APPEARANCES

BOARD MEMBERS
Mr. Steve Westly, Chairperson
Mr. Cruz Bustamante
Ms. Donna Arduin, represented by
Mr. Fred Klass

STAFF
Mr. Paul Thayer, Executive Officer
Mr. Jack Rump, Chief Counsel
Mr. Curtis Fossum, Senior Staff Counsel

ALSO PRESENT
Mr. Alec Bash
Ms. AnneMarie Conroy, Treasure Island Development Agency
Mr. Peter Douglas, Executive Director, Coastal Commission
Mr. Steve Goschke, Morro Bay Powerplant
Ms. Ruth Gravanis, Public Trust Group, Treasure Island Wetlands Project
Mr. Alan Hager, Assistant Attorney General
Mr. Burr Heneman, Commonweal
Ms. Kimia Mizany, Save The Bay
Mr. Byron Rhett, Port of San Francisco
Ms. Nan Roth
APPEARANCES CONTINUED

ALSO PRESENT
Ms. Linda Sheehan, Ocean Conservancy
Mr. Paul Siri, Commonweal
Ms. Sandra Threlfall, Public Trust Group
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CHAIRPERSON WESTLY: I'd like to call this meeting of the State Lands Commission to order. All the representatives of the Commission are present.

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

I also want to say as someone who grew up in the San Francisco Bay Area, I'm delighted to be back here. I don't think we've ever had quite such a spectacular venue for a State Lands Commission meeting. And someone just said this may be the first time since '75 we've been in San Francisco. I just want you all to know we try to move these meetings around the state because we feel it's so important to get full public access.

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 those public properties.

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

COMMISSIONER BUSTAMANTE: So move.
ACTING COMMISSIONER KLASSE: Second.

CHAIRPERSON WESTLY: Great. The motion has been moved and seconded.

All in favor.

(Ayes.)

CHAIRPERSON WESTLY: The minutes are unanimously adopted.

Next order of business is the Executive Officer's report. Mr. Thayer promises me this will be controversial and noteworthy -- no.

(Laughter.)

CHAIRPERSON WESTLY: Exciting, riveting? What were the adjectives you used?

EXECUTIVE OFFICER THAYER: All of those.

CHAIRPERSON WESTLY: All of those. Okay.

Mr. Thayer, may we have your report.

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

My report is very brief today. I just wanted to bring the Commission up to date on progress we've made in responding to some citizens who'd come and visited with us at the last meeting during the public comment period from San Francisco.

There were several individuals that asked that we undertake some additional efforts to improve...
communications with members of the public that had an interest in the matters coming before us. And we've been in communication with the speakers and others from the Bay Area. We're looking at establishing -- or conducting a couple of workshops to explain public trust doctrine and to hear more about what people think of some of the public trust issues that are occurring in San Francisco. And of course once we do the work developing that, we expect to take that on the road and we'll do that in southern California as well.

We're not quite done with all the planning that's necessary for this. But I wanted to make sure the Commission understood that we've responded to the people who spoke and we think we're heading in a great direction.

The only other item I wanted to bring up, which is a little bit off the schedule, is there is a representative today here from the Port of San Francisco who wanted to welcome you to this facility. We're at their board meeting room. And if Byron -- with the permission of the Chair, if Byron Rhett could come up to the podium.

CHAIRPERSON WESTLY: Absolutely.

You know, as you're coming up let me just reiterate how important it is, I believe it is, to work closely with members of the public. You may be aware a
Republican legislator had a poor interaction with the State Lands Commission staff, and his response was to submit legislation calling for the removal of the Controller as a Board member.

Now, I'm not sure that will pass the logic test. But as you might imagine, that wasn't the best thing I could hear. So if you could continue to do what I think has generally been an excellent job of reaching out to the community and working in a collegial way, I'd appreciate that.

We're delighted to have you here.

MR RHETT: Those are my words.

Just wanted to say that we're delighted to have you here in San Francisco. We're really pleased that you've come here to enjoy this building and our facility. We appreciate you coming to the port. I wanted to say that on behalf of the Port Commission.

As you know, this building was built in 1898. It's been through a number of changes, not all for the better. We're really pleased with the present state of the building, this present restoration, and this great space that you are enjoying today.

And we wanted to thank you and your staff for the role you played in allowing this rehabilitation and the other improvements that we've made along the waterfront.
Our offices are now in Pier 1. You're staff obviously was part of those approvals that was a trigger for this building. We moved out, moved into Pier 1, and then were able to rehabilitate this building and we think open it up to the public and for these kinds of meetings. So we welcome you here.

We know you all have busy schedules. You may not have a chance to really tour the building or move through the building. What I have -- would like to do is to leave a copy of the Ferry Building historic book that we developed as part of the rehabilitation that Nancy Olmstead wrote. Maybe you'll have a chance to review that if you don't have a chance to go through the building. So I'll leave a copy for each of you with your staff.

And thank you again.

CHAIRPERSON WESTLY: Let me just say again, we're delighted to be here. Thank you for taking time to come out. And I think, you know, as I've often said, sensible environmental protection is a terrific economic development resource for every city. Clearly, you understand that here with the Port of San Francisco, and we're delighted to be here.

MR RHETT: Thank you.

CHAIRPERSON WESTLY: Mr. Thayer, anything else in your report?
EXECUTIVE OFFICER THAYER: No, that concludes the Executive Officer's report.

CHAIRPERSON WESTLY: Great.

The next order of business will be the adoption of the consent calendar. And I call on our Executive Officer, Mr. Thayer, to indicate which items have been removed from the consent calendar.

Mr. Thayer.

EXECUTIVE OFFICER THAYER: Mr. Chair, Items 7 and 43 will be removed and heard at a subsequent meeting.

CHAIRPERSON WESTLY: And might I ask the other Board members if they would like to remove any additional items.

COMMISSIONER BUSTAMANTE: I'd like to remove C 26 and put it on the regular calendar.

CHAIRPERSON WESTLY: And that's the Duke Energy issue?

COMMISSIONER BUSTAMANTE: Correct.

CHAIRPERSON WESTLY: Great.

Do I have a motion to remove these 3 items, 7, 26 and 43, from consent calendar?

COMMISSIONER BUSTAMANTE: And adopt the consent calendar after that.

So moved.

CHAIRPERSON WESTLY: Great.
Second?

ACTING COMMISSIONER KLASS: Second.

CHAIRPERSON WESTLY: All in favor.

(Ayes.)

CHAIRPERSON WESTLY: Great. That passes.

Next, Items 50 and 51 are the consideration of offers to dedicate access easements at Malibu.

I understand that legal action was filed in connection with these items just last Friday. And I'd like to have the -- ask for the staff presentation, as well as information on the lawsuit from Mr. Hager from the Attorney General's Office.

EXECUTIVE OFFICER THAYER: Mr. Chair, Curtis Fossum, who's an attorney with our staff, will give the initial presentation before Mr. Hager briefs you on the lawsuit.

CHAIRPERSON WESTLY: Great. Thank you, Mr. Thayer.

SENIOR STAFF COUNSEL FOSSUM: Good afternoon, Commissioners. My name is Curtis Fossum. I'm a Senior Staff Counsel for the Commission.

Items 50 and 51 were initially on your agenda for last October, and were removed at the request of one of the representatives of the property owners.

Since the adoption of the California constitution
in 1879, 125 years ago this year, access to California's public trust waterways has been a mandated responsibility of state government. The vast majority of the hundreds of title settlements this Commission has been involved in since its inception in 1938 have included provision of public access to the waterways involved.

Since 1976, the Coastal Commission has obtained more than 1,200 offers to dedicate public access easements, which I will hereafter refer to as OTDs. These OTDs are formally made and recorded by property owners as a condition of approval to develop within the coastal zone.

