APPEARANCES

Cruz Bustamante, Chairperson

Steve Peace, Director of Finance, represented by David Takashima

Steve Westly, State Controller

STAFF

Paul Thayer, Executive Officer

Jack Rump, Chief Counsel

Paul Mount, Mineral Resources

Dave Plummer, Land Management

ALSO PRESENT

Alan Hagar, Deputy Attorney General
<table>
<thead>
<tr>
<th>INDEX</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Call to Order</td>
<td>1</td>
</tr>
<tr>
<td>Approval of Minutes</td>
<td>1</td>
</tr>
<tr>
<td>Executive Officer's Report</td>
<td>1</td>
</tr>
<tr>
<td>Consent Calendar C1-26, C28-29, C31-37</td>
<td>8</td>
</tr>
<tr>
<td>Regular Calendar</td>
<td></td>
</tr>
<tr>
<td>Item 38</td>
<td>9</td>
</tr>
<tr>
<td>Mike Domanski</td>
<td>23</td>
</tr>
<tr>
<td>Item 30</td>
<td>26</td>
</tr>
<tr>
<td>Steven Brock</td>
<td>39</td>
</tr>
<tr>
<td>Rusty Areias</td>
<td>40</td>
</tr>
<tr>
<td>John Vernon</td>
<td>47</td>
</tr>
<tr>
<td>John Kasunich</td>
<td>51</td>
</tr>
<tr>
<td>Marco Gonzalez</td>
<td>52</td>
</tr>
<tr>
<td>Sheelagh Williams</td>
<td>55</td>
</tr>
<tr>
<td>Public Comment</td>
<td></td>
</tr>
<tr>
<td>Bruce Reznik</td>
<td>61</td>
</tr>
<tr>
<td>Al Huang</td>
<td>62</td>
</tr>
<tr>
<td>Bruce Hollingsworth</td>
<td>77</td>
</tr>
<tr>
<td>Sid Morris</td>
<td>84</td>
</tr>
<tr>
<td>Laura Hunter</td>
<td>90</td>
</tr>
<tr>
<td>Jim Peugh</td>
<td>100</td>
</tr>
<tr>
<td>Adjournment</td>
<td>105</td>
</tr>
<tr>
<td>Reporter's Certificate</td>
<td>106</td>
</tr>
</tbody>
</table>
PROCEEDINGS

CHAIRPERSON BUSTAMANTE: Call the meeting of the State Lands Commission to order. Let the record show that all members are present.

My name is Cruz Bustamante, and with me today is our State Controller, Steve Westly and David Takashima, representing the Department of Finance.

For the benefit of those in the audience, the State Lands Commission administers properties owned by the state, as well as its mineral interests. Today we will hear proposals concerning the leasing and management of these lovely facilities and properties.

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

Has everybody had a chance to read them, is there a motion?

ACTING COMMISSIONER TAKASHIMA: I move.

CHAIRPERSON BUSTAMANTE: A second?

COMMISSIONER WESTLY: Second.

CHAIRPERSON BUSTAMANTE: Let the record show that the minutes pass unanimously.

The next thing on the list is the Executive Officer's report.

Mr. Thayer.

EXECUTIVE OFFICER THAYER: Thank you, Mr. Chair.
Before commencing with my report, I wanted to acknowledge that there's a representative of the Port here today, the Chairman of the Port Board, Mr. Jess Van Deventer, who wanted to speak to the Commission.

CHAIRPERSON BUSTAMANTE: Please come forward.

MR. VAN DEVENTER: All right.

CHAIRPERSON BUSTAMANTE: How are you, sir?

MR. VAN DEVENTER: Great. I appreciate the opportunity to have you here in San Diego, and it's good to see you again. You're no baby yet, but you're getting close.

(Laughter.)

MR. VAN DEVENTER: But it's a pleasure to have you having this meeting in San Diego and I hope that your meeting goes well today. And if there is anything we can do to help you, feel free to ask and we'll do what you would like to see us do. Thank you.

CHAIRPERSON BUSTAMANTE: Thank you. We appreciate the use of the facilities, and I think we will probably be making more use of them, if they're available, so that we might have some more meetings this year just right here.

MR. VAN DEVENTER: Definitely. Thank you.

CHAIRPERSON BUSTAMANTE: All right. Thank you.

The next order of business.

EXECUTIVE OFFICER THAYER: We'll continue on with
the Executive Officer's report.

CHAIRPERSON BUSTAMANTE: Please go ahead.

EXECUTIVE OFFICER THAYER: There are two things I wanted to talk about. One just briefly is to mention that as authorized and required by the Commission, staff of the Attorney General's office has filed a litigation regarding the abandonment fund in Long Beach. As you may recall, the Commission had previously decided that this money should be returned to the state. Staff has attempted to accomplish this administratively and was unsuccessful, and the Commission authorized the litigation to be filed that was filed, I believe, last Wednesday by Mr. Hagar.

MR. HAGAR: Right.

EXECUTIVE OFFICER THAYER: And we'll of course report back as that progresses.

The second item I wanted to mention is that I wanted to report back to the Commission concerning the Commission's direction at it's last meeting to come up with some procedures to try and expedite the Commission's review of projects which are of economic significance to California. We, of course, attempt to do that anyway, we try to do our best to expedite the review of any project that comes before the Commission, but based on the Commission's input, we went back and took a fresh look at some of our procedures and we think we found some ways that
we are going to be able to accomplish this.

And, of course, these high-value projects that were identified by the Chair and the other Commissioners involved projects that brought jobs to California or were infrastructure that would facilitate other projects of importance to California's economy. So these were the kinds of projects that we wanted to see if we could move through more quickly, and this was at the specific direction of the Commission, without short changing the environmental review at all. We think we've gotten some process together that will accomplish that. In order to do this, we've reviewed how we've processed past projects that meet these criteria and discussed how that went with some of the past applicants and got some suggestions from them about how we can improve our process.

We think there are three major areas that we can improve a little bit on. One is communications with the applicant. The second one is coordination between our divisions. Lots of these projects require review by several of the Commission's divisions. And finally, additional senior staff and management monitoring the projects as they move through the process.

Our staff report which we've distributed to the Commissioners' offices previously identify a variety of measures to address these three main concerns. Some of
them, for example, are that the projects would be designated and would be discussed as they progressed at our weekly senior staff meeting. That ensures that all the different divisions are present and can comment on the process. The applicant will be periodically contacted to ensure progress. Sometimes we're in a situation where we think the ball's in their court and they think it's in ours. We're going to make sure that doesn't happen.

And finally, we're looking to make some improvements to the scheduling of meetings of the Commission. As the Commissioners know, we've in the past generally scheduled on more of an ad hoc basis when the next Commission meeting is going to be and we've usually had about five a year. We're recommending and have worked with your offices to accomplish already a process where we're going to end up with six meetings a year, so it would be more reliably every other month.

This will give applicants some advance knowledge of when we're going to meet. And we're going to try and set our dates in advance as well. And I'm happy to report that we've already been able to accomplish that with the assistance of your offices so that the next four meetings are already now established, the dates, and we'll be putting that up on our website later this week so that all the applicants can be aware of when they can have a Commission
meeting.

We're going to track the results from these improvements. We'll do an annual review on the staff level to see how we're doing, to see if there is anything else that we can do to improve our performance, what changes are needed. And eventually we hope to apply some of these lessons as well to our regular items. There is no reason why we can't do the same sort of thing with everything that comes through the Commission. So we want to take what we learn on the special projects and apply it to the rest of the process.

So that's what we have done in response to your direction. We hope that the results and we're looking forward to measuring whether we've accomplished this, and we'll be able to expedite these important projects through for California.

CHAIRPERSON BUSTAMANTE: Any questions by the Commissioners?

Go ahead.

ACTING COMMISSIONER TAKASHIMA: I have a question. What's our next location for a meeting, because I do want to come back to San Diego a little later in the summer, if we can. But I'm not sure if you have already scheduled locations for the meetings.

EXECUTIVE OFFICER THAYER: We haven't reserved a
room yet, but we had planned on coming to Southern California. We thought about Los Angeles, but, of course, if the other Commissioners agree with coming back in June, then our next meeting date is June 2nd, we can certainly do that.

CHAIRPERSON BUSTAMANTE: There is some discussion also about the possibility of doing some additional hearings and things and doing some performance audits. And so it might actually work out really well to come back to San Diego.

ACTING COMMISSIONER TAKASHIMA: Yes, but June is not good, there is some other matters that I have, and Commissioner Westly has to do in Sacramento. But maybe in --

EXECUTIVE OFFICER THAYER: August?

ACTING COMMISSIONER TAKASHIMA: -- September. The August/September period that might be resolved, hopefully.

EXECUTIVE OFFICER THAYER: The next date, I don't remember exactly when, is in August.

And that concludes the Executive Officer's report.

CHAIRPERSON BUSTAMANTE: Thank you. Mr. Thayer, is there any additional amendments to the consent calendar?

EXECUTIVE OFFICER THAYER: There are two. Item 27, at the request of the applicant. This is the Border Fence and the Department of Homeland Security has requested
that item be taken off and be heard at a future date. So we have scheduled that later, perhaps the next time we meet in San Diego might be the appropriate time to do that. And then the second item is Item 30. This is the Pelican Point Association's request for lease for a seawall and a river wall. And we've received a number of comments, including some that have specifically requested that the Commission have a public hearing on that. So we will remove that from the consent calendar and we intend to hear that.

CHAIRPERSON BUSTAMANTE: So we will move that to the first item on the regular calendar?

EXECUTIVE OFFICER THAYER: The first or second, whichever is the Chair's will. Other than that, there are no other changes to the consent calendar.

CHAIRPERSON BUSTAMANTE: Okay. Is there any questions about the consent calendar as amended?

Is there anybody in the audience that would like to speak on the consent calendar? Seeing none, the Chair is open for a motion and a second to approve the consent calendar.

COMMISSIONER WESTLY: So moved.

ACTING COMMISSIONER TAKASHIMA: Second.

CHAIRPERSON BUSTAMANTE: Let the record show that it passes with unanimous consent. And without objection, we'll just make it one single vote for all the different
consent items.
That takes us to the regular calendar. Does it make a difference, do you have anything listed whether it's 30 or 38 first?

EXECUTIVE OFFICER THAYER: It's at the Chair's discretion. I think that the presentation for the one that's on the regular calendar right now I think is Item 38. It will probably take about ten minutes for the staff presentation, and I think the applicant is here, perhaps another ten minutes for that.

CHAIRPERSON BUSTAMANTE: Well, why don't we go ahead and start with the existing regular calendar and we'll start with Item 38, and then we'll just move forward.

This is the consideration of the assignment to Paramount Petroleum. Who's the staff member who is making the presentation?

EXECUTIVE OFFICER THAYER: Paul Mount who heads up our Mineral Resources Management in Long Beach.

CHAIRPERSON BUSTAMANTE: Okay. It's all yours.

MR. MOUNT: Good afternoon, Commissioners, I'm Paul Mount. I'm Chief of the Mineral Resources Management Division out of Long Beach. I have a short presentation for you on this item to give you some familiarity with the Long Beach Wilmington oil field operation and also this agreement.
It's the wrong presentation.

CHAIRPERSON BUSTAMANTE: That is a very short presentation.

(Laughter.)

MR. MOUNT: I have a map to show you first and it's important that you see that.

Thank you.

Okay, next slide. I guess I can do that.

Okay. Just to familiarize you with the operation, there's a West Wilmington oil field which is labeled Tidelands on this map, and a pump operation, which is the East Wilmington oil field, which is also called the Long Beach Unit. We're interested in the tidelands area of the Long Beach operations down there, and that will be the area of concern for this briefing.

First of all, let me familiarize you with the contract relationships. The City is the operator of the oil fields, they get a six-percent overhead on the field operating expenses. Tidelands Oil Production Company is the contractor to the city and they get five percent of the net profits and 50 percent of an oil bonus which are determined later.

Of course, the state of California is the big beneficiary. We get 95 percent of the net profits and a hundred percent of the dry gas sales, and 50 percent of the
oil bonus. We are also, however, potentially responsible
for abandonment costs. Right now we're producing about
4,000 barrels a day. Tidelands Oil Company took over in
about 1992, the operation was making about 7,000 barrels a
day and there's a normal oil field decline, so today we're
about 4,000 barrels a day.

A little statistics on the oil field. There are
418 state wells, 308 active wells, 110 are idle. The
current production, like I said, 4,000 barrels a day.
Abandonment liability has been estimated to be upwards of
$48 million. By keeping the operation going there's also
three to five million dollars per year contributing to
prevention of subsidence by the operation, that comes out of
revenue. We anticipate this year the State will receive 2.7
million in revenue from the operations, and we're projecting
about two million next year, mainly because our oil price
has been pretty high this year and we wouldn't expect it to
be quite that high next year.

We received an assignment request from Tosco.
They requested that the assignment be made from Nestee to
Paramount Petroleum. Before the assignment, Nestee's a 79.9
percent owner of the Tidelands Oil Production Company and
Paramount's a 75 percent afterwards. Chance Energy
increases their percentage to 25 percent.

Let me give you a little background on Paramount
Petroleum Company. It purchased the Paramount refinery in '95. It's the largest asphalt refiner in California, the largest liquid asphalt manufacturer in the U.S, 245 employees, refining capacity of 54,000 barrels a day, and it's privately owned.

