APPEARANCES

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
Jennifer Lucchesi, Public Land Management Specialist
Dave Mercier, Chief of Finance and Economics
Don Hermanson, Marine Safety Operations Supervisor
Gary Gregory, Marine Facilities Division Chief
Jane Smith, Public Land Management Specialist
Curt Fossum, Senior Staff Counsel

ALSO PRESENT

Alan Hagar, Deputy Attorney General
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CHAIRPERSON CONNELL: I understand the Lieutenant Governor is in the building and will join us shortly, so I call this meeting to order. Two of the representatives are here. I'm Kathleen Connell, the State Controller, and seated with me today is Annette Porini from the Department of Finance. And as I indicated, Lieutenant Governor Cruz Bustamante will be joining us shortly.

For the benefit of the audience, the State Lands Commission administers real property owned by the State and its mineral interests. And today, as always, we will be hearing proposals about the leasing and management of this real property, and any proposals that are necessary to deal with its growth and its expansion.

If you wish to speak at this Commission, it's necessary to fill out a speaker's slip and we'll be more than happy to entertain your interests on an item. And we will do so during a public comment period as we get to each issue.

Good afternoon. I am now joined by the Lieutenant Governor. Mr. Bustamante, welcome.

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

COMMISSIONER BUSTAMANTE: So moved.
ACTING COMMISSIONER PORINI: Second.

CHAIRPERSON CONNELL: It's been moved and seconded and unanimously adopted.

Mr. Thayer, can we have your report.

EXECUTIVE OFFICER THAYER: Thank you, Madam Chair.

I just have three or four different items that I wanted to talk about. The first has to do with the strike or the impending strike, the labor dispute at the ports. It's been in all the papers, of course. And the ports are a significant part of the public trust operations in California. So I wanted to just go over some of the highlights to make sure the Commission was aware of them.

The main issues, as I understand them, have to do with pension and benefits and the method of implementation of new technology which is proposed for the ports. In response to a perceived worker slowdown, management has instituted a lockout. The initial lockout was last Friday. It was due to end on Sunday, but it was reinstituted later that day.

Some of the estimates that I see in the paper as to economic impact of up to $1 billion day for the first five days.

CHAIRPERSON CONNELL: Is that in California or is that throughout the nation? I thought that was a national number.
EXECUTIVE OFFICER THAYER: I believe that's a national number.

CHAIRPERSON CONNELL: Yes. In fact, I'm certain it is a national number, because we're tracking this very carefully for California revenues.

EXECUTIVE OFFICER THAYER: And, of course, there are some differences on that. Others point out though that the cost is likely to rise after the first five days because there will be business closures and that kind of thing so the cost per day will go up. Auto assembly plants or some of the facilities that are thought to be affected first.

Oil shipments are not affected, so the imports of oil and the moving of oil products around in the state are not affected.

CHAIRPERSON CONNELL: How is that possible? Are they letting the freighters through?

EXECUTIVE OFFICER THAYER: I think it's different unions that are involved, so it's not a labor dispute with the terminals and the tankers, so they can come in.

There are union/industry discussions. They met for about an hour and a half yesterday, and from the reports I read, they have more discussions today. Federal mediation has been offered, but it hasn't yet been accepted by all sides. I think there was an invitation to go to Washington on Thursday, but not all sides are agreed to that yet.
The President could declare a national emergency and order workers back. There hasn't been any firm indication of when or if the President would do that.

CHAIRPERSON CONNELL: Well, just a second. Order the workers back? I mean isn't this a lockout by management?

EXECUTIVE OFFICER THAYER: Yes.

CHAIRPERSON CONNELL: So doesn't he have to order management to end the lockout?

EXECUTIVE OFFICER THAYER: Yes, that's correct. But he could in effect order the operations to resume.

CHAIRPERSON CONNELL: Right.

EXECUTIVE OFFICER THAYER: But, again, the indication I'm hearing -- you're absolutely right in terms of how to properly characterize what's going on there.

CHAIRPERSON CONNELL: I'm assuming we ought to be clear on this.

EXECUTIVE OFFICER THAYER: Absolutely. So I'll continue to monitor this and keep the Commissioners informed as things develop. If there's any particular developments that would involve the Commission's jurisdiction, in particular, I'll get back to you right away.

The second item I wanted to talk about was the recent Prevention First Conference.

CHAIRPERSON CONNELL: Can we just wait a moment
for further questions by the Board. This is an important issue, not only to the economy of California, but to the ability of our manufacturers in California. I mean not only to the economy of the ports, but to the ability of our manufacturers and farmers in California to export their goods.

I am particularly concerned about whether or not the continued decay of items along the ports, items which are not able to be maintained beyond a few days that are perishable, in any way affects the health and safety of people along the port community, and specifically what liability, if any, we might have for the problem as it continues forward. I am aware that there are large containers of fruits and vegetables that are frozen at the ports, and as these materials continue to decay, not only is the odor a problem, but the sanity of those facilities is a problem, and the infestation that it can cause by the continued decay of these products is a problem.

EXECUTIVE OFFICER THAYER: I'll keep monitoring it for that issue.

CHAIRPERSON CONNELL: Who is maintaining some health and safety watch over these containers as a result?

EXECUTIVE OFFICER THAYER: I think the ports would be responsible for that, but we can certainly monitor that situation.
CHAIRPERSON CONNELL: I do not want these products dropped into the water and soiling the waters of California, as a result of an easy way of dealing with getting rid of them, that we don't want to be having our shores damaged by this material.

EXECUTIVE OFFICER THAYER: We'll communicate with the ports on that issue.

CHAIRPERSON CONNELL: Yes. They need to be vigilant.

Are there any other questions by Board Members on this?

All right, let's move on.

EXECUTIVE OFFICER THAYER: The second item I wanted to discuss was last month's Prevention First Conference. The Commission sponsors a conference every two years on oil spill prevention technology, and this was held last month in Long Beach. Four hundred participants attended. There was a good discussion on issues like port security, terminal engineering standards, and the ballast water program. These are all issues which are very important to the safe operation of California's ports and the safe transportation of oil upon which we rely. And I'd like to thank Eric Gregory who heads up our Marine Facilities Division. That division was responsible for putting on this event, and I think it turned out very well.
The next item I wanted to talk about, and with some regret, with a lot of regret, is that we've had two recent deaths amongst our staff, unexpected, amongst existing staff. John Kloman, the Planning Chief for the Marine Facilities Division died in late August after a long illness. He was a thoughtful and dedicated professional, and he was well respected both by staff and industry in how he carried out his work. And then more recently, Cheryl Stewart died about two weeks ago, very suddenly. She was a tremendously cheerful person with a great disposition and she kept the Marine Facilities Division. She also worked for MFD. Going in happy in good times and bad, and their loss is felt by everybody on the staff, but particular within the office in which they worked. I wanted to make an announcement today to acknowledge --

CHAIRPERSON CONNELL: What was her cause of death?

EXECUTIVE OFFICER THAYER: She had a heart attack, as I understand. But I wanted to make this announcement at a public meeting like this of the Commission, because they've worked for a long time for the Commission and --

CHAIRPERSON CONNELL: Well, I would like to suggest, as we do at some of the other boards, that we send not only official condolences to the families, but I do think a certificate would be appropriate for their length of service with the organization. If you would make sure, Jack
and Paul, that that is prepared. I'm sure all Board Members would like to sign that.

    EXECUTIVE OFFICER THAYER: We'll make the arrangements. Thank you.

    And then, finally, our next Commission meeting scheduling. We would anticipate, as we have the last few years, scheduling the next meeting in about two months. That would take it immediately after Thanksgiving and before the Christmas season starts. And we'll contact your offices to arrange for a mutually agreeable date.

    And that concludes the Executive Officer's report.

