APPEARANCES

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

STAFF
Paul Thayer, Executive Officer
Jack Rump, Chief Counsel
Alan Scott
Curt Fossum

ALSO PRESENT
Alan Hagar, Deputy Attorney General
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CHAIRPERSON CONNELL: Good morning to all of you and a happy holiday season. I apologize again for my lateness, this is not my style, as you know.

Can we begin with a roll call, please?

MS. KORHONEN: Okay. Present we have Lorena Gonzalez, representing the Lieutenant Governor's office. We have Annette Porini with the Department of Finance, and we have Kathleen Connell, the State Controller.

CHAIRPERSON CONNELL: Thank you. May we have a motion on confirmation of minutes for the prior meeting?

ACTING COMMISSIONER PORINI: I move approval

ACTING COMMISSIONER GONZALEZ: Second.

CHAIRPERSON CONNELL: Okay. That has been unanimously approved.

The Executive Officer's report, Mr. Thayer?

EXECUTIVE OFFICER THAYER: I have three brief items here. The first is to just briefly mention that, of course, like other agencies, we're enduring the same kind of cuts that the State is having to implement because of the fiscal crisis. I just wanted to report that my general approach as your Executive Officer has been to try and continue serving the public as best we can. There's no doubt that with fewer people we won't be able to proceed as quickly or as thoroughly as we have in the past, but we're
trying to, as anybody else would have to in that situation, prioritize the needs of the Commission and the public and serve as well as we can.

The biggest hit will probably be on our hazard removal program. It's a program that we received some one-time funding for last year that would have involved removing some hazards along the Southern California coast where we couldn't identify a responsible party who should have been paying for it. This is an ongoing program the Commission has and we will be seeking replacement money for that in the future. And we've had some money in the past to take out the worst of them.

Moving on to the next item, the Lands Commission belongs to a group called the Southern California Wetlands Recovery Project which involves state and federal agencies, and its goal is to coordinate state and federal efforts to maximize the restoration of wetlands in Southern California along the coast. This is recognized as being a fairly unique program across the country, and so there's a group called the Coastal America which awarded plaques to all of the members of the different agencies. And I wanted to bring to the Commission the plaque that we received at its meeting earlier this fall.

CHAIRPERSON CONNELL: Excellent. Do you think we can sell it to help support the Lands Commission?
(Laughter.)

EXECUTIVE OFFICER THAYER: We may need to.

CHAIRPERSON CONNELL: Annette, would you turn that in for a few more dollars. Or you may be doing kind of a bartering arrangement, Annette. I mean if we give you something, we can get some money in return, you know.

ACTING COMMISSIONER PORINI: You know, we may have to. We're open to looking at all possibilities.

CHAIRPERSON CONNELL: Yes, this is the flexibility. This is what I admire about this administration.

EXECUTIVE OFFICER THAYER: If necessary, we could change the name to the Department of Finance.

(Laughter.)

CHAIRPERSON CONNELL: See that's a deal that you can strike there. That's very cagey of you and very clever. It's an indication of your survival skills, Mr. Thayer.

(Laughter.)

CHAIRPERSON CONNELL: And I want to compliment you on them.

EXECUTIVE OFFICER THAYER: Well, thank you. We do what we can.

There was another ceremony earlier --

CHAIRPERSON CONNELL: Have you thought of charging fees for a personal tour of the wetlands or any of that?
EXECUTIVE OFFICER THAYER: We thought of that. We thought about ads in our agenda for the Commission. You can take out an ad.

CHAIRPERSON CONNELL: Oh, yes.

EXECUTIVE OFFICER THAYER: But Jack tells me that we couldn't do it.

CHAIRPERSON CONNELL: Even our website. I see a lot of ads when I try to get my Hotmail every day. So maybe that's what we could do.

EXECUTIVE OFFICER THAYER: Some popups, that's right.

CHAIRPERSON CONNELL: Yeah, have popup ads on our website.

Go ahead.

EXECUTIVE OFFICER THAYER: The other ceremony that we were involved in recently involved the restoration of Mare Island to civilian control. This Commission spent a lot of time ensuring that when that base was closed that the public's interest is respected, ownership interests, of public access can be assured. As a result of the Commission's efforts, there is a large area on the south side of the island which is great for looking at the bay that will be preserved as a park.

The last piece of this had to do with what's going to happen on the west side, which will involve leasing of
the far and away the majority of the land to the U.S. Fish
and Wildlife Service as a preserve. And there was a
ceremony observing or commemorating that in the last month
out at Mare Island. And, in particular, our staff who
worked on this project were recognized, and they were Kelly
Owen, Blake Stevenson, Dave Plumber, Steve Layman, and Frank
Singer were the principle staff people who worked on this,
other's have done some as well. So it was good to see them
get the recognition that they deserve for all the good work.

CHAIRPERSON CONNELL: That's excellent.

EXECUTIVE OFFICER THAYER: And the only other item
I have is just to wish everybody a happy and safe holidays,
and we start again in the new year, and we want to make sure
everybody is back with us.

CHAIRPERSON CONNELL: We certainly do. Don't fly
airlines.

Okay, consent calendar. Let's see, what is on the
consent calendar, Mr. Thayer?

EXECUTIVE OFFICER THAYER: There are no items to
be removed from the consent calendar.

CHAIRPERSON CONNELL: Okay. Do any Board Members
have any desire for any item?

And then I'm going to ask for approval of the
consent calendar, except for Item 63, Mr. Thayer?

EXECUTIVE OFFICER THAYER: Yes. And that's not on
CHAIRPERSON CONNELL: Right. Okay, fine. The consent calendar then will be -- can someone make that motion?

ACTING COMMISSIONER GONZALEZ: I move to.

ACTING COMMISSIONER PORINI: Second.

CHAIRPERSON CONNELL: It's been moved and seconded. The consent calendar is passed.