Financially, they look very solid. Their capitalization is $180 million, they have $9 million in equity. Dunn & Bradstreet say that they are extremely low likelihood of ceasing business without paying off creditors. It indicates that they pay their bills within 30 days and have a low leverage liquid balance sheet. Overall, they are a financially sound and stable company.

Here's a little bit more on their financial information. Here's a financial snapshot. You might wonder why the profitability is low. Of all those numbers up there, they exceed or equal industry median, except for profitability, and the reason is that they are plowing money back into the company and they had low margins this last year. But basically they're plowing money back into the company, which is good news.

As an example of that, they spent over $1 million on odors control for their refinery to be a good neighbor. They also cut their NOX in half and reduced their SOX emissions. They spent $6.5 million on remediation of soil conditions. They voluntarily spent $300,000 per year to
eliminate potential sources of soil and groundwater contamination, and they are active as a good citizen and based on calls that they have made around the area.

Here is some of the contract amendments that are going to be made. It would normally be a straight-across contract assignment, but in this case, since they will be taking the crude oil, one of the issues is that this is not an arm's length transaction. So we somehow have to value the crude that they take, since they aren't going to be paying you. They are going to be paying themselves for the crude, basically, so we have to come up with a way to value that crude. So we negotiated a new oil price and bonus agreement. We're going to look at that and work on that for two years, and we'll renegotiate that in two years to see if the agreement that was negotiated was good and we still agreed with that. The amendment will provide for a safety audit and there will be added provisions to pay for land rental, and I'll explain that in a minute.

Let me explain to you what the difference between posted price and bonus is, that's important to this amendment. First of all, posted price are those prices posted by oil companies in major oil fields in California. A bonus is the difference between what the State receives for their oil and what the posted price is. So historically over the last ten years, we've received anywhere between 50
cents to a dollar bonus for the oil above posted prices.
And that's been consistent over the last ten years.

    In this agreement, we've negotiated a new bonus.
The bonus is going to be based on crude oil sales in the
Long Beach area. Currently, we're getting $1.55 bonus for
state crude. Under the new agreement, if we were to
implement that today, it would be $1.65. So we've enhanced
our bonus.

    The contractor also charges about 7.25 cents per
barrel for marketing fees. In this case, if Paramount takes
80 percent or more of the crude, that will be waived, so the
State will not have to pay that.

    Also under the new agreement, if the lease
payments which the State makes is less than the revenue
generated, or is more than the revenue generated from the
operations, then the new contractor will in fact make the
lease payments for the State. So that's a big benefit to
us, because under the current agreement, if, in fact, they
don't generate enough revenue to cover the lease payments,
the lease payments come out of other operations, such as the
Long Beach Unit.

    And finally, the new base price. We only have one
poster in the Long Beach area now. The new posted price
will be a five-field average, which benefits the State as
well, because we aren't relying on one poster.
So overall, the new agreement has some major benefits to the state of California.

Also, one of the things the new agreement provides for is a safety audit of the operations, as we've done on off shore oil.

Yes.

ACTING COMMISSIONER TAKASHIMA: Can you go back. Why is it that the price is best when it's, instead of using Wilmington as a base price, divided into five fields? Why is five fields a better way of determining the price?

MR. MOUNT: Well, in Wilmington, we're relying on one refiner, Unocal, and we're at their mercy on posting. And we have compared the five-field average with historic posting of this company, and the five-field average has generally always been higher. We include Midway Sunset up in there, which is a substantial poster, and that boosted the price for us. So it's actually a benefit to the State of California by doing that. We did not, nor did the oil company, nor did Paramount, want to rely on one poster in the area, and that's not a wise thing to do. In fact, the current contract requires that we actually consider more than one poster. And so we had to make a modification, even if this assignment weren't made.

EXECUTIVE OFFICER THAYER: And, Paul, you modeled that? In other words, you went back and looked over the
last few years to see if this new formula had been in place
how we would have done, and we would have done better.

MR. MOUNT: We would have done better, correct.

The safety audit, as I was going to say, is very
similar to the safety audits we've done on all our offshore
facilities. We have done safety audits on Platform Holly,
as you know, on the Long Beach Unit, as you know. We're
currently doing audits on Platform Emmy, and will be doing
even Esther. We've put this audit in because we thought it
was necessary to look at the operations to make sure that
they meet all current regulations and requirements, both
federal and state.

CHAIRPERSON BUSTAMANTE: How long has it been
since this facility had a full safety audit?

MR. MOUNT: I would venture to say they've never
had a full safety audit like we conduct.

CHAIRPERSON BUSTAMANTE: And how long has the
facility been in operation?

MR. MOUNT: I believe since 1930 something.

CHAIRPERSON BUSTAMANTE: Are there any more like
that?

MR. MOUNT: On the state tidelands, no. We have
audited all our facilities at least once, with a very minor
audit in the early '90s. This full audit, which takes six
months, will be the first substantial audit that this
facility has had at least in recent history, to our knowledge. However, the State of California does not normally inspect this facility or audit this facility, because it's really the -- actually, the operator is the City of Long Beach. We only have a financial interest, we are not even a unit member, and therefore, we don't have the authority to conduct these audits, except when an amendment like this comes up. And then we include those audits as part of the approval for the amendment.

CHAIRPERSON BUSTAMANTE: Who does have the authority?

MR. MOUNT: The City of Long Beach has the authority.

CHAIRPERSON BUSTAMANTE: And what kind of agreements or Memorandums of Understanding do we have with the City of Long Beach to ensure that they are doing safety audits?

MR. MOUNT: We have none. We work closely with them, but --

CHAIRPERSON BUSTAMANTE: I think we should start thinking about how to deal with that issue. And we might talk with the mayor and talk about how we might be able to do something with regard to them asking us to come in and do fairly regular safety audits. And it's crazy, since the 1930s?
COMMISSIONER WESTLY: Could I ask the staff to just comment on this. This does kind of defy common sense and I'm sure there's some explanation for the track record here and the history of how we do audits and why in this one case seems to be an anomaly.

EXECUTIVE OFFICER THAYER: I think in general the City has had a large hand in the operation of this particular unit and in other units where we have had leases. This is a very different arrangement in Long Beach, wherein most of the state's oil we have leases with oil companies and we get royalties. In this particular case, the State retained a much larger -- or actually went back in after this property along with its oil was granted to Long Beach as one of the normal sort of port grants or waterfront grants.

Subsequent to that grant, large amounts of oil and gas was discovered, and the Legislature in effect got the State back into it and it found that the City couldn't spend all the money it was making from the oil and gas and put us back into it. So this is a different situation than a lot of the ones where we don't have direct authority over the operation of the field day to day. We have an opportunity to review their plans, but we don't have to same sort of authority as we do where we have a lease.

Traditionally, we've had inspectors who go out on
a basis that varies from daily, if there's a particular reason for being out there frequently, to weekly or monthly, on all of our facilities, including these, where we have looked on a day-to-day basis to make sure the operation is being run safely.

What we've started to do over the last few years, and we needed additional resources frankly to do this, we didn't have either the talent or the money to do it, we got a budget change proposal approved several years ago and we've fought for it since then to hire some additional engineers. So instead of relying on these daily inspections, we now go out and are going through all of our operations on a periodic basis of auditing for safety. And it's much more complete than we had ever done before.

So I guess what we're seeing here is we're progressing in terms of our own thinking of about how careful we have to be and that we're going back there much more frequently than we ever have before.

COMMISSIONER WESTLY: I just want to make sure that I understand. I was hearing that no real audit has occurred, but they have had quite a few staff inspections and other visits. So there are visits, there are inspections, but just not maybe the full performance audit?

EXECUTIVE OFFICER THAYER: For us a safety audit has come to the special meaning in staff's mind of what we
have started doing over the last two or three years where we
go out and take six months and we assign two, three, four
people just about full time, and they're engineers rather
than these inspectors, and they're much more comprehensively
done.

COMMISSIONER WESTLY: And these are people who are
perhaps trained chemists or engineers looking for any sort
of fault or operating difficulties?

EXECUTIVE OFFICER THAYER: Exactly. Paul should
probably discuss it further, it's his show.

MR. MOUNT: Yes, it's a full audit team with
expertise in the field. Our plan is to follow up on the
audit. We're going to have to work with the City closely on
following up with that and the inspections. And we're going
to have to work on that a little bit more with them.

Also, along --

CHAIRPERSON BUSTAMANTE: Excuse me, we've got a
question.

ACTING COMMISSIONER TAKASHIMA: I've got a
question. On the agreement on page 5, line 8, it talks
about the audits and that the audit staff consultants are
hired by the contractor, but the contractor has the right to
approve the consultants. And the contractor in this case
is?

MR. MOUNT: The contractor is Tidelands Oil
Company.

ACTING COMMISSIONER TAKASHIMA: Okay. So the oil companies will have the right to determine who the auditors are. What about the Commission, what's our role in determining that?

MR. MOUNT: Well, actually, the auditors are Commission staff. We have to hire one contractor who's an electrical engineer to do the electrical part. Other than that, it will be entirely State Lands Commission staff doing the audit and we get reimbursed for that up to $625,000.

ACTING COMMISSIONER TAKASHIMA: Okay. Thank you.

MR. MOUNT: Also along with the amendment will come new bonding. Currently, the bond is $4 million, and after the assignment it will also be $4 million.

The land rentals. I mentioned earlier that land rentals are outside of this agreement. They are usually paid out of the Tidelands Oil Revenue Fund. In some cases, the land rental exceeded the revenue from this operation, and, therefore, it had to come out of other revenue, State revenue. Under the new contract, if there is not enough revenue from this operation to cover the land rental, Tosco will in fact cover the land rental for the State of California, which is a benefit also.

So I've already kind of given you most of the benefits. Just to summarize, we don't have to pay the 7.25
cents per barrel fee for marketing, we get an additional bonus above what we were getting before, we have a more stable base price using the five field posters, we're not liable for the land rental if we don't generate enough revenue for that, and the safety audit will be done. And finally it's a California company, as opposed to the old Tidelands which was owned by Nestee, who's a Finnish company. So we see all those things as benefits.

That ends my presentation.

CHAIRPERSON BUSTAMANTE: We've had other folks who have taken over facilities, and maybe I missed it in your presentation, does Paramount have experience in this particular activity?

MR. MOUNT: Paramount is owned by companies who, in fact, do. However, Tidelands Oil Company is going to retain almost all of their current staff. So the staff that will be operating the oil field will be well trained and knowledgeable in oil field operations because they have been doing it for the last ten years. But above that, Paramount is also owned by a company called Signal Petroleum, who also has a lot of experience in the Long Beach area.

CHAIRPERSON BUSTAMANTE: In the Long Beach area?

MR. MOUNT: Yes.

CHAIRPERSON BUSTAMANTE: And is there anything more?
MR. MOUNT: That ends my presentation.

CHAIRPERSON BUSTAMANTE: Okay. Do we have any discussion? There was a Mr. Domanski, Domanski?

MR. DOMANSKI: Yes.

CHAIRPERSON BUSTAMANTE: How bad did I do that? Domanski?

MR. DOMANSKI: That's absolutely right. My name is Mike Domanski, I'm the President of Tidelands Oil Production Company.

I have very little to add, actually, to what Mr. Mount said. We welcome the concern for Paramount to take over. They're strong financially, but above all, they have a reason to stick with us and stay the course, since they're local and they need the crude oil, unlike Nestee, which their center of operations is based in northern Europe.

Secondly, contractually, we think this amendment improves the basis of the contract by taking away our vulnerability to one poster, who happens to be a low poster. And, thirdly, something Mr. Mount has not mentioned, though this oil field has been operating since 1937, only 25 percent of the oil in place has actually been produced.

There is still a lot of potential for the State to benefit from this oil field. Even if we were to produce at the same rate as today until 2024, that would only take the oil recovery percentage up from 25 percent to 27 percent. It's
easily doable, so long as the global oil price remains within a reasonable range.

COMMISSIONER WESTLY: I'm absolutely delighted you're here and I'm beginning to understand the rationale for the recommendation before us and the financial standpoint, it makes all the sense in the world. Given that we are in such a beautiful city with such an extraordinary coastline, the city Cruz refers to as the Gateway to Fresno.

(Laughter.)

COMMISSIONER WESTLY: I would love to hear, if you could just give a quick overview of environmental concerns, the track record, and how well you've done since the '30s, and perhaps, ideally, you can fill in a little bit better about the track record.

MR. DOMANSKI: Yes, sir. I would not like the Commissioners to be left with the idea that because this would be the first safety audit by State Lands that, therefore, this was a new thing for us. Far from it. Nestee is known as the green oil company. They're Finnish, they're extremely proud of their environmental and safety track records.

And Tidelands started operations in 1989, and I think the track record, as Mr. Thayer is advised every six months, speaks for itself. We do regular audits. Tidelands became the first oil producing company in the United States.
to meet ISO 14001 standards. That's a third-party accreditation which requires that environmental considerations be taken into every decision.

The safety record is much improved. Because this was an old oil field, it was way back in the 1980s not unusual to have 50 or 60 leaks per year. These are not necessarily catastrophic by any means, but nevertheless locally a nuisance. We have been able to reduce that over the last two years to one per year. Of course, our objective is to make it zero, but that one per year, they've been pretty insignificant recently. And that is done through additional safety checks, pressure line testing, training programs, and such like. And so, in fact, we have just completed a safety audit that was organized by the City of Long Beach. So this type of check is not new to us.

