priority 1 problem? Are we shutting them down? Are we slowing them down? What are we doing until -- I mean, what is the leverage we have to get 1 one immediately corrected?

EXECUTIVE OFFICER THAYER: We could call on Rick Ludlow, our attorney, to answer that question more directly, but I think preliminarily the answer to that is
that we would -- our leases generally provide that the
operations have to occur in a manner that won't cause
pollution.

And so if we believe that there is a problem that
we've uncovered that runs the risk of creating pollution, we could shut them down.

So far I think we believe even the Priority 1s, though, do not justify shutting down the operation, instead they require immediate remediation.

CHAIRPERSON CONNELL: What is immediate defined
as? I mean, are we talking two weeks, a month? You know, I mean how far out? Is it statutorily defined in the contract?

EXECUTIVE OFFICER THAYER: It's not statutorily
defined. And usually it's something that depends upon the engineering involved. So, for example, if something can be done that day, then it could be done that day, but often it involves ordering equipment that has to be brought in.

CHAIRPERSON CONNELL: I don't want to be obsessive about this, but we are talking about, from the way you defined it, I mean, Priority 1 items are items that endanger both the safety of operations on the platform as well as the environmental conditions of the surrounding area?
EXECUTIVE OFFICER THAYER: And that's why we have to take those very seriously. I think it's our judgment that to date we haven't found any that justify shutting down the operation.

However, uncovering those problems often makes it possible to address them in terms of change of operations or additional inspections, that kind of thing, so that if you're paying more attention to a problem that's been uncovered, you can prevent it from causing the kind of pollution that we're concerned about until the new equipment is brought in.

CHAIRPERSON CONNELL: Who operates the Long Beach Platform?

EXECUTIVE OFFICER THAYER: Occidental is now in charge of that unit.

CHAIRPERSON CONNELL: And the numbers that you're showing were prior to Occidental's management of this facility or after?

EXECUTIVE OFFICER THAYER: Concurrent.

MR. HEMPHILL: Prior to them taking over, this was between the ARCO and --

CHAIRPERSON CONNELL: So this dates back to what? What time period are we looking at in this?

MR. HEMPHILL: This was completed in early 2000.

CHAIRPERSON CONNELL: So this is dated
information?

MR. HEMPHILL: For these, and we've got another audit that's almost completed for the Long Beach unit, that's correct.

CHAIRPERSON CONNELL: And so this would have been the 2000 that we're looking at?

MR. HEMPHILL: Correct.

CHAIRPERSON CONNELL: And Occidental assumed responsibility in 2000?

MR. HEMPHILL: Correct.

CHAIRPERSON CONNELL: At the end of 2000?

MR. HEMPHILL: Correct.

CHAIRPERSON CONNELL: And you will bring us the 2001 audit when?

MR. HEMPHILL: That should be completed within the next month. And the items that existed -- the preliminary audit went through and found the high priority items. It was done by a consulting firm. We've now conducted an extensive investigation, comprehensive investigation, of the facilities, and it has items that -- problems that had been in existence for the last 20 years. It's not something that's occurred since Occidental has taken over. These items existed prior to Occidental taking over. Occidental is very aggressive in taking care of these and correcting these actions when we
have wanted them out.

CHAIRPERSON CONNELL: Do you have, perhaps your next chart will reflect this, when we do our analysis of action items coming out of an audit, we not only have a chart like this, we have a chart that indicates the amount of time that each of these actions items is outstanding, and what percentage of the overall action items are resolved within 30 days, 60 days, 90 days, 120, so on through the year, so that we know how quickly our audit findings are being corrected. Do we have that kind of chart?

MR. HEMPHILL: We're tracking them, yes.

CHAIRPERSON CONNELL: Could you include that in your 2001 audit? And if you're unclear about what I'm saying, if you will, call our office and our Director of Finance can assist you. I think that would be very helpful for the Commissioners to see how quickly we're correcting these action items or getting them corrected as the case may be.

MR. HEMPHILL: Each time an action item is cleared, we post the date it's cleared. Now, a company such as currently at the Long Beach unit, Occidental is, when we're noticing a problem, Occidental is repairing them on the spot. We do not clear that item until we've actually finished the audit and then we will go out and
verify, actually physically verify, that the correction has been made.

So when this report comes out next month, we will then within a month go out and verify that most all the Priority 1 action items are already completed. They've already taken care of them.

CHAIRPERSON CONNELL: Then you would not have a problem doing the chart that I've indicated?

MR. HEMPHILL: No, we will not have a problem.

CHAIRPERSON CONNELL: I think that would give graphic representation to the speed at which we were completing our improvements.

EXECUTIVE OFFICER THAYER: We had an item actually on the last Commission's agenda, which was an update of that audit in Long Beach, and indicated that we'd be done with it later this year, and we'll bring that back to the Commission when it's complete and include the kind of chart that you're talking about.

CHAIRPERSON CONNELL: Thank you.

Let's move on.

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MR. HEMPHILL: Platform Holly is located in Santa Barbara County off shore from the new city of Galita. The Associated Elwood On-Shore Processing Facility, which we have jointly audited with the County, is located in
Galita.

MR. HEMPHILL: These are some of the major improvements of Platform Holly. Venoco has made these and other significant upgrades to the safety and pollution control systems as well as improving its operating procedures and safety culture.

MR. HEMPHILL: The Long Beach unit consists of four oil islands and two on-shore facilities located in and around the Long Beach harbor. It is equivalent to more than six of the other State facilities that we're auditing.

MR. HEMPHILL: This is a list of four major improvements resulting from the preliminary audit. Thums and Occidental Petroleum addressed the problems that were discovered in that audit. And as I just mentioned, they are aggressively correcting action items that are being developed from the comprehensive audit.

CHAIRPERSON CONNELL: How old is the Long Beach Platform?

MR. HEMPHILL: The Long Beach unit was started in 1964.
CHAIRPERSON CONNELL: And Holly is about the same age?

MR. HEMPHILL: It's approximately the same age, '68.

CHAIRPERSON CONNELL: Okay. And Rincon is what?

MR. HEMPHILL: About late fifties, early sixties.

CHAIRPERSON CONNELL: It's earlier, isn't it?

MR. HEMPHILL: Yes.

CHAIRPERSON CONNELL: Now, I've raised this issue before. I realize that you are an engineer, correct?

MR. HEMPHILL: That's correct.

CHAIRPERSON CONNELL: What was the life expectancy of these facilities when they were designed?

MR. HEMPHILL: Typically, when people are doing the economics of oil fields, they start out at about 20 to 25 years, fields last from 50 years, plus.

CHAIRPERSON CONNELL: So how long was this facility expected to be in operation, because it seems to me the kind of repairs that we're beginning to see now, as we move, you know, in some cases well into the 45th year of life, we may have exhausted the original assumption as to how long these facilities should be operated, and so we continue to patch them up.

And I'm wondering how long this can continue before we have more serious problems? Is our maintenance...
at such a level that we can, like rehabbing a house, just
keep on changing elements and it eventually is, you know,
better than the original structure or what is our intent
here?

MR. HEMPHILL: That's exactly what the Safety
Audit Program does. It comes in and reviews the
engineering assumptions that were made and provides a new
look to see if facilities are outdated, if they need to
have new safety systems implemented, if patch work,
repairs have been put in in the past, if they're not fully
integrated with the current system, we bring them in and
make the entire facility integrated and bring it up to a
current technology, current standards.

And that's really what we are, it's like
rehabbing an older house, bringing it up to code.

COMMISSIONER BUSTAMANTE: Does that include all
the pipes behind the walls?

MR. HEMPHILL: Yes.

CHAIRPERSON CONNELL: I hope you have a good
contractor, licensed.

MR. HEMPHILL: They are spending some money on
this.

CHAIRPERSON CONNELL: Go ahead.

MR. HEMPHILL: Rincon Island is located in
Ventura County about three miles southeast of the Santa
Barbara County line.

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MR. HEMPHILL: Here are four of the major improvements at Rincon Island. Rincon Island Limited Partnership embraced our audit and worked closely with us in undertaking significant upgrades to the infrastructure and its operating procedures.

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MR. HEMPHILL: We've scheduled safety audits --

CHAIRPERSON CONNELL: Who runs Rincon?

MR. HEMPHILL: Rincon Island Limited Partnership.

CHAIRPERSON CONNELL: And who owns that?

MR. HEMPHILL: I think that used to be by Windsor Energy, but Windsor Energy went bankrupt and I think it's now owned by a bank.

CHAIRPERSON CONNELL: Which bank?

MR. HEMPHILL: The Bank of Texas -- Compass Bank.

CHAIRPERSON CONNELL: What did you say? Texas Bank of Commerce?

