APPEARANCES

BOARD MEMBERS

Mr. Cruz Bustamante, Chairperson

Mr. Steve Westly, also represented by
Ms. Cindy Aronberg

Ms. Donna Arduin, represented by
Mr. Fred Klass

STAFF

Mr. Paul Thayer, Executive Officer

Mr. Jack Rump, Chief Counsel

Mr. Greg Scott, Assistant Chief, Mineral Resources
Division

Mr. Mark Steinhilber, Supervisor, Safety Audit Division

ALSO PRESENT

Ms. Eve Bach, Public Trust Group

Ms. Ruth Gravanis, Public Trust Group, Treasure Island
Wetlands Project

Mr. Alan Hager, Deputy Attorney General

Mr. John McNab, Save Our Navel Training Center

Ms. Sandra Threifall, Public Trust Group

Ms. Maggie Valentine, Citizen
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PROCEEDINGS

CHAIRPERSON BUSTAMANTE: I'll call this meeting of the State Lands Commission to order. All who represent the Commission are present.

My name is Lieutenant Governor Cruz Bustamante. And I'm joined today by Controller Steve Westly and Fred Klass representing the Department of Finance.

For the benefit of those in the audience who are not familiar with the State Lands Commission, we administer the properties by the State as well as its mineral interests. Today we'll here proposals concerning the leasing and management of these public properties.

The first item of business will be the adoption of the minutes for the Commission's last meeting. And since Mr. Klass -- have you had any chance to take a look at the --

ACTING COMMISSIONER KLASS: I did, but I don't have any questions. So I will abstain.

CHAIRPERSON BUSTAMANTE: That's fine.

COMMISSIONER WESTLY: I'll move to approve the minutes.

CHAIRPERSON BUSTAMANTE: Second.

Let the vote show it's 2 to approve and 1 abstention.

CHAIRPERSON BUSTAMANTE: The next order of
business is Executive Officer's report.

Mr. Thayer.

EXECUTIVE OFFICER THAYER: Good afternoon, Mr. Chair and members of the Commission.

I wanted to report on just two items. The principal one has to do with a project which the Commission can take great pride. It involves the recharge of the geyser steam fields. The Commission has several school land parcels in that area, and obtains several million dollars in revenues for the teachers -- the state's teachers every year from leasing the fields for power production.

The major inhibitor in preventing additional production has been the lack of water in the ground, so there's not enough steam to really generate more than is presently being generated. However, Santa Rosa fortuitously was running into a problem with the disposal of waste water. And so the Commission staff have spent some time working with the Energy Commission and other sources to try and generate the money necessary to build a pipeline, which just was opened last month I believe, which carries waste water from Santa Rosa up to the geyzers and injects that waste water into the ground where it will be turned into steam, enhancing the production of power in a clean way from that area as well as in

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increasing the revenue that we get from that property for retired teachers.

So I wanted to make sure the Commission was aware of that. The dedication was just last month.

CHAIRPERSON BUSTAMANTE: Any questions?

Mr. Westly?

COMMISSIONER WESTLY: No questions.

EXECUTIVE OFFICER THAYER: The second brief item, I wanted to just acknowledge that Rick Ludlow is in the audience. He's one of our attorneys who's going to be retiring at the end of this month, after working for the Commission for about 20 years. He's done a great job on particularly our Long Beach unit and other oil-related matters, giving great advice. And all of the Commissioners since he's been here benefited from his good work. And I want to acknowledge Rick Ludlow.

CHAIRPERSON BUSTAMANTE: Rick, why don't you stand up.

(Applause.)

EXECUTIVE OFFICER THAYER: And that concludes the Executive Officer's report.

CHAIRPERSON BUSTAMANTE: Great. Thank you. Next, the adoption of the consent calendar. Has everybody had a chance to look at the consent calendar?
Any questions?

COMMISSIONER WESTLY: Yes, Mr. Chair. Before we vote on the consent calendar, I'd like to make a change to No. 41. Simply, I'd like to delete the authorization of the staff to transfer the land to another agency. Instead I'd like to ask the staff to review with my office -- consider the alternatives for dealing with this property and come back at another meeting with options regarding the ultimate disposition of the land if we could.

EXECUTIVE OFFICER THAYER: Certainly. That could be done as a unanimous amendment. We could put the item back on the consent calendar.

CHAIRPERSON BUSTAMANTE: Is there any questions?

ACTING COMMISSIONER KLASS: No problem.

COMMISSIONER WESTLY: What the second issue, if I could, and, that is, on the offer for us to dedicate on Broad Beach, I know that there is a legal issue, a controversy raised by a former -- a coastal commissioner. And that my office have asked that you brief them on the issue. And if we could make sure that these OTDs are back on the calendar for the next meeting, I sure would love if we could do that.

EXECUTIVE OFFICER THAYER: Certainly. If it's the will of the Commission to do that.

CHAIRPERSON BUSTAMANTE: This is with regard to
EXECUTIVE OFFICER THAYER: -- pipeline.

CHAIRPERSON BUSTAMANTE: -- the cap pipeline on Irene?

EXECUTIVE OFFICER THAYER: No, this has to do with some offers to dedicate for public access along Broad Beach that the Commission had initially considered back in October. And we were requested to put over that item because of some last minute concerns by some of the people that were affected by it.

CHAIRPERSON BUSTAMANTE: What item is that?

EXECUTIVE OFFICER THAYER: It's not on the calendar this time. And my understanding is the Controller was just ensuring that this is going to be back on the agenda for --

CHAIRPERSON BUSTAMANTE: Okay. Any other concerns about the consent calendar?

Seeing none.

I'd like to entertain a motion.

COMMISSIONER WESTLY: So moved.

ACTING COMMISSIONER KLASS: Second.