COMMISSIONER WESTLY: It sounds basically like an exemplary record. Can you give us a sense so we can picture it, when this one leak per year occurs, is this above ground, underground, in the water?

MR. DOMANSKI: Yes, sir. There's two phases to this oil operation. We produce oil and bring it out of the ground. We reinject water back into the ground for subsidence control and also to drive production. Much of the fluid that we produce is water. We pressure test all of the lines in the oil field once a year, and that's been, I
think, the main reason why the leak rate has reduced so
dramatically over the last ten years.

You can never actually predict where or what sort
of leak is going to happen. If we could, of course, it
wouldn't happen at all. The last leak we had was actually
clean water. It was water that had been treated and was
ready for reinjection. The one before that was less than a
barrel of oil and was contained within the dikes that we
have around all of our facilities, both incredibly minor.
The only real nuisance, you have to go back to 1994 or 1995
when a high pressure line developed a pin hole leak and it
sprayed a mixture of water and oil over a marina. So there
were a lot of irate boat owners.

COMMISSIONER WESTLY: Thank you.

MR. DOMANSKI: Thank you.

COMMISSIONER BUSTAMANTE: Any other questions?

Is there anything else to add? Is there any
opposition? Is there anything more from staff?

I'm open for a motion.

COMMISSIONER WESTLY: I move we approve.

ACTING COMMISSIONER TAKASHIMA: And I second it.

CHAIRPERSON BUSTAMANTE: Let the record show that
the motion is made and seconded and that it passes
unanimously.

Which brings us, I guess, to Item Number 30?
EXECUTIVE OFFICER THAYER: Yes, sir. Staff member Dave Plummer, who's headed up the effort on the Pelican Point lease will give the staff presentation.

CHAIRPERSON BUSTAMANTE: This is the seawall project that we're moving to?

MR. PLUMMER: That's correct.

Good afternoon, Chairman, Commissioners, my name is Dave Plummer and I'm a regional manager at the Land Management Division. The item before you today is an application by the Pelican Point Homeowners Association seeking approval for the continued use of State property for an existing rock revetment that was previously authorized by the Commission in 1988, and for the use of a strip of land approximately 480 feet long and two and a half to five feet wide for the construction of a new river wall.

As background, the existing development consists of 87 condominium units that were constructed in the late 1960s and early '70s at the confluence of Watsonville Slough, the Pajaro River and Monterey Bay. The condominiums are supported by piles that were driven into the beach sand. In 1971, a wooden river wall was constructed to prevent the river from eroding the sands and undermining the condominiums. The wall failed to function as anticipated and backfill consisting of rock up to two-ton size was placed behind the wall to try to reduce the scour by the
river. Also this wall was damaged during the 1989 Loma Prieta earthquake.

The development remains subject to deep river scour during severe rainstorms. I believe you probably have some photos in front of you, one that shows the seawall and the scoured condition, and one in a non-scoured condition. And I just want to point out that the current proposal that is the subject of this Commission for the river wall would be built on the beach side of the existing wall.

This is the existing wall. It would be here at a maximum of no further than five feet from the existing wall, and it would extend from here to here on our leased property. Ultimately we'd be coming on lands that are in record ownership of Pelican Point Homeowners' Association as it wraps around Watsonville Slough.

CHAIRPERSON BUSTAMANTE: How high?

MR. PLUMMER: It will extend about five to seven feet high above the beach level.

In processing the application for the project, staff looked at a number of issues, including the recommendation of the Commission and its approval of our Shoreline Protective Structures Report that was adopted at the September 17th, 2001 meeting.

Issues staff considered include the impacts on the public's ability to utilize sovereign lands, impacts to
public trust resources and the environment, and the issue of charging rent.

On the issue of the public's ability to utilize sovereign lands at the project location, the beach area in this location is very limited to public access. The existing public access comes from up coast on the beach, about a mile north of this project. This whole area here is a gated community. The 87 condominium owners of the Pelican Point Homeowners' Association is just this area. This is an entirely different association that controls the gated area. So right now access is from the state park about a mile north upcoast, but you can walk down the entire beach and access this area down here.

Construction of the wall will have the greatest impacts on the actual residents and users of the condominium project. Because the wall will be five to seven feet tall, they will not have direct access directly from the condominiums across the existing wooden river wall when the beach sands are high and out on to the beach. They will have to come down towards the coast side of it, and there is a set of stairways right here, and they will be directed on the inland side of the river wall to the stairways and out there.

The river wall will occupy approximately 3,000 square feet in an area that's classified environmentally
sensitive habitat area. The Pajaro River area provides habitat for state and federal-listed species, such as the Western Snowy Plover, steelhead trout and Tidewater Gobi, among others. The project has been analyzed under the California Environmental Quality Act and has been reviewed and commented on by the state and federal agencies that are charged with the protection of these species. And they include the State Department of Fish and Game, the US Fish and Wildlife Service, and National Marine Fisheries Service.

Based upon the comments to the SEQA document, a mitigation monitoring program was adopted that incorporated a series of construction windows that were required by the various agencies for the various species, and that governs when any work can be performed. By combining all the various construction windows, what you have is a construction period here from October 1st through December 15th. A mitigation monitoring program with the construction dates will be incorporated as part of the lease, if approved.

The river wall, as proposed, is scheduled to be completed within a single construction season. An alternative was looked at to construct the wall inland of the existing wooden wall and was analyzed through the SEQA process. An engineering analysis concluded that the construction wall feasibly and technically could be
constructed there, but it isn't without challenge. The closest condominium to the existing wall is only ten feet away. In between that structure and the wooden wall you have rock that was put in place.

In order to drive sheet pile, you'd have to entirely take out all the rock, take out the existing wall, and if you don't get that work done during that construction phase, you then leave those condominiums exposed during the next winter season. And there is also the condition that you would have to put brand new support pilings and shore up the existing condominiums by driving the piles that close to the existing structures.

CHAIRPERSON BUSTAMANTE: As far as the specifications, is there any difference in your mind as to how this is going to work out, whether it's being called a seawall or a river wall?

MR. PLUMMER: Well, it's a river wall in that, one, it's a river wall because it's not on the coast. It's really to prevent scouring from the Pajaro River and Watsonville Slough.

CHAIRPERSON BUSTAMANTE: I understand. But there's wooden pilings of some kind along what you are calling the river wall, and there is rock.

MR. PLUMMER: Right.

CHAIRPERSON BUSTAMANTE: So what is the wall going
to be made of?

   MR. PLUMMER: The new wall will be made of sheet
pale and driven into the ground. That steel actually comes
from Belgium and it's epoxy coated, and to drive it, you
just have to have the rock out of the way. Now, some rock
has migrated, especially after the Loma Prieta Earthquake,
on to our side of the existing wall. That rock will be
completely removed, sheet pile will be driven, and that will
prevent any other rock from moving on to the State property.

   It has been estimated that to put the river wall
completely on the inland side of the existing wall will add
about $3 million to the cost, and while cost is one factor,
more importantly it could be that it would add up to a
three- to four-year construction cycle. Because of the
short time period of October through December, you couldn't
get all that work done in one construction period, as you
can with this river wall that is proposed on the outboard
side, and so we're going to have impacts, especially to the
species, presumably for three to four years, versus one-year
cycle.

   On the issue of rent. Pursuant to the
Commission's direction at its meeting of September 17th and
through its adoption of the Protective Structures Report, we
looked at the public benefits that are derived from this
project. And based on our analysis, staff is recommending
that rent be charged for both existing rock revetment and
for the new river wall in the amount of $58,370 for the one-
year term of this lease.

The area proposed for lease of the new river wall
is currently leased to the State Department of Parks and
Recreation. The Department's lease is for the purpose of
protection and management of the lease area. For this
Commission's lease for the river wall to become effective,
the Department must determine that it's satisfied with the
project and allow the area it leases to be used for this
project. And that applicant is currently working with the
Department of Parks for that purpose.

In the audience today are members of the
homeowner's association and their consultants that may wish
to make a statement, as well as answer any questions. And
I'd be happy to take any questions the Commission has at
this time.

CHAIRPERSON BUSTAMANTE: Just before you step
down. The Commission has always in the past attempted to
look at public trust lands in a way so that it doesn't set a
new precedent in the way that land is being used. And so
that the other Commission Members know, in the past we have
had precedents where we were able to swap land that allowed
a greater public benefit. So although we have a public
trust, we have had occasions in which we have used some of
the public trust lands in exchange for other lands that
actually enhanced either marshlands or tidelands or provided
more open space or have done things in order to benefit the
general benefit of the public trust.

And so this is not precedent setting in itself in
that way. What is precedent setting is that in the two
years since the report that we have the situation in which
we feel strongly about making sure that those landowners and
people who use the coastal areas are in fact paying for the
costs of things such as seawalls and ensuring that the
public trust is not harmed in the process. And in order for
us to be able to be good stewards of the land, we clearly --
in some people's minds, some people wished there were no
development along the coast. The fact is that the
development does exist there and it will continue to exist,
and trying to be good stewards of that land is an important
part.

And in dealing with this, it's important that
always look toward the public trust and the benefit to the
public, but also making sure that we try to do all we can to
deal with those folks who are already there. And I think
that as we look at this, and I think that the kind of
restoration that is taking place or is in the process of
taking place here with the local environmental groups has
been a huge undertaking, not only by -- we probably should
thank Surfrider and the Sierra Club for their whole activity in terms of talking about public access, but the whole local environmental group and the community, along with the association, for attempting to try to deal with this issue in a way that in fact does benefit the public. And the staff's activities in trying to make sure that we build this kind of a consensus, I think has been very important in getting us to this point just to consider this whole project.

It's been looked on in the past as something in which we usually just sort of dealt it away where we just didn't give it the kind of emphasis that we should have. And I think that this is, in fact, creating a good precedent for the Commission for the future. And I look forward to hearing the presentation by the Association.

EXECUTIVE OFFICER THAYER: Thank you, Mr. Chair.

Just before the next witness comes up, I did want to make one technical correction to the staff report. When you look at page 8, it talks about the authorization that is going to be made by the Commission, and there are several conditions that have to be met, and they covered these. One was the concurrence or the quickclaim from the Parks and Rec, and the other was the approvals from the other agencies.

When you look at the end of the page, we require
that that be done according to this prior to the start of
the construction activities. I think in response to some of
the public comments, we wanted to amend that to say that
that would be prior to the issuance of the lease itself that
the Association would have to obtain the approval from the
Coastal Commission and the other agencies, and particularly
the Department of Parks and Rec.

CHAIRPERSON BUSTAMANTE: Well, it's my
understanding, Mr. Thayer, is that the Coastal Commission
has, in fact, the jurisdiction for environmental review and
the final approval for this project.

EXECUTIVE OFFICER THAYER: That's right.
CHAIRPERSON BUSTAMANTE: Right. Is that the point
that you're just trying to make?

EXECUTIVE OFFICER THAYER: Yes, sir. And I think
what we're trying to say is that we don't want the Lands
Commission to be put in a position where it looks like we're
issuing a lease without taking cognizance of the other
jurisdiction that is going to be necessary here, and
particularly for Parks. Because Parks has an existing lease
from us, we need technically for them to quickclaim that
lease to us before we can actually issue a new lease.

CHAIRPERSON BUSTAMANTE: And I believe the
representatives have also indicated to me that they are
fully aware that they have to be in full compliance with the
Coastal Act and they are going to have to go before the Coastal Commission too.

EXECUTIVE OFFICER THAYER: And so with the clarification I just gave, what we would do then is not actually issue the lease until these conditions were met. Then the lease would be issued and they could proceed, whereas right now prior to the start of construction. So we will wait to issue the lease until these various conditions have been met.

CHAIRPERSON BUSTAMANTE: What conditions are we talking about specifically?

EXECUTIVE OFFICER THAYER: Well, the two in particular are that the Parks and Rec either send us a letter of no objection or to quickclaim their interests, and the Association has obtained approval of the project from all the other public agencies that have to give approval, the primary one remaining is the Coastal Commission.

CHAIRPERSON BUSTAMANTE: Are we talking about that property that is being made as a part of the swap?

EXECUTIVE OFFICER THAYER: The swap itself will come back to the Lands Commission down the road.

CHAIRPERSON BUSTAMANTE: It does come back, okay.

EXECUTIVE OFFICER THAYER: But this is for this particular lease right now.

MR. PLUMMER: Yes, that's one thing I did not
point out in my presentation. We're here for a lease before
you today where staff is working with the consultants and
the local environmental groups there. We are looking to see
if there may be later on a swap down the road that we can
bring back and that would be a different calendar item we
can bring back to you.

    ACTING COMMISSIONER TAKASHIMA: I have a question.
    CHAIRPERSON BUSTAMANTE: Sure.
    ACTING COMMISSIONER TAKASHIMA: When I was
briefed, it was my understanding that there was going to be
a swap of the land. What's the timing or how come that
isn't addressed at the same time I just wanted to ask you?
    MR. PLUMMER: The real reason for that is in order
for us to do a land swap, I mean first we need to work with
the groups, we need to find the sensible properties to trade
for, we have to find equal value, which means we need to do
a full real estate appraisal to know that we're getting
equal value. We need a good project product to bring to
you.