    CHAIRPERSON CONNELL: Excellent. The next order of business will be the adoption of the consent calendar, and I call on our Executive Officer to indicate which items have been removed.

    EXECUTIVE OFFICER THAYER: There are two items that we would like to remove. We've received letters of opposition to Item 40. This has to do with the build up of a berm at Del Mar. So we'd like to have that removed from the consent calendar and we would like to hear it today and we just put it at the end of the regular calendar.

    The second item is Item 65. This is the Long Beach gas contract. We haven't yet reached agreement with the city on the shape of that contract, and so we would request that that be taken off the consent calendar and
heard at our next meeting.

CHAIRPERSON CONNELL: All right. Any opposition to either of those? Is there anyone that wants to speak on the consent calendar in the audience?

ACTING COMMISSIONER PORINI: Move approval.

CHAIRPERSON CONNELL: If not. Excellent.

COMMISSIONER BUSTAMANTE: Second.

CHAIRPERSON CONNELL: And it's been moved and seconded. It is a unanimous vote.

Okay. Item 67 is off calendar, as I recall, Mr. Thayer. So let's move to Item 68 which concerns the consideration of your report entitled Port-Community Relationships. And if you would begin your presentation.

EXECUTIVE OFFICER THAYER: Thank you, Madam Chair.

As the Commissioners will recall, at our April meeting, during the discussion on the potential secession of the Harbor area from the City of Los Angeles, and in other instances, the Commissioners have heard from members of the public who have had concerns about port relationships with the surrounding communities and their environmental compliance record. The Commission directed staff to review these issues and to prepare a report and bring it back to the Commission. We've done so. It contains a number of recommendations, and we're asking the Commission approve the report or adopt the report and their recommendations at this
time.

I would like to call on Jennifer Lucchesi, the principal author of that report, to give the staff presentation and more details on this matter.

CHAIRPERSON CONNELL: Can you identify yourself for the record, Jennifer?

PUBLIC LAND MANAGEMENT SPECIALIST LUCCHESI: Madam Chair and Commissioners, my name is Jennifer Lucchesi, Public Land Management Specialist for the Commission.

In response to the concerns raised by the public about port development projects and their impacts on local communities, the Commission at its April 9th meeting directed staff to review the relationships of the five major ports, including the Ports of San Francisco, Oakland, Los Angeles, Long Beach, and San Diego to their surrounding communities. The Commission identified three major objectives, which include conduct a review of environmental issues. Number two, conduct a review of the relationship with the cities, the regulatory agencies, and the surrounding communities to the ports. And number three, examine alternatives in which the Commission can positively influence such relationships.

California ports rank as some of the world’s largest trade gateways. The contributions to the local and regional economies, as well as to the state and national
economies are far reaching. California has 17 ports and
harbors which when combined create 838,000 jobs, contribute
$27.3 billion to the state's gross domestic product, pay
over $1.5 billion in state taxes.

CHAIRPERSON CONNELL: Every penny of which we
need.

(Laughter.)

PUBLIC LAND MANAGEMENT SPECIALIST LUCCHESI: Yes.
And generate $32.5 billion of personal income. In addition,
California ports carry 31 percent of the nations waterborne
international trade cargo and contribute $40.6 billion to
the national gross domestic product, helping to make
California the sixth largest world economy.

While California ports are an essential part of
the California and U.S. economies, they must address major
challenges associated with planning and environmental
issues. These include port planning and management
issues, environmental review process challenges, and
environmental issues, such as air quality, water quality,
and traffic congestion.

To prepare the report for the Commission today,
staff gathered information via personal and telephone
interviews, meetings, public forums, internet searches, and
a review of published documents. This information was
collected from ports and their associations, local
municipalities, various local, state and federal agencies, and approximately 20 various citizen and environmental groups throughout the state.

The character of port-community relationships is defined in part by the environmental impacts and planning issues germane to each port. These relationships are complex, because each entity, including the ports, the cities, the regulatory agencies, and citizen and environmental groups concerned with port activities have their own perspective of issues, issue identification, approach, and resolution.

Staff found that the ports acknowledged the tensions which exist with their surrounding communities. However, the ports feel that they are taking the necessary steps to address these tensions, and that these relationships are gradually improving. The relationships between the ports and their related cities range from one of tension to complete satisfaction. However, most cities feel that the relationships are gradually improving as well.

The regulatory agencies report that the relationships with the various ports have not always been positive. However, current relationships with the ports are good due to increased communication, awareness, and responsiveness on both sides. The majority of the community and environmental groups acknowledge that the ports have
generally gotten better in terms of communicating. However, there is still dissatisfaction with some port activities.

In sum, the ports appear to relate to regulatory agencies and their cities better than to their associated communities, although criticisms are not made by all groups or individuals. In response, the ports have established various community outreach programs to help facilitate communication and promote a better relationship. However, these relationship challenges, complicated by significant planning and environmental issues are far from being resolved. While local, state, and federal agencies are continuously working to resolve these issues, these considerable challenges will always require ongoing efforts and coordination.

In addition, relationships between the ports and their surrounding communities will also require continuous efforts to improve communication, while preserving the ports' mission to facilitate the ongoing need for trade and commerce.

Land occupied by the five major ports in California and the development activities associated with them are subject to the protections and restrictions of the public trust doctrine. The California legislature is vested with the primary authority over sovereign public trust lands within the state. Soon after, the state legislature began
to grant certain waterfront public trust lands to local jurisdictions, such as cities and ports. As the legislature's delegated trustee of these sovereign public trust lands, the cities and ports have the primary responsibility and authority to manage their trust grants on a day-to-day basis. While the ports generally have authority over port planning and management, the Commission can litigate port decisions which are inconsistent with the grantee's trust responsibility. More importantly, though, the Commission can positively influence port planning and management through consultation, coordination, and education.

Based on the existing legal framework and its review, staff of the State Lands Commission identifies in the report before you today several program options for the Commission to consider and also recommends various actions for the five major ports to implement, which staff believes could help promote better relationships between the ports and their surrounding communities. These options range from increased State Land Commission participation in the regulatory process, improved educational and informational outreach, and expanded participation and influence in the legislative proposals enacting grantee responsibilities and the State Lands Commission and its responsibilities.

Staff, therefore, recommends that the Commission
accept the report and direct staff to carry out those
recommendations identified in the report.

CHAIRPERSON CONNELL: Are there any members of the
public that are here on this issue or any other issues? I
don't have any public -- here it comes. Excellent. Let's
see, is there anyone here on this issue? This is Item 68.
Yes, there is.

Jim Lites. Jim, please come forward. Identify
yourself for the record. And let's see, I'm not sure which
one -- this is Queensway project, is that correct?

EXECUTIVE OFFICER THAYER: My understanding in
reading that is that the gentleman, Mr. Lester Denevan,
would like to speak during the public comment period at the
end.

CHAIRPERSON CONNELL: Oh, okay. Fine. All right.
Go ahead.

MR. LITES: Hi, my name is Jim Lites representing
the California Association of Port Authorities. Thank you
for the opportunity to be here today.

We'd like to briefly comment on the staff report
Ports-Community Relationships, and thank the Commission
staff for being quite responsive to our questions about the
report.

The report appears to be a very balanced overview
of ports and regulatory and municipal and community
relations. By and large, the ports enjoy solid working relationships with these groups and the ports have worked hard to develop productive stakeholder communications. Generally, the ports are quite proud of their work in this area, yet we're aware that stakeholder issues cannot always be resolved to everyone's satisfaction.

The Port of Sacramento, for example, while not a tidelands trust port, faces a ballot initiative to change local zoning that could actually threaten the port's very existence.

The Port of Los Angeles has been the subject of legislation to reauthorize tidelands trust land to be developed for nonmaritime uses.