EXECUTIVE OFFICER THAYER: Oh, I'm sorry. The other item, we want to make sure that we have taken off the items from the consent calendar that are listed here, that have subsequently -- after this list was made the
agenda went out.

CHAIRPERSON BUSTAMANTE: Why don't you make a listing of those that are supposed to be taken off right now.

EXECUTIVE OFFICER THAYER: 16, 21, 22, 25, and 26. And we will hear those at a subsequent meeting.

CHAIRPERSON BUSTAMANTE: Okay. More than -- restate your motion or you want to make it again.

COMMISSIONER WESTLY: So moved.

ACTING COMMISSIONER KLAS: Second.

CHAIRPERSON BUSTAMANTE: That was very articulate and well said. Appreciate the brevity.

(Laughter.)

CHAIRPERSON BUSTAMANTE: Let the record show that it was unanimous.

I'm assuming, since I didn't ask -- and I guess I should back up. Was there anybody here who wanted to speak to the consent calendar? We can go back if there is.

Any hands?

EXECUTIVE OFFICER THAYER: We have no slips.

CHAIRPERSON BUSTAMANTE: Okay. No, we have no slips.

Let's see. We're going to the regular calendar at this point?
EXECUTIVE OFFICER THAYER: Yes, sir.

CHAIRPERSON BUSTAMANTE: Item No. 45; is that correct?

EXECUTIVE OFFICER THAYER: That's correct.

CHAIRPERSON BUSTAMANTE: All right. So let's go to that.

EXECUTIVE OFFICER THAYER: Greg Scott from the Commission staff will make the presentation on this item.

CHAIRPERSON BUSTAMANTE: You're all welcome to stay longer if you'd like.

(Thereupon an overhead presentation was Presented as follows.)

CHAIRPERSON BUSTAMANTE: Staff report. Please, move forward.

MINERAL RESOURCES DIVISION ASSISTANT CHIEF SCOTT: Good afternoon, Honorable Chair, commissioners. My name is Greg Scott. I'm the Assistant Chief of the Mineral Resources Division in Long Beach.

I'm sharing the podium this afternoon with Mark Steinhiber to my left of our Division staff. And together we'll be making a short presentation of staff's recommendation to release ARCO of its guarantor performance obligation under the governing agreements of the Long Beach unit oil operation.

We have also provided you with copies of the
slide presentation for your convenience.

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MINERAL RESOURCES DIVISION ASSISTANT CHIEF SCOTT:

As a background and brief overview, the Long Beach unit shown in this slide is a large offshore and onshore oil field operation located in the granted tidelands of Long Beach. The operation consists of four manmade drilling production islands that were built in 1965 and produced oil and gas from the Wilmington Field. Current oil production at this time is about 32,000 barrels of oil per day. And the cumulative oil revenues returned to the State since 1965 is over $4 billion.

The unit continues to generate significant revenues to the state, with this past fiscal year's revenues amounting to about $50 million.

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MINERAL RESOURCES DIVISION ASSISTANT CHIEF SCOTT:

This slide shows the relationships of the parties involved in the Long Beach unit. The City of Long Beach is the unit operator and also acts as trustee for the state. Occidental Petroleum Long Beach, Inc. is the current field contractor, with the subsidiary THUMS Company as the agent for the field contractor who conducts the day-to-day field operations. The State of California
is a major mineral owner and a major revenue beneficiary from the oil and gas sales.

And the bottom half of the slide is an aerial view of the unit showing four islands and the onshore facility, with the interconnecting pipeline superimposed on the slide.

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MINERAL RESOURCES DIVISION ASSISTANT CHIEF SCOTT:

At its April 2000 Commission meeting, the Commission approved the City of Long Beach's consent to assign ARCO's 100 percent ownership interest as field contractor to Occidental Petroleum. That approval, however, did not include the release of ARCO as guarantor of its performance obligations. And in the Consent to Assignment agreement were three conditions that had to be met for the future release of ARCO as guarantor. And those three conditions are listed here: The conducting of the financial audit of the Long Beach unit, joint by the city and the State; installation of automatic shutdown valves at all of the primary oil pipelines; and also to undergo a State-conducted full field safety audit on the entire Long Beach unit.

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MINERAL RESOURCES DIVISION ASSISTANT CHIEF SCOTT:

The status of those three conditions is shown
here. The financial audit was the first to be completed, shortly after the stock sale from ARCO to Occi. That was done in January of 2000. Very few items were identified in that audit. Anything that was identified were remedied immediately. Some procedural changes in the accounting process were made. And those were taken care of in 2001. The automatic shutdown valves were installed in December of 2001. The State and the city inspected and accepted the installation of those valves in February of 2002.

And, finally, the full field safety audit was performed through the State Lands Safety Audit Program by State Lands engineers and inspectors as well as an electrical consultant. And because of the size—physical size and complexity of the Long Beach unit this third condition took the longest time to complete, which occurred this last November.

And Mark Steinhilber to my left, the State Lands Safety Audit Supervisor, will continue the presentation now with a brief summary of that safety audit.

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SAFETY AUDIT SUPERVISOR STEINHILBER: The objective of each safety audit is to ensure that the operating company has a comprehensive safety and environmental program done through onsite verification, and to ensure that each facility is designed, maintained,
and operated in a manner compliant with current industry
codes, regulations, and meets the standard of best
achievable protection.

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SAFETY AUDIT SUPERVISOR STEINHILBER: Each safety
audit uses a team approach. We have an equipment
functionality integrity team that looks at the condition
and maintenance of onsite; we have an electrical team that
looks at the condition and maintenance for the electrical;
a technical team of engineers that looks at the facility
design, safety control systems, and other critical
features; and, finally, an administrative team that
reviews operating manuals, spill-prevention plans,
training, and other safety programs. A list of action
items is developed as part of the safety audit and is
issued for the formal report.