The OTDs are required to ensure protection of existing public rights of use or to mitigate or compensate for potential impacts to public access caused by development.

In most cases, the locations of the boundary between the privately-owned uplands and publicly-owned tidelands is unsettled.

Also, the public may have acquired rights of use through the Doctrine of Implied Dedication and have public recreational use in areas subject to the public easement in navigable waters. Therefore, these OTDs may include areas already having public rights of use or public ownership interests.
The State Lands Commission and staff for over 12 years have been reviewing and approving acceptances of these OTDs for public access of sandy beach areas lying adjacent to public tidelands managed by the Commission. These areas are not only appurtenant to the State Lands Commission existing area of ownership and jurisdiction, but are also for practical public use purposes very important to it.

The Lands Commission has already authorized the acceptance of 188 easements along the coast of California since 1991, the majority of which are located in the Malibu area.

At the Lands Commission October 2003 meeting Mr. John Bowman representing the Frank Trust and the Nathansons appeared and requested the Commission to further hearing, as I previously mentioned. He stated that he had not had a chance to review the formation related to the offers.

Commission staff had sent copies of all the OTDs on Broad Beach to Mr. Bowman over a month before the October Lands Commission meeting. We also sent copies of all previous acceptances of the OTDs by the State Lands Commission.

Throughout the fall, your staff attempted to obtain any pertinent information or concerns regarding the
two items from Mr. Bowman. In November, your staff sent a
letter formally requesting information in writing on any
concerns regarding the two items. And staff has not
received any information or comments from the
representative of the Frank Trust and the Nathansons until
Friday when we received the fax of the lawsuit.

A variety of letters we received from a Mr.
Marshall Grossman, a neighbor of the Nathansons and Frank
Trust Properties on Broad Beach, requesting that the
Commission -- State Lands Commission not accept the access
offers recorded by the Frank Trust and Nathansons in 2002.

In January, the Coastal Commission staff
responded, setting forth their position on the legally
binding effect of the recorded offers.

A copy of both of those letters, from the Coastal
Commission staff and Mr. Grossman, are attached as
exhibits to your calendar items.

Staff has reviewed the subject correspondence,
consulted with the Attorney General's Office, and
concluded that the two subject OTDs are valid and
compatible, complementary and cumulatively important to
the easements previously accepted by the Commission
involving 42 lots that cover nearly 40 percent of Broad
Beach, as depicted on the exhibits that you have as well
as the exhibit here that everybody can see.
In the purple are the easements that have already been accepted by the Commission. The two that are before you today are in the magenta, one here and one here.

In 1945 the county accepted easements to the beach as part of a subdivision that was approved. And so there has been public access out to the beach since the 1945 subdivision.

As previously stated, we received on Friday from Mr. Bowman's law firm on behalf of the Frank Trust, the Nathansons, and a number of other neighbors, a lawsuit filed against the Coastal Commission and the State Lands Commission as well as staff members of the respective agencies. This complaint alleges a violation of a number of federal and state laws and sought injunctive and declaratory relief.

Your staff and counsel from the Attorney General's Office have reviewed the information submitted by all interested parties related to the property shown on Exhibit B of Items 50 and 51, and we recommend your acceptance of these OTDs.

A representative from the Coastal Commission, Mr. Peter Douglas, the Executive Director, is going to make a short statement, I believe, and Mr. Hager from the Attorney General's Office. And your staff is prepared to answer any questions you may have.
CHAIRPERSON WESTLY: Great.

I'd love to ask Mr. Hager from the AG's Office to come forward. And then we'll certainly ask if other speakers would like to be heard on this issue.

Mr. Hager.

ASSISTANT ATTORNEY GENERAL HAGER: Good afternoon.

I've looked over the complaint. One little sort of technical comment, the copy we got wasn't verified. So I don't -- it just sort of ended before anybody signed it or the plaintiffs verified it.

Secondly, I think it's a little strange that, you know, the State Lands Commission got sued before it did anything. But this was filed on the 30th in Los Angeles Superior Court.

It seems to me -- and just to make a few comments about what I think it is. It seems to be intimidation. And in our view, that if you're of a mind to go ahead and accept these OTDs, I don't think the lawsuit should stop you at all.

They really are trying to address an issue that they should have addressed back when they were given their coastal permit. Under the Coastal Act, they have 60 days to file a petition for writ of mandate to challenge a permit action. They didn't do that. So under the statute
of limitations they have lost their right to do it.

They have also -- Peter would know the details of
this better than I, but I understand that they have either
completed or in the process of constructing the
developments for which they obtained the coastal permits.
So essentially they're trying to eat their cake and have
it too. They have obtained from the Coastal Commission
what the Coastal Commission's given, which is their
permit. But they do not want to comply with the
condition.

I think really what it boils down to is they're
there, which is -- Nolan says -- doesn't say you can't
have lateral access easements. Nolan says in order to
have one, you have to show a nexus between the development
and the condition.

And, again, they're saying, well, they didn't
have any -- that they were presented with, I think their
words were, a "Hobson's choice." No, they could have
taken the condition and sued. And that's what they didn't
do.

And, you know, defending these things, we might
say, is Coastal Commission Defense 101. It's -- you know,
they didn't -- they have -- the statute of limitations has
run and it's waived and I think it's pretty clear.

CHAIRPERSON WESTLY: Okay. Thank you, Mr. Hager.
What I'd like to do now is ask if there other speakers who would like to be heard on this issue. And then invite comments from the other Commissioners.

And Mr. Douglas.

MR. DOUGLAS: Yes.

Mr. Chair, Lieutenant Governor, Fred. Good to see you again. Thank you for having me.

Mr. Chair, I'm here also to welcome you to our Commission. I understand you're going to start sitting on the Coastal Commission once we start again next month -- or this month, I guess. Welcome to the Coastal Commission.

CHAIRPERSON WESTLY: Thank you. It's a case of be careful of what you wish for.

(Laughter.)

MR. DOUGLAS: It's a two-way street.

(Laughter.)

MR. DOUGLAS: We'll try to do our best to impress you with our good staff work, just as you have yours here.

And I want to begin by thanking you, because I don't have this opportunity very often to thank the Lands Commission and staff, for years of really excellent working relationship. We interact on so many issues along the coast, that it's been just a delight to work with your staff and the Commission over the years.
The fact that you have accepted so many of these offers to dedicate easements along the coast is really a tribute to our partnership and carrying out California's coastal management program. These last two OTDs that you have before you are very important because they will complete, those that are outstanding, lateral access easements that have been offered on Broad Beach. And they are adjacent to existing easements, so they will provide for a larger area for the public to be able to use the beach.

They're important because they provide -- they are a public asset. They are a public interest that needs to be ripened, and the public needs to know that they have a right to be on there. And that can't happen until you accept them.

I agree with Alan Hager about the lawsuit. I took a look at that this morning. It's clear to me that they're trying to raise issues and attack a process by the Commission that they should have done when the Commission -- when the permit was before the Commission. There have been literally almost over a dozen cases attacking easement offers long after the statute of limitations has run. We have prevailed in every one of those cases. This is just another one of those cases where they're coming in after the fact when they should
have objected earlier.

I also agree that this should in no way interfere with your ability to go ahead and accept these offers of easements. And when you do, then the public will be able to -- this summer be able to enjoy a larger area of the beach than what they can now enjoy. So I strongly urge you to accept these offers.

And I'm prepared to answer any questions you may have.

CHAIRPERSON WESTLY: Any questions from the Commissioners before we ask for the next?

Okay. Are there other members of the public who would like to come forward?

Okay. We had Paul Siri. Is that on this issue or perhaps on another one?