At the Port of Oakland, the Vision 2000 Port Expansion Program was met with various community challenges, but the initiative is moving forward as a result of successful resolution of various issues, which includes the creation of a Division of Social Responsibility at the port, the first that we know of at a port anywhere in the country.

We recognize that the pressure to respond to concerns raised by community stakeholders has never been higher. However, the ability to conduct the port industry's primary mission of facilitation of seaborne commerce is often made more difficult.

We hope that this report will ultimately lead to
an enhanced partnership between the Commission and the ports to ensure that the maritime cargo shipments that transit through California ports is protected, along with the $27.3 billion in gross state product generated each year.

We'd like to respectfully request the Commission defer any formal action today and allow the port industry to provide the staff with additional information regarding our community relations activities. The report's been in our possession about a week, which has unfortunately coincided with a major west coast labor crisis which has been described to you already this afternoon. We'd appreciate the opportunity to provide the staff with a little bit more thoughtful comment before any formal action is taken by the Commission.

Again, the ports sincerely hope that this report and subsequent considerations result in the creation of policy that makes waterborne transportation a priority in California. While west coast docks are idle, America's economy bleeds red. In the meantime, California may run the risk of experiencing a dwindling deepwater port infrastructure that once lost, cannot be replaced. We need to preserve the priority of the working ports in the tidelands. We look forward to working with the Commission's staff as recommendations from this report are considered further.
And thank you, again, for the opportunity to convey our views.

CHAIRPERSON CONNELL: Excellent. Are there any questions of Members of the Board for our speaker? No. Mr. Bustamante.

COMMISSIONER BUSTAMANTE: Madam Chair, I'd like to move that this is an informational item so that we don't take any formal action today to allow the ports to go ahead and add additional information so we might give a full review to what they believe to be the problems and the challenges of the ports. I too believe that the report could go into some additional detail and would hope that as being involved with the management of the ports that we might be made aware of what the current challenges are of the various ports. I'd like to see something a little bit more detailed in a future report. I'd like to be able to discuss this with staff and also with the ports further. So I would hope that we would make this item today an informational item.

CHAIRPERSON CONNELL: I certainly would second your idea of making it informational. Perhaps you can give either now or at some later point additional detail to staff as to where you would like to see the report expanded. If there's a particular arena of discussion that you think is either shortchanged or missing in this report, if you can
give that guidance, I think that would be appreciated.

COMMISSIONER BUSTAMANTE: Sure.

ACTING COMMISSIONER PORINI: I am fine on having

the item be informational today.

CHAIRPERSON CONNELL: I have no additional aspects

of the report that I'm going to need to have enhanced. But

I would ask that you then delay this matter, and secondarily

that you work with Mr. Bustamante and his office in regards

to enhancements to the report.

EXECUTIVE OFFICER THAYER: Thank you, Madam Chair,

we will.

CHAIRPERSON CONNELL: Excellent. Now we are on

Item 69, which was Proposed Bid Rejection of Royalty Oil

Sales from the Huntington Beach Field. And can we have

details on this item, Mr. Thayer?

EXECUTIVE OFFICER THAYER: Yes, Madam Chair. Dave

Mercier from our Mineral Resources Management Division will

give the report on this item.

ECONOMICS AND FINANCE CHIEF MERCIER: Good

afternoon, Madam Chair and Honorable Commissioners. My name

is Dave Mercier and I work in the Mineral Management

Division and I'm in charge of finance and economics. This

is going to be pretty brief. I don't have a lot to --

CHAIRPERSON CONNELL: Brevity is always

appreciated.
(Laughter.)

CHAIRPERSON CONNELL: Never feel that you need to make an excuse.

FINANCE AND ECONOMICS CHIEF MERCIER: Yes, okay.

During the June 18th, 2002, Commission meeting, the Commissioners authorized the sale of the Huntington Beach crude oil. The state's share of the production was about 800 barrels of oil per day. After sending out the public notices inviting bids, Paramount Petroleum Company on July 15th, 2002, the only bidder, bid a little bit over 26 cents above the base price, or 25 cents, or a penny above the minimum price. The contract started on January 1st, 2003, and ended January 1st, 2004.

Staff compared this bid to other bonuses of like quality, and had a meeting with the field operator, Era Corporation. Staff concluded that it was the best interest of the State to recommend rejection of this bid. It's important to note that the State has rejected royalty selloff bids historically that were found to be significantly below market value. The State is currently receiving more than $1.25 per barrel over the base for similar Wilmington oil that is being sold by two different State operators, Oxidental Petroleum and Tidelands Operating Company.

By rejecting this bid, the operator is obligated
to sale this oil and provide the State, per the lease agreement, a reasonable price for the oil as determined by the State. The operator, Era, which we've been working with very closely, has assured State staff that we'll be receiving a better price. We're looking at probably in the dollar range. The additional money, just off the additional bonus from the corporation, is a little over $300,000 a year.

In addition to that, this royalty, the price of oil for this particular crude, is tied to a sliding scale royalty. A price-based sliding scale royalty. So when we get more money from that, the royalty will go up and we should make an additional seven or eight hundred thousand dollars a year.

CHAIRPERSON CONNELL: Sweet music to my ears.

(Laughter.)

FINANCE AND ECONOMICS CHIEF MERCIER: Yes, I always like to bring good news.

CHAIRPERSON CONNELL: Every penny counts in today's budget, does it not, Annette?

ACTING COMMISSIONER PORINI: Absolutely.

FINANCE AND ECONOMICS CHIEF MERCIER: So, yes, we can, I think, because of this rejection, increase State revenue over a million dollars a year, just for this next year.
So that's all I have.

CHAIRPERSON CONNELL: Excellent.

Any other comments on this matter?

And I think it was good judgment to defer. Thank you for doing so.

FINANCE AND ECONOMICS CHIEF MERCIER: Thank you.

CHAIRPERSON CONNELL: There is no reason to sell at the bottom of the market. We're not panic sellers here. The oil is not going to in any way lose its value as a result of our inability to sell it during a time in which the market is not responding to realistic market valuations.

That's excellent.

Good. Then we will move on. Thank you for your help.

Can we have a motion on that?

COMMISSIONER BUSTAMANTE: Yes, moved. Please.

ACTING COMMISSIONER PORINI: Second.

CHAIRPERSON CONNELL: Okay. That's unanimous.

Now, we're on Item 70, which is an informational item concerning security at California ports. And I believe we all asked for this item, given concern on the homeland security front.

Mr. Thayer.

EXECUTIVE OFFICER THAYER: Thank you, Madam Chair.

Gary Gregory, who's the Chief of our Marine Facilities
Division will make -- I'm sorry, Don Hermanson, who actually prepared this report, will --

MARINE SAFETY OPERATIONS SUPERVISOR HERMANSON:

I'm not Chief yet.

EXECUTIVE OFFICER THAYER: Not Chief yet.

(Laughter.)

EXECUTIVE OFFICER THAYER: He will make the presentation on this item.

MARINE SAFETY OPERATIONS SUPERVISOR HERMANSON:

Good afternoon, Madam Chair, Commissioners. My name is Don Hermanson, I'm the Marine Safety Operations Supervisor at the Marine Facilities Division of the California State Lands Commission. As was mentioned, this information was asked for at the April Commission meeting in Los Angeles. And our inquiry into the security posture included these California seaports.

In order to set the foundation for this briefing, however, I'd like to review for you what the security posture of California's seaports were prior to 9/11/01. And that is that prior to that awful day, lighting was used essentially for safety at marine terminals, for example, lighting pathways or operating areas. Fencing was more or less used to demark property lines, to keep out stray animals, and the odd fisherman and the curious. Radios and telephones were used for conducting the business of the
marine terminal. And vessels were viewed as either commercial in nature or recreational, though that did begin to change after the USS Cole incident.

