APPEARANCES

BOARD MEMBERS

Mr. Steve Westly, Chairperson

Mr. Cruz Bustamante, also represented by Lorena Gonzalez

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

Ms. Toby Levine, Northeast Waterfront Advisory 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 Fred Klass representing the Department of Finance.

For the benefit of those in the audience, the State Lands Commission administers properties owned by the state as well as its mineral interests. Today we'll hear proposals concerning the leasing and management of these 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 to approve the minutes?

COMMISSIONER BUSTAMANTE: So made.

ACTING COMMISSIONER KLASS: Second.

CHAIRPERSON WESTLY: Okay. Having being moved and seconded, all in favor please say aye.

(Ayes.)

CHAIRPERSON WESTLY: Great. The minutes are unanimously adopted.

The next order of business, Mr. Thayer, is the Executive Officer's report. It's all yours.

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

I just have two or three items to cover here. I'm pleased to report that the proposed budget for next year has gone through the Senate subcommittee with no problems. It was on consent. And that we expect -- the indications are that the Assembly subcommittee will have no problems either. Although their hearings are occurring a little bit later.

There are of course, as is the case with other state agencies, several cuts this year -- this coming year, that is. And we have experienced them this year. So we're scrambling to make sure that we can cover the Commission's mission. But since 1990-'91 we've lost about 50 positions out of about 250 positions. So there's going to be some impacts. We're mindful of the fact that, as with other agencies, we need to look carefully at what's most important to the Commission. And we'll be doing our best in that regard.

But certainly, as with the other agencies, we've taken these cuts.

CHAIRPERSON WESTLY: Thank you, Mr. Thayer.

Let me just comment on that as the State's chief financial officer.

The budget is not going to look better any time soon. And I was just over at the FTB staff today. While
the State's income is a hair above projection, we're looking at a tough 12 months and possibly 24. So I would just urge the staff to batten down the hatches. Through prioritization, you can bring it to us if you'd like our input. And we'll do everything we humanly can with technology and other efficiencies. But it's not going to get better any time in the immediate future.

EXECUTIVE OFFICER THAYER: We understand. And we don't feel singled out at this point in terms of receiving cuts that are any different from what everybody else is doing. So, in essence, we're doing our fair share.

CHAIRPERSON WESTLY: Most people in Finance are tough, aren't they, Mr. Klass?

(Laughter.)

CHAIRPERSON WESTLY: Okay. Thank you. Please proceed.

EXECUTIVE OFFICER THAYER: The second item that I wanted to discuss a little bit were a -- or is a couple of awards that the State Lands Commission and staff have received recently. We belong to -- Gary Gregory, who is our Division Chief for the Marine Facilities Division to the Los Angeles Long Beach Propeller Club. And several months ago Gary was awarded the Rear Admiral Frank D. Higbee Award for significantly improving maritime safety while facilitating maritime commerce. And of course Gary
as the chief for the Marine Facilities Division is responsible for ensuring that the oil transfers that occur at oil terminals do not result in any oil spills. And he's had a very successful program. So I wanted to acknowledge Gary. He's here in the audience today.

Gary, do you want to stand up.

MARINE FACILITIES DIVISION CHIEF GREGORY: Thank you.

EXECUTIVE OFFICER THAYER: Gary Gregory.

The second award also goes to another office in his shop. We have in addition an office in Hercules, which provides inspectors to oversee transfers of oil and gas in the San Francisco area. And the Coastguard made a presentation to the State Lands Commission, in general, and particularly to Ken Leverich, who's the manager of our northern California office, for -- it was a Public Service Commendation and Certificate of Merit for coordination with the Coastguard on various aspects of public safety.

Ken's not here today. But, again, I wanted to acknowledge publicly these awards. And it says a lot about the staff, as well as the Commission.

The final item I wanted to note is just that our next Commission meeting's going to be -- and I don't know if other offices are aware of this -- on June 7th in southern California. We haven't picked a venue yet, but
it will probably in the L.A./Orange County area.

And that concludes the Executive Officer's report.

CHAIRPERSON WESTLY: Mr. Thayer, thank you.

I just want to comment on one issue that I know my staff has worked with you on. And that's the issue about increased pollution problems where people are dumping into marinas. And I know Commission staff is gearing up to look at this, to help ensure that our marina leases are the toughest standard-wise in the nation. And I just want to thank you for that. It's something I want to be proactive about and it's something I want to publicize, because this is a time when people are saying, "Are we really getting bang for the buck for the government?" And they forget all the things that are being done. And this is an issue a lot of people see and are concerned about, and I want to make sure we're as proactive and tough as we can be. And just thanks for pushing the staff to take a leadership role here.