EXECUTIVE OFFICER THAYER: I think he's on a different issue, Mr. Chair.

CHAIRPERSON WESTLY: In that case, I'd love to ask the other Commissioners.

Mr. Bustamante.

COMMISSIONER BUSTAMANTE: Maybe you can give me some clarification, Paul or Peter, about the process. This access was negotiated with the property owners; is that correct?

MR. DOUGLAS: What happened was they applied for
a permit to build. And we indicated a number of things
that had to be submitted before the permit could be
considered complete. And one of them is a study of the
shoreline processes, the impact that potential sea level
rise may have on not only public access but where the
public lands are, might be.

They offered, in lieu of that study, to provide a
public access easement because their representative has
worked with the Coastal Commission and he knows how
important that is. And so they made an offer to provide
easement for public use.

If they had objected to the requirements that we
had for filing the permit, there's a process we have in
our regulations that allows them to challenge that before
the Commission. They didn't do that. And we then
incorporated into our permit these offers to dedicate
access easements. They were reported and became vested.
They took advantage of the permit. And the structures are
either complete or substantially completed now. So they
got the benefits of the permit. And this is the other
side of the public.

COMMISSIONER BUSTAMANTE: So this wasn't
something that in the permit process where there is six
point -- a font language that's inserted somewhere in the
back of a contract that is all of a sudden found out at
some date by the property owner who is now surprised that
the information is even in there?

    MR. DOUGLAS: No, this was clearly openly agreed
to. The Commission recognized it, applauded the applicant
for incorporating this into their project. And so there
was nothing unknown or somehow nefarious or --

    COMMISSIONER BUSTAMANTE: Was it done by
applicant directly or was it -- did they have a
representative or an attorney or --

    MR. DOUGLAS: They had a representative there
who's worked with the Coastal Commission. I know one of
the parties did. I haven't looked at the other one. But
this was done openly. And there was no argument over it.

    COMMISSIONER BUSTAMANTE: There was some kind of
a sign-off by the --

    MR. DOUGLAS: They -- it was included as a
condition because we then incorporated their proposal into
our permit. And before the permit was issued, the
applicant had to sign it, accepting all of the provisions
that were in the permit.

    COMMISSIONER BUSTAMANTE: And in the signature,
did that also include the information with regard to the
60-day statute of limitations?

    MR. DOUGLAS: I don't know the answer to that.
But the representative certainly knows that there is a
60-day statute of limitations if you object. But I think they would have also have had to tell us at the hearing that they objected to it. But there was no objection to it.

COMMISSIONER BUSTAMANTE: None was ever stated.

MR. DOUGLAS: None was stated, that's correct.

COMMISSIONER BUSTAMANTE: And have they started their expansion?

MR. DOUGLAS: The structures are either completed or substantially completed.

COMMISSIONER BUSTAMANTE: And what was it in Mr. Nathanson's situation? What was that expansion, do you recall?

MR. DOUGLAS: I don't recall. I've seen pictures of the Frank side, and it was a vacant lot. And whether they demolished a preexisting structure and then built a new one, I don't know.

COMMISSIONER BUSTAMANTE: Okay.

MR. DOUGLAS: But it was new development under the Coastal Act. And I believe it was the construction of a single family residence in both cases.

COMMISSIONER BUSTAMANTE: Okay.

CHAIRPERSON WESTLY: Any additional questions?

Comments?

At this point then, I would love to ask for a
motion.

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

   COMMISSIONER BUSTAMANTE: Second.

   CHAIRPERSON WESTLY: All in favor.

   (Ayes.)

   CHAIRPERSON WESTLY: Great. The motion carries by a 3-0 vote.

   That moves us to item 52 on the agenda, is that right, Mr. Thayer?

   EXECUTIVE OFFICER THAYER: Yes, Mr. Chair.

   CHAIRPERSON WESTLY: And this was something I've asked my staff to look into after my friend Leon Panetta, who, as many of you know, chairs the PEW Oceans Commission, brought an issue to our attention. In simple terms, once in place this new technology with -- comprised of a radar offshore, data-collecting buoys, and other new technology, would really be one of the best tools ever developed to assist scientists in developing a much greater understanding of the oceans. I think this will in turn enable policymakers to better protect the oceans' fragile ecosystems. And it's, frankly, just a huge step forward in a classic case where technology can help all of us to have a more environmentally sound world.

   With that, Mr. Thayer, would you please introduce
the presentation by our guests, Linda Sheehan and Burr Heneman, on the ocean observing systems.

EXECUTIVE OFFICER THAYER: Thank you, Mr. Chair.

There are two individuals here to make the presentation. I think Linda Sheehan couldn't make it today. But we -- oh, she's here. I'm sorry.

Linda Sheehan from the Ocean Conservancy. And we have two consultants to the State Coastal Conservancy, Paul Siri and Burr Heneman, who will also make part of the presentation.

MS. SHEEHAN: Thank you. I'm Linda Sheehan. I'm the Director of the Pacific Regional Office for the Ocean Conservancy here in San Francisco. And I also sit as a public member on the National Steering Committee for the Development of a National Ocean Observing System.

Ocean observing is something that we have not done very much of as a country. And this has become much more evident in the last year with the release of the PEW Oceans Commission report, highlighting a number of the problems that the oceans face, a number of issues that are very relevant to the State Lands Commission's mission. That report will be closely followed by the report of the Commission on Ocean Policy, a national commission developed under the Oceans Act several years ago.

What that report will rely heavily on are
recommendations for the development of a national system for ocean observing, with both a backbone of national observations on current and temperature that will be available to everybody and encouragement through significant federal dollars to states and regions for the development of ocean observing systems most relevant to their areas. The Gulf of Mexico may have very different interests and concerns, for example, than the coast of California.

Ocean observing and ocean-observing systems are often thought of as buoys and physical measurements of currents and temperature. And that is going to be the first phase of the national effort because that is relatively easy to do and the information is relevant to a lot of different issues. For example, currents can be very relevant to marine transportation. They can also help track pollution. They can also help track where phytoplankton may be so that you're making sure that you're doing salmon restoration efforts at the right time. So those types of physical parameters are very relevant to a number of different activities of the Commission as well as other agencies.

But, in addition, this effort over time will certainly encompass chemical issues, such as other types of pollution releases and oil spills; and biological
parameters, such as tracking bacteria or harmful algal
blooms or other issues that are very important, trying to
integrate them together into a whole.

I think that California sits right now at a real
fork in the road with respect to ocean-observing systems.
We have a couple of things that are serendipitously
happening at the same time.

At the federal level we have, as I said, the
release of the draft Ocean Commission report. That's
going to be coming out within the next month or two. And
the governors of each state will have -- only will have an
opportunity to comment on this report. That will be a
very important opportunity for State Lands Commission to
make sure that its interests and the interests of the
public whose land the State Lands Commission represents
are represented well in terms of ocean-observing
requirements and ocean-observing needs in this report.
Because it will be such a big factor in this report -- and
a table of contents is included in your folder that I've
put before you -- I think that is something that the State
Lands Commission should consider weighing in on.

There's another effort at the federal level
availed by Senator Snowe of Maine, S1400, that could be a
vehicle for moving forward this recommendation. And it
cleared the Senate very easily and is now in the House;
and, again, authorizing the appropriation of hundreds of millions of dollars in new monies every year. And if California is set up properly in a way that federal agencies are looking for in terms of ocean-observing systems, we could be in very good position to collect federal monies for our new program.

And, fortunately for us, in this case, what the federal agencies are looking for in terms of California's program is good for California. And as a member of the Steering Committee, I can tell you all the other Steering Committee members are scientists at universities, for the most part. A couple management agencies. But they're all scientists. I was brought on board to represent the public.