There is a hierarchy of seaport security here in California. Logically, it starts at the federal level. You see the major stakeholders there on the screen. And then it percolates down to the state, and then finally the local stakeholders.

At the federal level, the US Coast Guard has the lead for seaport security here in California. The U.S. Coast Guard has divided California's coastline into three zones, three captain-in-the-port zones. They are San Diego, Los Angeles/Long Beach, and San Francisco Bay. You may be pleased to know that the Coast Guard's Sea Marshals' Program began in San Francisco Bay captain-in-the-port zone. The purpose of those sea marshals is to board special or high-interest vessels before they get to California ports and inspect them for contraband, stowaways, and essentially anything that looks out of the ordinary. They also provide escort service to the berth.

Safety and security zones are essentially exclusionary zones established by the Coast Guard to prohibit vessel entry. Two important examples of these are at the naval base in Coronado and the naval submarine base in Mission Bay, San Diego. Both of these zones have been
increased in size to prevent another USS Cole-type terrorist attack.

The U.S. Customs, through their partnership with --

CHAIRPERSON CONNELL: Excuse me. They've been increased to prevent that, that was post 9/11 though, am I following this report correctly?

MARINE SAFETY OPERATIONS SUPERVISOR HERMANSON:
Yes, post 9/11.

CHAIRPERSON CONNELL: We're now in the post 9/11?

MARINE SAFETY OPERATIONS SUPERVISOR HERMANSON:
Yes. I'm sorry, I did not make that clear.

CHAIRPERSON CONNELL: All right.

MARINE SAFETY OPERATIONS SUPERVISOR HERMANSON:
The advance notice of arrival has also been updated in light of what has occurred. It used to be 72 hours. Now, the Coast Guard is requiring a 96-hour advance notice of arrival for vessels coming here to U.S. ports. This gives the Coast Guard additional time to prepare should they need to board these vessels. Security guidelines were developed by the Coast Guard, in consultation with the Marine Facilities Division, and also the Maritime Transportation System Advisory Council of California. These guidelines are basically a Coast Guard directive for shoreside facilities, in particular, port facilities, and vessels, measures to
take to essentially harden their facilities against
terrorist attacks.

And, finally, under the Coast Guard, a marine
safety and security team has been established in San Pedro.
Basically, this is a responsive organization to respond to
various threats as determined by the Coast Guard.

Customs. Through their trade partnership against
terrorism, has enhanced supply chain security. What this
does, essentially it's a carrot-and-stick approach. The
stick is you get on board with our security program, the
carrot is, if you do so, and I'm speaking to freight
companies here, if you do so, your products as they arrive
in the United States will receive expedited processing at
U.S. ports.

And the Container Security Initiative, essentially
what that does is it pushes out U.S. borders to foreign
ports. It places Customs inspectors in ports such as
Rotterdam, Hong Kong, Singapore, to assist those local
authorities in inspecting containers bound for the United
States. Prior to September 11th, 2001, the Customs
inspection rate for containers was one to three percent.
Now it's up to approximately 15 percent.

The INS, another major stakeholder, now requires
passenger and crew manifests to be sent to them prior to
ship arrival in the United States, or if it's already here,
prior to departure. This information must include the names of the crew or passengers, dates of birth, and places of birth.

And, finally, at the federal level, the Department of Transportation, with consultation from the Coast Guard and the Maritime Administration, has essentially given these funds to California's ports for upgrading or enhancing security.

At the state level, the Marine Facilities Division soon after 9/11/01 developed a 13-point checklist for marine terminal physical security. These surveys were developed based on what was available in the Coast Guard and the Navy's physical security manuals. We then went to the marine oil terminals. We conducted the physical security surveys to give us a baseline as to what we actually had at the marine oil terminals with respect to security. And then we developed very quickly emergency physical security regulations for marine oil terminals. And those became effective on the 7th of March of this year. We're now working through the process of developing permanent physical security regulations, and those are in the public review process now.

The Mineral Resources Management Division has also been active in the security vein. They directed operators producing oil and gas in the state's tidelands to update
their terrorism alert and response plans. They've also
directed offshore operators, for example, platform
operators, to seek safety zone establishment from the U.S.
Coast Guard.

CHAIRPERSON CONNELL: Do we have any idea if there
has been any security problem at these ports post 9/11? Do
we get any security report from the federal government?
What about this Homeland Security Department that's been set
up?

MARINE SAFETY OPERATIONS SUPERVISOR HERMANSON:
Well, the Homeland Security Department has not yet been
constituted, Madam Chair, the federal government is still
working on establishing that department. We do have some
rather anecdotal information on some security breaches post
9/11/01. However, they turned out not to be really security
breaches in nature. We had one report of a person walking
with a rifle on the shoreline in the vicinity of one of our
terminals. The local sheriff's department responded to the
scene and it turned out to be a hunter who had just wandered
in the near vicinity of that terminal.

In another case, we had a report of a diver in the
Carquinez Straight approaching one of our marine oil
terminals. Going into the water right next to the wharf
structure and the vessel that that person arrived on
departed. Well, that was investigated and that turned out
to be essentially some research work done by one of California's universities. Other than that, we have no direct information on security breaches at the marine oil terminals.

COMMISSIONER BUSTAMANTE: We don't have anything from the Coast Guard either? I mean aren't they the ones who provide us the major part of security and evaluations?

MARINE SAFETY OPERATIONS SUPERVISOR HERMANSON: Yes. They are, as I mentioned earlier, a major player. However, the Coast Guard's position has been that they will elevate security status at ports as they feel necessary. Now, the captain-of-the-port at Los Angeles/Long Beach got into some hot water earlier this year about some reported terrorists entering the United States in containers. And essentially that stemmed from an interview that that captain-of-the-port was having with a maritime related newspaper or a maritime related publication. And he seemed to confirm that, yes, there were some terrorists that perhaps entered the country via that mode, however, the government's position and the Coast Guard's position has always been that they would neither confirm nor deny these kinds of reports.

COMMISSIONER BUSTAMANTE: So you could neither confirm nor deny we have valid safety and security measures?

CHAIRPERSON CONNELL: This is indeed my problem
with this whole report. I mean I don't understand where we go here, because if we don't know whether or not we're having any security problems, Mr. Lieutenant Governor, I don't know how we know whether we're adequately protected.

COMMISSIONER BUSTAMANTE: If I could also just suggest that one of the things I think we could do, rather than getting into a situation that's been reported, one agency doesn't speak to another, what we might want to do is anything that we do with respect to security that we make sure that we send a copy to George Vinson, who is the Special Advisor on State Security, so that we begin to at least centralize some of the information. And my understanding is that he is reviewing with the other law enforcement officials in the state, coordinating with OES, and this would be just another piece that we could offer to him for review. So at least the information starts to become a bit more centralized.

I'm a little confused. You said the MSSTs, are they at each of the ports or they only in San Pedro?

MARINE SAFETY OPERATIONS SUPERVISOR HERMANSON: In California, Mr. Lieutenant Governor, they are only in San Pedro at this point.

COMMISSIONER BUSTAMANTE: Is there a reason why they are not at the other ports, or do they cover the other ports, or is there some kind of a special threat at San
Pedro that's at none of the other ones?

MARINE SAFETY OPERATIONS SUPERVISOR HERMANSON: I don't believe that's the case. The Coast Guard could answer that better than I could, but --

COMMISSIONER BUSTAMANTE: But they don't confirm nor deny any kind of problems?

MARINE SAFETY OPERATIONS SUPERVISOR HERMANSON: Well, the marine safety and security teams are rapid response in nature. So I would guess that they would be able to respond to threats or conditions in other ports other than Los Angeles/Long Beach.

COMMISSIONER BUSTAMANTE: But we don't know?