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SAFETY AUDIT SUPERVISOR STEINHILBER: The action
items are assigned priorities according to risk, with a
high risk potential being considered Priority 1. And that
would have risk potential for injury, oil spill, or other
adverse or environmental impact or significant property
damage. Priority 2 has a moderate risk. And Priority 3
has a low risk potential.

Each priority level action item has a time limit

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identified for corrective action. And that timeframe
starts when the report is issued.

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SAFETY AUDIT SUPERVISOR STEINHILBER: These are
the results. We have a total of 3,197 action items that
were identified. Now, because the Long Beach unit
comprises essentially six facilities comparable to the
other ones we'd audited, this equates to about 500 items
per facility.

Of those, 198 -- that would be this number
here -- were high priority, Priority 1; 637, Priority 2;
and 2300 are of the low priority or low risk.

A large share of the items fell in the electrical
type. And this resulted mainly due to the age and
condition of equipment or how it was installed 40 years
ago.

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SAFETY AUDIT SUPERVISOR STEINHILBER: In the
follow-up phase after the report was issued, 30 days are
allotted for resolution of the Priority 1 items, with 120
days and 180 days for the other priorities.

At the time the report was issued, the THUMS
Company already had 53 percent of all the action items
corrected.

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SAFETY AUDIT SUPERVISOR STEINHILBER: This goes into a little more detail of their responsiveness during the follow-up phase. You can see that when the report was issued, 53 percent of all the items were already corrected. At the 30-day timeframe 96 percent of all those Priority 1 items had been resolved. The next timeframe, 60 percent of the Priority 2 were complete. And then finishing up, the final 180-day timeframe, 99 percent of all Priority 3s were complete, with an overall percentage of 96 percent complete at that timeframe.

We did achieve final completion of all items at about 510 days. That's a year and five months after the report was issued.

Each item that was not completed within the appropriate time limits, THUMS provided planning for the best long-term solutions, they provided inter-risk mitigation. And many of these items required major design work, numerous subcontractors, suppliers, and installations at multiple locations.

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SAFETY AUDIT SUPERVISOR STEINHILBER: Safety was never compromised or reduced by hurried installations that were attempting to meet our rather arbitrary time deadlines.

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SAFETY AUDIT SUPERVISOR STEINHILBER: This shows the audit timelines, with completion in November of 2003. And that was signified by a letter of completion that was issued on November 12th, 2003, included as Exhibit A in the calendar item.

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SAFETY AUDIT SUPERVISOR STEINHILBER: The major improvements that were made to the Long Beach unit include the automatic shutdown valves that were one of the conditions for release of ARCO. There were numerous electrical code items corrected. Safety valve settings on pressure vessels were corrected. Plans and operating procedures were reviewed and updated. Over one and a half million dollars was invested in other facility and system upgrades. And there was also a safety system and automation upgrade that was put in. So there's computer controlled safety systems at these facilities.

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SAFETY AUDIT SUPERVISOR STEINHILBER: The benefits to California are that there's a reduced likelihood of environmental damage or major catastrophe that could affect public health and safety. We verified that best achievable protection is achieved and that uninterrupted revenue continues to the State of California.
SAFETY AUDIT SUPERVISOR STEINHILBER: The Commission staff recommends that ARCO be released from its guarantor obligations under the governing agreements of the Long Beach unit.

CHAIRPERSON BUSTAMANTE: The large number of action items, does that give you -- does that raise questions about the other facilities that are aging and that have not had yet this full audit?

SAFETY AUDIT SUPERVISOR STEINHILBER: We have a program to audit all of the facilities. We have four additional facilities that we're going to be working through in the next year and a half. And that will complete all of the State facilities within the five-year plan.

CHAIRPERSON BUSTAMANTE: Within the five-year plan.

That will be the same level of audit as well as --

SAFETY AUDIT SUPERVISOR STEINHILBER: Yes, sir.

CHAIRPERSON BUSTAMANTE: Okay. I have no questions. I think that you've been very thorough. This process appears to be -- having been done very thoroughly, I don't have any additional questions.

Does the Controller or Finance --
ACTING COMMISSIONER KLASS: Just a follow-up to yours, Mr. Chairman. Just I, too, was concerned about the number of high priority action issues. I'm just, out of curiosity, I suppose, as much as anything else, trying to get a feel for how serious these things were.

I mean was there equipment that was going to blow at any time? Or just, you know --

SAFETY AUDIT SUPERVISOR STEINHILBER: No.

ACTING COMMISSIONER KLASS: -- what was the condition of this place?

SAFETY AUDIT SUPERVISOR STEINHILBER: In many cases, the Priority 1 items were things that posed potentially a risk to operating personnel where they could be injured, and we need to call them out perhaps on an OSHA-type code problem. So we have to call that out as a Priority 1.

And the company involved got on these items immediately and typically had those identified and resolved right away.

The ones that were problematic were design-type problems that occur because the codes change over the years. And then the appropriate solution is to get a good design solution in place and then allow it time to be installed or brought up to that code and not compromise safety while you're doing it. So we think that they have
done an excellent job, achieved very good balance, and we have an ultimate good long-term solution.

   ACTING COMMISSIONER KLAS: And in terms of the safety to the public, are you comfortable that a five-year timeframe where you'd do all these facilities is reasonable? Should it be speeded up? Are there any imminent problems out there?

   SAFETY AUDIT SUPERVISOR STEINHILBER: The audit program has learned a lot in doing the initial audits. And we believe that the audits are getting better, they're more on the mark. And these ones, although they had to wait, we have done some prioritization as to which ones we need to get to and in what order. And a five-year timeframe appears to be fine. We also have an inspection program that is looking at all of these facilities on a monthly basis, and they're dealing with any day-to-day operational problems at them.