And they are extremely interested in making sure that the public and the management agencies, particularly at the State level, have access to this data and can use this data, that it's not just tied up in research in a way that the public can't access it.

The Gulf of Maine has a fairly new program where fishermen click on buoys, individual buoys, on line and they see what the current's like, what the situation is out there. And it's significant in terms of preventing accidents off shore. There are ways to make this information really accessible to the public.
want it. And California is in a position to do it. Last year allocations from the various bond measures in a total of $21 million were put together through the State Coastal Conservancy to go out to develop this new state program.

There's a little bit of a void though in terms of how these monies are managed, because to date the public and the management agencies have not had a significant voice in how this program is developed. And there's a real chance for some leadership on the part of the Commission and/or other agencies to develop an integrated effort, a coordinated effort at the state level that will maximize the use of these funds to make sure that your needs are addressed and that, importantly, the public needs are addressed.

Because I'm worried about that. And I want to make sure that we're involved in this process and that our bond monies are used most effectively, not only for now, but also for future bond funds, which I'm happy to support, and also for the federal funds that are certainly going to come down the line. This is a very significant part of the new report that's going to be coming out.

So I would urge you -- I've got all kinds of things that I'd love to talk with you and your staff about off line. If you have additional questions, that would be wonderful.
I would like to introduce Burr Heneman and Paul Siri with Commonweal, who can tell you more about the specifics of the different programs that are starting to move forward in California and show a video of some of the applications of these types of systems.

Thank you.

CHAIRPERSON WESTLY: Great.

Let me just remind the public and the other Commissioners, this is not a voting item. It's purely informational. But while you're here, before you step down, let me ask either of the other Commissioners if they have a question.

Can I ask just quickly. You mentioned we, in the U.S., don't know nearly as much about oceans or our coastlines as we should. Are there other countries that are substantially ahead of us or viewed as world leaders? Has Japan or Scandinavian countries set a --

MS. SHEEHAN: Not to my knowledge. Because it's the ocean, it tends to be looked at last. You know, you tend to look in your own backyard literally first, without realizing the significance of the oceans on what you do.

There have been some international efforts that have been moving forward. The TRITON Array, which predicted the last El Nino, is something that's moving forward on an international basis. But, you know, there
is a lot of room for improvement here in the U.S.

CHAIRPERSON WESTLY: Great. Thank you very much for being with us.

MS. SHEEHAN: Thank you.

CHAIRPERSON WESTLY: And, Mr. Thayer, do you want to introduce the other speakers.

EXECUTIVE OFFICER THAYER: The other two speakers are Burr Heneman and Paul Siri, both of whom are acting as consultants to the State Coastal Conservancy, which is the agency that I believe will provide a lot of the funding for this eventual program.

Burr.

MR. HENEMAN: Thanks, Paul.

My name's Burr Heneman. Thank you, Mr. Chairman, Commissioners.

My colleague, Paul Siri, and I, as Paul Thayer mentioned, are consultants to the Coastal Conservancy. That's the lead agency on the project that's front and center for California.

And this is really a fortuitous coming together of events, what the State has done in investing -- it's beginning to invest in this program, and what -- at a time when the federal government also appears to be about to do the same thing.

Two major concerns for Paul and me in helping the
Coastal Conservancy, and front and center for the Conservancy, is that the program that the State invests in with this Prop 40 and Prop 50 funding is something that really benefits end-users. And that's the agencies, the management agencies who are managing coastal and ocean resources; and the industries that would -- could benefit from this, the maritime industry, ports, fisheries and so on.

As Linda mentioned, the first initiative at the federal level is quite coincidentally the first one at the state level, both the same, surface currents monitoring.

So the second major priority for the Conservancy and that Paul and I are working with them on is to make sure the system that California develops not only is benefiting users in California, the agencies and industries and whatnot, but also is positioning California well to take it -- to be in line for federal support on this, which seems likely to be forthcoming. The administration is interested in this. The President's Commission on Ocean Policy is hitting this quite strongly in the report that they have coming out.

Where things are at this point, very briefly, is that the Conservancy put out a request for proposals last year, two consortia formed and have been selected that we're working with now to develop detailed proposals. The
two consortia, one northern and one southern California, include virtually all the major marine science institutions in the state: Five UC campuses, several California State University campuses, jet propulsion lab, Monterey Bay Aquarium Research Institute, Naval Post-Graduate School and so on.

The first program that I mentioned was going to be surface currents monitoring. One of the technologies and one of the main ones that can help us with that is something called high-frequency radar. We're not going to go into a lot of detail about that. But Paul Siri is going to show you a brief demonstration of one example of how this technology can be useful for management interests and ocean management interests in California in regard particularly in this example to oil spill.

CHAIRPERSON WESTLY: Great.

MR. SIRI: Mr. Chair and other Commission members, my name is Paul Siri and I represent Commonweal Ocean Policy Program.

And as Burr and Linda introduced, what we're talking about here is a rather sweeping initiative that is both regional, statewide, international to develop new tools and implement them for a new understanding of coastal oceans and the pelagic oceans.

And without any hyperbole whatsoever, let me just
say this is probably the most sweeping change, the society's ability to understand and manage the coastal ocean, in the history of civilization, without any hyperbole.

Can we start with this?

(Thereupon an overhead presentation was Presented as follows.)

MR. SIRI: What I'm going to show you is a two-dimensional moving map of Monterey Bay, July 4th, 1999. There's a lot of arrows that appear. These are vectors showing the direction of the surface currents. So what you're looking at is a simulation of data. This can be oil. It can be plankton. It can be whatever you like. If you take a look at the bottom two graphs down here, you're taking a look at the fate and destination of these particles. And you can see that it is not a simple matter.

I remember when the Puerto Rican oil spill happened outside the Golden Gate. The current wisdom was that everything was going to go south. It ended up up in Sonoma County. And that is basically our understanding of water movement.

This technology that we're talking about would encompass the entire coastline of the United States. California is in the lead, as Burr and Linda mentioned.
And it is truly an important step forward for California to manage its coastal oceans and its estuaries to reduce conflict in every issue with regards to living marine resources, pollution management, and a whole inventory of other issues, from homeland security, search and rescue, and the like.

Can I answer any questions?

CHAIRPERSON WESTLY: This has been terrific so far.

COMMISSIONER BUSTAMANTE: I'm just fascinated with the graphics so far. It's amazing.

MR. SIRI: What you're looking at is three different -- the information coming from three different pair of antennae, one here in Santa Cruz, one over here near Elk Horn Slough, and one here at Point Pinos. And what they are are a pair of transmission and receiving antennae of low frequency signals, more akin to AM radio at 55 watts than radar, without any possible risk to human or marine wildlife whatsoever.

This technology has been tried all over the world. There are four X stand systems in California. We're talking about expanding those nodes, linking them together, and moving some of these in different resolutions into estuaries for specific end-user requirements.
And I know we've taken a bit of your time. But I can't emphasize how important this is and what a sweeping consensus with regards to industry NGO's and government that this represents.

CHAIRPERSON WESTLY: Great.

Questions, please.

ACTING COMMISSIONER KLASS: Was this a simulated oil spill?

MR. SIRI: Yes. What you're looking at is actual surface data from a few days in July 1999, putting in a simulated release of particles here. And the actual number of particles is described down here. So this is real data, with simulation of where this blob material would be.

ACTING COMMISSIONER KLASS: My question is: Have you had actual situations where you were able to compare the simulation to what really happened in any --

MR. SIRI: There's been a number of studies actually comparing the actual data with other kinds of information where simulations were validated by other kinds of measurements. And this kind of technology is absolutely precise.