MARINE SAFETY OPERATIONS SUPERVISOR HERMANSON: I don't know.

COMMISSIONER BUSTAMANTE: Okay. Is there any way to find out?

EXECUTIVE OFFICER THAYER: We'll see if can.

CHAIRPERSON CONNELL: And I would just speculate that the location at San Pedro might well be because of the focus on Southern California with the borders and the fear that now exists about people crossing both the Canadian and Mexican borders as a way of coming into the country. And I would just assume that that would have been San Diego, you'd think, more than San Pedro, if that would be the issue.

COMMISSIONER BUSTAMANTE: We'll first responders
respond to difficult situations, and there seems to be both
employees at each one of the facilities, there seems to be
residential around most of the facilities, and so why it
would be placed in only one facility with only the
responsibility of one facility makes me a little -- it
leaves a lot of questions in my mind. So if they're
supposed to be the first responders to all the ports or if
they're limited, I'd like to know.

EXECUTIVE OFFICER THAYER: We'll find out.

COMMISSIONER BUSTAMANTE: You'll find out. Also,

in your review, do the ports themselves have any kind of an
evacuation plan for employees or residential areas in and
around the ports in the event that something takes place?
Is there any kind of plans of any kind for that?

MARINE SAFETY OPERATIONS SUPERVISOR HERMANSON: I
know that the individual marine facilities have those
evacuation routes and plans established, Mr. Lieutenant
Governor, but for the ports themselves, for the entire port
area, I'm not sure.

COMMISSIONER BUSTAMANTE: Well, there is a port
authority?

MARINE SAFETY OPERATIONS SUPERVISOR HERMANSON:
Yes.

COMMISSIONER BUSTAMANTE: So it seems to me that
they would have some thought about how you might evacuate
people in a difficult situation. And I'd like to know first
of all, if you could check to see if they each have an
evacuation plan of some type, and under what circumstances
it's utilized, whether it's, you know, chemical, biological,
I don't know. Whatever they might have, I'd like to know
what they might have, or if they don't have any at all, then
I would follow up with some additional requests.

And the enhancements that you indicated in one of
those charts. If you could back up to that chart. There's
about $15 million, or maybe it was more, federal funds that
went directly to ports.

MARINE SAFETY OPERATIONS SUPERVISOR HERMANSON:
I'm Powerpoint challenged.

COMMISSIONER BUSTAMANTE: Well, can you find out
then --

MARINE SAFETY OPERATIONS SUPERVISOR HERMANSON:
This one?

COMMISSIONER BUSTAMANTE: Yes, that one. Do we
know what those enhancements were?

MARINE SAFETY OPERATIONS SUPERVISOR HERMANSON: I
don't.

COMMISSIONER BUSTAMANTE: Did we get halfway to
the goal that we needed to get to? Did we get all the
enhancements necessary? Did it cover it all, did it cover
part of it?
MARINE FACILITIES DIVISION CHIEF GREGORY: I'm Gary Gregory. I'm the Chief of the Marine Facilities Division. On these particular port security grants, each one of them was for a particular item, a particular request, that was forwarded through to the federal government, reviewed by the local Coast Guard captain-of-the-port. They are not looked at as a system, they are individual projects, like in the Port of Long Beach, that add up to a total of $4.3 million.

COMMISSIONER BUSTAMANTE: I understand generally how grants go. I'm just wondering what else needs to be done?

EXECUTIVE OFFICER THAYER: Gary, isn't it true that at many of the ports they had lists that were longer?

MARINE FACILITIES DIVISION CHIEF GREGORY: Much longer. This was a first look and based upon the limited numbers of dollars that were available nationwide.

COMMISSIONER BUSTAMANTE: So if we were going to look at the -- let's make it simple. If we were going to go to LA and to the LA port and we were going to look at its security needs, it has a -- my guess is it has a list, a wish list, of things that it would like to have in order to be able to what it believes feel secure in it's operations, yes?

MARINE FACILITIES DIVISION CHIEF GREGORY: There a
number of such wish lists by various sundry agencies.

COMMISSIONER BUSTAMANTE: Exactly. And by each of the ports?

MARINE FACILITIES DIVISION CHIEF GREGORY: Yes.

COMMISSIONER BUSTAMANTE: Okay. So at some level, one would feel secure or a greater sense of security, and I'm just trying to figure out how much is there left to do? How many more agencies? I mean which ones are in better shape than others, do we have any kind of a grading, do we have any kind of an analysis on each of the ports? Is the Long Beach port so much worse off than the LA port or the San Diego port? I mean, how do we know what kind of condition they're in with respect to their security?

MARINE FACILITIES DIVISION CHIEF GREGORY: Well, we don't have a good idea of that now. And under the bills --

COMMISSIONER BUSTAMANTE: How can we get that?

MARINE FACILITIES DIVISION CHIEF GREGORY: -- that are in the U.S. Congress right now, there will be threat and risk assessments done on the various major U.S. ports of which Los Angeles, Long Beach, San Francisco Bay would be part. But we don't have those comprehensive risk assessments done yet.

COMMISSIONER BUSTAMANTE: And who does those?

MARINE FACILITIES DIVISION CHIEF GREGORY: Those
will be done through the U.S. Coast Guard.

COMMISSIONER BUSTAMANTE: The Coast Guard?

MARINE FACILITIES DIVISION CHIEF GREGORY: Yes.

COMMISSIONER BUSTAMANTE: And when they get them done, we won't know what they are and what their needs are because they don't confirm nor deny?

MARINE FACILITIES DIVISION CHIEF GREGORY: I believe that general parts of the information will be made available to the public, but specific information that's considered high risk will not be made available.

COMMISSIONER BUSTAMANTE: I guess I'm trying to figure out, is there something, if we're going to be responsible to any degree on how to assist the ports to get into a better position to provide security, we have to have some basic understanding of where they're at and where they need to go.

MARINE FACILITIES DIVISION CHIEF GREGORY: Yes, sir.

COMMISSIONER BUSTAMANTE: Does that make sense?

MARINE FACILITIES DIVISION CHIEF GREGORY: Yes, sir. And unfortunately a year later, we're still at the very beginnings of all of that process. And we as an organization are working closely with the Coast Guard in terms of their local view of risk assessments. But in terms of the national and the larger view and the intelligence
information that they have, they will not share that
information with us.

CHAIRPERSON CONNELL: Annette, you have been
waiting patiently.

ACTING COMMISSIONER PORINI: Well, let me just add
on to what the Lieutenant Governor has talked about.
Because I also suggested to staff that George Vinson would
be a person that we ought to consult with. And maybe that's
the point of contact where Mr. Vinson may have the ability
to get some of that information about what the actual risk
assessments are at the federal level and be able to work on
a confidential basis to create a plan or at least create the
information that this Board needs to feel the ports are
secure.

CHAIRPERSON CONNELL: Well, I know Congresswoman
Jane Harmon and her counterparts in the south bay have
already spoken to this issue. And they -- and Christopher
Cox as well, it's a bipartisan effort on the part of both
the congressional leaders to make this a priority. And I
know the Coast Guard, from their vantage point, is going to
embark on this at some point.

I think the Homeland Security Bill is actually
being voted on either this week or next week in Congress.
So assuming it's voted on and signed by the President,
hopefully this will be one of the first tasks of the Coast
Guard. But that's an excellent suggestion. I think George Vinson is the ideal person because of his confidential status in the state. He is designated by the Governor to be the recipient of so much of this information. Maybe he would receive it, since they are unlikely to give it to us and distill it in such a way, if necessary in closed session, Mr. Bustamante, so that we can be informed.