EXECUTIVE OFFICER THAYER: Thank you.

What we intend to do is carry on with what we started with already, which is to go out to other states and review their lease provisions as well as to talk to some of the groups here in California that are interested in the results to see if there are ways we can tighten
what we do. And then return with a report to the Commission at a future meeting.

I don't think that's going to be as soon as the next meeting, in part because the research is somewhat complex. But we also think it's appropriate to discuss any improvements that we might make with the users, people who are using the marinas as well as the marina operators before coming to the Commission to try to come up with a program that makes sense and is feasible.

But we'll be bringing that back to the Commission at a future meeting.

CHAIRPERSON WESTLY: Terrific.

The next order of business is the adoption of the consent calendar.

Mr. Thayer, if you could please indicate which items have been removed from the consent calendar and which other consent items we noted ahead of the meeting might be of interest in the Commission.

CHAIRPERSON WESTLY: There are three items that will be taken off. They're Items 5, 11, and 43. And some of those will be back to the Commission at a future date.

I wanted to take note of a couple items that are on there, for the benefit of the audience as well as the Commission. We often, of course, approve the consent calendar without further comments. But there are four
items there that are of particular benefit to the public.

The first one, Item 24. Orange County has asked
the Commission to approve imposing the public trust
designation on some uplands surrounding a valuable
wetlands habitat in Upper Newport Bay. And the result of
this would be to ensure that that land can't be used for
general development in the future. So it's a good thing
environmentally.

The second issue -- the second item that's of
public benefit has to do with wheelchair access at San
Clemente -- this is on Item 39 -- where an existing
concrete structure is amenable to being converted for
wheelchair access to the beach, something that doesn't
exist there now. And we think this is a great project.

The third item has to do with the disposition of
artifacts -- Native American artifacts that have been
recovered from the bed of Owens Lake. As the Commission
is aware, the Commission manages the state-owned lands
there. But they have had adverse environmental effects on
the area because the water that's been removed that goes
to L.A. for drinking water, as a result the area's been
converted to salt and sand flats. In the process of
remediating that, various artifacts were uncovered. And
these are going to be sent to the Paiute and Shoshone
office and tribe in that area as the tribe that has the
best jurisdiction over them. And they are very grateful
for having these items offered to them and they've
accepted them.

And then the last item has to do with an
off-shore oil lease off Santa Barbara presently controlled
by Union Oil. Production has ceased there. The
improvements in development has been safety removed so
that they don't present any continuing environmental
hazard. And that lease will be quitclaimed to go back to
the State. The net effect of that will be that there can
be no new oil development here. And pursuant to State
law, no new leases can be let, and this will be
permanently a sanctuary.

So those are the four items I want to highlight
that are on the consent calendar.

CHAIRPERSON WESTLY: Thank you, Mr. Thayer.
Is there anyone in the audience who wishes to
speak on any item still on the consent calendar?

COMMISSIONER BUSTAMANTE: Mr. Chairman?

CHAIRPERSON WESTLY: Yes, Lieutenant Governor.

COMMISSIONER BUSTAMANTE: I just want to make
sure that -- Paul, as we talked about on Item C 48, that
this was not an establishment of anything other than the
beginning of a review for the LNG and that we would have
public hearings later on on this issue. Is that correct?
EXECUTIVE OFFICER THAYER: That's a good point, because, as the Lieutenant Governor will probably remember, last summer we had an item which didn't involve approval of any LNG facilities. But the public misunderstood that as perhaps an action item that would allow LNG facilities to go forward.

But as the Lieutenant Governor points out, this item has only to do in general with LNG facilities, and requires -- or authorizes us to obtain outside consulting services to determine what seismic safety standards should be imposed should the State decide to put in any LNG terminals.

So, yes, you're correct, this does not approve any action development.

COMMISSIONER BUSTAMANTE: And one last item is on C 50 --

EXECUTIVE OFFICER THAYER: Yes.

COMMISSIONER BUSTAMANTE: -- which indicated there was a fee increase to the various cruise ships that were coming in and out as a result of changes in statute, that these -- the increase wasn't to do what we were already doing, but to do the new requirements that have been added by statute by the Legislature.

EXECUTIVE OFFICER THAYER: That's exactly the case. The Commission had previously approved the $500 of
voyage fee in December as emergency regulations. We're back to you today to confirm those as permanent regulations, and that that fee is an increase over what had been before. That's in direct consequence of the terms of the reauthorization legislation, which in fact requires additional research, pilot programs, adoption of additional regulations, all of which cost money and resulted in the increase.