CHAIRPERSON WESTLY: Great.

Others questions from the Commissioners?

Let me just say: First, I'm tremendously
impressed with what you're doing.

Second, if you ever need help fine tuning the high-frequency systems, please let the Lieutenant Governor or me know. We'd be happy to --

(Laughter.)

CHAIRPERSON WESTLY: You know, on a serious note --

MR. SIRI: You two could be responsible for inventing this technology.

CHAIRPERSON WESTLY: I think at a global level most of us get that the world population is going up dramatically. Much of the world's food comes from the ocean. What part doesn't is dramatically affected by the weather that the oceans impact. I'd love to hear a little bit more about how this information will be transferred to organizations that it would help, the U.S. Congress, other groups that I think need to hear more about what's going on.

MR. SIRI: You want to hear that now?

CHAIRPERSON WESTLY: Could you give me the very short --

MR. SIRI: Absolutely.

You brought up a very good point, Mr. Westly. And, that is, this information will be provided to a large number of clients. And with regards to issues of food
security, it's not just isolated with regards to living marine resources. I think one of most compelling issues for California is global climate change and the management of our limited water resources.

Some of the other data that this system will provide is into the National Weather Service, where we can fine tune the kinds of information the National Weather Service uses that our water agencies are dependent upon for understanding the management of the -- say, the snowpack in the Sierra or the coastal water resources. So this kind of information will assist us not only in managing our living marine resources, but assisting us in all aspects of agriculture and water management.

And global climate change is telling us that the snowpack in the Sierra will become more fragile, it will -- the snowpack will be lessened, it will melt sooner. So our ability, as a growing population in terms of managing our water resources, is going to be depending on better information being fed in from the National Weather Service.

And the biggest data gap we have in California, with regards to weather prediction, is the fact that most of our weather is driven, is forced by the eastern Pacific, and we have the least amount of data coming into the National Weather Service from that part of the world.
This system is going to assist in providing that precision.

CHAIRPERSON WESTLY: Great. Well, thank you very much.

MR. SIRI: Thank you.

CHAIRPERSON WESTLY: Any other comments from the other Commissioners?

Is there anyone else from the public who would like to speak on this issue?

Okay. Again, this is purely an informational issue. There's no vote required.

What I'd like to do then is, per the Lieutenant Governor's request, move to item 26. It was removed from the consent calendar. This is Duke Energy.

And, Mr. Thayer, would you or the staff be prepared to say a word or two by way of background?

EXECUTIVE OFFICER THAYER: Certainly. I think I'd like to give just a quick overview on the subject matter. And then perhaps the Lieutenant Governor will indicate his concern on this.

The project -- or the facility which is the subject of the lease proposed here is an offshore marine terminal. It was constructed in the early fifties to serve a new powerplant in Morro Bay which was oil-fired at that time. And what would happen is that -- that facility
consisted of a pipeline and a mooring buoy. Tankers would come to Morro Bay, tie up to the buoy, and then transfer the oil ashore using that pipeline.

In the mid-nineties -- but the powerplant was converted to a gas-fired powerplant and didn't need the marine terminal anymore, the pipeline to bring in the oil. At that time, it was put into a caretaker status. The pipeline was flushed out with water so it's clean. And during this time staff -- our Marine Facilities Division would inspect the pipeline annually to make sure it wasn't going to create any problems.

The lease for that pipeline is now expired -- or has expired as of this last year. And rather than remove it, the Duke Energy would like to obtain a new permit -- excuse me -- a new lease from the Commission for a five-year period during which it would look for alternative uses. And the one that I hear about most is potentially to use it as a conduit to bring ashore new fiber optic cables.

The rent on it is about $14,000 a year. And staff is recommending approval.

CHAIRPERSON WESTLY: Great.

Other Commissioners?

Mr. Bustamante, would you like to comment on this?
COMMISSIONER BUSTAMANTE: Sure.

Much like what we heard earlier with respect to the permitting process, there was a negotiation that took place. In that negotiation it indicated that once the use of the facilities were terminated, at that point, you return the condition of the public lands back to its original state. It is something that we do on virtually every project.

In the process of that, we have learned that sometimes a removal, sometimes you're unable to do that because of the damage that might ensue. And so one of the concerns that I have here is: In fact, returning it back to its original state, can we do that?

They're asking for a five-year extension on this lease. And yet we're not sure what's going to take place. Even though they're looking for options, they're looking for an opportunity to be able to use this pipeline, I'm concerned that, first of all, we should be moving in the direction of trying to restore the ocean and the coastal areas and the public lands back to its original state. This lease, they're suggesting, may have some other kind of utility. Since we're not familiar at this point of what it would take to remove it, we can't move forward in one way or the other except to say take it out or extend it.
I think that there's something that's in between that. I think that they're suggesting -- and there may be -- some value in having it remain in its current place. Don't know for sure. But I'd like to lessen the lease term from the five years to two years.

In addition to doing that, requiring them to begin the process of evaluating whether or not it does have any kind of commercial value; or, second, what would be the conditions under which we would be able to review all of the environmental concerns? So that in a two-year period it would come back before this group in order to be able to determine, at that point, whether we should move forward with additional time for commercial use, for a longer lease period, or to begin the process of taking out the facility, as they originally agreed to do.

So I would make a motion that we amend the staff report to include a lease term of two years instead of five, and also ask staff to engage in beginning the environmental review of this process while they're making -- while Duke is making assessment as to commercial viability.

CHAIRPERSON WESTLY: Just a quick point of information before we go ahead and vote on the Lieutenant Governor's motion.

Mr. Thayer, is this something you're comfortable
with? Do you have anything you'd like to add before we consider a vote on this?

EXECUTIVE OFFICER THAYER: No, I think this can work. I think on the natural, it's not clear at this point what CEQA would require in the way of environmental review. But from talking with our staff, it would either be a mitigated negative declaration or an EIR.

The timeline to prepare an EIR in time so that it would be available to the Commission at the expiration of the two-year lease would be such that they would have to start work on that probably about six months from now to do the initial study. And then that would cause the document to be completed in a timely fashion for the Commission to consider it.

CHAIRPERSON WESTLY: And, Lieutenant Governor, are you comfortable with that?

COMMISSIONER BUSTAMANTE: Yes. I mean they're looking not to take the facilities out. I'm interested in restoring it. The concern that I have is that are we able -- since they want to maintain it, they want to use it for commercial value, they feel that there is some commercial value possibly, maybe available, what does the public lands receive in return, what do the public trust receive in return?

And so what we're trying to do is that we're
trying to make an assessment here. Either we return it 
back to its original state since the lease is now up. Or 
does the public trust benefit more by allowing the 
facility to remain and use it for some commercial value?

CHAIRPERSON WESTLY: And I'm supportive of the 
motion. I just want to make sure we're all clear on the 
wording of this.

Mr. Thayer, are you clear on that?

EXECUTIVE OFFICER THAYER: Yes. Although, I 
would ask one other question just for informational 
purposes, that -- when I was in contact with the 
Lieutenant Governor's Office about that, there was a third 
condition at least that they were considering at the time, 
it had to do with the market rate for charging fiber optic 
cables that might use that facility, to ensure that if 
that happened, the State would be adequately reimbursed 
for use of its lands.

COMMISSIONER BUSTAMANTE: Yes. And absolutely 
we'd like to have that as part of the motion. And maybe 
you can explain in a little bit better detail what that 
means to the members of the Commission that we had that -- 
that conversation.

CHAIRPERSON WESTLY: Mr. Thayer, just for the 
record, maybe you can restate the motion, being sure to 
delineate all three of these points. And then we'll go
ahead and take the vote.