   ACTING COMMISSIONER KLAS: Thank you.

   CHAIRPERSON BUSTAMANTE: Mr. Controller?

   COMMISSIONER WESTLY: Just one observation and then a question. I'm truly impressed. You've tracked so carefully 3,200 remediation issues. And I'm absolutely delighted to hear they've all been resolved to your satisfaction.

   I think as a broader perceptual issue, I just
wanted to ask: Is a facility like this now in your 
opinion safer than an oil platform like Holly?

SAFETY AUDIT SUPERVISOR STEINHILBER: Absolutely. 
There's inherent differences between these islands and a 
platform. The island has a large containment volume that 
will contain, you know, spills much better than a 
platform.

And then from the second standpoint, it's much 
larger in surface area. So you don't have equipment on 
top of each other, and it lowers the risk significantly. 
So they are inherently safer than a platform.
The only things that are similar are the sub-sea 
pipelines. And now with the automatic shutdown valves, 
they're set up exactly the same and they're safer.

CHAIRPERSON BUSTAMANTE: One last question. Have 
you thought about perhaps sending out some kind of an 
advisory letter to those who have not yet been audited, 
giving them some general benefit of the experiences that 
you've learned here so that -- I mean I consider something 
that's likely to put someone's life at risk not only a 
Priority 1, but something that, especially if you're 
learning because of aged facilities, that you might want 
to pass that information along to other like facilities 
that have like systems?

SAFETY AUDIT SUPERVISOR STEINHILBER: We have
been sharing the audit reports with the companies that are to be audited next so that they learn from the previous audits.

CHAIRPERSON BUSTAMANTE: Also might drop the number of action items.

SAFETY AUDIT SUPERVISOR STEINHILBER: The numbers have been dropping with them as they learn what we're looking for and they go through and try and resolve things before we get there.

CHAIRPERSON BUSTAMANTE: All right.

SAFETY AUDIT SUPERVISOR STEINHILBER: We've done two other audits since the ARCO -- or since the Long Beach unit was completed.

CHAIRPERSON BUSTAMANTE: Are the representatives here?

MINERAL RESOURCES DIVISION ASSISTANT CHIEF SCOTT: Occi has representatives here, yes.

CHAIRPERSON BUSTAMANTE: Do they want to say anything?

I'm assuming not.

Any other questions by the Commission?

Is there a motion?

ACTING COMMISSIONER KLASS: I'll move the staff recommendation.

COMMISSIONER WESTLY: Second.
CHAIRPERSON BUSTAMANTE: Let the record show that it's a unanimous vote. And that I believe concludes the regular calendar.

There is a period of time after the regular calendar in which we allow people to come forward and to speak on a variety of issues. We have requests from seven or eight people.

Check that. About five people. And is there an Eve -- is Eve Bach here? Please come forward. Ruth Gravanis is up next. And where are they going to be speaking from?

Will they be speaking from that microphone here? In that area called the speaker's area. Welcome, Eve.

MR. BACH: Thank you.

CHAIRPERSON BUSTAMANTE: Is the button turned on?

EXECUTIVE OFFICER THAYER: Yes.

CHAIRPERSON BUSTAMANTE: Okay, good.

MS. BACH: Good afternoon. I'm Eve Bach. And I'm the Chair of the Public Trust Group, which is an organization is in the San Francisco Bay Area.

We come to you as -- in your role as guardians of the long-term interests of the public in our public trust
lands.

In the current climate where long-term interests are so often sacrificed to short-term advantage, we have decided that you need our help.

CHAIRPERSON BUSTAMANTE: Thank you.

(Laughter.)

MS. BACH: The Public Trust Group was founded in the wake of the 1993 BRAC military base closings, which almost completely removed the Navy from the San Francisco Bay Area, and left behind about 10,000 acres of waterfront property.

The founder of our group -- one of the founders was Sylvia McLaughlin, a name that is probably familiar to you as one of three women responsible for saving San Francisco Bay. Her concern and ours was that the preservation of the public trust was to make sure that the public trust would be preserved when the military finally conveys closed bases for civilian reuse, a process that is taking longer than most people thought it would.

Sylvia knew the value of the public trust since it had been so important in her efforts to stop the wholesale filling of the Bay that threatened to convert the Bay into a meandering stream. At the time of her efforts there were anguished cries that there was portending economic collapse if the public trust was to be
enforced. She heard echoes of those cries when the bases were closed and the issues of redeveloping rose to the surface.

From where we stand now, in the 21st Century, it's really inconceivable to us that the Bay Area would have been better off if bay fill had been allowed to continue if those short-term interests to develop real estate had been allowed to trump the ancient doctrine of the public trust.

We believe that in the 22nd century the value of respecting the public trust in the redevelopment of the former bases will be similarly apparent. And we think for that reason that you have an important work to do.

In addition to the work you are already doing, we strongly believe that there needs to be a ramping up of education and outreach to the public on public trust issues. In our work, both in the San Francisco Bay -- and Ruth Gravanis and Sandy Threifall will talk about examples at Treasure Island and in Oakland, what we have seen are processes for involving the public that are not robust enough given what is at stake. And we think that you really need to give some attention to how to improve those processes and then to launch some educational efforts. And I will let them talk about specific proposals.

Thank you for your time.
CHAIRPERSON BUSTAMANTE: Thank you, Eve. I think the Controller has a comment for Eve. I think the Controller has either a comment or a question.

COMMISSIONER WESTLY: I just wanted to say briefly just thank you for being here. I know a good bit about your group. And I think what you're doing is absolutely essential.