COMMISSIONER BUSTAMANTE: But we had moved our fee down to $200 if I recall correctly.

EXECUTIVE OFFICER THAYER: Yes, sir.

COMMISSIONER BUSTAMANTE: And now we've had to bring it back up to the 500?

EXECUTIVE OFFICER THAYER: That's correct.

And of course if it turns out that we're able to -- and something like that happened when we first adopted the fee for the initiation of this program back three or four years ago, where we originally started the fee at a higher amount but were able to find that we didn't need that much. We had better compliance from the industry than we expected. And so we were able to progressively lower the fee. And we will be tracking the receipt of funds through this new fee. And certainly if it turns out that we don't need as much money in order to carry out the environmental protection required by the
law, we can come back with revisions to the Commission.

    COMMISSIONER BUSTAMANTE: Okay. Thank you.

    CHAIRPERSON WESTLY: Great. Thank you.

    We have a few members from the public that wish to speak on a later item. So unless anyone else comes forward, I'd like to go ahead and ask if we could take the remaining group of consent items as a group for a single vote.

    And I'd like to proceed with the vote, if we could have a motion.

    COMMISSIONER BUSTAMANTE: Move.

    ACTING COMMISSIONER KLASS: Second.

    CHAIRPERSON WESTLY: Great.

    All in favor please say aye.

    (Ayes.)

    CHAIRPERSON WESTLY: Thank you.

    That brings us to the next items, 59, 60, 61, and 62, concerning the Bolsa Chica wetlands restoration.

    And may we have the staff for our presentation.

    EXECUTIVE OFFICER THAYER: Yes, Mr. Chair.

    The Bolsa Chica wetlands are an area that the Commission's been involved with for 25, 26, 27 years. And doing much of that work for us is -- has been Jim Trout, and we hope he'll continue to do that for awhile.

    Jim is officially retired. But he's back as a
retired annuitant and couldn't let go of this. And we're glad that he hasn't. He's a former deputy executive officer for the Commission. He has a lot of experience. And we're glad that he's still with us to work on this project.

MR. TROUT: I appreciate the opportunity. I've been involved in this project for more than 30 years. In 1970 we started solving the Commission's ownership claims on the site. And in 1973 Governor Reagan signed an agreement whereby the State settled its claims for 300 acres in the Bolsa Chica area, that are now the Bolsa Chica Ecological Reserve managed by the Department of Fish & Game. And that's -- I don't think it's going to reach over there.

It's kind of hard to see on the screen. But it's right down in this area, that kind of dark area right there.

Since then we've been trying to develop a plan for the restoration of the Bolsa Chica area. At statehood it was a marine wetland with an entrance just out of the upper left corner of the picture there.

Over the years it was developed first for a duck club, then for oil and gas development. And then starting in the mid seventies the property owner wanted to develop it for subdivisions. And at one time there was a proposal...
for up to 5,800 dwelling units in the lowlands of Bolsa Chica.

Fortunately, we were able to stop that development. And we were able to bring together a coalition of the Commission, along with seven other federal and state agencies, to put together a restoration plan.

It was largely made possible by the proposed multi-modal terminals to be built in the ports of L.A. and Long Beach. They had to mitigate for the filling of San Pedro Bay. And the ports came up with approximately $80 million in mitigation fees.

So in 1996, the eight agencies and the ports of L.A. and Long Beach reached agreement on the acquisition and restoration of the Bolsa Chica project area. On February 14th of '97 the Commission approved that agreement.

In 2000 and 2001 environmental documents for the restoration project were circulated by the federal government Corps of Engineers and U.S. Fish & Wildlife Service under NEPA, and the Commission is lead agency under CEQA. In January of 2002 the Commission approved, certified that environmental document.

Following that the Fish & Wildlife Service on behalf of the eight agencies contracted with Moffatt and
Nichol Engineers to do the final design and specifications for the restoration project.

The project involved several aspects. And it's a little hard to see. But there was going to be a new four-lane bridge down in the corner there.

Jane, maybe you could get up there and help us. Jane Smith is the land officer who's helping us with this.

The PCH bridge right there will require the restoration or reconstruction of about one quarter mile of Pacific Coast Highway. The purpose of the bridge is to allow new ocean inland that would go -- allow fresh marine water to go into the facility. And there's a blue circle down there. That's the off-shore head bar. And the water would flow in from that location.