    In the meantime, the homeowners' association, they
have to order their steel from Belgium, and that takes four
months to get that steel here. For them to make that
timeline, they need to have all their approvals, including
the Coastal Commission, essentially by June and have the
steel ordered by June so they can have it here in time for
this year's construction. We just did not feel that we
could make that timeframe on a swap by June. We just think
we need more time to do that and more time to work with the
environmental communities, and also to look at public access
issues.

ACTING COMMISSIONER TAKASHIMA: Let me ask you
then, what do you project as your timetable on working out
the major details, at least how to project the time period
on the mitigation, on the swap for us?

MR. PLUMMER: I would hope to be before this
Commission probably by, I'm going to stick my neck out a
little bit, by the end of the year.

ACTING COMMISSIONER TAKASHIMA: Okay. So as the
project is completed by the homeowner's association, then
you will come back on the swap. And then would that then
require that the lease then would be terminated if the swap
was done, or are we talking about that the lease would go
on.

MR. PLUMMER: No, the lease would be terminated
once we entered into a land swap.

ACTING COMMISSIONER TAKASHIMA: Okay. Thank you.

CHAIRPERSON BUSTAMANTE: Okay.

MR. BROCK: Commissioners, my name is Steven
Brock, I'm the president of the Pelican Point Homeowners'
Association. And I want to thank you very much for the
opportunity to speak to you today.

And first I'd like to say, I'd like to thank Paul Thayer and his staff for the fine job they've done working with us and helping us expedite this whole thing. And to Mr. Takashima's comment, yes, we would like to do the swap as quickly and expeditiously as possible, making sure it's fair to the State as well to us.

I have a couple people here with me today. Rusty Areias is going to speak to the project. We also have John Vernon who represents the Friends of Pajaro, one of the ecological groups, and another fellow homeowner with me. And in case we have any technical questions, we brought our project engineer, John Kasunich.

And I'd like to turn it over to Rusty at this point.

MR. AREIAS: Thank you very much. Mr. Chairman and Members of the Commission, this has been a lengthy and very, very difficult process. If you can imagine after an act of God like the Loma Prieta Earthquake when the homeowners at Pelican Point found that their river wall was on State property and began the civic lesson of learning how State Parks, State Lands, the Coastal Commission, U.S. Fish and Wildlife, Fish and Game, the Pajaro Dunes Geological Hazards District, and a few other agencies and departments needed to coordinate to get this done, well that's been a
five year very expensive process.

And this isn't exactly what I expected to be doing with my life right now, but life isn't always as we plan it, and I got a call in November and they asked me if I'd consider looking at this project. And I went down there and there was an obvious solution, and it lied in the Watsonville Slough. And I contacted the local superintendents of the Monterey and Santa Cruz Park District, brought them down there to look at it.

And I remember Dave Vincent, the superintendent for the Santa Cruz District saying that he had just came the day before from a meeting of local environmentalists and conservationists saying that the Watsonville Slough was the highest restoration priority in Santa Cruz County and that they've got to do it. And Watsonville Slough, the west side of the Watsonville Slough, the last mile as it's called, is owned by Pajaro Dunes. So what better place to mitigate for a river wall than the last mile of Watsonville Slough. And you're going to hear more about that exciting project from John Vernon in a short time.

I also want to echo Mr. Brock's words in thanking the staff of State Lands, Mr. Thayer, Mr. Plummer, Mr. Lynch, Curtis, everyone who worked on this. They have just been terrific in terms of trying to come up with a solution to a very difficult and complex problem and deal with the
difficult timelines that we all face because of the
construction period and some of the environmental challenges
in dealing with the Snowy Plover habitat.

The State Lands Commission, as you know, is
considering a one-year lease to help resolve a long-standing
five-year river wall repair project on ongoing lease land
lying under an existing rock revetment seawall. The Pelican
Homeowners' Association has been in discussion with SLC
ultimately and ultimately proposes a land exchange for
approximately 18,000 square feet proposed in the lease. And
while 18,000 square feet sounds like a lot of square feet,
it's actually less than a half acre of land.

The exchange would be for biologically superior
lands in close proximity at the mouth of Watsonville Slough,
and those biologically superior lands include salt grasses;
pickleweed; Witch's Hair; blue herons; egrets both white and
snowy; as well as white and brown pelicans. If you haven't
been to this location, it's got some of the richest bird
life that you will ever see on the coast, on any coast, in
California.

The picture that is on the screen best
demonstrates how the wall rotated when the soils liquified
and leaned on to State lands, and this happened as a result
of the Loma Prieta Earthquake in 1989. It caused the
failure of this particular structure and it leaned over on
to State property. And I think it's illustrated about as well there as anywhere I've seen. And it leans over on to state lands about two and a half feet. There was further damage as a result of El Nino a few years later. So the combination of those two acts of God kind of has us where we are today.

A Coastal Development Permit is being sought from the California Coastal Commission for the river wall project. Approximately 3,000 square feet of SLC property is needed for the optimal river wall repair design. All other agency signoffs are completed for the project, including all of the environmental compliance.

The optimal river wall design is a straight line wall that minimizes impacts to the environment, particularly the Snowy Plover. It's feasible from an engineering perspective, because it does not require the full removal of the existing river wall, which itself provides quite a bit of protection. And there is substantially more cost to build an undulating wall which has been proposed by some. That would raise the cost of this wall by about $3 million, but more problematic is the fact that it would take four construction seasons. And the effect that that would have on the Snowy Plover habitat is something that I think all of us would like to avoid.

The Pelican Homeowners' Association also has
leased 15,000 square feet of State Lands' property currently
under existing rock revetments, the seawall, which is not
related to the river wall, which is the project that we're
talking about today.

This is the proposed exchange. Approximately
3,000 square feet of SLC land is needed for the river wall
repair project, which is the narrow swath in front of the
existing river wall, and approximately 15,000 square feet of
SLC land under the existing rock revetment seawall. Pelican
Homeowners' Association is proposing substantially more
square footage along the Watsonville Slough, a biologically
important coastal wetlands fully restored, which will be
reviewed as of equal economic value for the exchange, and
that will happen through the appraisal process.

The Pelican Homeowners' Association has been
working closely and has the support of local environmental
groups, the Watsonville Wetlands Watch, as well as the
Friends of Pajaro Dunes, to restore the last mile of the
Watsonville Slough. The Watsonville Slough lands proposed
for an exchange will be an important catalyst for this
effort.

I'd like to now call on John Vernon, who through
Friends of Pajaro, has been very, very involved in the
restoration of the last mile of Watsonville Slough. And
this will not only deal with the restoration of this
important wetlands, but it will also deal with the coastal
access questions which we anticipate will come up before the
Coastal Commission.

And part of the difficulty is that Pelican
Homeowners' represents 87 homes, condominiums, at this
location. There are two other homeowner groups, and the
entrance into Pajaro Dunes, which is gated, is controlled by
the other groups. And so Pelican Homeowners' really have no
control over getting rid of the gate if that at some point
is the recommendation.

But to deal with the public access issues, we have
an opportunity, and Congressman Farr, Assemblyman Keeley
have been working very hard on the Coastal Trail, which
would go from Monterey to Santa Cruz. And the Coastal Trail
would tie in very nicely on the east side of Watsonville
Slough and go along Beach Road, which would provide much
greater access going along the coast from Monterey to Santa
Cruz and much greater access to the beach and dune area.
That's all part of the interpretive plan, it's all part of
the access plan, and it's all part of the restorative plan
that John Vernon will now discuss with you.

CHAIRPERSON BUSTAMANTE: Rusty, that part of the
east side of the slough, is that all private property?

MR. AREIAS: It is private property and we will be
working with the landowners to encourage that. They have
costs and, you know, because of the confluence of the Watsonville, Pajaro and the Monterey Bay at this location, there are constant cost issues in terms of who's taking care of the levees and who isn't. So there are a lot of moving parts here that we can deal with in terms of providing an access trail that would tie into the Coastal Trail and greatly improve public access at that particular point.

Will you snap back to the picture of the bird life at this particular location. Yeah. Take a look at that picture. I mean on any given day, this is what you see at this particular location. The wildlife here is just rich. And, you know, many people would argue that this project at Pajaro Dunes should have never been built. Some say this project is what led to the Coastal Act and that's probably true, but we can say that along a lot of the coast of California today.

These are property owners who have a cloud on their title who would like to, like the rest of us, would like to go in and refinance their projects, some of them would like to sell their projects. Many of them are elderly, retired in the '70s and 1980s on fixed income and have lived longer than they had ever planned to. But it's very difficult to do that when you've got this kind of a cloud on your title. And so we really need your help. And I want to again thank Mr. Thayer and his staff, because they
have just been absolutely terrific.

Mr. Vernon, unless there are any questions, I can come back up.

CHAIRPERSON BUSTAMANTE: Okay. Mr. Vernon.

MR. VERNON: Good afternoon, Commissioners. My name is John Vernon. I am indeed, as Rusty mentioned, a homeowner at Pajaro Dunes in one of the Pelican units, and have been there for almost five years now. And one of the things that I realized when I was so fortunate, my wife and I, to purchase the property was, you know, when people go there, your first -- you've seen the pictures. Actually, this picture doesn't really show it.

People go there for the beach, right. But there's this other beautiful land that all of a sudden you become aware of as you drive down this road across the last mile, and that is the Watsonville Slough at its confluence at the Pajaro River. And as Rusty mentioned, it is just an absolute just gorgeous area. On any given day walking out there, and I was just there this past weekend, and said, oh, look, it's a Caspian Tern. You know, I hadn't seen one of those in six months. The pelicans are sure to return in about another probably month or so. An absolutely gorgeous area.

And what happened when I got there is I started meeting people, other owners who were there, and I found out
that so many of them were there for all the same reasons that I was there, they love that environment. And many of them are involved in the Sierra Club and other groups outside of the community, and really working hard to figure out how they can protect the wetlands area.

So we formed a nonprofit organization out of about six or seven homeowners and we named it Friends of Pajaro Dunes. And our whole goal, I'll read you our mission, it's very brief, is to provide, and I love this because you mentioned the word stewardship, and it's really to provide stewardship for what I refer to as the last mile of Watsonville Slough by preserving the native habitat and wildlife, collaborating with the neighboring community and educating all who visit.

And, yes, it is a gated community, but, you know, that's just a physical barrier, it doesn't have to be the mental, philosophical barrier, and that's really what I'm trying to do with this group and with the other homeowners. So two of the board members were members of the Elkhorn Slough Foundation. I don't know if you're familiar with Elkhorn Slough just down the road from us, a wonderfully restored area. And so we have a lot of synergy with that group. The other group we're working with as well --

CHAIRPERSON BUSTAMANTE: But you're a homeowner group?
MR. VERNON: Yes, yes. We started as a homeowner group, but branching out and trying to touch these different groups that are very much interested in the environment.

CHAIRPERSON BUSTAMANTE: Who are the other environmental groups that are working with you?

MR. VERNON: Watsonville Wetlands Watch, which is a local group. We work very closely with them. Actually, the County of Santa Cruz is a government agency and the City of Watsonville. And that kind of leads to --

CHAIRPERSON BUSTAMANTE: What about the Sierra Club?

MR. VERNON: A number of our members within the community are. We haven't worked directly with the Sierra Club.

CHAIRPERSON BUSTAMANTE: Rusty, has your group been in contact with the Sierra Club and the other local environmental groups to ensure the restoration --

MR. AREIAS: Yes, we will be, as well as the Watsonville Slough. You know, interestingly, there's about 30 Sierra Club members in the homeowners' group there, and Mark Pasaro, who heads up their coastal program will be meeting me there next weekend to walk the program and go through it as we prepare to go before the Coastal Commission.

CHAIRPERSON BUSTAMANTE: Okay.
MR. AREIAS: Okay.

CHAIRPERSON BUSTAMANTE: I'm sorry, go ahead.

MR. VERNON: No, that's fine. So once I started this group, we started going out into the community. We found out that there was an amazing project going on, it was actually funded by the California Coastal Conservancy, and it's headed up by the County of Santa Cruz, the City of Watsonville. The Coastal Commission is involved, Fish and Game, State Parks, you name it, they're all involved in this, and it's really called the Watsonville Slough Watershed Resource Conservation Enhancement Plan. It's a very detailed plan. They hired Mitch Swanson of Swanson Hydrology to come out and take a look at the entire watershed.

It's not just the last mile, but the entire watershed that extends many miles going inland into the city of Watsonville and beyond, on county land, city land. And this project is one that I then got involved in and actually had several projects within this large plan identified that we could work with as owners of the property in that area. And we're identified in this plan and working toward it.

And right now, my board, we've just gone through a fundraising cycle, we've raised some dollars, we're working with a local biologist, and now we're developing a plan for restoration of this last mile on our particular side. And
part of the reasoning behind this is not only to restore and enhance our environment, but it's also then as good role models and good stewards to be able to go over and influence, as Rusty mentioned, the farming community on the other side of the slough and see if we can begin restoration work there and maybe do the project together, then this ties into other parts of the project throughout the entire slough system.

CHAIRPERSON BUSTAMANTE: We have quite a few other folks who want to speak, can you wrap it up?

MR. VERNON: Uh-huh. Pretty much, I believe that's probably it.

The one thing I will say is it was really a pleasure to host Mr. Thayer. Ruth Coleman was also able to come down to the site and we were able to walk that last mile and really take a look at it. So I really thank you for spending the time and coming down to join us.

CHAIRPERSON BUSTAMANTE: Thank you.