All right. Let's move to the remaining calendar.

Mr. Thayer.

EXECUTIVE OFFICER THAYER: Item 63 is a report on compliance with conditions and requirements that it attached to its approval of an exchange of public trust lands for other lands that became subject to the public trust. That was brought about because of the Queensway Bay Project in Long Beach. You may recall that at our last meeting, a gentleman, Lester Denevan, a citizen of Long Beach who's spoken to the Commission before raised concerns concerning whether or not Long Beach was in compliance with the Commission's conditions and the Chair directed that staff go back and investigate this and return with a report.

Here today is Curtis Fossum to give that report.

MR. FOSSUM: Good morning, Madam Chair, Commissioners. As Paul said, this is in response to your request that the staff report on compliance by the City of
Long Beach with the Queensway Bay exchange agreement. You also recall that the Commission approved that agreement in September of 2001, after considerable discussion and after directing that certain conditions be added to the agreement.

As noted in the staff report, the exchange agreement incorporated the Commission's concerns with four conditions of approval. Exhibit A on our staff report details those conditions.

The first is that all necessary agreements between the City and the developer were to be in place and effective by May 31st of 2002. The second, the developer must proceed with development of the project without phasing. And third, the leasing and use of the parcel were to be as set forth in the plans before the Commission at the September 2001 meeting and are as follows. Parcel A1, a large-scale format theater; Parcel C1, a day spa or a retail; CD, a multiplex theater on the second floor; D1, retail; and E, retail.

Finally, to ensure compliance with the Commission's concerns. Failure to comply with the deadline of May 31st will result in termination of the agreement, and secondly, if phasing or an unauthorized use occurred after the exchange, that parcel or parcels would revert to the trust.

Staff has confirmed that the city has complied with the first condition. Staff has also continued to
monitor the development and leasing activities for compliance with the conditions on phasing and uses.

Based upon communications with representatives of the city, the developer, and two recent on-site staff inspections, the construction appears to be proceeding without phasing. Also no leases have been let for any uses inconsistent with those listed on Exhibit O of the agreement, as listed on Exhibit A of your calendar item.

Our conclusion is that there does not appear to be any current violations of the Commission's conditions on phasing and leasing and, therefore, no triggering of Condition 4 causing reversions to the trust.

We will continue to monitor the development and leasing on the three acres making up those five exchange parcels, and we are following the remainder of the Queensway development to ensure that no violation of trust use restrictions occur there.

Finally, until construction is complete and the tenants have occupied the structures on the five parcels and opened them for business, the ultimate determination of total compliance with the agreement cannot be made. If conflicts arise prior to that occurrence, we will notify the City and developer and report any situations to the Commission.

Thank you. I'm available to answer any questions.
CHAIRPERSON CONNELL: And we do have some public speakers. I'll call them in the order in which we received a request to address the Committee today.

When you do come forward -- where would you like them to come forward today? Are you going to put them next to you?

Please identify yourself for the record.

The first speaker will be Rick Dongell. The second speaker will be Jim McCabe. The third speaker will be Lester Denevan. And the last speaker will be Don Lay.

Rick, please come forward. And each of you will be given the statutory three-minute time period to address Committee members.

MR. DONGELL: Good morning, Commission Members.

My name is Richard Dongell. I'm legal counsel on behalf of developer, Developers Diversified. And I am willing to waive my time. I just arrived today to be on hand to answer any questions or clarify any issues that may arise. I'd be willing to waive the balance of my time to Jim McCabe, the in-house counsel for the City of Long Beach.

CHAIRPERSON CONNELL: Excellent.

Mr. McCabe. Wasn't that an exciting air flight up here today, Mr. McCabe. Weren't you on my flight? I appreciate a little excitement on these otherwise tedious flights up and back. I think you were on that flight, Alan?
MR. HAGAR: No, I wasn't. Did you come from LAX?

CHAIRPERSON CONNELL: No. I came from Burbank. You weren't on the flight, Alan?

MR. HAGAR: No, I wasn't. No, I was on the 8:05.

CHAIRPERSON CONNELL: The 8:00 o'clock from LAX was an exciting flight?

MR. HAGAR: A little bumpy.

CHAIRPERSON CONNELL: Yes.

Mr. McCabe.

MR. MCCABE: Commissioner, my name is Jim McCabe, Deputy City Counsel for the City of Long Beach. I just want to reassure the Commission that the City is receiving periodic reports from the developer on the leasing situation. The project is proceeding without phasing as reported, and the City is cognizant of all aspects of the exchange agreement and we want to be sure that they're complied with.

I respectfully reserve the remainder of my time until I find out what the objections are from the public, and perhaps I can answer some of those concerns.

CHAIRPERSON CONNELL: Certainly. And we do want to have that opportunity. We would have given it to you whether you used up your time or not.

MR. MCCABE: Sure.

CHAIRPERSON CONNELL: Because that's just the way
MR. MCCABE: We're very cognizant of all the aspects of the exchange agreement. We are keeping in periodic touch, frequent touch, with the developer as to the leases, particularly on the five parcels that were part of the exchange, and we'll continue to be sure that the project is proceeding without phasing.

CHAIRPERSON CONNELL: Jim, may I ask you, can you illuminate for us what exactly, since you're there, I mean we know the classes of the leases. But I'm curious as to who's actually signed retail leases, this is a difficult economy.

MR. MCCABE: It is a very difficult economy. And the report I have seen is the same report that's before you. And although I didn't bring it with me today, I'm aware that it is almost exclusively at this point restaurants which are certainly acceptable uses, and Gameworks which is an upscale restaurant video game kind of tourist-oriented use that would have no objection, from the City at least, as to a tideland's use.

So everything we've seen is what you've seen. We will receive more reports and the developer's out there beating the bushes for more leasing, presumably particularly more retail leasing. The City would like to see, of course, a balance of uses, although that's not required by the
exchange agreement per se. But we're keeping in touch with
the situation.