MR. HEMPHILL: Compass Bank.

CHAIRPERSON CONNELL: Compass Bank. When was it transferred in ownership and what does your lease say about transfer of ownerships?

MR. DUNLAP: The lease requires approval of the Commission. What happened here was that Compass Bank took
over the stock position in the bankruptcy proceeding, and
they're presently looking for an oil company to actively
take over the lease and manage it that way. They've
talked to several people. And then when that happens, it
will be brought to the Commission for approval, final
approval.

CHAIRPERSON CONNELL: I think we should urge them
to do that. I'm extraordinarily anxious when I think of a
commercial bank running an oil platform in California when
they're not even residents here. This does not give me a
great deal of comfort.

I mean, these are highly sophisticated operations
as we well know, and we had a situation early on in my
tenure on this commission in the late -- or the middle
nineties when, in deed, we had that transfer, as you
remember, of ownership on a couple of these platforms and
we ran into problems in the transition period, and that's
when we had some of these oil spills. It got the
attention of the public, again, in Santa Barbara and Duke
came and attended a few of our meetings. They do not wish
to have that repeat occurrence here.

So I think we ought to really tighten up our
monitoring of this. I think we have to be respectful that
it's difficult given the share prices of energy companies
now, particularly after yesterday, that they may find
somebody who wishes to purchase this facility.

But at the very least, they've got to get some kind of professional management in the facility. And I'm not comfortable that a banker, you know, understands the exposure that these facilities represent to California.

STAFF COUNSEL LUDLOW: They have professional management at present on site. The main concern that staff has is that the quality of the respective assignees, the purchasers of this facility, meet high standards to be able to operate off shore of California. We can't have anybody going out just because --

CHAIRPERSON CONNELL: Why are we not bringing that matter before the Commission then? I would like to entertain, I don't know how my fellow Commissioners feel, at our next meeting, a discussion of the ongoing nature of this lease.

I mean, I do not think that it is responsible on the part of the State to sit here with some -- I'm not so concerned that they're out of State as is if they are unfamiliar.

And, again, I don't fault the bank. I mean the bank did what it needed to do in a financial proceeding. But the bank needs to motivate itself to get the sale completed so that we have assurance that we're going to have this operated. In the interim, I think we ought to
insist that they do a subcontract with one of the other companies that we do have confidence, I don't know whether it's Venoco or it's Occidental or any of the others that are operating these platforms in an approved status.

But I don't want to see this linger out there in limbo for, you know, a period of months or maybe a year before we see a transition effected.

STAFF COUNSEL LUDLOW: The staff of the oil company that was in bankruptcy is still operating there. The bank doesn't do a hands-on day-to-day management there, but it is a very difficult situation, as you point out, Madam Chair.

CHAIRPERSON CONNELL: Well, I'm sure the bank is not interested in putting in any additional resources, financial resources, into the operation of the facility that they're trying to sell, having worked in a bank before.

So the reality is that there will be no heightened management or heightened maintenance of the facility. I don't fault the staff that's on the platform, but I can't imagine how eager the bank would be to sink money into an asset that has already been declared in bankruptcy. It just doesn't happen.

MINERAL RESOURCES MANAGEMENT DIVISION CHIEF MOUNT: We're working monthly with the bank. We are in
constant communications with them. They are very anxious
to have the property transferred to a substantial owner.
And we have been actively pursuing a marriage between the
bank and respective owners. And we have some that have
shown an interest, and they have been out there and
they're looking at it as we speak.

CHAIRPERSON CONNELL: Well, that's reassuring.
I'm going to schedule this on the agenda as an
informational item and maybe we can get an update at that
point.

EXECUTIVE OFFICER THAYER: We'll do that. Let me
just add one other item. It was out of concern for the
situation that this audit of this facility was scheduled
at the time it was. As Mr. Hemphill is about to note, we
can't do all these audits at the same time, but we
deliberately did Rincon when we did to try to keep a
handle on this.

CHAIRPERSON CONNELL: The question might be are
there any other facilities that are going through this
kind of ownership transition? And if so, I'd like them to
be weaved into our updated agenda item at the next
commission meeting, because I want to focus a very strong
light on each of those that are in a transitional world.

This simply cannot be tolerated long term. I
mean, we're going to have a repeat, Paul, of exactly the
same situation we had in Santa Barbara. And I'm very clear on how horrible that experience was in '96 or '97, whenever that oil spill occurred. We do not want to have another incident like that, so we need to stay on top of it.

MR. HEMPHILL: I will say from Rincon Island Limited Partnership, when they have asked for money previously from the bankruptcy court and now from this bank for environmental projection or safety protection, they have not been turned down, even though the bank --

CHAIRPERSON CONNELL: Well, that's good. But if there's an incident, I know exactly who we're going to have next to us.

(Laughter.)

MR. HEMPHILL: They're well aware -- the banks are still all aware as are the operators down here and they're not going to let something happen, because they know they're a liability.

CHAIRPERSON CONNELL: You might update the bank on the discussion that the Commission has had today on the fact that we are going to have an agenda item. That might encourage them to move forthwith on whatever they need to do to preserve this in a safe manner.

MR. HEMPHILL: We scheduled a safety audit for the remaining State facilities in southern California
through the year 2004. During this period, we'll also clear action items from completed audits and coordinate activities with our ongoing safety inspection program.

Following the recommended industry practice, we intend to repeat the audit cycle beginning in 2005 with Platform Holly. Industry standards say that these should be conducted every five years to see that as standards change the facilities change.

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MR. HEMPHILL: As shown, the safety audit program has benefited the State and the industry. We believe this program is fulfilling the Commission's expectations. It has created physically safer facilities. It has provided the operator with input to upgrade its safety culture. It's established insight into the root causes of safety and environmental concerns, and it's allowed us to refocus our safety inspection program incorporating the audit findings.

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MR. HEMPHILL: We're committed to continuing this program. As part of the coordinated approach with monthly safety inspection programs, it provides us with the best assurance of compliance with the regulation and industry standards. We recommend that all facilities be subject to a comprehensive audit prior to reassignment.
MR. HEMPHILL: This program ensures improved environmental compliance, application of the best achievable protection, and continued revenues for the State of California.

That concludes my presentation.

CHAIRPERSON CONNELL: Thank you. Are there any questions of members of the Commission?

All right, thank you. That was an informational item.

COMMISSIONER BUSTAMANTE: I do have a -- is there any reporting requirements should there be a Priority 1 situation occur, and it's been recognized by a facility as a Priority 1 issue, and they're required to do a certain number of days or moments or minutes to contact us about what took place?

MR. HEMPHILL: I think one of the things that we're finding from these safety audits is we're trying to instill or help the operators instill a change safety culture. They're looking for things. In the past, things had escaped them and they're now looking for things --

COMMISSIONER BUSTAMANTE: If something goes wrong, is there a requirement that they report to us immediately?

MR. HEMPHILL: Not -- I mean, if they discover
something, they repair it, and then our inspectors are notified.

COMMISSIONER BUSTAMANTE: A Priority 1 does not include a spill.

MR. HEMPHILL: No. I mean, the Priority 1s are to prevent spills.

CHAIRPERSON CONNELL: Actually, that's important to clarify for purposes of this discussion and the audience as well. This doesn't infer that a spill has occurred. That is a maintenance program. They are required immediately to inform us if there is an emission of gas or oil at a facility, Cruz, so that's separate from this.

That would be an automatic immediate and I think it's within an hour of the time the emission occurs. We went through this before, so it's -- no, we're immediately notified if there's an emission.

MR. HEMPHILL: Correct.

CHAIRPERSON CONNELL: We are now moving back actually to Item 48. And this is a matter of the North Baja Pipeline. And we have a number of speakers on this, so I'm going to ask, first, if I may, for the staff report and then we will move to the many speakers.

EXECUTIVE OFFICER THAYER: Thank you, Madam Chair. The first presentation will be made by Alan Scott
from the Land Management Division followed by Kirk Walker
from our Environmental Division.

CHAIRPERSON CONNELL: Begin gentlemen when you
are ready. Please identify yourself for the record.

Is there a way you can present that chart so
Members of the Commission as well as members of the
audience could see it or do you have handouts for the
audience. Or maybe after you've briefed the Commission,
you can turn it so the audience can see it as well.

MR. WALKER: Hand out of map.

CHAIRPERSON CONNELL: All right, fine, then we
won't worry about the audience being able to see the
chart.

MR. SCOTT: Good morning, Madam Chair and Members
of the Commission. My name is Alan Scott. I'm a public
land manager for the Commission's Land Management
Division. I'll be presenting background information on
the proposed project that you're considering today in
calendar item number 48.