MR. VERNON: Thank you.

CHAIRPERSON BUSTAMANTE: Any questions?

Mr. John Kasunich, and then Mr. Gonzalez.

MR. KASUNICH: I'm really here to answer any questions, so I don't need to make a presentation, unless there's specific questions from the Commission.

CHAIRPERSON BUSTAMANTE: And you are a project
engineer representing Pelican Point?

MR. KASUNICH: I'm from Haro Kasunich, we're the project civil and geotechnical engineers on the wall design.

CHAIRPERSON BUSTAMANTE: Any questions? Okay.

And after Mr. Gonzalez, Sheelagh Williams.

MR. GONZALEZ: Good afternoon, Mr. Chair, Members of the Commission. My name is Marco Gonzalez. And I'm here before you as the Chairman of the Surfrider Foundation for the San Diego Chapter, but I'm also an attorney who represents the National Surfrider Foundation up and down the coast. We are a nonprofit organization dedicated to the protection and enjoyment of the world's oceans, waves, and beaches through conservation, activism, research, and education. We have approximately 20 chapters throughout California. And you may think it's strange that a San Diego Surfrider Chapter Chair would be up here talking about something going on up in Santa Cruz county, but I have got to tell you what's going on here is historic, and the importance of your decision today can't be overstated.

For too long the policymakers of the state have opted to subsidize the efforts of developers and landowners all at the expense of both the state and its citizens. This seawall project robs the public of recreational land, the use of which is constitutionally protected. Beyond just the negative aesthetic impacts of coastal armoring, such
seawalls disrupt the natural flow of sand both up and down 
the coast, but also the flow of sand that would naturally 
come from the upland areas. For too long this has happened 
without recompense to the citizens.

In addition to these somewhat nonmonetary prices 
the public pays. The State has been allowing these 
developments with very little, if any, compensation. It 
simply amounts to a gift of trust land, which is also not 
allowed by the state constitution. Therefore, Surfrider 
wholeheartedly supports the portion of this project that is 
essentially a lease fee of a substantial amount. In the 
past, we've seen some nominal lease fees or just none 
whatsoever, and we think that this is a strong step in the 
right direction.

We'd like to commend staff for taking the extra 
step in trying to identify a truly reasonable fee, but also 
in working with the local environmental community as they go 
forward with this land swap idea.

As the Commission is well aware of problems with 
land swaps up in the Long Beach area, we as an environmental 
community are very cautious when these come forward. We 
think that biologically it's incredibly difficult to start 
weighing one piece of property against the other, but so 
long as the local environmental community is involved and 
buys off on it, as well as the agencies, we think that this
is a proper road to go down.

The one thing that I would say is that there is one problem with this project. Obviously, we have a problem with coastal armoring in general and we feel that that's something that we need to take up with the Coastal Commission, but something that the State Lands Commission needs to start thinking about when they talk about seawalls. Seawalls are proposed because erosion is happening. We know that, that's what is threatening these structures. But the thing that doesn't get talked about is the fact that as erosion happens, the state gains land. There is additional tidelands that gets created as the natural process of erosion happens. But as soon as you put up a seawall, you stop that process. In essence, you've robbed the future citizens of the state from the acquisition of public trust lands. Unfortunately, this isn't on the radar screen. We're now trying to get this notion considered by the courts and we've been successful here locally recently in a case up in Solano Beach where the court has said, yes, there is land behind the seawall that you have to mitigate for.

Eventually, we're going to be coming to you and saying what does the state plan to do to recompense itself and its citizens for this land that it's no longer able to get in the future. I would just say that this project may not be the place to deal with it, but we need to start
thinking about it. And at this time I'd just recommend that
you approve the rather substantial lease fee on an annual
basis, and that if a land swap is not able to be done in the
next six to eight months, I suggest you revisit it and
assess and upgrade the amount for the upcoming year.

Thank you.

CHAIRPERSON BUSTAMANTE: Thank you.
Sheelagh.

MS. WILLIAMS: Good afternoon, Commissioners.

Sheelagh Williams, representing Cal Beach Advocates. It's a
nonprofit public benefit organization dedicated to the
restoration, preservation, and maintenance of the natural
shoreline of California.

And we asked that this item be pulled from the
consent calendar for your attention to the fact that the
State will be getting real dollars, which is good, for the
use of our public beach. In any time, but particularly in
these really fiscally tough times, it's appropriate for the
private homeowners who are using our public land to ante up
some money. We think that's very, very good.

But what I'd really like to talk to you about is
that we support staff wholeheartedly in that, is applying
the same principle to other seawalls as they come up.
Because I'd like to know -- I read in the staff report and
now I can see from this picture that they have a really nice
wide sandy beach there. Here in San Diego county we have a paucity of sand. With sand mining and all those other things, we have an eroding coastline and we have little skinny beaches. So when people come down here, the private property owners want to protect their private property, which they have under some circumstances under the Coastal Act the right to do. They put their seawalls on our public land and it's not very much public land there because of these little skinny beaches. So it's even more important for us to be compensated for them.

Also, Marco alluded to this, but the effects of passive erosion, when you fix the back of the beach, the beach continues to erode and that little skinny beach gets skinnier and skinnier. So it's very important that we get money from those private properties for the use of our public lands so that we can use that money in some sensible way later.

So we not only support staff's recommendation here, but we urge you to apply the same principle and require substantial annual leases for those other projects when they come in here to compensate the citizens of California for the loss of their public beach.

Thank you.

CHAIRPERSON BUSTAMANTE: Thank you. Anyone else who would like to speak on this issue.
Seeing none, any questions from the Members of the Commission?

ACTING COMMISSIONER TAKASHIMA: I just want to ask a question of staff.

How do you determine the value of a lease or the rent on this piece of property or on others that we have?

EXECUTIVE OFFICER THAYER: It's a very difficult process, and not being an appraiser, I can only approximate what it is. But, in fact, we do have appraisers on board who look at the value of the adjacent property and they look at our property and what it contributes to the value of the adjacent property. So to the extent that these condos couldn't stand without there being the seawall there on our property, there is a contributing value that comes from the state property. And so usually we start with the value of the upland and provide a discount, because in fact it is upland a little more. But it's done through appraisal work.

CHAIRPERSON BUSTAMANTE: Mr. Westly.

COMMISSIONER WESTLY: I just wanted to speak out in favor of the staff recommendation. I just want to say that all the community stakeholders, I am so impressed that rather than picking your battleground, locking in and poking each other, you've gotten together and done the groundwork to reach a sensible compromise. I'm truly impressed. I intend to support this. And most of all, you've found
employment for Senator Areias.

(Laughter.)

COMMISSIONER WESTLY: This is a real model of a community doing the work together, and my hat is off to all of you for all the amount of time and effort you put into this, you should be rewarded. I truly plan to support this staff recommendation.

CHAIRPERSON BUSTAMANTE: And the staff recommendation is to recommend a one-year lease; is that correct?

EXECUTIVE OFFICER THAYER: Yes, sir, that's correct.

CHAIRPERSON BUSTAMANTE: Is that a motion?

ACTING COMMISSIONER TAKASHIMA: I have one more question, sorry.

CHAIRPERSON BUSTAMANTE: No, go ahead.

ACTING COMMISSIONER TAKASHIMA: The Sierra Club first wrote a letter to the Commission objecting to the proposal, and then they followed up in a communication to staff recommending the staff recommendation. Can you tell me why, I mean what was the story behind that?

EXECUTIVE OFFICER THAYER: I didn't actually communicate directly with -- it was Mark Masar was the one, but I think that Mr. Areias had subsequent conversations. I think Mark is involved with -- well, I don't want to put
words in his mouth. So in terms of my own interpretation, he's involved with a lot of very important policies because he's statewide for the Sierra Club. But there has been other local people involved with the Sierra Club on this particular project and he may have become more aware of some of their issues than he was when he first started.

MR. AREIAS: Mr. Masar and I had been playing phone tag for about three weeks because we hadn't really had a discussion. He sent a letter, I think based on some assumptions as it related to the tortured history and their policy in general on seawalls. And once I received that letter, then he and I finally made contact and we talked it through. He was not aware of all the activity around Watsonville Slough. The local environmental groups that were supporting that, how Pajaro Dunes Association owns the west side of that last mile and the work we were doing. And once we talked that through, plus what was really before the State Lands Commission, then that's why he sent a follow-up letter expressing his concerns and I think generally supportive of what we were doing here. And as I said, Mr. Masar and I will meet next weekend at Pajaro Dunes, and Mr. Controller, you're invited, although I don't really expect to see you.

(Laughter.)

MR. AREIAS: Maybe you can send the Lieutenant
Governor in your place.

(Laughter.)

MR. AREIAS: A lot of Fresno people there.

Anyway, and we're going to begin working on the Coastal Commission application right away, and Mr. Masar is the first stop on the way.

ACTING COMMISSIONER TAKASHIMA: Okay, thank you for that.

CHAIRPERSON BUSTAMANTE: Any other questions, comments, motions?

EXECUTIVE DIRECTOR THAYER: If I may just add that at home this weekend I looked at the e-mail that I had received, and there were about six other letters in support, mostly coming from Pajaro Dunes residents, but that I received and we didn't have time to copy them and bring them in. And there was one as well from this outside Watsonville Wetlands Watch, which is the citizens group that has been working on this, they are also in support.

CHAIRPERSON BUSTAMANTE: Okay.

COMMISSIONER WESTLY: I'd like to move approval of the staff's recommendation.

ACTING COMMISSIONER TAKASHIMA: I second it.

CHAIRPERSON BUSTAMANTE: Motion and second on the approval of the staff recommendation. Let the record show that it passed unanimously.
And that is the end of our regular calendar; is that correct?

EXECUTIVE OFFICER THAYER: Yes, sir.

CHAIRPERSON BUSTAMANTE: We have at the time of every meeting, we have an opportunity for public comment. And we have had some people who have asked to be able to speak. And in order, we have Bruce Reznik and Al Huang, and then Laura Hunter and Jim Peugh and Elizabeth Studebaker.

MR. REZNIK: Good afternoon, Mr. Chairman, Commissioners, thank you for this opportunity to speak. I am Bruce Reznik, I'm the Executive Director of San Diego Baykeeper. Just a second, I have a Powerpoint going up.

We're really thrilled to have the State Lands Commission back down to San Diego. Probably a little overly thrilled because we've put together kind of an organized presentation of some of the key issues that we're facing down here and some of the things that we hope to work with the State Lands Commission on.

Which of these -- okay, well, I'm going to do a quick introduction of who the Bay Council is and then the four key issues that we're working on down here, including the South Bay Power Plant, Chula Vista Bayfront Development, sediment remediation along our shipyards, and the Border Fence, which initially a portion was on the agenda today.

The Bay Council. It's an alliance of the

And we find the need to work together because it is a very small environmental community. Actually, you're looking at almost all of them here today. Where environmental community is often an oxymoron in most places, here it's a reality because there is so many things to work on.

History. We grew out of a collaboration known as the Friends of South Bay Wildlife, which was an effort to really establish a South Bay Unit of the San Diego National Wildlife Refuge working with the Port here. And it's great actually that we're here because I think that was the last time that State Lands was down here was approval of that refuge. We continue to work together again on the myriad of issues facing our local communities.

And the first one we're going to talk about, is I'm going to pass on to Al Huang to talk about the South Bay Power Plant.

MR. HUANG: Good afternoon, Commissioners. I'm here to talk about the South Bay Power Plant. As many of you know, it's a 40-year-old plant, so it's very outdated.
It's operated by Duke Energy and the Port of San Diego is the property, it's currently leased to Duke. And currently their water districts permit has expired. So this is a plant that right now and in the near future there's going to be a lot of movement and decisions needed to be made on it.

So on my presentation here, let me make sure this is working right. There we go. Oh, there's a picture, Chula Vista, California.

So the first thing I want to talk about are the water quality impacts of this plant. As the plant uses once-through cooling, which is a bit controversial throughout the state, but in particular in the South Bay, every day it draws about 601 million gallons of bay water, which is 20 percent of the water that currently exists in the South Bay. It's a large amount, a large volume of water every day. And, in addition, it has to take in the water and it has to treat it, and it treats it with chlorine bleach to kill organisms so that when it goes into the cooling process you don't have growth and then that costs you.

They're treating it with chlorine, and then there's a discharge, a heated discharge. So it results, as it says up there, in 89,000 gallons of chlorine bleach, metals, and waste heat. And as a result of that, it kills a wide range of juvenile, larva, and adult organisms in its
cooling system, and, in addition, impacts fisheries and
nursery areas. And that's the discharge.

Now, into the intake, it traps and kills large
marine life through entrainment and impingement. So that's
a very significant impact and concern in our mission.

Air Quality. As we've said before, it's a 40-
year-old plant, so the technology is not up to date. And
currently it emits about 3.1 tons of smog forming
pollutants, 16,000 pounds a day in particulate matter, 6,200
pounds a day of nitrogen oxide at peak generation. And
there are definitely public health impacts associated with
the plant. There's a recent study that showed that
childhood hospitalization rates in Chula Vista are
significantly higher than the county average of San Diego.
And the next slide I'll kind of talk about that a little
more. And when it's burning, the plant can actually make
dioxin, which we all know is very dangerous.