CHAIRPERSON CONNELL: Did you want to comment
further? No.

All right. Lester Denevan. And then we have our
final speaker, Don May, after that.

Good morning, Lester.

MR. DENEVAN: Morning.

CHAIRPERSON CONNELL: Did you drive up or fly up?

MR. DENEVAN: I drove up.

CHAIRPERSON CONNELL: Oh, a sane person in every
group. Okay.

MR. DENEVAN: Lester Denevan, resident of Long

Beach.

I'm concerned about the progression of this
project, of the Queensway Bay in Long Beach. Among other
things, there has been a change in the amount of floor area.
I understand it would be reduced from 508,000 square feet to
370,000. So this will be a less intense development than
originally contemplated.

CHAIRPERSON CONNELL: And is that good or bad,
from your perspective?

MR. DENEVAN: It can be good and bad. I don't
think there should be any commercial on the property, but if
you're going to make commercial uses, perhaps they should be
very intensive, in order to make full use of scarce public land on the shoreline. So if you have a major reduction in the size of a project, it will compare to a suburban retail involvement. And that is not appropriate for this property, which is easily worth a million dollars an acre. That's my first item.

Number two, and perhaps the staff can respond to these four items, but with a change in the floor area, you would also have a change in the parking requirements. And there's a question of the parking in relationship with the total types of uses down there. And, number two, that according to the Queensway Bay exchange agreement of a year ago, and that would be 627,000 square feet of floor area. Now, that, I believe, includes both north of Shoreline Drive, the five parcels, and south of Shoreline Drive. I'd like to see that total floor area. And if that is needed in order to accommodate the provision of the required parking, depending on the floor area.

CHAIRPERSON CONNELL: What is that ratio, does staff know, of parking to square footage?

EXECUTIVE OFFICER THAYER: I don't know what the City's requirement is. Curtis, do you?

MR. FOSSUM: No. We haven't been looking at parking as an issue there, parking, you know, near the tidelands. And some of this parking is to be used for the
aquarium that's in the area, as well as public access. So it's sorely needed as it is in most waterfront areas.

CHAIRPERSON CONNELL: Well, is that part of our agreement?

MR. FOSSUM: No.

CHAIRPERSON CONNELL: So it wasn't one of the things you monitored?

MR. FOSSUM: That's correct.

CHAIRPERSON CONNELL: So, Lester, we can't provide an answer to that.

MR. DENEVAN: Okay. My third item, the classes of the retail uses that are to be built at Queensway Bay. What happened to the box retail, what happened to the bookstore? And then in reference to retail, quote, unquote, Calendar Item Number 63, that includes a Staples, a grocery store, a Savon Drugs. I'd like to know what those retail uses are, because many retail uses are not an appropriate type of public trust use.

CHAIRPERSON CONNELL: Who in the audience think they can provide that information? I asked a similar question.

Mr. McCabe, do you have that information?

MR. MCCABE: I can comment in general, but --

CHAIRPERSON CONNELL: No, no, we want a specific layout of the leases to date. Somebody must know that.
EXECUTIVE OFFICER THAYER: As I understand Lester's comment, correct me if I'm wrong, is that you're not necessarily saying that those uses are proposed, but you want to know whether they could be allowed?

MR. DENEVAN: Well, I don't like to see a blank check. Your report refers to retail on several of the five parcels.

EXECUTIVE OFFICER THAYER: Right.

MR. DENEVAN: Is that a Cost Plus as originally contemplated, or will these be appropriate uses for the tidelands?

CHAIRPERSON CONNELL: Well, let's let our staff respond.

EXECUTIVE OFFICER THAYER: In answer to that first question, if there are more, we're, of course, happy to respond, the five parcels from which the trust is being lifted are not contemplated for public trust uses. And, in fact, it was because the Commission found that those uses, the ones you're describing, Cost Plus and that kind of thing, were not public trust uses, that this exchange went forward and the determination that these lands were needed for the trust.

CHAIRPERSON CONNELL: Well, that's why it's important to know what do they have. Do we know that?

EXECUTIVE OFFICER THAYER: And at the moment, they
have leases only for, I believe, one of the cinemas, and for the Gameworks.

MR. FOSSUM: Our understanding is that right now there are two operating agreements on the property for the Gameworks on Parcel C and the cinema on Parcel CD. That's the only ones that as of now have been signed that we're aware of. And the City maybe correct me if I'm wrong on that. But that's what the latest information that has been given to us is.

CHAIRPERSON CONNELL: So we have restaurants basically. What kinds of restaurants?

MR. FOSSUM: Well, there are no restaurants on the five parcels at this time that I'm aware of. The restaurants that leases have been executed for are on other parts of the Queensway Bay where we weren't looking at the problem, because as far as we were concerned there was no issue of inconsistency with the trust. Visitor facilities on the waterfront are a very typical type of trust activity, and so the Commission staff certainly had no question about the City's operation of that area for those uses.

The problem arose when they proposed these retail uses and the cinema-type uses that were not a traditional trust use. So the Commission's investigation and the focus of the agreement were on those uses. And because they were terminated, the agreement provides that retail can go into
those uses. It's also what the Coastal Commission has authorized by their permit.

So there doesn't appear to be any conflict as far as we're concerned if those go for typical retail. There have been some issues raised by some people in the city who heard that some nonretail-type of uses might go in there, and we've investigated that and talked to the City, and as far as we know, nothing like that is contemplated.

CHAIRPERSON CONNELL: Mr. Denevan?

MR. DENEVAN: The land is owned, it is still publicly-owned land, public recreational land, and so it's no longer the state public trust status, but it is public land, and there is a trade off which provided for these uses to go or not to go throughout that Queensway Bay project. You looked at the entire project, there's a report that encompasses both north and south of Shoreline Drive, so there should be something more specific then in your report here and what kind of uses, retail uses, that are going to go in there. And otherwise, it's a blank check.