I absolutely believe we should be informed. The ports are a major asset of the state, and if something happens to them, contrary to the institutional belief that the federal government is responsible, we are here. We are the neighbors to the port, and it will be California, and indeed the Lands Commission that will carry a great deal of involvement if we need to repair those ports or if we need to do anything to keep them operational.

COMMISSIONER BUSTAMANTE: Well, they're major assets to the nation, and they happen to be in California. So we have a responsibility not just for ourselves, we have a responsibility for the nation to make sure they're in good standing. So I'm just trying to figure out how we do that. And I don't get a whole lot of good feedback as to recommendations as to how the hell we do that.

EXECUTIVE OFFICER THAYER: I think that it's a very difficult issue for staff, and I know the Commission as well, to work on this. I think that port security is a very
complex issue and the discussions we've had with industry, it's still an ongoing issue. This is sort of like the environmental justice policy which we're going to be dealing with next. It's something that's evolving and people find out, oh, no, a certain method of communication won't work or will work because of this kind of technology or whatever. And it's been a year and some of this is still being worked on. I suspect it will still be worked on next year, which is a good thing. It means that people are looking for a comprehensive --

CHAIRPERSON CONNELL: Well, it's a good thing only if in the interim we are adequately protected. If, however, the ports become the next targets of terrorist opportunity, God forbid, and we are as uninformed then as we are today, that would not be a good thing. So I am concerned about the sensitivity of timing here.

EXECUTIVE OFFICER THAYER: And the difficulty we have, staff, of course, doesn't have the expertise to know whether a particular security measure is appropriate or sufficient in any particular instance. We're not trained anti-terrorists, we don't have the same kind of expertise of the Coast Guard which has been handling security issues for a long time has. So we're greatly reliant upon the assessments we get from the experts to tell us how we're doing. And so we're coming up against a little bit of a
roadblock here that has to do with the nature of security itself. How much do they want to tell us. But I guess we'll pursue the options you've talked about, in terms of talking with the Governor's assistant on this and look for other opportunities to try and get you an assessment. Because I'm hearing you're frustrated with not knowing and we have a lot of difficulty in ascertaining some of that ourselves.

CHAIRPERSON CONNELL: I think we are all frustrated, but I appreciate the need for confidentiality. I mean we don't want information which is not valid to be released and create even more anxiety and discontent. But I do think we've probably run this issue out as far as we can today.

I do want to just ask that you follow up immediately with Mr. Vinson. And I'd also suggest that maybe we contact our congressional offices as well. They're all on the coast, because I do know there was a movement forward by the California congressional delegation and this subject initially was raised to play a leadership role. And I know that at least two of those offices had those discussions, so I'm assuming that others did as well.

Okay. Thank you. I don't think we need action on that.

COMMISSIONER BUSTAMANTE: No.
CHAIRPERSON CONNELL: So then we're on Item 71, which is the proposed adoption of an amended environmental justice policy. And tell us what further work has been done in this regard, if you will.

EXECUTIVE OFFICER THAYER: Certainly, Madam Chair.

At this year's April meeting, the Commission adopted an interim environmental policy. Environmental justice under state law calls for the fair treatment of all people of all races, cultures, incomes, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies. The Commission directed staff to obtain public comment on that policy, the interim policy previously adopted, revise it as necessary, and bring it back to the Commission for reconsideration.

The proposed policy before you today is the result of staff's efforts. We sent the policy to 51 different citizens' groups from all over the state with an interest in environmental justice and asked for their comments. We placed the policy on the Commission's webpage with an invitation to comment. We also asked other State agencies, particularly the Office of Planning and Research, which has an environmental justice steering committee to make adjustments.

We received five public comments. We're
recommending refinements to the policy based on those comments and additional review by staff. These changes are not extensive, however, they reflect an effort to make the policy more effective and comprehensive. For example, in Statement 8, we made modifications which provide that pursuant to that policy, when siting facilities that may adversely affect relevant populations, alternatives will be clearly identified that would minimize or eliminate the adverse effects of the project. This information will provide a more complete picture for the Commission's evaluation in its decision making.

Furthermore, two additional statements were added to the list that was in the original draft. Statement 9 pledges that the Commission will work with other agencies at all levels to ensure that disproportionate impacts on relevant populations are taken into consideration. And Statement 10 pledges the Commission's support to foster research into the cumulative impacts of pollution and other impacts. We believe all the statements taken together provide a sound foundation for the Commission to use in incorporating environmental justice in its environmental analysis in decision making.

I should note that this is a public policy that's in the evolution stage. I expect a lot of change in California and federally, and that there will be additional
mechanisms identified that will be useful for the
Commission. And so we anticipate continual review of this
particular subject and continual improvement.

But the next step now is that after adoption,
which we're asking the Commission to do today, we will be
offering training to the Commission and locating it for
staff as well. We'll be working with OPR and other State
agencies to develop a training program that fits our needs.
And then I'm personally, and I think other staff members are
looking for the opportunities as well, looking to
participate in the tours given by some of these public
interest groups that we contacted of severely impacted
communities to learn firsthand and more effectively about
environmental justice issues and concerns.

We're looking forward to implementing this policy
on a day-to-day basis. We recognize that we have a lot to
learn. Undoubtedly, the greatest challenges lie ahead as
we're faced with tough decisions concerning the environment
and human health. We've already made staff-level changes in
how we conduct our environmental reviews, pursuant to the
California Environmental Quality Act. Now, there must be
specific analysis of environmental justice issues in
environmental documents that would be brought to the
Commission for its consideration.

In closing, staff recommends your adoption of the
amended environmental justice policy before you today and that we believe this policy will better promote meaningful participation for all people in the public processes, decisions and programs of the Commission. So we ask that you adopt the policy as it is revised and before you today.

COMMISSIONER BUSTAMANTE: So moved. So moved. Madam Chair, with the request that the policy also be sent to the ports, as well as to the Coastal Commission, so that they know the kind of actions that we're taking and the minimum standards that we're going to be using to make decisions in the future.

CHAIRPERSON CONNELL: Fine. Ms. Porini, do you have any comment on that?

ACTING COMMISSIONER PORINI: No. I second the Lieutenant Governor's motion to adopt our new policy and appreciate the speed with which staff has worked to get that before us.

CHAIRPERSON CONNELL: Yes. Commendable, thank you. I think that takes care of every item on the regular calendar. Are there any speakers? I believe we have one. Is it Peter?

EXECUTIVE OFFICER THAYER: I'm sorry, Madam Chair, we had taken the Del Mar off the consent calendar.

CHAIRPERSON CONNELL: Oh, I'm sorry. Yes, let's do that item. I'm sorry.
Then we will come to Lester Denevan.

EXECUTIVE OFFICER THAYER: I think is Lester Denevan.

CHAIRPERSON CONNELL: Lester, I'm sorry. I can't read this here. Lester Denevan.

EXECUTIVE OFFICER THAYER: The Del Mar presentation, just by way of introduction, this is a project to breach the berm which now separates a lagoon at Del Mar from the Pacific Ocean. The same matter was brought to the Commission two years ago because of a similar problem. The lagoon becomes stagnant and it is no longer a good habitat for fish and wildlife and presents health issues. And so the City of Del Mar has asked for the approval of the Commission to breach that berm. The staff presentation will be made by Jane Smith.

CHAIRPERSON CONNELL: Great. Thank you. And I believe we have some public speakers in regards to this one. Three to be exact.

PUBLIC LAND MANAGEMENT SPECIALIST SMITH: Good afternoon, Madam Chair and Members of the Commission. I am Jane Smith, a Public Land Management Specialist with the Land Management Division.

Calendar Item 40 concerns an application submitted by the City of Del Mar requesting that the Commission issue a public agency lease to the city to breach and maintain the
opening of the San Dieguito Lagoon mouth. The excavated
material will be used to replenish the beach.