I moved to the San Francisco Bay Area in 1957 when the Bay Shore Freeway was still in fact on the Bay Shore. A lot has changed since then. And your group's efforts to reduce further landfill have been essential. And I'd just like to -- because I have to go to another meeting -- urge the staff to do whatever we can to improve the perception as well as the reality that we're doing everything possible to involve and solicit community feedback. This is important. And I think we can work with you on that.

MS. BACH: Well, thank you. We're on the same side of the page.

COMMISSIONER WESTLY: Okay. Thanks.

CHAIRPERSON BUSTAMANTE: Also, we'll be having a meeting on February the 2nd in San Francisco. So if there's something that you're interested in putting on the agenda, perhaps you can approach the staff with that.

MS. BACH: That's great. Thanks.
CHAIRPERSON BUSTAMANTE: Please.

MS. GRAVANIS: Good afternoon, Commissioners.
I'm Ruth Gravanis. I live in San Francisco. And I'm here
today because I would really to do anything to get out of
town and avoid the last minute campaigning in the Mayor's
race.

(Laughter.)

CHAIRPERSON BUSTAMANTE: Well I think that's a
compliment.

(Laughter.)

MS. GRAVANIS: In addition to being a member of
the Public Trust Group, I'm also the director of a small
organization called the Treasure Island Wetlands Project.
And I have been interested in the natural resources of all
of our closing military bases in the Bay Area since I work
for the Save San Francisco Bay Association and have
continued those interests as I work with the other members
of the Public Trust Group to kind of monitor or watchdog
the activities. It's not just to Treasure Island, but
also Mare Island, the Alameda Naval Air Station, and
Hunters Point Shipyard and others.

Treasure Island, as you know, is -- we use the
term "Treasure Island" often to refer to two islands,
Treasure Island and Yerba Buena Island, collectively known
as Naval Station, Treasure Island. And as we speak,
legislation is being drafted to allow a public trust exchange which would lift the trust from a portion of Treasure Island, the human-made island, and to transfer it to Yerba Buena Island, which is the natural island. And our organization has no objections to having an exchange of some kinds take place. We recognize that there is a very, very large support for the construction of housing on Treasure Island, and we're not opposed to some residential uses on this island even though in the strict sense because it is former bay -- former tidelands, none of it should be privatized. But we agree that an exchange is -- could be appropriate if it's the right one and if it results in a net public benefit.

Our fears are, as Eve alluded to, that there has not been adequate public outreach and opportunities for public input. And we are asking for your help to make it known to the powers that be and the various agencies that are trustees that you expect evidence of due public process before a proposal related to public trust comes before you as the Commission.

With Treasure Island, there's going to be a public hearing tomorrow before the Treasure Island Development Authority, which is San Francisco's second redevelopment agency. And there's going to be discussion of a proposed trade. The proposed trade has not yet been
made public. So members of the public are not going to have an opportunity to look at it ahead of time. I've seen it because I'm one of those peculiar people who has nothing else to do than to go down to the city library on Friday afternoon and demand a document that none of the librarians even know is there until the right person gets back from her coffee break who can find it.

But that's not really what I call adequate public release of a document that's going to be brought before a public hearing. And we feel that it's very important that before the legislation is approved, that the local government, the San Francisco Board of Supervisors, not just the Treasure Island Development Authority, and the citizens of San Francisco have an opportunity to look at the configuration and to comment on it and to exercise their best judgment in determining whether or not a true net benefit clearly will result from this particular exchange.

We understand that renegotiations with developers have to be done in closed session. But there are many aspects of what's being discussed in closed session that actually relates to public policy matters such as the ultimate land-use plan and the amount of benefits that will actually accrue to the public as the result of the land-use plan that will be based on public trust exchanges.
finally adopted.

   So I guess in short, prior to the time when the
trade actually comes before you, it would be good if
everyone knew that you're going to be asking, "Oh, by the
way, what was the opportunity for participatory democracy
that went into the development of this proposal."

   I'd also like to mention that one of the things
the Public Trust Group has been doing is trying to reach
the general public with information about what the public
trust is, what the tidelands trust legislation is. And
that is, of course, very, very difficult. And we have
been issuing some handouts and going to public
presentations. And we're grateful to the State Lands
Commission staff for giving us some handouts that we were
able to distribute at a recent conference on the estuary,
and we were also able to make handouts out of information
we downloaded from your website. And we made copies of
Mark Dowie's article from Orion Magazine. I hope you're
familiar with that. It was a very good article about
Public Trust Doctrine.

   But these things are geared for a pretty
knowledgeable, elite, if you will, section of the
population. And we would really, really like your help in
the production of materials that could reach the general
public about the importance of the public property right
that the public trust offers to them, and also find other venues to reach a much, much larger segment of the people of California to help them understand how fantastic public trust resources are and how important it is to protect them and how important your work is.

Thank you.

CHAIRPERSON BUSTAMANTE: Thank you.

We have John McNab, who was next.

I'm sorry. Did any of the Commissioners have any questions or comments?

John McNab, and then Sandra Threifall. Is that the way you pronounce it? I'm sorry.

Is that to be distributed?

MR. MCNAB: Yes, John McNab representing Save our NTC in San Diego California.

And this is -- what we're going to do is look at some history of what happens when the State Lands Commission does not protect public rights to state tidelands.

Naval Training Center at San Diego as shown on the front cover -- anyone in the audience could get some also -- sits at the mouth -- one of two mouths of the San Diego River right on the San Diego Harbor. Over 70 acres of public tidelands below the history tide -- high mean tideline were extinguished for the express purpose of
constructing office buildings and 350 private homes. This was to facilitate a deal where private commercialization of public lands would pay for rehabilitation costs of historic buildings for what was termed a Civic Arts and Cultural Center, a waterside ballpark, a Southern California Fort Mason Center. In fact, the developer was to provide over $50.7 million for the construction of this park and public center.