And my last point, number four, would be the large screen format theater and the multiplex movie theater. The question is are both of these to be allowed or only one?

This is Item Number 63, December 16th, in your report. The last I heard, the large-format screen had been abandoned. Could that be clarified for the Commission, please?
CHAIRPERSON CONNELL: Certainly.

MR. DENEVAN: Thank you.

MR. FOSSUM: Madam Chair, those are both required as part of the agreement. So if the City does not put in one of those two uses, that particular parcel would revert to its trust status. The City would still have control of it, but they would need to put a trust-consistent use on that parcel.

CHAIRPERSON CONNELL: So what are you saying?

MR. FOSSUM: If they don't build a -- for example, if on the parcel that's designated for a large-format theater, if that parcel cannot get a tenant for that use, then the parcel will have to be used for a trust-consistent use. The City would have to rededicate that parcel to the trust. That's the way the agreement was drafted in order to comply with the Commission's requirements that these uses be made or that it comes back to the trust.

MR. DENEVAN: Just briefly, reading this on page 3, it says multiplex theater and so and so forth, and a large-format theater. It looks like both.

EXECUTIVE OFFICER THAYER: Yes.

MR. FOSSUM: That's correct.

MR. DENEVAN: And if one is not built, then they're in default, the City's in default?

MR. FOSSUM: That's correct.
CHAIRPERSON CONNELL: Well, let us go through that process. I mean how likely is it, either Mr. McCabe or Mr. Dongell, that given this economic climate that we're in, I mean that we're going to have any kind of theater. I mean it's been a while since I was in the retail underwriting game, but I can't imagine that the numbers are any more persuasive now than they would have been in any other downturn of the economy. It's a very difficult class of use to structure in an economic downturn. Rick, do you want to join us. Just let him sit down with you, that's fine.

MR. DONGELL: I can even speak from here.

CHAIRPERSON CONNELL: Oh, that's fine. Please feel comfortable to sit down.

MR. DONGELL: The developer was held up, frankly, in their ability to lease this project due to the fact that the cloud was created by the litigation that was filed by California Earth Corps. It made it very difficult to try to enter into any serious meaningful leasing negotiations while that litigation remained in place. The litigation, as you may know, was defeated in state court here in Sacramento. And since that time the developer has been engaged in serious meaningful negotiations with a wide variety of high-quality tenants and they are in the middle of that process and they're trying to make up for some lost time as a result of the litigation. But in the meantime, as stated by Mr.
Possum here, and he's very correct in stating how the agreement would work. When we build the project and it's open for business, we're either going to have a tenant fitting that use in place, and if we can't put up or shut up, then that property will revert back to the trust restrictions. I think that's accurately stated.

CHAIRPERSON CONNELL: All right. So there has been no negotiation with a theater at this point.

Now, Lester, I must --

MR. FOSSUM: If I could, Madam Chair, there is an operating agreement for the multiplex theater, but not for the large format.

CHAIRPERSON CONNELL: Okay.

MR. DONGELL: The Imax theater, they're still in negotiations for potential tenants for that use. But with regard to the multiplex theater, there is an agreement in place.

CHAIRPERSON CONNELL: There is or is not?

MR. DONGELL: There is.

CHAIRPERSON CONNELL: There is, okay. Great.

MR. DONGELL: Thank you, Commissioner.

CHAIRPERSON CONNELL: Mr. Denevan, we're going to have to wrap it up. We have been more than generous with the time here.

But we do have one other speaker, Don May.
Don are you waving at us with your pad there? Are you the person that they were talking about that filed the litigation?

MR. MAY: Yes, ma'am.

CHAIRPERSON CONNELL:Would you like to give us an update on what's going on?

MR. MAY: Sure. Thank you, Chairman, if that's the proper way to address you, I hope.

CHAIRPERSON CONNELL: It's all and above, that's fine.

MR. MAY: First, let me comment, if I can, on the staff report. And I didn't know whether they were in favor, or supporting or opposing. I guess it's mostly trying to get some answers on some rather vague areas out here. We do have a lot of questions about whether or not, in fact, they are in concurrence with the May 31 deadline because some -- and I am particularly glad that you're here and able to refresh our memories.

We have not seen the transcript on the September 17 meeting, and my recollection was a tad different than what is here, in that, number one, starting, we had interpreted as the ground would be breaking, they would be moving ahead. If they didn't meet that, they certainly have now. But more importantly was that there would be -- and it was 60 percent to two-thirds, something like that, 60 to 65
percent of leases would have been in before that May 31 time. And as you see, they're still not. Now part of that was this looking at one-third, one-third, one-third, some diversity of what those leases would be. However, on the properties in which the public trust has been lifted, nothing has gone forward. So we don't see much injury.

Our big concern was that we have not been able to get exactly what the status of those leases or if it's a lease option agreement or exactly what those are. And, in fact, the last page on your staff addendum is the best that we have gotten.

There is also just a lot of gossip around town as this project has morphed from a pedestrian-oriented tourist serving facility into one that's sales tax driven as the City strives to make up some budget shortfall that has caused, we believe, the project to change substantially, not only from what it was intended back when it was in the planning process, but since last May. That, in particular, as is mentioned in here, there's been talk and an editorial comment in the local newspapers about in order to serve the residential uses that are adjacent better that there be dry cleaners and other resident-serving facilities put in. And we strongly believe that those are not public trust uses.

And most recently there's been talk of a Macy's department store going in the triangular facility in this,
and that's mostly given some credibility because of the cessation of work on the public trust area, that is to say the area south of the parking structure. It's extremely expensive to pull workers off a job and redesign utility layouts and that sort of thing, and that gives us a feeling that reports that a large Macy's department store would be going in perhaps has some credibility.