As background, at your meeting of November 27th, 2000, the Commission authorized the issuance of a one-year lease to the city to open the lagoon mouth. At that time, the Commission also ratified, confirmed, and approved the Executive Officer's September 15th, 2000, authorization for that project to proceed prior to the November 2000 meeting. The Commission's approval of the prior project on November 27th, 2000, was challenged in court by local property owners, but upheld by the trial court judge. The matter is now pending before the Court of Appeal, 4th Appellate District.

Recently, the City advised Commission staff in August of this year that the lagoon mouth has been closed since November of 2001. The closure of the mouth has resulted in decreased salinity levels. In addition, warm temperatures during the months of August and September of 2002 have caused a dramatic decrease in dissolved oxygen levels. Such levels falling to between zero and two parts per million. These events triggered one of the special conditions set forth in the California Coastal Commission's June 12, 2001, permit under which the city is authorized to breach the lagoon mouth. Specifically, when the dissolved oxygen levels are less than five parts per million.
The Coastal Commission's permit requires the city to obtain prior authorization from the State Department of Fish and Game before opening the lagoon, and also requires the city to submit annual monitoring reports, the first of which is due April 1st, 2003. Those reports will analyze the impacts of the openings on public access, recreation, the biological productivity of the lagoon, and any external factors which may have contributed to the need for lagoon mouth openings. The city, the U.S. Fish and Wildlife Service, and the State Department of Fish and Game have concluded that the conditions present in the lagoon pose a potential threat of malaria, encephalitis, and botulism from increased mosquito levels, and pose potential significant impacts to the habitat and associated fish and wildlife within the lagoon and the San Dieguito Lagoon Ecological Reserve.

The city advised Commission staff that it was proposing to begin excavation on September 23rd, which breaching expected to occur on September 30th, in order to take maximum advantage of a high-tide event.

CHAIRPERSON CONNELL: May I suggest. We have this report in front of us.

EXECUTIVE OFFICER THAYER: Yes.

CHAIRPERSON CONNELL: So it's not necessary to read the whole report. Is there something outside the
report that we need to know?

EXECUTIVE OFFICER THAYER: I think the most important matter is the one that Jane was about to get to which is that --

CHAIRPERSON CONNELL: Let's focus on that then.

EXECUTIVE OFFICER THAYER: -- the Commission has not breached the berm -- excuse me, the city has not yet breached the berm and that the Commission's action will determine whether that is going to be approved or not.

CHAIRPERSON CONNELL: Then let us make that the subject of our discussion then.

PUBLIC LAND MANAGEMENT SPECIALIST SMITH: Okay. Then I will continue on.

Based on the notification from the city, the executive officer issued a letter of nonobjection dated September 19th, 2002, allowing the city to proceed with the project. Subsequent to that letter, the city notified Commission staff that due to a delay in obtaining their permit, the excavation schedule was revised and the project would start on September 26th, with breaching expected on October 4th. A follow-up letter from the executive officer clarified that the breaching of the lagoon mouth would, therefore, not take place until the State Lands Commission had formally acted. The Coastal Commission, the Corps of Engineers, the Regional Water Quality Control Board, and the
State Department of Fish and Game have all approved the project.

Staff is recommending that the Commission ratify, confirm and approve the executive officer's September 19th, 2002, letter and authorize the issuance of a public agency lease to the City of Del Mar for breaching and maintenance of the San Dieguito Lagoon mouth for a term of three years plus, consistent with the Coastal Commission permit.

That concludes my presentation.

CHAIRPERSON CONNELL: Thank you. We've got three people to speak on this matter.

Tim Dillingham. Are you here Tim?

MR. DILLINGHAM: Unless the Commission has some questions for the Department of Fish and Game, I'll waive the --

CHAIRPERSON CONNELL: Excellent. Dr. Hany Elwany, is that right?

DR. EL MONTE: Yes. I'm here and I'm available for any questions.

CHAIRPERSON CONNELL: Excellent. And then Tamara Smith, the City Attorney of Del Mar.

MS. SMITH: I'm available for questions.

CHAIRPERSON CONNELL: Excellent, I love this. I can't tell you how I appreciate you're not extending further comments unless necessary.
Any comments of the Commission Members?

ACTING COMMISSIONER PORINI: No. I would move approval of staff's recommendation.

COMMISSIONER BUSTAMANTE: Second.

CHAIRPERSON CONNELL: And I am in agreement as well. Thank you all. Thank you all in the audience for coming.

All right. Now we are at that point in the meeting where we are concluding the regular calendar and we will now move to the public comment period.

Lester Denevan, it is your chance to come speak to us. And I see you're going to address us again on the Queensway Project. Lester, could you try to keep your comments to about three minutes. We would appreciate it. We have closed door session as well.

And can you identify yourself for the record.

MR. DENEVAN: Lester Denevan, resident of Long Beach. I'm here to speak about the Queensway Project in Long Beach. I think most of you are familiar with the geographic setting. And I do have a couple of clippings from the Long Beach Telegram concerning the project.

CHAIRPERSON CONNELL: Oh, good.

MR. DENEVAN: Plus I have a map for your reference, if you need it. So I will pass these out at the outset. And then during my presentation, I'll refer to
Calendar Item Number 89, and that was on September 17, 2001. If you go to page 6 on that calendar item, it defines the project as it was approved.

The proposed 18 acre phase two development involves the construction of approximately 627,000 square feet of restaurant, entertainment, and retail uses on the 14 acres located northerly of Shore Drive, and the four acres along the waterfront. The latest I've learned is that the current project calls for 350,000. Now, that's according to an article in the Long Beach Press Telegram. The project then has been cut in half, and the question is what are the current uses that have been approved and the leases signed. Cost Plus has backed out of the project. The bookstore --

CHAIRPERSON CONNELL: Which one are you talking? Are you talking about the selling leases here on page 2, that these people are not real, is that what you are saying?

MR. DENEVAN: What page again?

CHAIRPERSON CONNELL: I'm sorry, Lester, I'm looking at your --

MR. DENEVAN: Oh, the newspaper article.

CHAIRPERSON CONNELL: Yes, the newspaper article. They have an impressive list of tenants here. Are you saying they don't exist?

MR. DENEVAN: Okay. One third of the project is supposed to be retail.
CHAIRPERSON CONNELL: Right.

MR. DENEVAN: And we need that information about the leases for the retailing uses, as well as the restaurants.

CHAIRPERSON CONNELL: Correct.

MR. DENEVAN: I know the uses -- what the agreement was that there would be one-third retail, one-third restaurants, and one-third entertainment.

CHAIRPERSON CONNELL: That's right.

MR. DENEVAN: And so the problem is that they cut the project in half and it's not certain what some of these uses will be. Now, one problem is that we haven't in Long Beach been able to get access to those leases. I think these are public documents.

CHAIRPERSON CONNELL: Well, I think that's a fair question. I mean we did negotiate, as you recall, Lester, rather directly with them about the fact that we need to have a balanced project. And I can remember this discussion of what we felt was entertainment, versus what we thought was retail, versus what we thought was restaurants and other activities.

Now, if they are overloading the project with restaurants, why this of course is a debasement of our agreement with them and we need to articulate our concern, Mr. Thayer, about that. Because this was a hotly contested
item before we voted as a Commission. I remember spending a
great deal of time, and Lester undoubtedly does as well, in
articulating our concerns.

If they have reduced this project by some hundred
thousand square feet, they obviously have to have the same
percentage on a 250 that they did on the 350. So if they
have oversupported retail leases, they're going to have to
reduce some of the retail leases to accommodate their
requirement to make the other definitions.

COMMISSIONER BUSTAMANTE: Let me ask a quick
question first, Madam Chair. My understanding is that the
only involvement I think that we had was a small piece of
property --

CHAIRPERSON CONNELL: Right.