The applicant, North Baja Pipeline LLC --

CHAIRPERSON CONNELL: Actually, you could turn
that map completely around because I believe all the
members of the Commission have been handed a handout, so I
think we're all comfortable up there, that way members of
the audience can see it.
Thank you.

MR. SCOTT: The applicant proposes to construct and operate a new natural gas pipeline system that will transport 500 million cubic feet per day of natural gas. The pipeline system will begin in Ehrenberg in Arizona, cross the Colorado River current channel and proceed through Riverside and Imperial counties with an interconnection at the international border between California and Mexico.

The system once constructed, will consist of a buried pipeline approximately 80 miles in length, 12 miles of 36-inch diameter pipe at the beginning, where it crosses the Colorado River and the remaining 68 miles of 30-inch diameter pipe.

One natural gas compression station is being constructed in Ehrenberg which will be in Arizona; two metering stations along the pipeline, one at the compressor station in Ehrenberg and one at Ogilby and other related facilities.

The pipeline route will cross approximately 1,092 feet of a parcel of State school land located in Imperial County. The only improvements that will be placed on that parcel is the buried 30-inch pipeline and some above-ground right-of-way alignment markers.

In addition to the pipeline right-of-way, there
will be a temporary 30-foot wide work area construction area that will be adjacent to that pipeline route, but it's needed only during the construction phase.

The proposed pipeline route is adjacent to State Highway 78 on the school land parcel. Highway 78 is also located on the school land parcel. It will cross under an existing 161 KV powerline that the Commission previously issued a lease to the Bureau of Reclamation Board.

The applicant has entered into an agreement with the Bureau and will maintain the written consent from the Bureau for the entire length of the State Lands lease for the pipeline.

The pipeline will be constructed and tested to meet and/or exceed U.S. Department of Transportation construction safety standards. These regulations are intended to protect the public and to prevent natural gas facility accidents and failures. And they also include specifications for material selection, minimum design requirements, protection of the pipeline, et cetera.

Once constructed, the pipeline will be operated and maintained in accordance with all applicable federal and State regulations. The applicant will also monitor and control the pipeline system 24 hours a day from a remote location in Portland, Oregon.

We'll also have four locally based full-time
staff that will be assigned for operation and maintenance
duties on the pipeline system. And the applicant proposes
to retain a locally based contractor to assist those four
workers with routine maintenance services and to respond
in case there is an emergency.

There are two actions that the staff is asking
for the Commission to consider today under this item.

The first is the certification of the
Environmental Impact Report that has been prepared as part
of a joint EIS/EIR for the pipeline project.

The second action involves the issuance of a
general lease for right-of-way use for the North Baja
Pipeline LLC with a portion of the pipeline that crosses
the State school land parcel, and also includes the
temporary used construction area.

I'd like now to introduce Kirk Walker with the
Environmental Planning Division who will provide
information relative to the environmental process and the
impact report that was done for this project.

Thank you very much.

MR. WALKER: Thank you, Alan. My name is Kirk
Walker. I'm an environmental scientist with the
Commission's Environmental Division. The environmental
document before you and this item was prepared in
conjunction with the Federal Energy Regulatory Commission
and the Bureau of Land Management both of which have to prepare certificates for operation.

Public scoping meetings were held in El Centro and Blythe, California in January of 2001, and a draft EIR/EIS prepared. This was distributed to the public, approximately 850 copies, and was circulated from July 26th until October 25th of 2001.

During that period public meetings were again held to collect comments on the draft at the end of August. We received comments from five federal agencies, five State agencies, three local governments and 26 individuals. Responses to these comments were incorporated into the final EIR/EIS, and this document was released earlier this month.

There are still some areas of disagreement as discussed in the calendar item before you. The location of the pipeline along 18th Avenue, and potential air quality impacts from customers of the pipeline in Mexico are still controversial.

Commission staff in consultation with staff of the Attorney General's office believe that these items have been properly analyzed and discussed in the Final EIR/EIS, and that appropriate mitigation has been applied to the project.

Staff believes that the document under
consideration before you is now ready for certification.

Ms. Sandra McDonough representing North Baja Pipeline is here to make a very short presentation on the importance of the project to California.

Staff and Ms. McDonough are also ready to respond to questions from the Commission either now or after the public speaks.

Thank you.

CHAIRPERSON CONNELL: Let us begin with the many people who wish to address us today. I’m going to start with Terry Martin.

ACTING COMMISSIONER PORINI: Did you want to hear from the representatives of the pipeline?

CHAIRPERSON CONNELL: Oh, is the pipeline representative here, first?

MR. WALKER: Yes.

CHAIRPERSON CONNELL: Why don’t you come forward.

MS. MCDONOUGH: Madam Chair and members of the Commission, I’m Sandra McDonough. I’m a vice president for the North Baja Pipeline LLC.

Thank you very much for having us here today. My colleague Henry Morse has passed out a description of our project, which I will briefly summarize for you.

First, I want to thank you for considering our project and recognize your staff who have spent 15 months
working with us on this project now. I particularly want to recognize Kirk Walker, Barbara Dugal, Dwight Sanders and Paul Thayer, who have spent many, many hours working on this. And the result of their efforts is a better project than what we started out with.

As Kirk described, the project is an 80-mile pipeline from Arizona to Mexico where we will interconnect with a pipeline being built by Sempra Energy International. That pipeline is already in construction. We are fully contracted and we will deliver 500 million cubic feet of natural gas a day.

In the course of the siting of this project, we have had three primary issues that have come up. The first was issues relating to Native American sites. We work closely with recognized sovereign nations and with local residents of the community to identify potential areas of concerns, and in many cases rerouted the pipeline to avoid those areas and mitigate the potential impact.

The second area of concern has been safety. And Mr. Walker mentioned the residents along 18th Avenue who have raised concerns about the safety of the pipeline. In response to those concerns we worked with both of those residents and with the City of Blythe and have agreed to build this pipeline to standards that greatly exceed the federal standards. And that includes in some areas...
thicker walled pipe and automatic valves that can shut if there is an emergency.

We've also worked closely with the City police and fire officials to ensure that in the event that there is an emergency, we are fully prepared to respond adequately.

The last issue, of course, is air quality. We understand and sympathize with the concerns that have been raised by Imperial County concerning air quality in their area. But the issues that they have raised primary relate to powerplants that are being built in Mexico. Those plants were sited under Mexican regulations, and, in fact, are in construction and are 40 to 50 percent complete today.

Our pipeline, we believe, will actually improve air quality in both Imperial and San Diego county by delivering clean burning natural gas to sources that might otherwise burn oil.

These include powerplants in Rosarito that are already operating and can burn oil, and the powerplants in Mexicali, which, in fact, could burn oil, if natural gas is not available to them. The pipeline will also reduce the potential for gas curtailments in the San Diego region. And when those curtailments happen, there is the potential that existing plants will also burn oil and have...
an adverse air impact.

And finally, there are industrial users both in Mexico, in Mexicali and in the Tijuana area, and potentially in southern San Diego county, that could switch from oil to natural gas if gas is available through this pipeline.

So we believe that this pipeline will actually have a positive impact on air in both Imperial and San Diego county, and, in fact, our calculations are that we could reduce pollutants in San Diego county by as much as 12,000 tons a year net, in San Diego County and 8,000 tons a year net in Imperial county by delivering a cleaner burning fuel to the area.

I want to mention schedule as well. As Mr. Walker mentioned, we hope to start construction next month. One objective we have is to avoid the nesting period, spring nesting period, for some species, I believe you mentioned this, that could be impacted. If the construction is delayed, there could be an adverse impact, and we're hoping to avoid that by starting construction soon by the end of February.

We also, if we can stay on this schedule, will begin delivering natural gas this summer including to the powerplants in Mexicali. One of those plants has a contract to deliver power into California as soon as this
summer. So if we can complete this pipeline and start delivering natural gas, it will mean more electric supplies to California as early as this summer.

And finally, the sooner we can be delivering natural gas to these areas, we will have a positive impact on air emissions in the region.

Thank you.

CHAIRPERSON CONNELL: Thank you. Now, I'm going to go immediately from that discussion, if you would, just stay and be available because we may have questions later, to the speakers. And I'm going to ask each speaker to keep their comments to two, two and a half minutes. We'll begin with Terry Martin. We will go from Terry Martin to Sandra McDonough, I hope I'm saying that correctly.

MS. MCDONOUGH: That was me.

CHAIRPERSON CONNELL: You already spoke. Why aren't you going to speak again?

Thank you. Okay, how about Ryan O'Neal. I thought maybe you wanted to be an activist as well as a pipeline representative.

Henry Morse.

MR. MORSE: I'm available for questions as part of the project.