In addition, the environmental justice impacts of
the plant are very, very important to note. First of all,
statewide, we see that 89 percent of plants sited in
California during and after the energy crisis were proposed
in a majority of low income, people of color communities,
and that is definitely the case in South Bay, the South Bay
power plant. We have 77 percent of the people living within
six miles of the plant who are Latino, people of color, and
14.6 percent of the people living within six miles living below the poverty line.

And so, as you can see, the population located near or around the plant are at high risk for cancer from inhaling polluted air.

What we have here, this is --

ACTING COMMISSIONER TAKASHIMA: Let me ask you a question here.

MR. HUANG: Sure.

ACTING COMMISSIONER TAKASHIMA: On environmental justice. Because, you know, I'm a native of Chula Vista and San Diego and grew up when this was constructed in the 1960s. I want it to be correct though that this area was not 77 percent Latino. I mean when the plant was constructed in the 1960s, the Latino population was significantly lower and the population grew, the Latino population grew since though, correct.

CHAIRPERSON BUSTAMANTE: All over the country.

(MR. HUANG: (Laugh.)

MR. HUANG: I mean that was 40 years ago.

ACTING COMMISSIONER TAKASHIMA: Right.

MR. HUANG: And we're talking a while ago.

ACTING COMMISSIONER TAKASHIMA: But we're talking about environmental justice. It's because plants are located in the areas because basically no one wanted it to
go anywhere other than places where the communities were not as strong as others. And so I think that environmental justice, at least the concept, is something that if you were in -- as I grew up in this area, in Otay Valley where we had a hog ranch, where you had facilities that people didn't want to get junky, or they had those things in the valley. But in Chula Vista, which was a lot different in the 1960s, I would not call this facility a problem because of environmental justice. Go ahead.

MR. HUANG: Note taken.

ACTING COMMISSIONER TAKASHIMA: No, seriously, go ahead.

MR. HUANG: With the populations living there today, definitely if you looked at it from today's perspective, it definitely is an environmental justice impact. And the fact that it's impacting this population is really what we're concerned about, the committee is concerned about.

And a way to show it, because this is a lifetime cancer probability isopleth. And it's basically inhalation. And you can't actually see this because I think we lost some of the circles, but right here, this is where the power plant is right here. This red circle over here is an elementary school, and there's a middle school up in this area right here. And as you can see, these areas where the
lines are thicker are where the highest probability for cancer from inhalation exists.

So as you can see, I mean the most at risk of the population are children, and they are sitting right in the path of the air emissions from the plant that have a probability to cause cancer. And as we've said before, the asthma hospitalization rates are running much higher in Chula Vista. And I don't think there's proof to show that it's the plant, but the plant's not helping clearly. So, oh, there's the circle, there it is. Sorry, it's a little too high tech for me here.

So the next thing we can move on and talk about are alternative solutions. And the first option would be to close down the South Bay Power Plant and build a more cleaner, more efficient plant, like, for example, Otay Mesa, the one that's been talked about, because it's already permitted, it's sited away from concentrated populations, so you can avoid the problem that didn't exist before, and it uses dry cooling technology, which I will talk about in the next slide a little more.

The second option is to replace South Bay Power Plant with a smaller, more efficient plant that utilized dry cooling technology. And this results in a net reduction of the impacts to health and the human environment, because you don't have the intake-discharge issue.
And the final alternative solution would be to have a significant commitment and an aggressive commitment to renewables and energy conservation to avoid these problems as population grows and you have to deal with having energy and population together.

Here's just a quick one-pager on dry cooling technology, in case you guys don't know that much about it. Actually, we have a resource that we speak to, his name is Bill Powers from the Border Power Plant Working Group. He's an engineer and he's working throughout the state on dry cooling issues. So if you want to contact him, which we consult with him as well, for more technical information, please feel free to do so, because I'm not an engineer in the power field.

The first thing that it definitely does though is eliminates the need for the use of valuable water resources. You're not taking any water for cooling, you're using air to cool the plant down. Number two is it eliminates impacts on marine life, for the same reason right there. There are no air emissions from the cooling system. And this is a very important difference too with this technology. It reduces hazardous material use. There's no need to bleach and use those chemicals to kill the marine life because you're not taking that water in. And also the plant no longer needs to be sited on coastal areas, it can be built anywhere,
including closer to service areas, as we see with the proposed Otay Mesa plant and other plants throughout the state that I've already talked about.

And, finally, this is good news for most people, is that the permitting process is much faster and, therefore, much cheaper. So overall it's cost effective as well.

This is a quote from the State Lands Commission Staff Report from January 29, 1999. And we'd just like to remind before we have some historical memory loss. "The Port's purchase of the property was with the intent of the decommissioning and demolishing the plant for the betterment of the San Diego region." And I think that's important to keep in mind for the long term, because when that transfer actually took place, there was this long-term plan that listen, we're going to look at the long-term history of this area and make sure that we protect the resources there. And I just want to remind you so you don't forget about that, and also commend the State Lands Commission for taking that action then.

So that kind of ties into what we're asking for today. And the first thing is for the State Lands Commission to write a letter to the San Diego Port District asking them to investigate Duke Energy's failure to relocate the South Bay Power Plant from San Diego Bay. And this is
very important because to this date we still do not know what the plans are and the lease is going to be expired very soon. The permits, as I say, is expired already, and we don't know what the long-term plan is. And it's very important for the public to be aware of the long-term planning as we go on with the plant.

The second thing is that the State Lands Commission submit comments to the San Diego Regional Energy Strategy to support actions that reduce the negative environmental and public health impacts of the plant. Right now, the San Diego region is engaged in long-term planning for energy, and part of the long-term puzzle of this plan is where do we need new plants, what kind of plants do you want to build, where do you want to see energy going in the future. And I think it's a very important opportunity for the State Lands Commission to weigh in and say we've said this before and we're going to reiterate again this is what's really good for this region.

And finally, that the State Lands Commission hold a full hearing on this issue at a future meeting.

So that wraps up my presentation. Do you guys have any questions, comments?

ACTING COMMISSIONER TAKASHIMA: Let me ask this question. You have different alternatives as instead of having the facility operational in South Bay, you prefer
which of the alternatives, your organization?

MR. HUANG: The Environmental Health Coalition

or --

ACTING COMMISSIONER TAKASHIMA: Yes.

MR. HUANG: I mean, we definitely understand there's a need as the population rose and we need to plan for our energy future, there is a need for new plants. And our main interest is to protect the resources, the valuable resources that we have, and protect populations that are going to be impacted by these plants. So our position right now is Otay Mesa is a plant that is already permitted, it uses dry cooling, so you're not impacting water resources, and it also is located away from high levels of concentrated populations. So in our mind that would be a very feasible alternative that would look at our long-term energy needs, while also weighing that with the impact on the environment and on public health.

ACTING COMMISSIONER TAKASHIMA: Thank you.

CHAIRPERSON BUSTAMANTE: The very first meeting I came to in January of 1999, my very first Commission meeting, was a meeting in which we authorized and we basically took the action that you refer to today. At that meeting, I recall that there had been a tremendous amount of work that had been done and there was agreements, and, in fact, the Port came in and basically said that they would
make sure, that they would move toward trying to replace the facility in one way or the other. Preferably, they would try to find something more inland, but if that didn't get accomplished, then they would try to find some way of restoring or, not restoring, but to recreate a new facility with better technology right there right next to the existing plant.

But in the last several years, every six months or so, in requests to different individuals on the Port, the representatives, we have not seen anything take place. We have not seen anything that's indicated even any interest in discussing the issue. And we are now into our fifth year of this ten-year lease and still we have absolutely no motion, no movement, no discussion of any kind on this issue. And it's become a very frustrating activity.

The Port is able to hire very high-priced representation in Sacramento, but they are unable to find a staff person to begin the process of studying what they said they were going to do. They have the ability to purchase extremely expensive, I know, he's a friend of mine, extremely expensive representation in Sacramento, and yet they are unable to try to figure out how to get Duke to look at possible options.

I don't know exactly why the delay, and I'm not sure I understand, but I think that since we are now at this
point. And I think we were fairly reasonable, more than reasonable, to provide such a long-term plan of transition, a ten-year process. No one said you had to build a plant next year, no one said you had to go out and figure out how to deal with this. There's a lot of people who have very strong feelings about Duke, but they're the administrators of the facility to provide energy. The Port is responsible for that facility, it is theirs, and so I think that the focus ought to be on the Port, frankly. And I think that there ought to be some kind of action taken by this Commission, either today or in the very near future, to try to ask the questions and to try to figure out exactly why it is they're not taking the next step.

Maybe there needs to be that next step taken by us and maybe we need to start doing audits and reviews ourselves. Maybe we need to exercise whatever jurisdiction that we have on the administration of the Port. Maybe we need to start trying to figure out in a more direct fashion the kinds of actions that this Board needs to take in order to be able to spur some kind of activity. And, in fact, I would suggest that, in fact, this Commission, in fact, start to look at those kinds of options. I mean the issue here for the locals is money.

Wherever the plant is situated, that's who gets the revenues. And so whether it's located in Chula Vista or
some other community, that's where the revenues go. And I can understand that a poor community would not want to have a facility taken out of their jurisdiction, but it is not only an eyesore, not only is it an ugly, filthy facility, but it is also very inefficient, and I think in many ways it symbolizes the past of the electrical and the energy systems that we've had in California. And it's a clear indication that we need to try to figure out how to upgrade our facilities in California if we're going to meet our future energy needs.

And so for those reasons, as well as the history of all this, I really believe that the Commission seriously give consideration toward taking aggressive action, meeting with the Port, holding hearings. In fact, I would suggest that in fact we do hold some type of hearing, and I'd ask that the staff maybe go back at this point, without taking any action today, but ask the staff to go back to see if there isn't a review of contracts performance, any audits, any legal jurisdictions that we would have.

I know that we were a pass-through entity at the time, that we were going to give approval and probably don't have a lot to hold onto in terms of dealing with the Port and making sure that they keep their word. But I'd like to find out from staff exactly what we can do to put some pressure, gentle or otherwise, to try to make sure that we,
in fact, start moving toward what they have promised the
Commission five years ago.

EXECUTIVE OFFICER THAYER: We'll do that. We can
review the proposal that the Port brought to the Commission
and make sure that in essence they're complying with what
the Commission thought it was reviewing and approving. If
there's a variance there, then there may be some
opportunity. But I think in terms of the legal side of
that, we'll talk to the Attorney General's Office as well as
with Jack Rump, our Chief Counsel, to see where we stand on
that. But we'll investigate the different possibilities,
and we can report back at the next meeting or whenever it
would be appropriate. If we're going to meet down here
again, that might be the time to do it. But we'll work with
your staff.

CHAIRPERSON BUSTAMANTE: Commissioner Westly.

COMMISSIONER WESTLY: First, thanks, Mr. Huang for
providing this overview. I appreciate the outline of the
environmental and health issues and so on. Secondly, some
of it leads to the Deputy Director of Economic Development,
which has and has been with the environmental community,
which I consider myself part of, talk either to -- for me to
do the right thing, I just want to make sure in doing that
here we take into account the economic development effects,
because this is one of the largest tax generators in the
area and I want to make sure that as we move forward, we're balancing the job and environmental issues. Issues like this are incredibly complex, they do take a long time. I urge you to take a few people presenting a balanced game plan that I hope everybody abides to. I'd like to see staff trying to reach out to people to see if we can come to a compromise.

ACTING COMMISSIONER TAKASHIMA: Let me ask. I'd like to have the staff to also communicate with the city of Chula Vista, because the plant today is located within Chula Vista City. And the Otay Mesa facility is in the city of San Diego, I believe. I used to farm on that land of Otay Mesa, so I'm familiar with that. And I did, many years ago, I used to farm at Otay Valley and Mesa. So one of the reasons that I'm familiar with this is that during my time with Sullivan & Peace one of their concerns was the power plant in South Bay and the particulate matters that were being emitted from that plant when they were using oil. I'm not sure of whether or not they have now switched to gas.

But also I'm very concerned about the existing facility in the South Bay. It was our understanding many years ago that at some point San Diego Gas & Electric would decommission that facility. And it was also our understanding that that land would be very valuable without a power plant on there. And I think that's really one of
the things in the last 20 years that we've talked about in Chula Vista and in San Diego. But you do need an alternative, you need an alternative facility, and the organizations at least support the additional power plant up in Otay Mesa or somewhere else. Because I think that's one of the problems usually I see that environmental groups don't want an existing power plant, and yet they don't want it substituted. But I commend you for at least committing to that.

But I would like to have staff, direct staff to really look at the real alternatives we have. I'm not sure where the Otay Mesa facility is at today, whether or not they have any contracts or any other relationships. I'm not sure of how long until the Duke facility contract lease is up. But also I'm concerned about the city of Chula Vista and the loss of revenue. So hopefully we can have communication with them. Thank you.

EXECUTIVE OFFICER THAYER: We'll look into those issues as well. And, of course, I should mention that there are representatives of the Port here today and I don't know if any of them wants to respond or if the Commission wants to hear from them today.

CHAIRPERSON BUSTAMANTE: If they'd like to come up and talk, we'd be more than happy to listen.

MR. HOLLINGSWORTH: Lieutenant Governor, Members
of the Commission, I'm Bruce Hollingsworth, I'm President and CEO of the Port of San Diego.