Therefore, we certainly concur with the direction to your staff that you follow this project closely to see that all those terms be -- that, in fact, all of the uses which go in are, in fact, a legitimate public trust land uses and that things which are advertised around town as being resident serving not go in there, and particularly a department store.

There are over 7,000 acres of similar land along California's coastline that are -- that is to say that's filled which could be used exactly as this for these nontrust uses. And that's the reason that this particular case is getting an awful lot of attention.

Where the case is now. We filed our appeal and I have copies for staff if you have not seen it, filing about six weeks ago. Now the response is due from the City on the 24th of this month. Responses are requests for amicus filings are either filed or will be early this week by a member of the major big green organizations, NRDC Club, and
so forth, because of the not only coastal applications of this and the precedent-setting nature of this, but also there has been a lot of interest in the precedent set by this project on the shoreline at Lake Tahoe and the impacts on tourists. So there are a lot of issues that will be considered for quite some time on this project regarding the areas where the trust has been lifted.

CHAIRPERSON CONNELL: Let's try to wrap it up. Is there anything else?

MR. DONGELL: That's it. Thank you very much, I really appreciate it. I think that your concern and the time spent on this issue is more than warranted. I do appreciate your efforts, courtesy, that Jennifer and the staff that have put into this, and I hope that you will have better success than we do in finding just exactly what these leases are.

CHAIRPERSON CONNELL: Well, and I appreciate that. I want to thank every member of the public who has come forward today to offer their comments. This is of continuing interest to the Board and I'm sure it will be an interest to both Annette and the Lieutenant Governor as they continue on in the new year.

And I would hope, Paul, that you would continue to periodically schedule updates. I think it's very important for the Board. I'd like to get a sense of my fellow Board
members' views on this, but I think that would be appropriate that you schedule that whenever Mr. Bustamante, who I believe will be chairing next year, chooses to do so. But I think that might be something that you might want to do on an ongoing basis.

EXECUTIVE OFFICER THAYER: Certainly.
CHAIRPERSON CONNELL: All right. Thank you, Curtis.

MR. DONGELL: And if I could have one more crack.
CHAIRPERSON CONNELL: Yes, quickly.

MR. DONGELL: And that's beyond this. But one of the key things that's been decided that's been used over the years, the primary public trust use for subsistence fishing and things beyond all of our ability to address with security has removed subsistence fishing from large parts of the port area, and this would close out one of the last places that people have to fish in the area. And that has become -- I don't know how you would address that, if you can at all, but that is of increasing concern to us.

CHAIRPERSON CONNELL: And I think it's something we have to be watchful of along the coast in general.

Thank you.

Any action we need to take today, Mr. Thayer?

EXECUTIVE OFFICER THAYER: No. The staff recommendation is that you direct us as you just did to
continue to monitor the situation.

CHAIRPERSON CONNELL: May I have a motion for the staff recommendation?

ACTING COMMISSIONER PORINI: Move approval.

ACTING COMMISSIONER GONZALEZ: Second.

CHAIRPERSON CONNELL: All right. It's unanimous.

We're now on 64; is that right?

EXECUTIVE OFFICER THAYER: Yes, Madam Chair. 64 is a report by staff on a unique, originally unique sliding scale royalty formula that was implemented and approved by the Commission back in 1995 at Huntington Beach and the offshore oil leases there. It was one that the Chair took personal interest in when she first came to the Commission and requires us to do some additional research to make sure we're on track here. And staff would like to give you the results of this formula.

CHAIRPERSON CONNELL: This is one of those early pedantic conversations. I can remember the meeting that we had and Commissioner Davis was here, and the Lieutenant Governor was on the Board with me at the time, as I recall, and we spent a lot of time arguing over what the right formula was, not Gray and I, we were in it together. We were arguing with the oil company over how they were determining royalties, as I recall.

Oh, yes, go ahead. Identify yourself for the
record. And I don't believe we have any public comments on this one.

EXECUTIVE OFFICER THAYER: I don't think so.

MR. MERCIER: Good morning, Madam Chair and Honorable Members of the Commission. My name is Dave Mercier and I'm in charge of finance in the Mineral Management Division. This is an update on an innovative royalty schedule program that was approved on May 3rd, 1995. This presentation shows the benefits the State has received and will continue to receive as a result of that approval.

The royalty program was implemented in Southern California in the Huntington Beach field shown on the map. Era Energy operates the five leases affected by the royalty schedule and Platform Holly, you can see it right there.

Just a brief background. The operator is Era Energy, market capital of over a billion dollars. In December of 1993, the lessee claimed that the lease was uneconomic at the current oil price, which was at that time $10 a barrel. A royalty reduction was requested and the existing royalty rate was a fixed 15.5 percent. Staff was unwilling to reduce the royalty rate because we knew eventually that the oil price would go up and we wouldn't be participating equitably if we reduced it to a low fixed rate royalty.

On May 3rd, 1995, the Commission approved a
royalty schedule that tracked oil price. When the oil price goes up, the royalty rate --

CHAIRPERSON CONNELL: And this is my particular index that we came up with. I suggested, for Board Members who weren't on the Board at that time, that we do a market tracking index so we could get the benefit of the increase in oil returns, I was certain was going to come.

MR. MERCIER: In evaluating Era's request, staff worked with UCSB economics professor, Dr. Bob Deacon, as well as several other economists to ensure that the royalty schedule was of benefit to the State.

Early on some of the profit sharing arrangements that we looked at. We looked at net profits --

CHAIRPERSON CONNELL: We don't have to go through all this.

MR. MERCIER: Okay. Yes. Fixed rate, okay. And then we ended up with a royalty rate that tracks oil profits.

Okay. Here's the royalty schedule. It goes from a low of four percent to as high as 25 percent.