CHAIRPERSON CONNELL: Okay. So we will take you out. This is getting better as we go. Let's begin then
with Terry Martin and Ryan O'Neal.

CHAIRPERSON CONNELL: Identify yourself for the record, please.

MR. MARTIN: Thank you, Madam Chair and Commissioners. My name is Terry Martin. I'm a business representative for the United Association of Refrigeration Pipefitters Local 250, Los Angeles.

I'm speaking in support of the North Baja Pipeline. Under the national pipeline agreement in which this jurisdiction falls, one of the first provisions we have, "If any provision of this agreement is in conflict with the laws or regulations of the United States or of the states in which the work is to be performed, such provisions to proceed shall not be superceded by such law or regulation, but all other provisions of this agreement shall continue in full force and effect provided no case shall wage rates be paid which are lower than those set out in this agreement."

Any signatory contracted to our union has to abide by State and federal laws.

Our members are trained and highly skilled. This pipeline, before they're even allowed to get on the right-of-way our members are trained in environmental and pathological requirements in order to protect not only wildlife, not only plant life, but human life.
You may be familiar with the CURE program. We would have liked to have gotten those four powerhouses built up here in the states. But since we did not, we can only say that fuel to these power houses with natural gas would be the way to go.

The pipeline itself, the 80 miles that runs through the State of California, is contained. Each well will be xrayed. When xrayed, if there's any repairs, it will be repaired and re-xrayed. A welder indoor helper who has three rejections is terminated.

I know you only gave me two and a half minutes, I wasn't planning on speaking first.

(Laughter.)

MR. MARTIN: Currently, we have a union contractor, and it doesn't matter who the union contractor is as long as they're union with me, currently running a 32-mile pipeline in the high desert. That's fuel gas to the High Desert Powerhouse in Adalanto. I flew in and they only allowed me one suit case, so I didn't make any copies of what I brought.

Any animal wildlife, any plant our members are taught the status and legal protection, the description and biological behavior, habitat requirements. They're also given a map of where they may be able to locate these animals or bones and to leave them untouched.
This pipeline is to be maintained and operated by all union craftsmen. We take great pride in the communities we work in, the work we do.

I wish I could have spoke earlier on your off-shore, those are -- well, I won't get into that.

CHAIRPERSON CONNELL: Well, thank you.

(Laughter.)

MR. MARTIN: I'm used to having union contractors out there. I'd like to see some out there again.

CHAIRPERSON CONNELL: We're not going to go there on this one.

Thank you.

Before we have Ryan speak, I'm going to call on, I just noticed we have two elected officials here today, and I do want to call upon them first, if I can. So, Ryan, if we could ask that you just step aside for a moment. We want Gary Wyatt who's the County Supervisor and I would like to have Larry Grogan, the Mayor.

COMMISSIONER BUSTAMANTE: Madam Chair, could I just ask the representative, will they be building the pipeline only on the U.S. side or will they be building the pipeline all the way through?

MR. MARTIN: Only on the United States side.

COMMISSIONER BUSTAMANTE: Do they have similar kinds of quality assurances on the other side?
MR. MARTIN: I cannot answer that. I have no jurisdiction. I would have liked to have seen it built on the American side, but I can say this much Sempra Energy has been a very good customer. They've always, to my knowledge, have upheld the State law and requirements environmentally. And I would say that their quality assurance on the other side is good.

CHAIRPERSON CONNELL: We will address that when we get to the Sempra representative, who is here with us today.

Thank you.

IMPERIAL COUNTY SUPERVISOR WYATT: Thank you, Madam Chair and distinguished Commission members. I name is Gary Wyatt. I sit as an elected official on the Imperial County Board of Supervisors. I take this opportunity today and thank you for it to address the Commission on this, what we feel, is an extremely critical issue to the future of our valley.

In reality, we feel it's a struggle for the very future of the valley. As Mr. Bustamante knows very well, the Imperial Valley is quite an incredible place. In his numerous visits there, he's been able to see firsthand the beauty and the abundance that the valley provides. We're blessed with many great resources which provide benefits and opportunities for people both near and far.
We're an area that's ripe with possibilities and potential, and yet we are now engaged in a struggle for our right to achieve and realize our potential. Our area has been plagued with the highest unemployment in California, averaging 26 to 30 percent. We have the lowest per capita income. Our population is the fifth fastest growing operation in California and has a very high minority makeup.

It's not our desire as a county to stifle business or the delivery of power throughout California, but it is also not our intention to stand idly by while business stifles our future, our possibilities and our potential.

If this EIS/EIR is certified in its present form, our ability to achieve economic growth will be grossly impacted. As we are already home to a hazardous waste facility, a future 100-year landfill, two State prisons, and now we will share our air basin with several new powerplants with a promise of more to come, it would seem that we could be the poster child for environmental justice.

Now, we've done more than our share of providing services that others didn't want in their backyards. And now, as we're on the cusp of significant developments, we need to have our air quality safeguarded.
Perhaps, the only way for us to achieve this justice and to protect the health and the future of our citizens is through the help of this Commission and the CEQA process.

As the final EIS/EIR report does not adequately address the air emission impacts of the powerplants that the North Baja Pipeline will service, what I'm asking of the Commission today is two things.

The first is perhaps the ultimate solution for the current issue and the many similar issues that will follow.

The solution that is needed is to adjust NAFTA to facilitate resolution of international environmental issues. And I would ask the Commission to encourage the Governor to work with the federal government to create border corridors, which would address the environmental requirements for projects within those corridors.

Since we must share resources, such as air and water, we must find a way to establish shared environmental requirements. I urge the Commission to take the lead and make California the national model for the resolution of this critical issue.

The second thing is for the Commission to delay its certification of the EIS/EIR report until a comprehensive evaluation of the emissions from the project
plant is completed. What I'm really asking for you to do
today is to help us to secure the opportunity to realize
our potential and to achieve the justice that we need.

Thank you.

CHAIRPERSON CONNELL: Yes. Now, we have Larry
Grogan.

EL CENTRO MAYOR GROGAN: Madam Chair, I have some
copies of items that we've put together. I see the City
Manager hasn't made it in. He gets nervous when I talk.

CHAIRPERSON CONNELL: Consider yourself released
from that fear.

(Laughter.)

IMPERIAL COUNTY SUPERVISOR WYATT: So do I.

EL CENTRO MAYOR GROGAN: Good morning, Madam
Chair and the members of the Commission. My name is Larry
Grogan. I am the Mayor of El Centro. I am here to
testify in opposition to the North Baja Pipeline project
and construction of the powerplants adjacent to the
border.

The City of El Centro has carefully monitored the
bidding process of the Northern Baja Pipeline Project, and
only became involved in the one power after one of the
powerplant owners, InterGen, stated to local and
congressional officials that they would not install air
pollution controls on 500 megawatts. To do so would not
be profitable.

The decision by InterGen not to install air pollution control shocked many in this community into action.

We have just one copy of the resolution and a letter from the Board of Chamber, which represents 825 members in opposition for the same reasons.

Many presentations were made by the Air Pollution Control Officer to the City Council, City Chamber and Coalition of County Mayors and now a number of cities have already received that presentation. The conclusion of this coalition was not only to oppose the powerplants, but also the pipeline. Our rationale is the pipeline is the one by which the powerplants will be able to pollute our common air basin with Mexico.

CHAIRPERSON CONNELL: You're talking about the powerplants in Mexicali?

EL CENTRO MAYOR GROGAN: Yes two miles, three miles below the border.

We, in the valley, of course, are not opposed to growth or to industrialization or to development. Our valley's unemployment averages 23 percent and needs to build an economic base for jobs. However, we are opposed to the destruction of the environment and the very air we breathe by irresponsible power generators exasperated by
the fact that it will be done at the expense of people who

You'll be approving a project that will result in
serious degradation of air quality and cause subsequent
damage to the health of all valley residents, but mostly
children.

You will also be responsible for approving a
project that is known to cause birth defects in children,
and this is particularly unjust because it impacts people
who have the least medical assistance to maintain their

Tons of air pollution from the uncontrolled
InterGen emissions will be generated by this plant as well
as the two units, two additional units of InterGen and
Sempra Energy powerplants, none of which will be mitigated
by offsets.

We are also aware through filings through the
Public Utilities Commission that 3,800 megawatts are being
planned by the border generation groups. These plants
before you today are just the beginning of the destruction
of air quality in the valley. Since the pipeline goes all
the way to the ocean, the power from these plants is not
for our area or even for San Diego. We ask why build
here?

The answer was provided to us by a study by a
Latino Issues Forum, which shows that powerplants are being located in poor and minority areas. These are the people with the least ability to fight such horrendous destruction of their quality of life.