EXECUTIVE OFFICER THAYER: Sure. As I understand it, the Lieutenant Governor's amendments to the staff recommendation would shorten the proposed lease from five years to two years, require that the environmental review necessary for removal -- or determination by the Commission as to what to do with the physical improvements would be completed -- begun and completed in time so that it would be available at the end of the two-year lease. And that should any reuse of the pipeline be proposed by Duke, such as for a fiber optic cable, that the Commission charge market-rate rent for use of those facilities, charge Duke that much.

COMMISSIONER BUSTAMANTE: Which would be similar to what we do in other situations, right?

EXECUTIVE OFFICER THAYER: Yes.

So that's my understanding of his proposal. I could explain that latter point as he requested.

CHAIRPERSON WESTLY: Great.

Forgive me, Commissioner Bustamante. It's come to my attention there's actually one member of the public that would like to comment on this. So if you would accept that, we have Mr. Steve Goschke who'd like to say a word or two on this issue. I think that's only fair to
hear before we proceed with the vote.

And, Mr. Goschke, you are with the Morro Bay Powerplant?

MR. GOSCHKE: That's correct.

CHAIRPERSON WESTLY: Great.

MR. GOSCHKE: Good afternoon, Commissioners. My name is Steve Goschke. I'm the plant manager of the Morro Bay Powerplant; been plant manager since 1997. And I've had the opportunity to caretake that pipeline over the years that I've worked at that facility.

I guess the only -- you know, we have discussed in the past perhaps commercializing that pipeline through fiber optics. But, you know, every time we talk about it, there's really nobody that wants to do that. And it's really not our business. We're in the business of making electricity.

And so the other aspect I'd like to say -- I don't mind that being a condition. That's a very fair condition. The other one has to do with shortening the time period from five years to two years.

Our motivation for taking -- for asking for five years in our application had to do with the fact that we're also in a CEC process to modernize our whole facility. We were hoping that, you know, the ultimate -- whatever we decided to do with this pipeline could kind of
be done in conjunction with whatever we end up doing with modernizing the powerplant and trying to minimize the impact to the community by optimizing those two projects. So I might request that something longer than two years might make that easier to happen. But that was just what we were thinking as we were putting the application together.

I'll be glad to answer any other questions that I might be able to answer for you.

COMMISSIONER BUSTAMANTE: Mr. Chairman?

CHAIRPERSON WESTLY: Please.

COMMISSIONER BUSTAMANTE: My only concern is that since we have a long history on this Board of being able to look at this particular facility and the process, that we would have an opportunity to be able to make sure within the next two years. Because I think two years, frankly, to make some kind of determination is sufficient. Secondly, in -- as you've said, you don't really have anybody in any industry. You floated it several times. There's been no takers. So we really don't know if this has any commercial value at all or not. And the way I see it is having a five-year contract or a three-year lease just extends it that much longer before we actually start doing the work that would be necessary to do.
And so I'm okay with extending the lease for a
couple of years, I'm okay with your being able to make
those kinds of commercial assessments if they're available
to you. But I don't want to lose 2, 3, 4, 5 years before
starting to resolve this issue environmentally if that's
where we're going.

So that's the reason for the two-year lease
and --

MR. GOSCHKE: Okay.

COMMISSIONER BUSTAMANTE: I would not be
supportive of going any further than two years.

MR. GOSCHKE: Okay. I just wanted to get up and
give you my -- some background on the motivation of why we
asked for five years.

Thank you very much.

COMMISSIONER BUSTAMANTE: Sure.

CHAIRPERSON WESTLY: Great. Thank you very much,
Mr. Goschke.

We now have a motion on the table from the
Lieutenant Governor.

May I ask for a second.

ACTING COMMISSIONER KLASS: I'll second the
motion.

CHAIRPERSON WESTLY: Great.

All in favor please say aye.
(Ayes.)

CHAIRPERSON WESTLY: Okay. The vote passes by a 3-0 margin.

With that, I'd like to say that concludes the regular calendar.

There are some speakers here, who I think wish to -- would like to address the Commission during the public comment period. And I'd love to start out with Sandra Threlfall from the San Francisco Ferry Building.

And just so you won't be surprised, Kimia Mizany also from the Ferry Building next. And Ruth Gravanis would be behind that.

Ms. Threlfall, forgive me for not pronouncing your name correctly.

MS. THRELFA LL: You're doing very well. Thank you.

My name is Sandra Threlfall. And I'm not with the Ferry Building. But I'm very pleased to be here. And I'm with Waterfront Action --

CHAIRPERSON WESTLY: Got it. Forgive me.

MS. THRELFA LL: -- which is a nonprofit organization that advocates for public access and community involvement with the shoreline.

And I'm speaking today to say, from our meeting which was probably two months ago now where we brought up
some issues that were occurring in Oakland, we have really
been very well assisted by your staff once again. And so
I guess this is my opportunity to say thank you very much
for the support that you give, an incredible staff that
really should be twice the size.

The public trust is this fragile thing that very
few people know about. And the fact we're able to move
forward with the concept of workshops and public education
about possible trades. In the Bay Area when you're
talking about nine military bases closing, you're talking
about a lot of land that falls under to the most part the
public trust. So when those trades take place, we want to
make sure that the public has the opportunity to be aware.

Thank you again.

CHAIRPERSON WESTLY: Great. Thank you very much.

And regarding the staff size, please show those concerns
with your friends in the Legislature.

Any questions there?
If not, Kimia Mizany of Save The Bay.

MS. MIZANY: Good afternoon, Mr. Chairman,
Commissioners. Thank you very much. My name Kimia
Mizany. I am with Save The Bay. Thank you very much for
allowing me to speak today.

Save The Bay has worked for more than 40 years to
protect the Bay Area's quality of life and economy by
fighting for a healthy and vibrant bay, which the whole
community can enjoy. We work to prevent sprawl and
pollution, so that everyone can celebrate a healthy and
vibrant San Francisco Bay.

And so the Bay has been very involved and
invested in major efforts over the years to shape both the
general plans and particular projects in the City of San
Francisco and throughout the Bay and to reconnect the
public with the Bay and ensure that there is maximum
feasible public access.

In that regard, I hope that Lieutenant Governor
Bustamante has shared with you his enthusiasm for a
wonderful project taking shape at Fisherman's Wharf, which
is the Bay Center, at Pier 45. Save The Bay is working
with a broad coalition of fishermen, local merchants,
educators, and several other environmental organizations
and the State Coastal Conservancy to ensure that at one of
the most popular -- actually the most popular tourist
attraction in San Francisco folks going there can enjoy,
learn about the Bay, and have fun while they're doing it.

We also appreciate the consideration which the
State Lands Commission has reviewed plans to develop Piers
27-31, the Port of San Francisco. And we consider that to
be a work in progress. We are big fans of the State Lands
Commission and have tried to work very closely with both
you and your staff to protect the public trust lands and in your jurisdiction here.

Paul Thayer and his staff have been extremely courteous to us and open to our views and have really shown a strong commitment to enforcing the laws of the State of California.

We want to congratulate you, Mr. Chairman, your new responsibilities, and look forward to working with you in the same capacity and productiveness as we had with the former chairman, Mr. Bustamante.

Thank you very much.

COMMISSIONER BUSTAMANTE: Thank you.

CHAIRPERSON WESTLY: Great. Thank you.

Well, Mr. Thayer, score another one for the staff. Well done.

(Laughter.)

CHAIRPERSON WESTLY: I'd like to ask Ruth Gravanis to come up. And could you please say who you're with as well.

MS. GRAVANIS: Yes. I'm Ruth Gravanis. And I'm with too many organizations to name, but for the moment I'll be with the Public Trust Group. And good afternoon, and it's a real pleasure that you're here in San Francisco. It's a little tricky for us to get to Eureka or San Diego. And very, very much appreciate your holding
the meeting here today.