Instead, through incremental bait and switch, the developer has been relieved of all obligations by the local redevelopment agency to fund public improvement. In fact, they have become -- the public areas have become profit centers for him. The State and federal government have stepped in to provide funds for these public improvements, which he gets a profit cut on.

Now, a $1 billion public campus, a modern public campus, capable of being reused for a multiple of public purposes, has been lost. The little remaining public areas are zoned commercial and they are treated as stepchildren to maximization of the base for the most profitable commercial use for the developer. Roads have already been gridlocked and next-to-no public parking has been set aside for the public areas.

Not only has the public lost use of their tidelands; 80 percent of property tax revenues has been
lost to the developer. This is $200 million over the next 40 years. Because this public property had zero tax base, 80 percent is achieved.

This is historic development priorities on other public lands across the state, including Treasure Island. And the battle between Los Angeles and San Diego for the football Chargers' use of public -- of commercializing public lands for strictly commercial uses.

The State suffers lost property tax revenues as lost property tax revenues dedicated for schools is backfilled by the State. Further, this is a resulting of graph, which our research has shown is considerable on this project.

The public lost a jewel that defined what the California Coastal Act was created to protect. You know, if you take a look at the Coastal Act, NTC is -- on every major tenant applies, yet it didn't.

It has severely weakened the public tidelands protection. It compromises public safety. What we had is when there was this big fire in San Diego, everyone had to go down to QualCom Stadium, which is our football stadium. They couldn't get meals, they couldn't get water, they couldn't -- public toilets. We had 8,800 beds sitting at Naval Training Center that were crushed for private use. We had 150,000 meals per day capacity, hot meals per day
capacity, crushed for private development. We had warehouses. We had everything we needed to protect public safety. And we gave that up in order to lose millions at the State and local level.

It has drained local funds that should be going to local services, such as the fire and police, because, again, it's relieving the developer of his obligations.

It's drained State tax funds through tax diversion by -- and shady development -- developer tax rights. And it has damaged the beauty and future possibilities of rightful use of our prime coastal property.

Particularly after the State has been on the other side of the isle on our lawsuits, both in Los Angeles and in San Diego, our Naval Training Center, where the public attempted to protect public tidelands, we really feel that you should be taking a look at this Exhibit A what happens when --

CHAIRPERSON BUSTAMANTE: Mr. McNab --

MR. MCNAB: So thank you very much.

CHAIRPERSON BUSTAMANTE: Thank you.

Any questions?

MS. THRELFALL: Good afternoon. That's a hard act to follow.

My name is Sandy Threifall, and I am also a
member of the Public Trust Group in the San Francisco Bay Area.

My point that I'd like to share with you today is what I believe to be Statute 6206, which requires that public trust revenues be reinvested in public trust uses. And I think this is a very critical issue, especially given the state -- city, county, and the state economies at this grim stage.

The example I would like to bring up concerns the Port of and the City of Oakland. Now, the City of Oakland has a lake called Lake Merritt, which was the first bird refuge -- national bird refuge in the country. So we're very proud of it. It also, oddly enough, is tidelands trust; which when you think about it makes a lot of sense, the coming and going in the marsh and so on.

Well, the Port realized that they had responsibilities in that area given that it was trust land. So they designated roughly $1.5 million a year for the last eight years, that I know of, to the City of Oakland for the maintenance of this public trust area. The City of Oakland chose to put it into the General Fund. And I'm sure the General Fund appreciated it, but Lake Merritt saw none of it.

When we went to the city and asked for an accounting, we were told that it was for police and fire.
And that's a legitimate use. My concern is that this type of reuse of tidelands revenues could get very difficult as the stress of the local budgets increase.

I would love to see those funds used for tideland trust purposes. Lake Merritt would very much appreciate that revenue stream in order to improve habitat and water quality.

It's a situation that is out of our hands. Unfortunately, it falls to the Commission and the Commission staff, who have a very heavy burden. And I'm sure 1.5 million sounds like a very small amount of money. I see it as an example, as much as anything else of the importance of an accounting of how the tideland trust revenues are applied to tideland trust uses.

And herein I'd like to support my partners from the Bay Area. The notion -- and, again, this is a staff request, I realize -- is a workshop of some sort where either the Commissioners or the Commissioners' representatives could come to key metropolitan areas that are rich in tideland trust lands, and it's really a very well kept secret.

I do my best to let the city council know how important this is, and other members of the community. But I think a workshop model would be ideal for letting people realize that the public trust is something that
belongs to all of us for eternity. And that seems like a very strange word to use, but that's -- we are the holders or the keepers and you are the guardians. And a workshop format, perhaps development of a brochure or literature that could be easy to hand out. We're more than willing to be the mouthpiece, but we want to make sure that we're supporting the principles that your staff have developed and supported.

We do appreciate the update to the website. It has made it much easier to let people know. Just go to SLC.CA.GOV and you'll find it all. Not everyone's willing to do that, but we do encourage them.

So I truly support any way that you can support your incredible staff -- and they are incredible, given that they have the whole state to worry about -- and helping us be the educators of this great policy.

Thank you very much for your time.

CHAIRPERSON BUSTAMANTE: Thank you, Sandra.

If I could ask staff, what she just described, is that legal?

EXECUTIVE OFFICER THAYER: As she described it, it may very well not be. And as the Commission knows, we're always struggling with the issues she's identified, which is how public trust revenues are expended and whether they're going for public trust uses or community
uses. And the example that I give of where the Commission did step in is at the Port of Los Angeles lawsuit, which was where Los Angeles was diverting revenues from the Port of Los Angeles for things like a convention center downtown, things like this. And the conclusion of that was a settlement which returned $62 million to the Port. That's a success story. There are a lot of others like this where we hear things and we have to go in and investigate.