I'm a little surprised about some of the remarks that I've heard here today. In fact, I think that we can show and demonstrate according to the agreement that we struck with Duke that they are living to the terms of the agreement. They have identified sources of alternative sites. They did that last summer, within the milestone. They have since reduced that down to one site that is off of tidelands. So I want to make it clear, I think that they have met the requirements of the agreement that they struck with the District. They have until June of '03 to file a Notice of Intent with the State in terms of the ongoing use of that power plant, or an alternate location. And I think we can provide information to the State Lands Commission to substantiate that.

Additionally, I'd like to say that under no scenario that I know of, and I have heard of no scenario that does not include and require the demolition of that power plant. I don't think that the Port, I don't think that Duke, I don't think that the City of Chula Vista, or anyone else that I have heard, wants that power plant to remain. I think that the issues we have with that power plant are consistent with the concerns expressed not only by this Commission but by the community. And so we are in all
scenarios looking to demolish that plant.

Now, something else has occurred since the original proposal and as it came to the State Lands Commission. I think that the language you saw posted up on the board was accurate, that what we had agreed to do was to investigate the use or the relocation of that power plant off site. Duke is charged with that, I think they are living up to their responsibility to do so and identify sites. But in the meantime, the city of Chula Vista came to the Port, and I would add that the city of Chula Vista, and they have representatives here, they may wish to speak for themselves, had initially wanted the relocation of the plant. And I think what I heard you say, Commissioner, was that the redevelopment of the property was an important part of the consideration that the Port wanted, and I would say that that is still the case.

However, times change, events change, and the city of Chula Vista came to the Port and requested that we would consider that the power plant be decommissioned, torn down, but however relocated on a more convenient part of the site to the very south end of that site. And that what they would want us to consider is one that meets, I think, one of the alternatives of what you saw posted by one of the presenters here earlier, and that it's an environmentally friendly plan, that it meets the concerns of the community.
And, in fact, as a joint resolution of the Board of Port Commissioners and the City Council of Chula Vista, asked as part of the bayfront planning program that's ongoing between the Port and Chula Vista, that we take a look at the issue of the feasibility of resiting that power plant, once it's torn down and decommissioned, and put on Port tidelands. That process is ongoing and it is a process that is using extensive public outreach. And I think you have enough members of the environmental community that will stand and tell you that that is part of the process, is to look at the alternatives and the feasibility of whether or not that power plant should or could effectively remain on the tidelands. And so that is part of the process.

But in no event, I want to reiterate this, does anyone consider that that power plant in its existing condition should remain a part of the tidelands. And I'm surprised, when we came up to visit with you, Lieutenant Governor, in January, during our briefing we did talk to you about the requests that had come from Chula Vista and that was part of an ongoing planning process. And there have been suggestions of other ways that that power plant may be rebuilt and cooled, for instance, using recycled water, discharging into an international outfall, air cooling. So there are a number and a variety of different alternatives I think that could be looked at.
Now, why is it important to the city of Chula Vista and why is it important to the Port. Well, first and foremost, we believe that if an offsite location could not be found, then, and it's stated here and I've heard people mention it here, and I believe, your Honor, you've mentioned that yourself, is that if an offsite couldn't be found, that an alternative would be to rebuild it on another site on the tidelands, which is part of that alternative we're looking at.

So why is that important? I believe that the City sees the tax revenues and the income revenues to the City as being important. Why is it important to the Port of San Diego? The Port of San Diego, that power plant relocation would be in a redevelopment area. If the Port, and we receive no income off the current lease, any money that comes off that power plant is being used to pay the bonds. If in a new power plant any money could be generated as revenue for the Port under a lease, that money, along with the money from the redevelopment area, were intended to go to help in infrastructure for the redevelopment of the bayfront and Chula Vista.

And so that power plant and the income that it might produce was looked at as a catalyst for redevelopment for enhancing the state tidelands in Chula Vista. So that is part of the reason why as part of the planning process
that the Port was willing to, and our board and the City
Council, to look at the feasibility of retaining a site
preference on that location, well, further south, actually,
and even perhaps moving the switchyard, which under the
current scenario the power plant would be torn down, that
switchyard, which is access to the grid, would stay in
place. So part of what we were looking at also in the
redevelopment would be move that switchyard, thereby
increasing the amount of developable space to be used for
other purposes.

Well, that's my response, and if we have failed in
some way to keep you informed, I apologize on behalf of the
Port. Certainly we take our responsibility as a tideland
trustee very seriously. And we believe that we have been
acting responsibly with respect to this power plant and the
relocation of this power plant or the resiting of it.

CHAIRPERSON BUSTAMANTE: Well, maybe we should
just have hearing, so what we can do is just air out
everything.

MR. HOLLINGSWORTH: We would be more than happy to
participate.

CHAIRPERSON BUSTAMANTE: And you would be able to
explain all the different pieces of what's been taking place
and all that you have been doing, and have everybody come
and show up and talk about exactly how we're going to move
this to the next point.

MR. HOLLINGSWORTH: Absolutely. We'd be glad to participate in such a hearing.

Thank you. Any questions from the Commission?

COMMISSIONER WESTLY: First, thank you for coming. Second, thanks for you commitment to building a new facility. It sounds like everybody is in favor of that, a more environmental and state of the art facility. Especially, as a newcomer to this, I don't know if you heard the last piece before us. There was a model of people working hand and glove and extraordinary communications amongst the different stakeholders. It sounds like as a first-time observer here, you're not quite at that level, and I would just urge you to, as hard as that may be, to begin that process.

MR. HOLLINGSWORTH: If I might, and I would ask perhaps you could ask Laura Hunter to come up and address the stakeholder participation. I think the Port, more than any public agency in this county, has worked hard to include stakeholders in all the decisions we make on tidelands, as an important part of the decisionmaking process. And it's intended that whether or not that plant stays, not the tearing down part, but the staying of it, is a part of a planning process for which all the stakeholders, the community, the City, the Port, environmental interests,
power interests, will all have a role and a position to be able to be debated and talked about as we go forth. That's been our intent, that's been our plan.

CHAIRPERSON BUSTAMANTE: Well, that's a good segue, because actually she's up next?

(Laughter.)

MR. HOLLINGSWORTH: That's super. Any other questions from the Commissioners?

MR. MORRIS: Mr. Chairman, I'm with the City of Chula Vista, if I could address it just for a moment.

CHAIRPERSON BUSTAMANTE: Okay, sure.

MR. MORRIS: It kind of follows Mr. Hollingsworth. My name is Sid Morris, I'm the Assistant City Manager of the City of Chula Vista. Frankly, I want to concur with what Mr. Hollingsworth informed you in terms of the process we've been going through. The City of Chula Vista has been working jointly very closely with the Port District. We did come to the Port and say, you know, we know what your contract says, we know that they're to look at alternatives, but we're very interested in seeing that plant stay at the current site. I know there's a belief on the Commission that the possibility that the land without the power plant is much more valuable than with. We have a little different take on that.

Our belief is that while you may develop that...
property at some point if the plant is torn down, and I think it's important to remind you that it's a must-run facility at the present time, which you are probably already aware of, which means that the State is basically saying you can't not run it at this point. But the reality is that as to the effect that it is in a redevelopment area and the fact that there is now legislation on the books that basically says that all of that new revenue that is generated as a result of the increased valuation stays within the City of Chula Vista.

If you figure on average a new plant might cost $600 million, we're picking up about $6 million a year, in addition to a franchise that we have with SDG&E, that enables us to bond against the money that we earn. That assists us in working with the Port District to help develop the property, to build the infrastructure necessary to obtain the type of development that we as a community are looking for in that area. That's critical to us.

CHAIRPERSON BUSTAMANTE: There's also examples of different facilities that are placed with facades that integrate better into some communities than others. And I would hope that the planning that is supposed to be taking place would consider some kind of facade activity, especially if it's going to be relocated anywhere near residential or commercial development.
MR. MORRIS: Mr. Chairman, I don't think you'll find anybody that agrees with that comment more than I do. I am not a fan of the erector set style that we have down there now. I'm hoping that whatever we have in the future is something that we are proud of as a community. We have a very open process at this point. It's just in its infancy, if you will, in terms of the master planning of the site. Two of the major components that are included in that are not just the land use planning per se, but also what's going to happen with that power plant. And also from a regional standpoint, the City and the Port, along with the local water districts, are interested in looking at desalination at that site and how that might benefit.

CHAIRPERSON BUSTAMANTE: I understand. And frankly, from my own personal view, I think that only an air cooled facility could be built there. I don't see any other kind of water facility that could be possibly built in there that would do the job that you're looking to do.

MR. MORRIS: All right. And I think that there are alternatives that are available. I also know that the air cooled facility, when you look to the aesthetics of a new power plant, and I'm just an infant in terms of my total understanding of these facilities, but I know that an air cooled facility has its own aesthetic issues in terms of impact, the size of that air cooling facility, and the
amount of infrastructure, if you will, that it adds to the
site in and of itself.

If there's an alternative that is an
environmentally friendly alternative that is available at
the time, all I would suggest is that it's something that we
should be looking at and look at it as a reasonable
alternative. I've heard personally and sat down with Laura
and her group in terms of the impact on the bay, and our
Council in taking its position has indicated that they are
looking towards something that has environmental
sensitivity. And that's the charge that as staff I have in
working with the Port District staff, and if my recollection
serves me right, the Port Commission made the same comment
in taking action jointly on that issue.

CHAIRPERSON BUSTAMANTE: Well, I think your
comments and that of the Port, I think makes it even more
important that we in fact have some kind of a hearing so
that everyone in the community can hear all of the proposals
that are being talked about and all the issues that are
being considered.

MR. MORRIS: Right. And if I may, some other
issues you may or may not wish to have your staff look at.
When they talk about the Regional Energy Infrastructure
Program that's being looked at in our community, not just
Chula Vista but regionwide, it's called REIPAC is the
acronym, as I understand it now. They speak to the need for baseload, as opposed to peaker-type facilities. They say that within the next five years we're going to need additional baseload facilities. At the present time, I don't think we can really have this plant go away. The Otay plant currently does not have any contracts, and in fact they are looking for those in order to be able to pay for construction of the site.

CHAIRPERSON BUSTAMANTE: Are you talking about the second facility or the first one that's already been built?

MR. MORRIS: Oh, I'm sorry.

CHAIRPERSON BUSTAMANTE: You're talking about the second one?

MR. MORRIS: I'm talking about the one on Otay Mesa.

CHAIRPERSON BUSTAMANTE: Because one has been built.

MR. MORRIS: Right. This is their large -- no, this is not the one that's already been built. I'm talking about the one that has approvals, but has --

CHAIRPERSON BUSTAMANTE: It's the second one?

MR. MORRIS: Yes, sir. I'm not aware that there is unless it's a small peaker facility up there that there's a large plant.

CHAIRPERSON BUSTAMANTE: It's being built. And
they don't have contracts?

MR. MORRIS: That's my understanding in sitting through some of the REIPAC hearings that they do not at this point, but I'm not the expert on it, it's just my understanding.

ACTING COMMISSIONER TAKASHIMA: Yes. They don't have contracts. I used to work for the original owner of the facility, so I know that. But one thing I'm a little troubled by your presentation, but I hope we have a hearing later on this year, from a Chula Vista native resident position and my parents actually live downwind of the facility also.

MR. MORRIS: As do mine.

ACTING COMMISSIONER TAKASHIMA: What I want to know is the analysis done by the City of Chula Vista, not only monetarily, but also from health concerns of the facilities, because I would like to hear that presentation and the concerns of Chula Vista, the City, regarding the monetary importance of the facility, but also weighing in the health concerns of that plant and whether or not some of the information we receive today is inaccurate, I would like to just get additional information from the City's viewpoint?

MR. MORRIS: That is an important issue. When I talk environmentally, I'm talking the full broad spectrum,
not just impact on the bay, it's the entire issue.

  ACTING COMMISSIONER TAKASHIMA: Okay, thank you.

  MR. MORRIS: Thank you.

  MS. HUNTER: This is my turn? My name is Laura Hunter with the Environmental Health Coalition, and I apologize in advance for the quality of my voice, I don't know what's going on. Just let me respond to the power plant issues, because actually I wanted to talk about development generally on the Chula Vista Bayfront, which is my part of the presentation.

  But certainly we do not want any kind of thought that at least environmental groups and the Bay Council do not have excellent communication with the Port District. We have a very strong relationship with them, we feel like there's a good flow of information. What our frustration was we felt that was that Duke was not providing that information to the Port District. We knew that they had done an analysis, but they had not given it to the Port, and if the Port doesn't have it, we can't get it either.

  And so I think part of what our frustration has been is not that the Port District has been withholding anything, but rather Duke hasn't been providing that information, and the public debate was not really started.

  The other thing I would like to say is that when we did have Port Commissioners write a simple letter on
their own business letterhead saying what they thought was good for the region, Duke literally threatened them with a very legal, very aggressive, completely unacceptable letter in our view, to basically try to intimidate the Port Commissioners from expressing any opinion on this. And again, that's not the Port District's fault, that's Duke.

And so we think that some pressure needs to be brought on them to be better neighbors, more open, if they really want to stay in our communities. So I hope that can clarify that a little bit. I think some of the things -- you know, I think the public debate obviously has started and is in full swing. I mean there are some alternatives that we would like to get on the table too.

We absolutely understand the economic issues, Mr. Westly, that you were speaking to, you or Mr. Takashima. But we think there are also alternatives we should look at such as a joint powers authority. So let's repower South Bay at Otay, but have revenue sharing and power sharing among them. We are committed to indigenous generation and making sure there is equitable distribution of those funds. These are the kinds of things we want to get on the table and a public hearing will help us do that, so that's very exciting.