I was one of the Public Trust Group members who spoke at your last meeting in Sacramento. And at the risk of being somewhat redundant, I, too, want to express my appreciation for the prompt follow-up from staff to the idea of holding public workshops to help educate the public about what the public trust is, and hopefully also to get feedback about what some of the local public trust issues are that need to be addressed. So the Public Trust Group members are very eager to work in cooperation with staff to help those workshops be as useful as possible. And we look forward to coming back and reporting to you at a future meeting on how those things went.

I can't pass up the opportunity, given where you're sitting at this moment with this fantastic view of Treasure and Yerba Buena Islands, to call to your attention an item that isn't going to be before you officially as a commission for quite a long time yet.

But there is right now, we understand, legislation in the works to create -- to enable a public trust exchange that would lift maybe 70 or 80 acres of the public trust from Treasure Island, which, as you can see, is all fill and therefore all subject to the Tidelands Trust Act, and to impress it on Yerba Buena Island.

Our organization has no objection to having such
an exchange take place, and we support the idea of
creating new housing, which is what that trust exchange
would allow. But we do have some concerns about the
process.

The enabling legislation would be based on a
draft land-use plan that has not undergone due public
process here in San Francisco. And we hope that you will
find ways to make it known when that exchange does come
before you a year or so from now, that you will be wanting
to know that the citizens of San Francisco had an
opportunity to comment on the proposed land-use plan upon
which that enabling legislation will be based.

One thing that is so easy to point out from
here -- it's really great not to have to bring a
PowerPoint presentation, because you can just look out the
window. One of the things that we are concerned about
with regard to that draft land-use plan is that it calls
for the ferries that will be leaving the Ferry Building
here to go all the way around the northern end of Treasure
Island and then down the eastern side to a ferry terminal
location on the southeast corner of the island. And what
would seem to be much more logical to us is if the ferries
could go straight across to a ferry dock of some kind on
the western side.

There's a study in the works of the pros and cons
of those two locations. It has not been peer reviewed. It has really received very, very little discussion, and we hate to see a public trust exchange go forward based on a land-use plan based on a ferry terminal location that has really not been adequately reviewed.

Thank you.

CHAIRPERSON WESTLY: Great. Thank you.

Mr. Thayer, do you want to comment just briefly on that?

EXECUTIVE OFFICER THAYER: Certainly.

As Ms. Gravanis indicates, this is a work in progress. And staff has been in communication both with the citizens groups as well as TIDA, the Treasure Island Development Agency, which is the governmental agency involved with redevelopment in Treasure Island, and then as well with the developer. And the developer and TIDA have asked for our input in terms of how this project needs to be shaped up so that it will respect the Public Trust Doctrine, which governs what we all do.

There is actually -- I think the head of TIDA is here, if you want to hear more from her.

But the next few steps on this is there are going to be a series of additional public hearings, there's likely to be legislation. In most cases in San Francisco Bay, exchanges that are this large end up being the
subject of legislation, which we advise the author of the legislation on to ensure two things: And one is that whatever's being proposed is consistent with the Public Trust Doctrine; and the second thing is that ultimately the exchange come back to the Commission so that the Commission can decide whether it's appropriate or not.

And so with that goal in mind, we expect the planning of the process to continue. As Ms. Gravanis indicates, there are several aspects of this project that haven't yet been fully developed and are likely to undergo additional change. There is likely to be legislation, and then ultimately it will be back before the Commission at a public hearing where you'll have the opportunity to hear from Ms. Gravanis as well as other interested parties before making a final decision.

CHAIRPERSON WESTLY: Thank you, Mr. Thayer.

I think we have two other members of the public who would like to speak. I'd like to ask Alec Bash, representing himself, to come forward. And Nan Roth, if you could be prepared to come after that.

Mr. Bash.

MR. BASH: Thank you very much, Mr. Chair and members of the Commission. I'm Alec Bash. I've been a planner in San Francisco many years. I've been active nationally. I am presently serving on the Port's
Northeast Waterfront Advisory Group, although I'm not here on behalf of that group. I am here speaking for myself.

Like others, I want to thank you very much for the opportunity to be here before you in San Francisco and to praise the staff with whom I also have had many excellent dealings in the past when I have worked as a member of the public sector here in San Francisco. I am presently retired.

We appreciate all the work that the State Lands Commission and sister agencies with the state, the State Attorney General's Office, the Bay Conservation Development Commission have done in working with the City and the Port to create a healthy and vibrant waterfront, one that is getting more so every day.

It still has a ways to go. I'm sure you'll all recognize that as we look at Fisherman's Wharf, this building we're in now, Ferry Building, Pacific Bell Park, the public open spaces and plazas and public access along the waterfront, it has come a long way since those years when it was blocked off by the Embarcadero Freeway.

We are the beneficiaries here of several adopted plans created through much citizen input: BCDC's special area plan for the northeast waterfront, the City and County of San Francisco's waterfront land-use plan -- sorry -- northern waterfront plan, the Port's waterfront
land-use plan. Sometimes it's hard to keep all of the
different plans and their respective agencies straight.

But in addition to that, we have a historic
district pending on the waterfront. We have a best
collection of historic piers in this country that evoke
back to a period of when this was how maritime worked.
And nowhere else in the country can see it in quite the
original form that we have here in San Francisco.

The traditional non-maritime uses that we see in
the northeastern waterfront now have all -- inasmuch as
maritime has moved to the south in San Francisco for the
most part, albeit for a few traditional maritime
activities still underway, harbor pilots and so forth. We
have restaurants, hotels, retail, public access, plazas,
which are wonderful for people who are eating, sleeping,
browsing, walking along the waterfront, enjoying the bay.

I know you've been increasingly giving
consideration along with your staff to active recreational
uses on the waterfront as well. And it is to those active
recreational uses that I want to speak now. We believe
it's very important to have as broad a range of public
trust consistent activities on the waterfront as possible,
and believe that just as eating and sleeping and browsing
are a part of people's experience, that people also come
to the waterfront to recreate themselves, to enjoy
recreation, some people more actively than others.

I'm not as much of an active recreation advocate as I was. I played basketball and volleyball and all those other things. But there are still many people who, when they come to the waterfront, will enjoy the opportunity to browse in a variety of different types of athletic activities as well as the passive viewing of the bay.

Now, these should be activities that are enhanced by their location on the waterfront, but they still at times may go beyond what one has traditionally thought of. And I just wanted to urge you in considering what may be best for San Francisco to look at it from the perspective of what visitors to the City might be expecting if they were to have no experience of San Francisco. Purchase guide books. They would find out about Fisherman's Wharf, the Ferry Building, and Pac Bell Park. We would like them to think about recreation on the waterfront, perhaps at Pier 27-31, perhaps at other locations, but a variety of things that will work to make this a place that all visitors to the City will want to enjoy and will keep coming back to.

Thank you for your time and the opportunity to be here.

CHAIRPERSON WESTLY: Thank you, Mr. Bash.
Ms. Roth.

MS. ROTH: My name is Nan Roth. I've been a long-time, 40-year resident of Telegraph Hill. And during that period of time, since about the mid-eighties, have served on a number of different waterfront committees, beginning with the special committee formed back in the mid-eighties to do a special area plan for Fisherman's Wharf, which was never completed, but hopefully is going to be brought back to the table in the next few months.

I served on the group that put together the waterfront plan for the Port of San Francisco. I'm currently serving on the Northeast Waterfront Advisory Group, which Alec mentioned, as well as the Fisherman's Wharf Advisory Group.