It is sacrificing society for the profit and expediency. It is why Imperial County and the Mexicali Valley were chosen because we do not have the political or economic clout to deter such a project. We have to ask ourselves who in Mexico or Washington D.C. really gives a damn about once these permits are issued.

Thus, in the tradition of the old robber barons, the only need established is the need for greed. I would like to thank you for the opportunity to present this information on this critical issue and hope that you will conclude that the project does irreparable damage to the quality of life for thousands of valley residents.

I also may add that a number of cities have already passed resolutions opposing, and we will probably be collecting funds from each city, if we aren't successful here today to proceed with a lawsuit. And these funds will be coming from cities that damn well can't afford it.

We will have a choice to make. We'll either be cold decking swimming pools this summer or fighting for our air quality. And that's the choice that we end up
having.

And this concludes my testimony. Can I answer any questions?

CHAIRPERSON CONNELL: I have a questions Larry, and I appreciate --

EL CENTRO MAYOR GROGAN: Oh, by the way, I just received from Beatrice Reece, 23 additional studies on air quality and health.

CHAIRPERSON CONNELL: These are the ones that you attached to your letter?

EL CENTRO MAYOR GROGAN: That's one of them. This was the recent study that was just issued in January that relates air pollution to birth defects. It's the first study to actually do so. And it relates it to heart valve damage. And the rest of these are mostly with low birth rate and premature births.

Basically, what you're looking at is a situation where people that are down wind from these powerplants -- as she explained to me, I certainly don't want to put words into her mouth, but it's like smoking two packs of cigarettes a day when you're pregnant.

CHAIRPERSON CONNELL: Larry, I don't want to focus on the results of the pollution. I think all of us are in agreement that pollution creates horrifying direct and secondary effects.
I think the issue here before the Commission is whether or not the pipeline is the cause of that air pollution.

Now, I need to clarify, there is no doubt that the plants in Mexicali are causing a deteriorating air quality in the San Diego, Imperial County area. My question to you is, are you saying for us to not approve the pipeline, because although it doesn't cause any of the pollution, it abets the creation of a powerplant facility in Mexico that does pollute, is that the argument here?

EL CENTRO MAYOR GROGAN: The argument is with this pipeline InterGen will come in with 1,000 megawatts, I think it's 1,000, and Sempra Energy is going to have 600. The InterGen plant consists of four units, two of which will have no pollution controls whatsoever.

Now, they say that they can't do this, because their contract is so closely monitored to profits that it would affect -- it would be unprofitable. Well, the people in Mexicali, that I have met with, are, while they're in opposition, they cannot speak, because I'm not sure your familiar with, this but in Mexico mayors do not go against the federal government. No one says anything in opposition even at the State level.

So while they'll tell you privately they are really concerned about the air pollution, which is 12
miles east -- or excuse me, 12 miles west of Mexicali and
about two to three miles below the border, they are unable
to take any action themselves.

COMMISSIONER BUSTAMANTE: Madam Chair, can I ask
a question?

CHAIRPERSON CONNELL: Certainly, Mr. Bustamante,
I recognize you.

COMMISSIONER BUSTAMANTE: On staff, who would be
the technical person who would have been reviewing this
project?

EXECUTIVE DIRECTOR THAYER: Kirk Walker has done
most of it.

COMMISSIONER BUSTAMANTE: My understanding is
that air pollution goes north to south, that the flow of
air goes from north to south and there is -- that unlike
the water, which flows south to north, the air issue
really is a north to south issue.

Now, if these plants are south of California, is
there an issue here of basin or additional contamination
or pollutants north of the sites of which we're building,
that are being built in Mexico?

MR. WALKER: There is no question that emissions
from the plants will cross the border into the Imperial
valley. That has never been an issue.

The staff's issue is that these plants, because
they are so far along in construction, will operate regardless of whether or not North Baja is built. We have had discussions with both Sempra and InterGen, they are both currently examining getting natural gas from southern California through the San Diego intertie there.

They're also both exploring running with alternate fuels. There is available, within five kilometers of InterGen's plant, a source of diesel fuel. They're proposing getting a repermit to operate with diesel if North Baja is not able.

Therefore, we believe that the mitigations on the North Baja should focus on the construction of that pipeline, not the operation of the Mexican plants. The plants will operate regardless of whether or not this pipeline is built.

CHAIRPERSON CONNELL: They may operate, but they are a more pollutant source of energy if diesel fuel is used.

MR. WALKER: They could operate with much more pollution. We did not base our argument on that, but it is certainly a possibility.

CHAIRPERSON CONNELL: Annette, did you have a question on this as well?

EL CENTRO MAYOR GROGAN: The tradeoff on that is the cost to connect that to diesel. And, of course, now
they are going to have to go back to Mexico City to get that permit, because this plant is only permitted for natural gas. So they're going to have to go through the same permitting processing, I'm sure, at that time, since Mexicali is becoming more and more aware of the Imperial Valley has become very cohesive in their operation.

I'm not sure that they're going to find that getting that permit is going to be so easy. And all we're asking, really, the bottom line is to get these plants brought into compliance. There's nothing more than -- and they knew that. You know, they made a deliberate and conscientious decision, to hell with the people, we're going to produce power as cheap as possible.

CHAIRPERSON CONNELL: Larry, I'm a little confused about how you feel the State Lands Commission has the authority to the Mexican government to bring these plants into line.

EL CENTRO MAYOR GROGAN: Because I think if we delay this pipeline, I think that InterGen will find it cheaper to put the powerplant emission controls on the two units.

IMPERIAL COUNTY SUPERVISOR WYATT: Madam Chair, if I may, there are others that are on the speaking list that are from our county to deal with the technical issues and to address some of those questions that you've raised
there, that we feel some methods that the State Lands Commission can utilize to assist with resolving this particular environmental issue, and that they will speak to some of those issues as they come up here.

EL CENTRO MAYOR GROGAN: Our Air Pollution Control Officer is here.

CHAIRPERSON CONNELL: Good. I appreciate that and I want to thank both of you for coming.

CHAIRPERSON CONNELL: Ryan, you are next. Following Ryan is Andrea, and I don't even dare try your last name. Let me try it, Matarazzo.

MS. MATARAZZO: Close.

CHAIRPERSON CONNELL: Okay. You will be with Ryan. And then we have two more individuals, I believe, from, well, one from the energy company and one from Imperial County.

Go ahead, Ryan, identify yourself for the record.

MR. O'NEAL: Hi. Good afternoon. Ryan O'Neal director of projects for Sempra Energy International. And I'm here speaking on behalf of the gas transportation businesses at Sempra Energy International in Mexico. I'm not here to discuss the Mexicali powerplant or the gas distribution businesses we have throughout Mexico as well.

In this capacity, I will be speaking on behalf of Gasoducto Rosarito, which is the holder of the ten-year
bundled gas supply and gas transportation contract with
the federal electric commission, or CFE, in Mexico at the
Rosarito powerplant, which currently has about 1,100
megawatts in operation.

Gasoducto Rosarito is also the owner of
Transportadora de Gas Natural de Baja California or TGN,
which is the owner and operator of a 23-mile pipeline that
connects the San Diego transportation systems with the CFE
powerplant in Rosarito. That pipeline has been in
operation since June of 2000.

I'm also here to talk about Gasoducto Bajanorte,
which is a 137-mile pipeline, which is under construction.
That will cross from east to west across all of Baja
California. The interconnection on the eastside will be
with North Baja Pipeline at the international border and
the interconnection on the westside will be with the TGN
pipeline that's currently in operation.

Construction of Gasoducto Bajanorte has been in
progress for approximately five months, and it's
approximately 50 percent complete. The project completion
date is July 2002 and we have several customers committed
to consuming natural gas, as soon as the pipeline is put
into service.

The North Baja Pipeline project is critical to
the Tijuana/San Diego area in providing reliable supplies
to that area, which currently don't exist today. Once North Baja Pipeline is complete, it will enable CFE to displace any burning of fuel oil that they currently do by using --

    CHAIRPERSON CONNELL: Who is CFE?

    MR. O'NEAL: It's the federal electric commission, that operates the powerplant in Rosarito, that they do in that Rosarito powerplant.

    Gas currently flowing to CFE today will be allowed to be utilized by plants either existing or under construction in San Diego, thereby freeing up additional supplies to allow burning of gas in San Diego, clean burning gas I might add, that would otherwise, in curtailment situations, require these plants to burn alternative fuels, which they have the capability of doing.

    GR and CFE have both committed to 100 percent of their capacity needs on the North Baja Gasoducto Bajanorte Pipeline projects.

    Also, the Tijuana industrial customers would have the ability to begin consuming natural gas. We've been approached by customers in Tijuana and Tecate and they're ready to commit to a reliable supply of gas just as soon as it becomes available.