The last thing I wanted to point out is that the City has weighed in, the Port has said what they want, the
State Lands will say what they want, but who is talking to the neighbors. And as far as I know, we're the only people with our canvassers and our organizers that have gone door to door in the communities most directly impacted by that power plant, they want it out of there. They don't like it, they think they have health problems related to it, and we really need to give them a chance to come in and say what they think, because they have really been excluded from this debate so far. We've been talking to them and we want to give them a chance to come and talk to you. So we look forward to the next time that we meet.

How do I work this? Oh, here we go.

So what I would like to talk about -- how do I go back? Help.

All right. So I would like to use my three minutes just to talk briefly about the Don't Pave Paradise campaign, which is an effort that's addressing the development all across the Chula Vista bayfront, including the South Bay Power Plant site. This is a campaign to ensure sustainable community-based development, and it is a broad campaign of labor organizations, including HERE, locals, the San Diego Bay Council, and community organizations.

These are the areas in question. The yellow areas are the areas that you have jurisdiction over through the
Port District. The power plant is to the south or to the right, and the Port properties are in the middle, and then the green property, which is what I'm going to talk a little bit about is called the Midbayfront. And that is in private property, although it is in the City of Chula Vista and it is in the redevelopment area.

All of these areas, the green and the yellow, are going to receive brand-new redevelopment plans that will be the plans for this bayfront for the next seven generations and plus. This is a very, very important time for the City of Chula Vista, the South Bay Region, and certainly San Diego Bay.

Here's the bayfront today, and the large picture shows the midbayfront property. And as you can see, it's one of the very last open space areas, undeveloped areas on San Diego Bay, and it also is very closely linked to western Chula Vista, a very densely populated community with virtually no open space areas that they can enjoy. This is one of the last areas that could be developed as a regional open space park or open space area for this community. And, in fact, that is what they want located there. The public has been very outspoken about this.

Instead, this is what's been proposed by the landowner. But unlike Pelican Homes, which you heard about earlier today, this is a mistake we don't have to make.
Because of the significant uproar in opposition to this plan, this project called Bayfront Village was held in abeyance and a new plan was proposed that's just about as bad. Almost 2,000 residential units, multiple buildings again, very dense development, and our concern and why we're bringing this before you today is there's no joint planning with the Port process, and the Port actually has outlined a very good planning process for their properties to the south. We're hoping that you can weigh in and help us make a case for why the whole bayfront should be planned together so we can maximize those options such as land swaps, develop more options. See, what we really need to do to give Chula Vista the most magnificent public friendly bayfront that they can have.

I should say, I guess maybe I did say, that there's huge opposition to residential on the bayfront for all of those reasons about privatization of a resource. And so we've been working with the organizations to develop project alternatives that improve the quality of life, provide quality jobs, increase the open space, and enjoy community support.

I'm hurrying as fast as I can.

COMMISSIONER WESTLY: There are other speakers.

MS. HUNTER: Yes, I know.

We're hoping that you will urge, to the extent
that you can, either as a group or individually to encourage
the City and the Port, mostly the City, to try to find a way
to plan all of these properties together so we get the best
thing possible.

    Thank you.

COMMISSIONER WESTLY: All right. Thank you very
much.

    Any questions for the speaker?

MR. REZNIK: One of my speakers had to leave, if I
can just cover really quickly sediment issues?

    MR. WESTLY: And I have Jim Peugh.

    MR. REZNIK: Jim Peugh was going to talk about the
Border fence, which was postponed.

    COMMISSIONER WESTLY: Terrific.

    MR. REZNIK: I'll just run through the sediment
issue really quick.

    COMMISSIONER WESTLY: Great. If you could just
try to stick with the three minutes, we want to be fair to
everybody.

    MR. REZNIK: Okay. I appreciate that.

    Another major issue we work on here in San Diego
is the sediment remediation from some of the bayfront
facilities that are overseen by the Port. One is our
shipyard area that's pictured up there. For more than 40
years, shipyards along San Diego Bay have been heavily
polluting the bay.

As a brief bit of history, in 1991, so 12 years ago now, the Regional Water Board first started to address this issue by requesting a study to determine if sediment remediation was required. In 1995, the first clean-up levels were set, and unfortunately we still have had no action, but those levels were set at the Campbell Shipyard, now defunct, where the Port wants to develop a hotel. Unfortunately, there wasn't a very strong environmental community at the time and the levels that were set were pretty horrific. They were at a level known as AET or Appearance Effect Threshold. Those levels would basically cause a hundred percent mortality in the Bay. So we set a clean-up level of a hundred percent mortality about the community.

There were some serious irregularities in the study. The study had been conducted by the shipyards or contracted by the shipyards. Luckily for us, the Port District in wanting to develop actually was very proactive and did their own studies, kind of being very concerned with the study that had been conducted by the Port, and realized that instead of the 20,000 cubic yards of contaminated sediment which the initial study had found, it's in fact probably over 120,000 cubic yards, which says something for our need for independent studies when we do these
remediation efforts.

When this level was set, one of the other things that was mentioned was that it was not applicable to other shipyard sites. Other shipyards try to tie into these levels realizing it was a benefit for them to do that.

In 1997, after years of study, the State Water Board and NOAA released a report on the health of sediments in the Bay, and they found chronic toxicity throughout San Diego Bay, labeling it the second most toxic bay in the nation behind Newark, New Jersey. Of the most toxic hotspots in the Bay, two are adjacent to our shipyards. And, of course, there's human health with bioaccumulation and things like that, as well as environmental and economic impacts it had with such contamination.

The environmental position is pretty clear. We want the shipyards to clean up every bit of pollution that they contributed to San Diego Bay, and we think there's a State Water Board Order 92-49 which mandates that. And there are ways to figure that out by comparing contamination at these sites, versus background reference stations. So we think this is possible, we think it's feasible, we think it's legally required and also morally justified.

I have a slide just on NASSCO and Southwest Marine, the two shipyards we focused on. Unless we feel too sorry for how much this cleanup might cost, these are
multibillion dollar companies. General Dynamics owns NASSCO and Carlyle Group. Yes, that Carlyle Group is the primary owner of Southwest Marine. These slides are kind of old. I'm guessing with the war efforts, these companies are actually probably much wealthier than is put up there, but certainly multibillion dollar companies. And yet what kind of stewards have they been.

Well, I'll ignore the fact that San Diego Baykeeper had to sue both companies, and successfully sued them to try to get them to clean up. One case is going to the Supreme Court. EHC has been on their back for a long time as well. This is just a slide of the many violations that they've had over the years and they've been fined massively by the Regional Water Boards, and still don't really necessarily always get where we need to go.

Where we are today. Well, the good news is we're working very cooperatively with the Port District to try to fix what had been messed up in that initial study and the initial cleanup levels for the Campbell site. We're trying to work cooperatively, as has been suggested, on a habitat cap that will achieve a much greater protection level than the levels that were initially set by the Regional Board, and I think that's been a very positive step. There are still hurdles to overcome.

Not so good step on the Southwest Marine and
NASSCO sites. We're still kind of in this study limbo that goes on for years and years, and this is probably about the fourth or fifth. Well, at least the third year of studies there.

What we're actually asking from the State Lands Commission, whatever role you have over these --

COMMISSIONER WESTLY: Is this the last slide?

MR. REZNIK: This is the last slide. Is we'd like policy direction from this agency that reinforces the goal of sediment remediation to background levels at all shipyard sites, and letters to the Port and State and Regional Water Boards reinforcing this position. And to the extent, it sounds like there are so many issues down here that when you guys do come back down for a hearing, maybe this is something we could take up at greater length.

Thank you very much for your understanding.

And I'm going to pass on to Jim Peugh from San Diego Audubon to talk about the Border Fence.

COMMISSIONER WESTLY: Okay. Any questions?

MS. GONZALEZ: No questions. I just want to point out the Lieutenant Governor had to leave because of a flight, we didn't know this meeting would go on quite so long, and he is committed to coming back to San Diego for a meeting. So that will be an issue. And as far as policy direction, and I'm not sure, I don't believe we have yet
written a letter independently from our office on sediment remediation, but we're happy to do so. And thank you for the environmental health questions and trying to clean up the Bay.

MR. REZNIK: Thank you very much.

ACTING COMMISSIONER TAKASHIMA: I have a comment, your comment about a letter. I would have to have more information. You know, we're talking about sediments in the Bay. You know, how much of this is Navy versus others, and you know there is a lot of information yet that I would have to hear before I would say NASSCO or Campbell or some other organization should be targeted, versus other folks. So I just wanted to --

MR. REZNIK: Yes, it's a huge issue down here and I would be happy to work with State Lands staff.

Thank you very much.

COMMISSIONER WESTLY: Mr. Peugh from the Audubon Society.

MR. PEUGH: Hi, I'm Jim Peugh from the San Diego Audubon Society. The last time I talked to this Commission was when the South Bay Refuge was established, which was a really exciting event for me personally.

I was a little disappointed that Item C27 was pulled from your agenda. There is some real controversy there that I hope you'll be interested in.
There's a project going on called the 14-Mile Border Infrastructure Study that NEIS grant developed, but the final has not come out and the draft EIS I think was over a year ago.

I think that you should consider very seriously that what you're asking the BP/INS to do is to piecemeal of the part of the fence that was on Item C27 is also covered under that EIS. And so I don't think that what you're looking at is the whole project, I think what it is is a fragment of a project, and you're being asked to be part of a piecemeal. And I'd like for you or your staff to look into that.

The 14-Mile Project is actually a triple fence that will run along the border. Some of the outstanding features of this. There is a big mesa, a beautiful mesa on the border called Spooners Mesa. The top of that, one section of the top of that will be cut off and used to fill in a big canyon called Smugglers Gulch.

I think I was supposed to push this already. Uh-oh, I think I pushed it too much.

I can show you, just to give you an idea of what the magnitude of this project is. That's a photograph of the canyon that will be filled in. The berm that goes across it, depending on the alternative, 150, 180 feet high. It will take about two million yards of fill that will be
cut from Spooners Mesa to fill it in.

And the huge impacts. There will be erosion impacts on the estuary, and one of the other connections with the State Lands Commission is that part of that estuary is under your custody. And so the property that you manage will be affected by erosion, long-term erosion from this. There will be direct wetlands loss, there will be habitat loss. This is a core area, a core biological area of the MSCP, our local implementation of the Endangered Species Act. Downstream, where the sediments are going to go, there will be Lightfooted Claprail impacts.

It's really a question of whether any of these losses are really mitigatable. You know, this is a huge project with a huge impact and mitigation alternatives are very limited.

Well, there are other ways to solving this problem that will be less impact. And this is a very expensive project. We think this part will probably spend like $40 million, but the Border Patrol isn't sharing that kind of information. As we all know, there are lots of needs for Homeland Security money. This isn't on anybody's checklist as being a high-priority issue. This money can be much better used for other homeland security issues.

I'm sorry, I went over one slide too fast.

There are lots of community impacts -- yes.
COMMISSIONER WESTLY: Jim, your time is actually technically up. We'll be back here to revisit the same issue. So why don't you tie it up quickly and then we'll give you a chance to go into more detail when we come back.

MR. PEUGH: Great. Well, a big part of this will be impacts to state parkland, with park money, it can't be used for anything else, will be taken for this project. A real symbol of disrespect for the City of Tijuana which we really need to be working with on issues. We will be basically showing them we don't trust them and we want to keep them at a Berlin Wall type distance from us.

We hope that you will encourage -- you'll have some leverage over the Border Patrol, since they're coming to you for your next meeting, and we do hope that you'll use that leverage to get them to work with us, as we have been talking about all through this day on getting a solution that will work for the environment, for the citizens of our country, for the citizens of Mexico.

Thank you.

COMMISSIONER WESTLY: Thank you.

And I want to thank all of the speakers for coming out today, those were important points, and I appreciate you bringing them forward.

What we would like to do now is unless there are any questions for any of the speakers is to adjourn to
closed session.

And I think it's fair to say that we will look forward to seeing you all sometime later this fall.

Thank you.

ACTING COMMISSIONER TAKASHIMA: And let me comment one thing about the Border Fence. I think I'm the reason why the item was not on the agenda. I asked that it be pulled from the consent calendar because I wanted to talk about that.

I'm a native, as I've said, of this area and I've seen fences do nothing. I also would like to know about the rationale of the Border Patrol of the existing fence and to the use of that. I just wanted to ask questions. And I think the Border Patrol has offered for staff and Commissioners to see the existing fence. But I would like to have additional information that you would have about the plan that the Border Patrol has for the San Diego and Mexico border. Because, like I said, I've lived here for 25 years and seen it do nothing.

So even though homeland security is important, we have to evaluate what we're really doing. And I'd rather use the money to, as I said before, to investigate cargo containers rather than building fences. So I'd like to end there, but I'd like to thank everyone for coming and I'm glad to be in town.
COMMISSIONER WESTLY: Thank you. I'd like for the closed session meeting to be in here, so those involved please stay here. And members of the public, thank you very, very much.

(Thereupon the meeting of the State Lands Commission was concluded at 3:20 p.m. on April 7, 2003.)
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 6th day of May 2003.

Michael J. Mac Iver
Shorthand Reporter