But I appear before you today as a private citizen, but somebody who has been long active on the waterfront and is very concerned about it.

And in my period of time working on the waterfront plan, one of the things that concerned me very deeply was what appeared to me, as a citizen activist, an overemphasis on commercial development of the waterfront. And I look upon -- and I should say, I'm here to reinforce what Alec said. Pier 27-31 is our one big opportunity to have a truly public benefit, and that being recreation.

Like Alec, I look -- we're a city -- we probably
have more restaurants per capita -- I think we do, indeed -- than any other city in the country. We as people who live here have no use for hotels for the most part, although our friends do when they come to visit. The shopping, generally available on the waterfront, is more tourist oriented than it is locally oriented. And so it's very difficult for us to understand that in reviewing the uses for Pier 27-31, that more retail and more office space is viewed as a greater public benefit than rather a broader interpretation of recreational uses.

I support the public trust. I've always been very concerned that we continue to honor the public trust. Yet I see there's a discrepancy -- I mean there's a difference in the way that it's interpreted from state to state. And California seems to be the most restrictive.

And if I may use as an example, a rather exaggerated example, when they were first putting together the RFP for this Pier 27-31 project, everybody had in mind a big recreation project in New York called Chelsea Piers. And it's hard for us to see how Chelsea Piers on trust lands -- public trust lands in New York can be found to be public trust compliant whereas the recreational uses proposed for Pier 27-31 are not.

And I realize, I understand there's a state constitution involved here and a lot of other things. But
what I'm asking you to do is to do what you can to help us. And indeed if legislation is needed to change the State Constitution in order to make it more recreation friendly, that we attempt to do that. This is our one opportunity on the waterfront of San Francisco to really have a significant recreational facility. And as a city we have very little recreational -- very few recreational facilities per capita compared to other urban areas.

So you're telling me I'm through.

All right. Thank you very much for your patience.

CHAIRPERSON WESTLY: No, thank you, Ms. Roth. I'm going to ask Mr. Thayer and Mr. Hager to speak to that briefly.

But I just want to remind people, we have a tradition here to keep the comments and questions to three minutes. And we have a number of other people who have come up. So if you could try to honor the three-minute guideline. And maybe if someone on the staff could just let me know when we've reached the three-minute point.

Mr. Thayer, Mr. Hager, would you like to comment on that?

EXECUTIVE OFFICER THAYER: Sure. Of course the project that's being discussed is the one that the Commission heard in June, the Mills or Piers 27 through 31
project. And large elements of that project did consist
of indoor recreation. It's staff's position, I believe
the position of the Attorney General as well, that our
outdoor recreation as a whole can be found consistent with
the public trust. But indoor where there isn't a
necessity of having a waterfront location for that, we
don't have the same view of that.

It could be inferred from the last speaker's
comments that we believe that office space is consistent
with the public trust. And we don't. And our view is
that office space generally doesn't belong on the
waterfront, but only in the very narrow circumstance where
it's being used to pay for restoration of an historic
structure or something of importance for the history of
the waterfront is that use allowed.

And, frankly, if the developer wanted to exchange
indoor recreation, as favored by I know a lot of the
people in the Telegraph Hill area, for some of the office
space, this would not raise any issues in our mind at all.
But the problem was that those elements in the project
that were indoor recreation were offered to the Commission
as public trust compliant, and we didn't agree that that
was possible.

So it's not our view that we're looking to put
more office space on the waterfront or that there have to
be restaurants and that kind of thing. There are a
variety of public trust uses that can go in there. But
that the problem is with considering indoor recreation as
public trust consistent.

CHAIRPERSON WESTLY: Right. Thank you, Mr.
Thayer.

Let me just say, Ms. Roth, I appreciate your
comments very much. I'm actually very familiar with the
Chelsea Pierce project. I think this is going to be far
superior to that. Let me hasten to say, not perfect. You
know, you rarely get perfect in this world. But I think
certainly an improvement. And I know staff will continue
to work with the developer to move things in that
direction.

I'd like to ask former Supervisor AnneMarie
Conroy, who is here representing the Treasure Island
Development Authority.

We're happy to see you here. I know you've dealt
with these issues from both sides.

MS. CONROY: Good afternoon, Commissioners.

As you can see, Treasure Island and Yerba Buena
Island are actually a beautiful shining example of
incredible properties. And Treasure Island, as Ruth had
mentioned earlier, is a tidelands trust property.

I wanted to thank today the staff of the State
Lands Commission. They have been absolutely wonderful to work with. Paul Thayer's been to the island twice in the last year, I think. Blake Stevenson, Dave Plummer, Grace Kato, they've all been fabulous to work with. So it's always great to get a good feedback as Commissioners about the staff. And they have just been a delight to work with.

I wanted to make a couple of clarifications. There was some public comment about Treasure Island and the public comment and the public input to the plan on Treasure Island. We have been in a planning process for the Treasure Island Properties. It's really former Naval Station - Treasure Island. So the properties coming to the City of San Francisco will actually be to look at the bridge as the dividing line. The northern end of Yerba Island and all of Treasure Island is considered former Naval Station - Treasure Island.

I just wanted to make that clarification on public comment and public input. We have had over 70 public meetings in the planning process for Treasure Island. We have had an RFQ that has gone out. We have had an RFP that was written by the public. And we have written -- we've put that out to public bid.

The RFP itself, its responses, that has all been vetted with the public. State Lands has had a tremendous
input both in the RFQ, the RFP, and the responses to the RFP.

So I just really wanted to make sure that the State Lands Commission understood the amount of participation that has gone on with the public with the Commission staff. And really the land-use plan has changed somewhat dramatically over the course of time with comments from the public, and most dramatically from the comments from the State Lands Commission -- the staff of the State Lands Commission -- pulling the buildings up off the waterfront, pushing the buildings back so the northern end of Treasure Island becomes something to rival Chrissy Field and the Presidio.

The comments that have been made by the State Lands Commission staff have just been very helpful to us in working with the developer to collapse the different properties and to try to make as little -- to try to compact those areas so that there's more open space and that we're really returning that property to the people of San Francisco.

It's a -- Treasure Island is a magical place. It has beautiful vistas. There's still people that attended the world's fair. My parents went out there every weekend. As a native San Franciscan, it's very important to me that it's developed properly so that there are
tremendous open spaces and that the tideland -- properties that belong in the trust stay in the trust. So you have my commitment on that and the Development Authority's as well, that -- we have our mandate, and our mandate is to provide tremendous open space and opportunities for San Franciscans for generations to come. We'll get one chance at doing this and doing it right. So you have our commitment that we will.

CHAIRPERSON WESTLY: Okay. Ms. Conroy, hold on just one minute.

If there are any other members of the public that would like to speak, please let me know or pass a card up, because we're nearing the end of the public period.

Are there any questions from the other Board members for Ms. Conroy?

Terrific.

Thank you so much.

MS. CONROY: Thank you.

CHAIRPERSON WESTLY: Is there anyone else from the public who would like to speak?

If not, I'd like to thank everyone from the public for attending. This is an important part of the meeting.

I want to thank Mr. Thayer and his staff. Again, the professionalism you've demonstrated I think has been
exemplary. As Controller, I sit on over 50 boards and commissions. I only wish they all ran as well as this one.

And with that, I'd like to go ahead and ask for a move for adjournment.

ACTING COMMISSIONER KLAAS: So moved.
COMMISSIONER BUSTAMANTE: Second.
CHAIRPERSON WESTLY: All in favor please say aye.
(Ayes.)
CHAIRPERSON WESTLY: Meeting's adjourned.
Thank you very much.
(Thereupon the California State Lands Commission meeting adjourned at 3:20 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 6th day of February, 2004.

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