    That concludes my brief comments.
CHAIRPERSON CONNELL: Thank you. Annette, did you want to ask a question?

ACTING COMMISSIONER PORINI: Yes, one quick question. The Lieutenant Governor had asked a question about the pipe construction and safety, of Terry Martin, and I think that that's probably more important to you. Could you describe, are there similar safety features to the pipeline that's actually being constructed through California?

MR. O'NEAL: Yes, the construction that's currently going on or under way in Mexico meets the exact same standards that Sempra Energy uses for its transportation projects in California and elsewhere in the U.S. So we're meeting the same standards. We're examining 100 percent of our welds. So we're exceeding what is code and we're following the same international code that is used in the United States.

CHAIRPERSON CONNELL: And how do you handle the labor issue in Mexico?

MR. O'NEAL: We have a contract with a labor, I'm not sure of the union name, but there's a labor contract in place for all employees of the construction firm, and it's union.

CHAIRPERSON CONNELL: And more important than the issue of whether it's a Mexican union is the question of
its quality of workmanship. How do you feel about the
quality of the workmanship south of the border?

    MR. O'NEAL: The quality of the workmanship is
dictated on the inspections that we do. We followed the
exact same inspection techniques, the same standards if
they don't meet, you know, the quality, then they're
kicked off the crew, et cetera. So we've had no problems
in prior businesses. This is not our first pipeline we've
constructed in Mexico, and we're confident that we're
constructing a quality and safe asset.

    CHAIRPERSON CONNELL: All right, fine.

Andrea.

    MS. MATARAZZO: Good morning. I'm Andrea
Matarazzo. I'm an attorney with Remy, Thomas and Moose.
We specialize in land use and issues arising under the
California Environmental Quality Act, and the National
Environmental Policy Act, and we represent the County of
Imperial.

    We submitted a letter dated January 28th
regarding the EIS/EIR prepared for this project. It
follows up on previous comments submitted by the county
regarding the environmental review, which includes
comments on the draft EIS/EIR, which were submitted during
the public comment period.

    I have copies of that letter if you need them,
and I won't duplicate the comments that are contained in that letter. I'll just highlight some of the key points.

First, I want to emphasize that the County does not oppose the project, only the proposed manner of its implementation.

The County continues to be concerned about the project's adverse environmental effects, particularly its adverse impacts on regional air quality. The fundamental problems is that the document defines the project as an 80-mile pipeline to transport up to 500 million cubic feet of natural gas per day to powerplants in Mexico.

It avoids and ignores the impacts of those plants, which are controversial because they're not planning to use standard emission controls and do not comply with state and federal air quality standards.

The EIS/EIR indicates that the pipeline is environmentally acceptable, looking only at the direct impacts of the pipeline and ignoring the impacts of the substandard powerplants it will supply with natural gas.

There's no dispute that these plants are expected to pollute the air both in Mexico and in the Imperial valley. And with all due respect, the notion that pollution travels north/south is, at best, technically unsupportable.

The State Lands Commission has not only the
authority to analyze the air quality impacts of the powerplants in Mexico, to which the pipeline would be connected, it has the statutory obligation to do so.

This obligation has been emphasized to the Commission by many commenters on the EIR, including EPA and the California Air Resources Board. The pipeline is obviously and literally connected to the powerplants in Mexico. And the operation of the plants is a foreseeable consequence of approval of the pipeline.

The EIR must consider the entire project as a whole, acknowledge its impacts, and most important formulate measures to mitigate those impacts.

To do so, the environmental document was required to properly identify the baseline conditions which it has failed to do. It fails to adequately evaluate the project's regional air quality impacts in light of current air quality conditions in the Imperial Valley.

For example, EPA recently found that the County of Imperial would have attained national ambient air quality standards for PM 10 if not for emissions emanating from Mexico. The EIR fails to disclose that 257 tons per day of particulate matter generated in Mexicali significantly degrades the air quality in the Imperial air basin.

In evaluating impacts, the EIR ignores the CEQA
guidelines regarding determination of significance and
fails to quantify pollution by the powerplants despite
their obvious and literal connectedness to the proposed
pipeline.

This leads to a failure to mitigate the impacts
of the project. This ignores CEQA's substantive mandate
to the Commission to mitigate the impacts of the project
to the extent feasible. Mitigation is not infeasible
merely because it reduces the profitability of the
project.

CHAIRPERSON CONNELL: Andrea, your time is over,
so if you could wrap up.

MS. MATARAZZO: I would just emphasize that the
Commission does have the authority to require mitigation
by developing a performance standard and requiring a
commitment to the achievement of that performance
standard, which would involve the applicant contracting
with the power producers to employ best available control
technology, including SCRs.

And I also have one question about the
appropriation of the document, which doesn't include most
of the relevant technical data, and it seems to indicate
that it was prepared by a consultant, but it doesn't
appear to identify that consultant or provide any
qualifications. And I wanted to get some information
about that.

CHAIRPERSON CONNELL: Can you respond to that?

MR. WALKER: The consulting firm was hired by the Federal Energy Regulatory Commission and the State Lands Commission. It is Natural Resources Group out of Minneapolis, Minnesota.

MS. MATARAZZO: Thank you.

CHAIRPERSON CONNELL: Thank you. We have one final speaker, Steve Birdsall, representing, I believe, Imperial County.

MR. BIRDSALL: Thank you, Madam Chair, I'm Steve Birdsall -- and Honorable Commission Members. I'm Steve Birdsall. I'm the Air Pollution Control Officer from Imperial County, California.

Madam Chair, I had a whole prepared statement here to provide to this staff. However, I think it would be important, in light of some of the comments that were made by the proponents and other people here, to try to answer some of those questions. So I will hand out my prepared statement so you can peruse that later.

Obviously, as was pointed out by Mr. Grogan and Mr. Wyatt, this powerplant pipeline issue is a significant concern to Imperial County. I want to go through and kind of address some of the things that the NBP, the North Baja Pipeline, folks made.
While they have proposed that this will improve air quality, we don't believe that it will. There's already an existing natural gas pipeline that does go into Mexicali. And, in fact, when that pipeline was put in, there was some sources in Mexico that did convert to natural gas.

However, when the price of natural gas went above what the cost of diesel was, they all went back to burning diesel. So the only way we're going to see a true improvement of air quality from Mexico because of the gas pipeline, is to eliminate their ability to use diesel fuel. That has not happened.

As far as the 8,000 tons improvement at the county, we're not sure what those 8,000 tons are. There's different kinds of pollutants. There's ozone. There's nitrous oxides. There's carbon monoxide. There's sulfur dioxide, and things like that.

We don't know what they mean by 8,000 tons, and if, in fact, how do they quantify that, what assumptions do they use, what inputs do they use in their models to gain that.

I think it's important to understand that we're talking about two different air basins here. We're talking about the Imperial County and Mexicali basin, which includes the Salton trough down to the Gulf all the
way up to Palm Springs. And you're talking about the San Diego, Tijuana air basin, which includes the Rosarito powerplants in that basin. They're two different air basins.

We would like to see the data and the assumptions that they used to come up with that 8,000 tons. We have, in fact, asked InterGen for the last several months to provide us with the data and the assumptions that they used to develop their air models for their particular powerplant. They have promised that to us, to the federal EPA and the California Air Resources Board. To this date, we have not received those assumptions nor have we received those input datas. And we would like to see that to make sure they're not using Ouija Board science on this.

We also want to explain that keeping in mind that we are in an air basin similar to what this -- for instance, you may be familiar with San Joaquin Valley where it's a bowl, if you would, is that no matter what way the wind is blowing, even on still days, which we have a majority of, that basin will eventually fill up underneath an inversion and we will have impact from the pollutants that are going to be produced by those two powerplants.

And, in fact, our figures, and we're using the
figures that come from the Mexican permit, is that there will be a little over 12,000 tons a year nitrous oxides, which is a precursor to ozone, which we are not in attainment for in the valley, over 2,200 tons a year of carbon monoxide, which the City of Calexico adjacent to Mexicali is not in attainment for, and over 1,000 tons a year of PM 10. We are also nonattainment for PM 10.

Those we feel could cause a significant impact to our air quality. In fact, in the nitrous oxides, again, like I said, as a precursor to ozone, we feel that this could result in a ten percent increase in our valleywide NOx emissions, which we, again, think would have a tremendous impact on our ozone concentrations.

CHAIRPERSON CONNELL: Can you begin to wrap up, please.

MR. BIRDSALL: I can do that for you right now, Madam Chair.