It really ends up a win-win for both parties. When the price goes about 13.90, the State participates more in the profits, below 13.90, Era has a built-in hedge, because the royalty rate drops.

Right to the benefits. Since June of 1995, the
Huntington Beach field has generated for the State over $40 million. The State has collected $15 million more than what we would have received under the old 15.5 percent fixed rate royalty.

CHAIRPERSON CONNELL: That's not a bad rate of return, Paul.

MR. MERCIER: The negotiated royalty rate has averaged 1.2 percent more than the old 15.5 percent.

CHAIRPERSON CONNELL: A 40-percent increase over what we would have received. We have to figure out more ways to do this, Paul.

EXECUTIVE OFFICER THAYER: We're going to be looking.

CHAIRPERSON CONNELL: Annette, put pressure on them.

(Laughter.)

ACTING COMMISSIONER PORINI: I ask that question every time we have briefing should you increase these fees.

MR. MERCIER: And I think we'll have more opportunities to do things like this later.

Some of the other benefits. Increased field investment accelerates oil production and reduces the field's economic life. Because the royalty schedule was contingent on a $7 million investment over a five-year period, they were able to accelerate the oil production and,
therefore, Platform Emmy will be removed sooner as a result of --

CHAIRPERSON CONNELL: Another terrific benefit that should be in capitalized letters.

MR. MERCIER: Absolutely. That is, I think, a critical point really in getting this out and as a result we're making more money, the platform will be removed quicker, and really it's resulted in something the company's benefitted and we've really benefitted.

CHAIRPERSON CONNELL: Thank you.

MR. MERCIER: The popularity, just briefly. Staff has presented technical papers throughout the United States on the benefits of using this type of royalty. Since its first implementation at Huntington Beach --

CHAIRPERSON CONNELL: Maybe you could be an advisor for some more money, Paul.

EXECUTIVE OFFICER THAYER: There's a charge for that advice.

CHAIRPERSON CONNELL: Did we patent the sliding scale, Connell/Davis/Thayer Scale?

(Laughter.)

CHAIRPERSON CONNELL: I'd be happy to give my residual income back to the State as a sign of support for the State in these dire times.

ACTING COMMISSIONER PORINI: Unfortunately, I
think we would have to pay the advisor, so it might wash out, but it's a good thought.

MR. MERCIER: Since its first implementation at Huntington Beach, it has been successful throughout the world. They are actually using it now in Alaska in some of the oil fields, South America, Canada. Staff has worked with professors from UCLA, Dr. Eduardo Schwartz. Staff brought Dr. Lewenberger of the Colorado School of Mines, Dr. Davidson, initially, UCSB professor, Dr. Bob Deacon.

The outlook. The State estimates that the royalty revenue should exceed $80 million over the next eight to fifteen years. We estimate that during the next 15 years, Era's oil field will produce an incremental amount of revenue to the State of $30 million as a result of the May 1995 Commission approval.

Thank you.

CHAIRPERSON CONNELL: Thank you very much. That's a real credit to the State that we have been able to earn a few more profits.

I think that finishes the public agenda. Do we have anything else, Mr. Thayer?

EXECUTIVE OFFICER THAYER: Yes, Madam Chair, there's one more item which isn't on the agenda, but is as important as any of the others for sure.

As is our tradition, we wanted to honor you for
your eight years of service to the Land's Commission. I think as most people know in the room, Controller Connell is termed out as Controller for the State.

CHAIRPERSON CONNELL: It's not true the oil companies are applauding.

(Laughter.)

EXECUTIVE OFFICER THAYER: She's been with us for eight years. I've only been with the Land's Commission for six and a half, so I think I understand something of the work that she's put into the Commission and the leadership that she's provided.

I wanted to touch on a couple of the points that I've been involved with. In particular, especially with respect to the Queensway Bay constituents coming up here and talking to us today, I think that you've always been involved with wanting to ensure the maximum public participation that was possible. And some of the requirements that you have put in place ensure that that's the case. We have a statutory requirement to send out a notice ten days in advance. You asked that we do it in 15 days, even though it's not required by law, because you wanted to make sure that everyone had a greater advance notice of what we were going to be dealing with.

You've also been involved with our website, for both educational purposes and public participation as well.
Usually whenever we give a presentation like this, you're always asking can this go on the website. So the half day work session that you participated in is up there, the abandonment of Belmont Island, which went off without a hitch, we have information about that up on our website. And, of course, we have the shipwreck information that highlights the Brother Jonathan recovery that we were involved with.

So our website is much more active because of the direction you've provided, and it provides both information and opportunities for public participation.

There are a lot of others we could talk about, but I'm going to give a chance to the others to speak as well. But before doing that, we do have a plaque that we'd like to give you because --

CHAIRPERSON CONNELL: Made out of seaweed?

(Laughter.)

EXECUTIVE OFFICER THAYER: As a symbol of our appreciation, both of the Commission and the staff. I'd like to note in particular here that it shows the public trust waters of the state. It shows all the rivers, we're not putting down names of cities here, but these are the waters which the Lands Commission while you were Chair has been looking out for. And we hope you'll find a prominent place to display this.
CHAIRPERSON CONNELL: Thank you. I really appreciate it.

Has everyone seen this, it's really quite beautiful. Thank you.

(Applause.)

CHAIRPERSON CONNELL: Thank you.

EXECUTIVE OFFICER THAYER: And personally I have one other thing to give you. I know that one of the things that you've always talked about is your participation in Bolsa Chica and to seeing that Shell take full responsibility for the liability there. You held up the agreement that day until they figured that out. And that you like to talk about using your green pen to sign that. I don't have a very fancy pen, it's just State issue, but that's --

(Laughter.)

(Applause.)

CHAIRPERSON CONNELL: Thank you.

EXECUTIVE OFFICER THAYER: Thank you. Thanks for everything.