CHAIRPERSON BUSTAMANTE: Have you reviewed this particular issue?

EXECUTIVE OFFICER THAYER: I'm not familiar with it. Some of our staff might be.

CHAIRPERSON BUSTAMANTE: Well, I mean I think that we have a responsibility now to follow up --

EXECUTIVE OFFICER THAYER: Absolutely.

CHAIRPERSON BUSTAMANTE: -- on something that has been brought to our attention. And, you know, perhaps some type of an -- initially an advisory to all municipalities that are using these funds and maybe initially asking them if they need any clarification. And then following that up with something a little bit more direct.

EXECUTIVE OFFICER THAYER: Certainly.

We will investigate this, as we have the others
as they've come up; if they haven't come to the
Commission's attention.

We did send -- you'll recall, I think at the
Chairman's direction we adopted -- we prepared a public
trust policy paper to help explain what the doctrine was,
and there was a staff report largely written by the
Attorney General's Office on that. And that's on the
website. I think that's some of what you're referring to.
We sent copies of that to every granted -- or municipality
managing grant lands. But that's not enough. It's always
an ongoing effort.

MS. THRELFALL: If I might interject. It's a
wonderful paper. But paper is something we have way too
much of.

And I'm thinking that's where a workshop model or
a presentation for the tidelands by a staff member to
these boards, these commissions, and these councils could
better communicate the idea.

Thank you very much.

CHAIRPERSON BUSTAMANTE: Thank you.

And I believe Commissioner Klass has a question.

ACTING COMMISSIONER KLASS: Sandra, could you go
back over the facts one more time. I'm particularly
interested, having sat on the coastal conservancy which
provided the City of Oakland a grant to help restore Lake
Merritt. So I just wanted to get the story.

Ms. Threlfall: Oh, I'm curious to see where that ended up.

I'm sorry.

I know it's difficult to be a city council person or a city staff person anywhere in this state given the economic situation as it is.

We started looking into this about -- I want to say 1996, 1997. And the city has been leaning -- the city and port in Oakland have sort of like a stepsibling relationship. They don't work well together. And the city always felt that the port was rich and the city was poor. They didn't seem to understand that the port was rich of tideland trust revenue funds that the port could not give over.

Well, the port, in a very sensitive way I believe, said, "Well, Lake Merritt falls under your jurisdiction. It is a tidelands trust. We can set aside X number of dollars that we will give to you for maintenance of this body of water." And city of course said, "Yahoo." But then it went into the General Fund.

So a couple of us appealed to city staff to get an accounting of it and got nowhere. Finally, we appealed to a city council member who was able to get the city staff to look into it. And I regret that I did not bring
the report with me. But they gave us a report that
indicated that it was used for police and fire, and that
that was certainly a safety issue at Lake Merritt. My
sense was certainly that could be a safety issue, but that
doesn't deal with water quality or any of the other issues
that Lake Merritt as a body of water is faced with.

And I remember at the time talking to one of your
staff members. And I think the L.A. case was just
beginning to get unbelievable. And they said, "Sandy, we
hear what you're saying. We really do. It's just that at
this point today $1.5 million we can't give time to." And
I did -- I mean I understand that. I truly do.

The frustration has been, coming from an advocate
position, not an attorney, but an advocate for the trust,
it's hard to be clear with a council or a city staff that
this is a misuse of funds. And it was simply out of my
realm. But it's --

ACTING COMMISSIONER KLASS: If you could perhaps
supply me with that information, I'd appreciate it,
through the coastal conservancy angle as well. I mean I
would be very interested in asking the city about this.
They may come up with a reasonable explanation. But the
conservancy has been concerned in the past about providing
grants to local governments that then haven't held up with
their share of providing public trust purposes with the
money that they get, and accepting -- for example, helping
out a man in a -- if you could segregate the timing with
some additional information, I'd appreciate it.

MS. THRELFALL: I would be delighted. Thank you
for asking. And thank you for this time.

CHAIRPERSON BUSTAMANTE: Thank you.

The last person under public comment is Maggie
Valentine.

Welcome.

MS. VALENTINE: Thank you.

Yes, my name is Maggie Valentine. I'm from San
Diego. And I'd like to speak about the misuse of public
trust lands.

Mission Bay Park is a regional park run by the
City of San Diego. It is owner and trustee of public
tidelands. It was first a California State Park slated to
retain its status as a coastal natural resource, harboring
seven endangered species.

The public envisioned a wildlife preserve, trail
rides, youth camps, fishing, kayaking, hiking, and
overnight camping.

The city made other plans. Instead of an open
space preserve for 15 million annual visitors, the city
has over the past 40 years allowed in the park a garbage
dump, a toxic dump, sewage treatment plant, six resort
hotels, and Sea World, also a six-lane highway connecting
them. This loss of State Park status on these public
tidelands led to their disastrous commercialization by
developers and the politicians who contributed to them.

To prevent like losses of irreplaceable public
tidelands, immediate action is needed:

1. This Commission should publicize a full
inventory of our coastal tidelands resources, including
maps and status data.

2. State Lands should acknowledge the political
kickbacks and back schemes for short-term profit, all
often through redevelopment, at the expense of public
coastal access.

3. No more houses allowed on public tidelands,
which violates constitutional law.

This is a statewide problem. San Diego, Mission
Bay Park, Naval Training Center, Long Beach Waterfront
Park, losses of Queensway Bay Project, and the
commercialization being pursued of San Francisco's
Treasure Island and Mare Island.