CHAIRPERSON CONNELL: Thank you. If we can have all the Commission available for discussion here, Cruz. I'd like to address a question to the Commission here. And that question would be given the matter before us today, is there anyway Sempra Energy can assist in trying to make certain that the emissions coming out of your plant and south of the border or the plant south of the border would have less pollutants, and what can we do to
try to address that issue? I mean, that's really the
operative issue here, not the pipeline. It's the plants
and the polluting effect that the plants have.

MS. McDonough: Well, I don't represent Sempra,
but I can state that their project in Mexicali both units
do have selective catalytic reduction on them already.
It's the InterGen plant which has four units, two of them
are scheduled to have selective catalytic reduction on
them, two are not.

I also want to point out, and again, I don't
speak for InterGen, I don't represent them here, but it is
my understanding that that plant has a power sale
agreement to the Mexican government for the output of that
plant. And their bid for that was based on the specs that
the Mexican government gave them.

And their plant will begin power sales, I
believe, in the next year?

Mr. Morse: April of next year.

Commissioner Bustamante: Those two plants are
providing energy to Mexico and those other two plants that
are up to U.S. standards are providing it to the U.S.?

Ms. McDonough: Right, as early as this summer
the project stays on schedule.

Chairperson Connell: So they bifurcated their
standards, basically?
MS. MCDONOUGH: Yes.

CHAIRPERSON CONNELL: And you say that the -- go through, again, the relationship between InterGen and the government of Mexico. The Government of Mexico has the right to purchase InterGen or has a right to purchase the plants?

MS. MCDONOUGH: The output from the plants. They have a contract to purchase the power from the plants.

CHAIRPERSON CONNELL: A long-term contract?

MS. MCDONOUGH: A long-term contract.

CHAIRPERSON CONNELL: But they have no ownership relationship to InterGen?

MS. MCDONOUGH: No.

CHAIRPERSON CONNELL: And is anyone in the audience here today versed on how InterGen was able to have two plants with the converters and two that were not?

MR. MORSE: My understanding is that the first two plants, the ones that don't have SCRs on them, were the two plants that InterGen used to bid. There was a competitive bid process to get this contract with CFE to provide 500 megawatts of power to Mexican citizens in the Mexicali area.

InterGen bid that project on the basis of the specifications put out by CFE, which did not include a requirement for SCR, only to meet the standards that
existed in Mexico, which those plants do.

InterGen on the other two plants, which are there for the purpose of selling power to California into the United States, voluntarily agreed to put SCR on those two plants, because that power was not part of this competitive bid process, and that power was to be sold in the U.S.

CHAIRPERSON CONNELL: So they could get a higher revenue base and therefore could offset the cost, or at least that would be the thinking?

MR. MORSE: Well, my guess on their thinking is that power coming from Mexico into the U.S. was going to be competing with other powerplants that would have SCR on them. And they felt they could compete on that basis.

The two plants serving just Mexico, they apparently cut their bid as fine as they could, meeting the minimal requirements set forth by the contract.

COMMISSIONER BUSTAMANTE: Are they eligible to burn any other kind of fuel in those two plants?

MR. MORSE: Their current permit is only for natural gas. They have told us and I think they have said publicly that if for some reason the North Baja Pipeline does not get built, and they therefore do not have natural gas available, they will pursue the opportunity to build or get a permit to use diesel fuel, and the plants are all
convertible to diesel fuel.

CHAIRPERSON CONNELL: Annette, did you have any questions?

ACTING COMMISSIONER PORINI: My questions were primarily related to the safety features of the pipeline and those have all been answered.

I think that the Commission does a great job of trying to look at and mitigate all of the environmental impacts that it can. From the testimony, I'm just not clear that there's anything more that we can do. I don't know if you're at a point where you're ready to wrap up the testimony or if the Lieutenant Governor has additional questions.

CHAIRPERSON CONNELL: Do you have anymore questions?

COMMISSIONER BUSTAMANTE: I have a few more. Is there anything that we can do in the building of the pipeline that will provide offsets to Imperial County? For example, in building the pipeline, you can have either dirt roads or you can have some roads that won't stir up as much dust and add to the PM 10 problems that take place just in the building. Is there offsets that either the developers or the contractors can provide in working with the county, so that at least we're trying to mitigate, as much as possible on our side in order to ensure that the...
building or the facility doesn't exacerbate a local problem?

MR. WALKER: One of the things that we have required of the company in terms of mitigation is that they keep the construction of new roads to an absolute minimum, which means that they are using dirt roads.

But a big issue in this area is increasing access to areas that are, at the moment, closed, because there are no roads. And it is a big concern both to the Bureau of Land Management and the Department of Parks and Rec. that we not provide new access into some of these desert areas where people can get out there and trash them. So we have required the company to use existing roads in almost every case. I suppose it would be possible --

COMMISSIONER BUSTAMANTE: But along the building of the pipeline itself, you're going to have a huge dust problem is my guess.

MR. MORSE: And we have, as part of our mitigation requirement, a very significant dust mitigation plan to keep that dust down.

MS. McDONOUGH: We have extensive experience in that area, too.

COMMISSIONER BUSTAMANTE: You're going to have to go before the County.

MS. McDONOUGH: Right.
CHAIRPERSON CONNELL: Let me just ask a question.

COMMISSIONER BUSTAMANTE: I guess the County should look at that very carefully in terms of how that's going to be done. I don't know. I'm just going to recommend that something be done in that area.

I really feel torn on this issue. I mean, I feel like I'm -- if we build this thing, we're going to be aiding and abetting this facility to go ahead and use standards that we know are going to impact citizens in Imperial county. And it feels like you've got a gun to my head that if we don't allow it, then they're going to use some other type of fuel that will make it even worse.

And, I mean, I just feel torn on this issue to the point where, you know, I'm looking for someway here today from the representatives to give me some type of assurance that what we're going to have here is that we're going to, in fact, better the situation than it currently is.

And I'm not hearing that. I'm not hearing that you have extensive experience in the mitigation of dust. I'm not hearing that you're going to resolve it. I'm hearing that there's major problems with the air pollution that's going to come across. We can't do anything about it, because those are Mexican plants, et cetera, et cetera, and I'm not hearing any changes about it.
I feel like if I support this thing, it's kind of like I'm having to support the lesser of two evils, even though I know that there's benefit to the U.S. side in terms of energy and other kinds of activity. There just seems like there is nothing being done to try -- for anybody to try to mitigate the problems on those two plants on the Mexico side that are affecting the residents of California.

CHAIRPERSON CONNELL: Well, the question would be where is the leverage? I mean, that's --

COMMISSIONER BUSTAMANTE: I don't see any, that's the problem. I'm not seeing it and I'm not hearing anybody, you know, offering anything, and, you know, it's starting to piss me off.

MR. WALKER: One thing in response to Mr. Birdsall's request, the information he requested on the air quality impacts is available, and I will see that he gets those calculations by the end of the week.

CHAIRPERSON CONNELL: Let me understand, InterGen was -- their license to build these plants comes from the Mexican government, correct?

MS. MCDONOUGH: Yes.

CHAIRPERSON CONNELL: And the only reason we hit the higher standards with the converters is that they're selling to California and obviously the PUC or whoever
buys that energy here would not -- who is buying the
energy?

MR. MORSE: My understanding is they have some
contracts with DWR, whether or not they --

CHAIRPERSON CONNELL: We would require California
standards to be observed before we would pay on those
contracts. You know, that's one of the things we review
in the Controller's office.

The question is do we have any leverage at all?
I have not been engaged and certainly the Governor and
Lieutenant Governor have, in conversations with the
Mexican government on environmental issues.

Now, the question is, Cruz, whether you think
there's any leverage to be brought in those conversations?

COMMISSIONER BUSTAMANTE: Well, I think these
facilities are being built. They're going to be done.
They're going to be burning something. And if we don't
give them natural gas, they're going to burn something
else. But it just really galls me to see that this is
taking place.

MS. MCDONOUGH: Regarding the dust issue --

COMMISSIONER BUSTAMANTE: And, in fact, maybe
what we should end up doing, is we should, in fact,
establish, and if it's not going to be established
elsewhere, establish it within our own parameters as a
part of an environmental justice policy, which I'm going to ask the Commission today to have staff begin including as a part of everything that we do, is that we maybe establish some kind of a regional air basin quality that we don't aid and abet this kind of activity in the future. I mean, I'm just -- where I'm --

CHAIRPERSON CONNELL: My concern is that even if, as you point out, even if we refuse to approve this today, that plant is already there. And it's just a matter of burning even worse fuel than would be burnt if we, you know, we approve this and were able to go with a less pollutant fuel.

My concern is, you know, in these forthcoming discussions, and I know these discussions are agendized, and we'll move forward between the State of California and Mexico, is to put this on the agenda. I think this is one of the items that, you know, when we talk in opening up our borders and free trade and we talk about joint economic development that this needs to be upfront. There has to be a growing awareness and support in Mexico and the Government for a higher level of standards, because it does impact California.