CHAIRPERSON CONNELL: Thank you very much.

Now, this green pen has history, I can tell you. We got to a point where the Interior Department flew in from D.C. and we're having this meeting at Huntington Beach City Hall, as I recall, and Gray and I were adamant that we were
not going to move forward because they had shifted one part of the agreement at the last minute. And the Interior Department was insisting that they had flown out from Washington and it was after all their deal, and who were we as a state to possibly intervene in this. And we said, no, we're not, we're going to wait. And I inked some changes in green on the agreement, and we gave it back to the oil company and we said if you don't want to sign the changes, we'll just walk out. And they paused, and if you remember there was this delay and everyone took a period to reconsider and strategize, and then finally we got their signature. And everyone's signature was in green on the document, and it was my pen.

I would like to just recognize my son, Garrett, who is in the audience. Garrett, can you stand.

(Applause.)

CHAIRPERSON CONNELL: I am very proud of Garrett. This young man was all of two and a half when I stepped into office. So you can see what eight years really represents. It goes by very fast in terms of our thinking and our day-to-day pressures. But when you think of it in terms of a child's life or the life of California, it is a significant commitment of time.

This has always been one of my favorite commissions. I love it and I try to stay engaged and
involved, and I know that my replacement as Controller, my successor, will indeed enjoy it as much as I have. We've had fabulous staff talents here. I've always said that to everyone. Whether it was your predecessor who has moved on or Paul and Alan and Jack, we have always had the best and I think the state is enriched by the commitment of your talents and that of your staff. It's a remarkable group of people.

And we have a lot to be proud of here in the state of California. We've held our own, and I think the environment is a treasure, it's what makes California the beautiful state that it is and it distinguishes us from I think almost anywhere else in the country. Other places may have their shoreline, but we have our shoreline and we have our mountains and we have our deserts and we have our rivers and we have our wetlands. And it is truly a remarkably diverse state and to the extent that I helped contribute to saving those resources for my children's generation and their children's generation, I thank you for the support that you've given me.

EXECUTIVE OFFICER THAYER: Thank you.

CHAIRPERSON CONNELL: I want to thank particularly Annette Porini. Annette and I have sat on dozens and dozens of boards over the last eight years. And I think this is our last official meeting together, because I'm probably not
going to be able to hit all the debt meetings on Wednesday, because I'm chairing the OE meeting and it's a constitutional meeting, Annette. So it is particularly a fond farewell that I bid to you. It's just been terrific. And I think we ought to give Annette a round of applause. (Applause.)

CHAIRPERSON CONNELL: You know, we oftentimes when we're elected leaders forget and we don't acknowledge the people who work with us, and I want to acknowledge Cindy Aronberg who would have been with me this morning, but she missed the flight that I got on at Burbank. I don't know if she is favored or disfavored in this equation. But she has been a terrific deputy and to the extent that we have been able to add value, a lot of that value has come from her very strong staff work through the years. And I certainly appreciate the work that she has done for me as a deputy on this Lands Commission.

I want to thank the Lieutenant Governor for his efforts. And please thank Gray, because I know Gray enjoyed sitting on this commission and I certainly enjoyed working with him. And I don't think there was ever a vote in which we weren't unanimous. Gray and I were always together on every vote, including that awful meeting we had in Santa Monica, if you remember that it went on for hours debating with people on what we were going to do.
But it has been a pleasure to serve now with two Governors, to serve with two Lieutenant Governors, and to serve with a handful of Finance Department officials. And I'm trying to remember all of them that sat on the Board. But Annette has been the most significant contributor to this board, and my thanks to all of you.

EXECUTIVE OFFICER THAYER: Thank you.

ACTING COMMISSIONER GONZALEZ: Ms. Chair, the Lieutenant Governor wants to first of all to express his sincere regret for missing this meeting. As you know, he doesn't like to miss State Land's meetings, but a last minute Regents trustee meeting put him in LA today. So he wanted to make sure that you knew how much he enjoyed working with you and how much respect he has and he thinks that you're a tremendous policymaker and he said just make sure that she knows how well I respected her opinion on things and how much I intend to use her opinion in the future as well, though not to go too far.

CHAIRPERSON CONNELL: Oh, that's fine. I can give you the cell number.

(Laughter.)

CHAIRPERSON CONNELL: But I won't charge a fee.

(Laughter.)

ACTING COMMISSIONER GONZALEZ: I think he assumed it was free.
(Laughter.)

CHAIRPERSON CONNELL: Annette, I was trying to get better terms.

ACTING COMMISSIONER GONZALEZ: And he wanted to thank you and commend you for your leadership in environmental protection. Specifically, he noted your role in the wetlands restoration at Bolsa Chica and also your work with him to ensure oil platform and pipeline safety throughout California. And he wanted to make sure I delivered this, but he said if you had anything else public he wanted to come deliver it himself.

CHAIRPERSON CONNELL: Thank you, isn't that great?

(Applause.)

CHAIRPERSON CONNELL: I'm going to have to have a huge wall to display all of my plaques. You know, this is really terrific. And, you know, I almost feel guilty the amount of money and time that goes into these, but they are memorable and when you look back at them over the years, it really does reflect the kind of commitment that we've had. And please thank Cruz.

ACTING COMMISSIONER GONZALEZ: Absolutely.

CHAIRPERSON CONNELL: And maybe we can get together in the new year when he's got a bit more time. He is at the Board of Regents today trying to save the Board of Regents from the dire economic conditions. So we appreciate
his absence today. Thank you.

ACTING COMMISSIONER PORINI: Controller Connell, let me just say I've had the privilege of sitting on many boards and commissions, as you mentioned, and I've also had the privilege of presenting an award to you at the Franchise Tax Board. So I will be very brief, and I didn't bring another award for you.

CHAIRPERSON CONNELL: Thank God.

(Laughter.)