EXECUTIVE OFFICER THAYER: That's correct.

COMMISSIONER BUSTAMANTE: And so are we -- I mean
the Chair is right about what we had talked about, but to
what extent do we have authority to determine or to go into
a project that may be reduced or increased? I mean do we
have the authority after we swapped out the property
already, we've exchanged the property from that to another
piece, that was in the best interest of the trust lands, do
we still have authority to even get engaged in this
particular project? And if we do, to what degree?

EXECUTIVE OFFICER THAYER: Our approach to this
has been, of course, to carry out the Commission's
direction. There's two considerations here. The overall
project that we're looking at here, which is the last, or
one of several phases for Queensway. It's about 18 acres.
There was about four or four and a half acres that was
proposed for uses which the Commission held were not public
trust uses, the Cost Plus, that kind of thing. And so we
did a swap. And so the Commission was especially concerned,
and I think the Controller herself said that she didn't want
to see a 24-hour bar here or a --

CHAIRPERSON CONNELL: Right. A disco.
EXECUTIVE OFFICER THAYER: That sort of thing.
CHAIRPERSON CONNELL: Night clubs.
EXECUTIVE OFFICER THAYER: And so we are
monitoring the uses on the lands that were taken out of the
trust to meet the direction from the Commission to make sure
that uses weren't swapped.

On the other remaining portion of the project, it
was the Commission's belief and staff as well that the uses
like the restaurants and that kind of thing are consistent
with the public trust and are commonly used throughout
California, those are uses that show up. And so we are
monitoring those facilities to ensure that they continue as
public trust uses. So to the extent that public trust uses
are cut back on the lands that continue to be trust uses, we
believe that the Commission's direction was more focused on
the lands from which the trusts were going to be removed.
But you didn't want to be party to removing a trust
designation and having some sort of outlandish land use go
in there.

So the other point I'd like to make is that the
uses or the square footage has always been something of a
range, and our greatest concern would be if, in fact,
property, particularly on the areas from which the trust was
lifted, the use was switched to something else. But even if
it were another trust use within those four acres from which
the trust was lifted, that that was not permissible, that
the Commission wasn't approving something where the
switching could occur. But to the extent that they wanted
to remove, particularly there were some undefined uses on
the trust lands, without changing it to nontrust purposes.
That seemed consistent with the Commission's approval.

And so our view on all this is we need to monitor
the city's leasing policies right up until the time this
project is open. And so at any particular moment, it
appears to us, as I think it does to Mr. Denevan, that the
city has been most successful in leasing up areas that have
been made available for entertainment and for restaurant
purposes. They have not exceeded the amount that was
approved by the Commission in any of those. They have not
yet entered into leases for some of the areas that are more commercial and retail in nature. That doesn't mean they're in violation of their lease yet. It means that they have not entered into those subleases yet.

CHAIRPERSON CONNELL: But where are we on the balance here. I mean if we were to do a snapshot today, Paul, are we achieving the balance that we had hoped as a Commission?

EXECUTIVE OFFICER THAYER: When we reviewed this, we reviewed -- we were concerned that the uses that were going to go forward were the ones described. We didn't necessarily look at this one-third, one-third, one-third. That was not something that was part of their presentation. Instead we wanted to make sure either, A, the uses were public trust, or, B, that they were the ones described, and they weren't going to sneak in ones that the Commission hadn't had a chance to review.

Now, there they were coming to the Commission to make one presentation about what the project was going to be like and the proposed and different uses. So that's the approach that we've taken, and in our reviews right along where they have said they want to have a restaurant, they put a restaurant. There have been some places outside of the four acres where they do not have as much square footage as in some of their original projections. But you look at
the permits that have regularly been granted, not only by us, but by the Coastal Commission, and they all anticipate that there would be a range.

The Commission, the Controller may recall, was especially concerned that there would be phasing here and that the project would be built over a long period of time. We do not believe that that's what's happening here and something we've been reviewing extensively for. In other words, the city isn't saying, oh, we won't build this hundred thousand acres now, or hundred thousand square feet, we'll build it five are ten years from now.

SENIOR STAFF COUNSEL FOSSUM: This is Curtis Fossum, Senior Staff Counsel. The agreement also provides that if the city does fail to either put the use that they have identified to the Commission that they were putting on for a particular parcel, or if they phase in or attempt to phase development of the parcel, that parcel would revert back to the public trust and they would not be able to put any use on it.

CHAIRPERSON CONNELL: But I don't hear us saying that they are phasing it.

SENIOR STAFF COUNSEL FOSSUM: That's correct. But we try to put the agreement airtight so that if any of these contingencies came up in the future that there were concerns expressed about, that the agreement would provide for that
and the state would be protected.

CHAIRPERSON CONNELL: Lester, did we answer your
questions today.

MR. DENEVAN: Can I have my other two minutes and
I'll --

CHAIRPERSON CONNELL: Yes. I thought you had more
than your three minutes, but I will be a generous person and
give you two more, Lester.

MR. DENEVAN: One of the primary issues was that
this project would enhance access to beaches and the
shoreline of Long Beach. If we don't know what the uses are
going to be and we don't see the entire plan, you cannot
make the argument that this is going to increase access and
use of the shoreline.

The second point is that the city made certain
representations to the Lands Commission which they have not
followed through on and we're dealing with a project that
has been scaled back. They've dropped some of their
tenants. Evidently you have not been informed of the
changes in the plan.

And number three is the scale of the project. The
Lands Commission staff makes the point that well, it's only
three acres, it's only four acres, but really you should
look at the entire plan and how far it's put together. And
there are other parcels in the past that were taken for
commercial uses and you have to look at the totality of the project. You don't have the totality of the project before you. I don't even know what's going on down there. I cannot get copies of those leases.

Finally, just one last point, about well, we'll wait and see it may be a year or two and they'll complete construction, they'll build the project, and then Lands Commission staff will look into it and say, well, it's okay or it's not okay. Twenty five years ago when the City of Long Beach spent 60 million dollars converting that ocean liner, the Lands Commission sat on its hands for two years and didn't do anything until the thing was built. Then it was too late to have any impact on the uses. So I certainly request that the Lands Commission not put this off to some future date, but to address the matter today or as soon as you can get the information on the leases from the City of Long Beach.

CHAIRPERSON CONNELL: Paul, did you want to respond?

EXECUTIVE OFFICER THAYER: Certainly. I think our response would be that we're continuing to monitor this and that it would be foolish for us to declare the city either in compliance or not in compliance at this point because it's an ongoing project and they can make changes down the road. But our view is our responsibility as staff to the
Commission is we have to continually monitor this as it goes forward.

CHAIRPERSON CONNELL: I want to put this on our next meeting, Mr. Thayer.

EXECUTIVE OFFICER THAYER: So you would like a staff report then?

CHAIRPERSON CONNELL: Yes.

EXECUTIVE OFFICER THAYER: Certainly.

CHAIRPERSON CONNELL: Then we can keep on top of it. That would be good. Are there any other remarks here. Thank you, Lester, for bringing this to our attention. We will try to stay on top of it.

I think that concludes our open session today and I'll ask that everyone please leave the room that's not to join us for the closed session. And we will now immediately convene into closed session.

(Thereupon the meeting of the State Lands Commission was concluded at 2:55 p.m. on October 1, 2002.)
CERTIFICATE OF SHORTHAND REPORTER

I, MICHAEL J. MAC IVER, a Shorthand Reporter, do hereby certify that I am a disinterested person herein; that I reported the foregoing State Lands Commission proceedings in shorthand writing; that I thereafter caused my shorthand writing to be transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said State Lands Commission proceedings, or in any way interested in the outcome of said State Lands Commission proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of October 2002.

Michael J. Mac Iver
Shorthand Reporter