COMMISSIONER BUSTAMANTE: There is no InterGen representative here? Is there?
EXECUTIVE OFFICER THAYER: I do not believe so.

COMMISSIONER BUSTAMANTE: Yes, there is.

Could you come up, please.

MR. BIRDSALL: Madam Chair, could I make just two more statements before you close?

CHAIRPERSON CONNELL: Very, very quickly. We're running out of time here.

MR. BIRDSALL: First of all, there's only two units under construction at the InterGen plant, one of which is almost -- is about 30 or 40 complete, the other one is not.

They need a permit to burn fuel oil in Mexico, which they do not have at this point in time.

COMMISSIONER BUSTAMANTE: But there are other facilities in Mexico that do burn fuel.

MR. BIRDSALL: Yeah, but they're not in this air basin. Those are all over in the San Diego and Rosarito air basin, and not this -- we're talking about a difference --

COMMISSIONER BUSTAMANTE: We're replacing those with the natural gas, is that correct?

MR. BIRDSALL: At Rosaritos, San Diego, that's correct. But these are two brand new --

COMMISSIONER BUSTAMANTE: We have a net benefit over there, even though we're creating a net loss here.
MR. BIRDSALL: That's correct. We're the smaller county and the smaller population. It's a David and Goliath issue.

COMMISSIONER BUSTAMANTE: And so the facilities are being built in the InterGen project, the ones that are being built right now for Mexico use are being built, not the U.S. one --

MR. BIRDSALL: No. The one that's being built now, the one that's most completed is the one they wanted to bring on line this summer, which is going to export power.

COMMISSIONER BUSTAMANTE: We'll bring the InterGen person on.

MR. BIRDSALL: What we wanted is that InterGen make a $7 million investment to put SCR on those other two units and would solve a vast majority of our pollution problems.

COMMISSIONER BUSTAMANTE: Yeah. Could I have the InterGen representative please come up.

CHAIRPERSON CONNELL: Okay, InterGen.

MR. MARTINEZ: How much time do I have to speak?

CHAIRPERSON CONNELL: You have a couple of minutes, just like everyone else.

MR. MARTINEZ: First of all, thank you. I guess,
just to start from the beginning, our powerplant is being built as a result of an international tender that was held to the Mexican government.

The Mexican government has been trying to improve its portfolio at the plants by having clean burning natural gas plants being built.

COMMISSIONER BUSTAMANTE: Cleaner.

MR. MARTINEZ: Cleaner. We won this bid in May of 2000. And the way that we sized this powerplant was to supply power to Mexico, but we also had some surplus that we could either sell to industrials in Mexico or also sell to California.

Later, when the energy crisis started in California, we decided to expand that to an additional unit to be able to supply power to California this coming summer of 2002 when there is going to be a need, according to the studies that have been prepared by the State Auditor.

So basically the powerplant is composed of four turbines. The ones that we have control over, which are two merchant units that we'll be selling power into California, have been equipped with the selective catalytic reduction.

CHAIRPERSON CONNELL: We've heard that.

MR. MARTINEZ: The other two units, part of our
winning the bid, we have a contractual obligation with the Mexican government to supply them power for 25 years.

COMMISSIONER BUSTAMANTE: We're not hearing anything new here. Can you get past all this.

MR. MARTINEZ: To address your issue about what we have offered, when we started meeting with Imperial County about a year ago, they brought up the fact that we didn't have any selective catalytic reduction.

As our response to them, we added the two. And then because our contractual obligation to CFE was such that we were tied to this tariff, we said we can't add selective catalytic reduction to the two turbines, but we did conduct an air study that showed under EPA methodologies and guidelines that we had no significant impact at the U.S. border as well as points north.

This information was provided to the Department of Energy and to the Bureau of Land Management under the environmental assessment document that was prepared for them that complied with NEPA as well as CEQA.

We showed that there was no significant impact, but we wanted to do something more. We have offered Imperial County and as well as Mexicali to create a cross-border ozone reduction program. Imperial County is nonattainment for two pollutants, one is PM 10, the other one is ozone.
PM 10 is mostly related to their agricultural business, and I think that should be dealt with in kind or we think so.

The ozone problem we have basically offered to create is to fund this committee to address specific sectors in the entire air basin, not just Imperial County, not just Mexicali valley, but the whole together and address specific sectors that are known producers of ozone.

We have had very good reception in Mexicali of this. We have talked to the Environmental Secretary about this as well in Mexico City. And we also want the support of both the community of Imperial County as well as industry for this program to work, and really effectively reduce ozone in the whole area.

CHAIRPERSON CONNELL: Let me interject here. I think a crucial point is has InterGen attempted to go back to the Mexican government and ask for a change in their rental agreement with the Mexican government, so that you can afford to put the converters on these other two plants?

Now, has that conversation been entertained?

MR. MARTINEZ: Yes.

CHAIRPERSON CONNELL: What has been the response of the Mexican government?
MR. MARTINEZ: Basically, there are no provisions in the contract for that.

CHAIRPERSON CONNELL: Well, there's no provisions in the contract. My question is will they entertain an expansion of the contract, a good neighbor policy with their friendly neighbor north, you know, California, so that we are not having any kind of pollutants whether you believe they exist or not?

If you obviously felt strongly enough to do it in relationship to the two plants that are there that you're selling energy to California is, my point is can this issue not be joined again, and is InterGen, you know, comfortable and willing to do so?

I mean, you know, I feel that we must move forward today on this, but I am very unhappy, as you are, Cruz, on this entire dilemma that we're in. It's like being forced to, you know, disable a child in order to save the child here. And that just is not a pleasant thought.

So I would like to have some assurance from the InterGen representative here today that there is going to be a good faith effort at the highest levels of InterGen to go back and try to renegotiate this contract. And I certainly, you know, behoove the Governor and Lieutenant Governor in their trips to Mexico, to make this a point
with the Mexican government.

It seems to me that's where the leverage needs to occur is at the Mexican government level not at some bureaucratic level within, you know, the Baja area of Mexico, but with the federal government at the most senior levels of the cabinet.

Now, the Environmental Secretary joined us here in California at the President's trip last year, Cruz. It would seem to me that we ought to be able to entertain this issue at the highest levels of the Vincente Fox administration.

COMMISSIONER BUSTAMANTE: I will be contacting the Secretary to find out if there is something we can do about this.

MR. MARTINEZ: I would like to let you know that we have been in discussions and there still are discussions being held in Mexico City pertaining to this matter. But I'd like to make sure that the -- I guess, from our results of the air quality impact assessment that we did, again using EPA methodologies and guidelines, that we showed no significant impact taking into account meteorology and topography and our emissions.

We, by far, exceed Mexican regulations. We are about 93 percent lower than all Mexican standards.

COMMISSIONER BUSTAMANTE: You understand, though,
however, your results are suspect?

MR. MARTINEZ: I see the Commission's position on that.

CHAIRPERSON CONNELL: Do I have a motion by the Commission on this matter?

ACTING COMMISSIONER PORINI: Yes. After listening to the testimony, I would move that we accept the staff's report.

CHAIRPERSON CONNELL: Is there a second for that? I'll second that.

It's been moved and seconded to accept the staff report.

All in favor say aye?

(Ayes.)

CHAIRPERSON CONNELL: That's a unanimous vote.

There are no other matters, I believe, Mr. Thayer, before this Commission?

EXECUTIVE OFFICER THAYER: The only other question would be whether anyone wanted to address the Commission in the public comment period, which, of course, is now.

CHAIRPERSON CONNELL: Are there any other matters?

No. No other comments, then this meeting is adjourned.
COMMISSIONER BUSTAMANTE: Madam Chair, just one more thought. I did raise earlier that I'd like to have the State Lands Commission begin the process of preparing policy for environmental justice. It is a bill that was established by Senator Solis, which requires all of the State agencies, and although it is not clear as to the effects that it has on independent agencies, such as the State Lands Commission, I'd still like to move forward on it so that all environmental justice issues are integrated with all the policy decisions of the State Lands and staff and the Commission.

EXECUTIVE OFFICER THAYER: We'll come back --

ACTING COMMISSIONER PORINI: I was just going to add on for the Lieutenant Governor that there is a working group within the administration that is working on environmental justice issues, and it cuts across all different agencies. So I know that they would be willing to participate.

EXECUTIVE OFFICER THAYER: And, in fact, our staff has attended some of those meetings. I attended one of those meetings and we'll carry forward with that.

CHAIRPERSON CONNELL: Thank you. We appreciate that, Mr. Thayer.

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

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

That I am a disinterested person herein; that the foregoing California 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 10th day of February, 2001.

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