ACTING COMMISSIONER PORINI: So it saves a tiny bit of wall space.

I did want to thank you for all of the work that you've done and your stewardship at State Lands over these last eight years. Your contributions have been significant and they are greatly appreciated.

CHAIRPERSON CONNELL: Thank you. And I just want to say a thank you to the environmental community. Sometimes we forget that it's their activism and their energy and their unwillingness to give up that has been so instrumental in pushing us beyond where we thought we could go, whether it was in Bolsa Chica, whether it's been in my own backyard, the Pomona Wetlands, and you know whether it has been in the San Diego Port discussion, whether it's been up in Northern California. And I want to thank them, they have truly been huge supporters of what we've done, not only
through the organized groups that we all know, but through
the individuals that keep coming forward.

And, Lester, don't give up, if you're still in the
audience, just keep coming. Because it's the Lester
Denevans of the world that keep us honest and keep us
straight and keep us trying to remain focused on our
objectives. So I thank all of you. Really it's a great
honor to have served you.

Now we will move to closed session, right. Is
that correct?

EXECUTIVE OFFICER THAYER: Very good. Yes.

Hold it, hold it. We have one more item on the
open session.

CHAIRPERSON CONNELL: I have neglected one of the
public speakers, I have just been informed. I'm sorry, John
Williams. John Williams, I am so sorry. In our glee at
the celebration, John, I have neglected my official
responsibilities. Everyone please be seated once more, it's
my error.

EXECUTIVE OFFICER THAYER: No, mine I should have
remembered.

CHAIRPERSON CONNELL: John, go ahead.

MR. WILLIAMS: Madam Chair and Members of the
Commission, thank you very much for this opportunity to say
a few words on behalf of the historic bed of the Yuba River.
This is a strip of land 300 acres. It runs across nearly a half a mile directly south of the current bed of the Yuba River. It was considered navigable in 1850, therefore it's state lands. You can see in these pictures that there's a dredge operation just a little bit south of the river. The state lands are in or near that dredger bed and the current course of the Yuba River. Those are massive piles of high-grade gravel that are in that area. That 300 acres is state lands, and the historic bed probably contains ten to twenty million dollars worth of high-grade gravel.

In 1979, the State filed a federal court suit to sell the title of that particular, the historic bed of the Yuba River. At the time, everyone thought that particular stretch of land was landlocked and there was no public access to it. And so when the State Lands sought a settlement in 1983, their only goal was to try and help the public gain access to the current bed of the Yuba River. So there was an offer, the State would give up 300 acres of land and the historic bed to the mining companies, in return, the mining companies would only give up 30 acres of land, but that land would have access to the current bed of the Yuba River.

The mining companies that signed the settlement in 1983, the first company, the head of it went to prison for fraud. The next head of the company went to prison for
cocaine trafficking. The company is still under bankruptcy, and the settlements were never finalized over the last 18 years.

I am a researcher for a group called the Yuba River Access Coalition in Yuba County, several hundred people who have been fighting for public access to the Yuba River.

In the intervening years, Yuba County has won a court suit. Now the State of California courts have ruled there is a public road into the Yuba gold fields, and there is now officially public access to the state lands and other federal lands out there. And there's less reason than ever for State Lands to continue with that settlement, and I urge State Lands to reconsider that settlement, and actually consider cancelling it.

The mining companies have gone 19 years without finalizing it. Enough is enough. In the intervening time, there is evidence that there has been considerable trespass on those State lands, that the lands have been mined, that the Yuba County Water Agency has run a canal through them, without so much as a buy or lease to the State.

This is a very complex topic, I know I don't have much time, so I'm just going to complete it here, and thank you for the opportunity.

CHAIRPERSON CONNELL: And again my apologies for
not taking this matter up.

What is the status of this, Paul? I was just speaking with Annette and we cannot recall our position.

EXECUTIVE OFFICER THAYER: I don't think it's been something before the Commission in quite some time, and there have been ongoing negotiations involving not only the entities that Mr. Williams speaks of, but the federal BLM and Corps of Engineers. There are a number of policy objectives that are important here, ranging from the public access that he speaks of, the value of the State's resource, but also the opportunity perhaps to swap some lands around and create even more public recreational opportunities.

It's something that started before I started at the Commission, and I don't fully understand all of it. And I think the appropriate thing to do, we just received notification on Friday from Mr. Williams that he would be speaking to you today, is that we go back and speak with the Attorney General's Office that has been extensively involved with this right along and report back to the Commission.

CHAIRPERSON CONNELL: Well, in fact, I'd like to take as one of my last actions the responsibility as Chair to suggest that we agendize that, if that would be in harmony with everyone else's thinking.

EXECUTIVE OFFICER THAYER: Sure.

CHAIRPERSON CONNELL: I think this is very
important. I appreciate, Mr. Williams, for you bringing it forward.

MR. WILLIAMS: Thank you.

CHAIRPERSON CONNELL: As I say, I'm a little uninformed about the specifics here, as I think everyone else is, but this, as I said earlier, this is the way we get our input is from activists who alert us to issues.

And I think this does need to be reviewed, Mr. Thayer. So if you would put this on the first agenda of the Lands Commission for next year.

EXECUTIVE OFFICER THAYER: We'll do it.

CHAIRPERSON CONNELL: That would be appropriate and let them address this matter.

Again, Mr. Williams, thank you for coming forward.

MR. WILLIAMS: And thank you for the opportunity to speak.

CHAIRPERSON CONNELL: So you will now get to come back to Sacramento in our winter season.

MR. WILLIAMS: Oh, great.

CHAIRPERSON CONNELL: All right. We are now officially in closed session.

(Thereupon the meeting of the State Lands Commission was adjourned at 12:05 p.m. on December 16, 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 30th day of January 2003.

Michael J. Mac Iver
Shorthand Reporter