We need to stop this process. These are
treasures that we can't get back. And I'm asking you just
to follow the law. Keep these tidelands public. Keep the
uses as it's stated in the law. This is what made
California beautiful. It made it great. It made it not
only a place wonderful to live, but a destination for people -- visitors from other places. If we lose these lands and let them get commercialized like this, they will be gone forever and then we all lose, all of us.

So I'm asking you just to be strong and follow the law and don't let this happen.

And Mission Bay is another one of those places where the revenue generated there went into the city treasury for years and was not used in Mission Bay. We're finding now that it will be changed and that they will have to use it there, clean up some of this toxic waste and dumps, et cetera.

Thank you very much.

CHAIRPERSON BUSTAMANTE: Thank you.

I don't have any additional requests to speak. Paul, do you have any comments on any of the speakers?

EXECUTIVE OFFICER THAYER: Yes, I'd like to respond to some of these. We were not aware of all the issues that were going to be raised. Although we were aware of a couple people who were going to come up today.

Let me start by saying that with respect to the San Francisco group, the Public Trust Working Group, that as a staff we very much appreciate their involvement with public trust. As the commissioners know from the
testimony we received from other parts of the state, this is the only group we know of that's dedicated to working on public trust issues as public trust issues. And most of the members of this group are very knowledgeable about what the public trust is and like to see those principles implemented in the waterfront development that occurs around San Francisco Bay. So we very much appreciate their involvement, and we've worked with them on a variety of projects.

We also agree that it's important to establish good communications with these groups so that we understand their perspective on the subjects. And I think all of these people in one way or another we've worked with in the past and would like to continue to do so in the future.

I think they've made some suggestions here today that make a lot of sense in terms of improving what we've done so far. We can always improve. And a concept of doing a public trust workshop to discuss the principles of the Public Trust Doctrine is great. Blake Stevenson, one of our attorneys, went down to a luncheon the last couple months to do just that in Oakland. And others of our staff have been down to San Pedro to do the same thing with a citizens planning group down there.

CHAIRPERSON BUSTAMANTE: So were they aware of
the Lake Merritt issue?

EXECUTIVE OFFICER THAYER: I'm sorry?

CHAIRPERSON BUSTAMANTE: When they went down to Oakland, when they went over to Oakland --

EXECUTIVE OFFICER THAYER: I don't know if they were aware of that. But several others involving the port which are -- frankly, involve even more money. There's a potential that the port will have to pay the city $30 million for one piece of the bay's reuse plan. There's some discussions about Jack London Square and whether the uses there are appropriate. All of these issues are coming up in Oakland, and staff is involved with all of them.

CHAIRPERSON BUSTAMANTE: All right.

EXECUTIVE OFFICER THAYER: So there's been extensive work on this.

But, as I say, I think the idea of holding a workshop would be good in developing additional literature, taking some of the information that's available on our website and making that available. There's no one -- there's not one mechanism that will work best at communications. We need to look at the full range of them.

With respect to Treasure Island, we're kind of at early days on that project. We have met as a staff, both
with Ruth Gravanis and the developers. But the developers had asked to review our project before it was made public so that they could make any changes that might be necessary to help conform it with the Public Trust Doctrine. We were asked, but resisted, in fact passing any judgment on the project once it would have been revised.

The project is only now becoming public. It still awaits an EIR. It will go through the full CEQA treatment. There's numerous opportunities for public involvement at that stage. And we'll continue to work on it, and eventually will have to come to the Commission at a public meeting. But I'm sure we'll have discussions with the Public Trust Working Group about the issues involving Treasure Island.

With respect to the Naval Training Center, this was an item that had come to the Commission I think on several occasions. There was legislation that described the broad outlines of what the trust settlement would be there. And as a staff we stand behind what we brought to the Commission and what they approved.

We think it reflects the strength of our case, the strength of our public trust claim, which in some cases wasn't as strong as in some other places, and that the ultimate deal preserved for public trust use the lands
that are along the water there. It allows for uses such as hotels and other public trust uses in addition to just parks, but there also are some park areas around there. And we think we did appropriately there.

With respect to the Mission Bay Park, I'd like to get back to Ms. Valentine, as I would with the other people who spoke today, to go over their issues individually. But a number of the issues she's raised are the same that have been raised by other people down there.

Sea World, in fact, is largely not on public trust lands. The old dump that was I think on the southeast side of the Mission Bay area not public trust lands. So there's some -- the ownership pattern there is made uncertain because a lot of the area has been dredged out and filled. And where the public trust exists and doesn't exist is hard to determine just by looking on a map and where the water is. But I'll go over those issues -- or we'll go over those issues with her.

So I guess in conclusion what I'd like to say is that this is a great representation of the kinds of issues we're struggling day in and day out up and down the state, especially in urban areas, especially in port areas, in balancing community needs and preserving the Public Trust Doctrine to take care of the issues that were presented here today.
And I guess what I would propose to the
Commission is that we go back to each of the people who
tested today, work with -- work through the issues
they've raised. And I think we'll report back to the
Commission, either to the offices or perhaps to the
Commission, at the February meeting in San Francisco on
the more institutional things that were discussed today,
workshops, increasing educational efforts, and increasing
coordination.

CHAIRPERSON BUSTAMANTE: Okay. Any other
questions or comments from the Commission?

None?

I think that that ends the open meeting.

And we will close this part of the meeting. And
then we'll adjourn. And if people could please leave, we
are going to have a meeting in closed session.

Thank you all for attending.

(Thereupon the California State Lands
Commission meeting adjourned at
3:10 p.m.)
CERTIFICATE OF REPORTER

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of December, 2003.

JAMES F. PETERS, CSR, RPR
Certified Shorthand Reporter
License No. 10063