We will build jetties at the ocean entrance. There's -- the two lines there are the jetties. The jetties will be buried in sand. You will not see them except during extreme winter conditions. They'll be buried and there won't be a hazard. And they won't interfere with the up and down coast flow of sand.

Another thing we're going to do just inland of Pacific Coast Highway, because we're going to build that inlet, we have to build an ocean inlet bridge for the oil company to provide them access to the state-owned wells, which are right here in this area to the north, just above
the blue circle. Those wells are producing for the state from off-shore reservoirs.

The other thing is we're going to create a 366-acre full tidal area. And, Jane, that's in the yellow outline there. That will be rise and fall with the daily tide, the full extent of the tide. Between there and the blue line, the purple line there will be another 200 acres of muted tidal area that will be affected only by a foot or two as the tide rises and falls. There will also be nesting islands, which are kind of clear blobs that are showing up in the picture there.

Another part of it is that we have bought out the resources of 60 wells. And these wells are being abandoned to provide a clear area for the restoration.

And then in order to do the full tidal area we're going to have to have the City of Long Beach relocate a portion of a gas line that runs across the facility. And the blue line there is the new location of the line.

The ocean entrance bridge on Pacific Coast Highway will require a number of documents with CalTrans. And the Commission action in Item No. 62 is to provide the right-of-way for CalTrans to use during the time we build a detour for Pacific Coast Highway during the construction of the bridge and then to give them ownership of the new bridge. So that's Item No. 62.
Item No. 61 is the relocation of the gas line by the City of Long Beach. It's actually being relocated by the Southern California Gas Company, an element of Sempra Energy.

And then the Fish & Wildlife Service will construct -- or undertake the actual work of awarding a contract and supervising construction of the wetlands restoration.

Calendar Item No. 60 is to grant them a four-year lease to actually do that construction -- to allow their contractor under the property to do the physical construction.

There's a couple aspects yet remaining for the project. One of them is the long-term management of the project. And we don't have a designated operator yet. We'll be back to the Commission for a long-term lease for someone to operate it. I think the wisdom is that if possible this would be included as a national wildlife refuge and operated by the Fish & Wildlife Service. It could be operated in conjunction with the Seal Beach Refuge. They, like California, are little averse to taking on additional responsibilities. And that'll have to be worked out.

Other possibilities are the State Department of Fish & Game, which now is not in a position to do that, or
governmental -- nongovernmental organizations, the trust
groups of one kind or another.

I'm really excited. This is going to be, when
we're successful, one of the largest wetland restorations
west of the Rockies, and maybe the largest ever
undertaken. And the Commission has had a vital part of
that. And we're happy to give you this briefing, and look
forward to the groundbreaking that we hope to have in the
fall, and of which we certainly hope all of you can make
it at that time, and get this project underway.

Construction should start October 1st and be done
in June of 2007.

CHAIRPERSON WESTLY: A terrific report.

Certainly very excited about that. Another area where I
think Californians can be proud that this would in fact be
the largest wetlands restoration west of the Rockies.

What I'd like to do now -- we've heard the staff
presentation -- is to ask if there are other speakers on
this issue. And if not, I'd like to ask for comments from
the Commissioners.

Any other speakers from the public?

Terrific.

Lieutenant Governor or Mr. Klass.

COMMISSIONER BUSTAMANTE: Only that I'd like to
have a copy of the oral report that was just made. I
think summarizes very quickly not only the history but also the activity that's taken place up to now.

    All right. I'd like to have a copy.

    CHAIRPERSON WESTLY: Okay. I think it's a terrific piece of staff work. We'll make sure you get that.

    And, again, thank you. I appreciate we're doing a lot of interdisciplinary work between federal and state agencies. And, again, at a time with budget cuts, I think this is the sort of thing Californians will look at and say, "Boy, it's great to see different parts of government working harmoniously" -- "largely harmoniously together to accomplish a common good."

Any other comments from the Commissioners? If not, I'd like to ask for a motion and a second.

    COMMISSIONER BUSTAMANTE: Motion.
    ACTING COMMISSIONER KLAAS: Second.
    CHAIRPERSON WESTLY: Terrific.
    All in favor please say aye.
    (Ayes.)
    CHAIRPERSON WESTLY: Thank you. Motion passes 3-0.

    EXECUTIVE OFFICER THAYER: And we will take that as a motion on all three items if it seems appropriate.
CHAIRPERSON WESTLY: Forgive me. That was meant to be on Items 60, 61, 62. That was the understanding, yes.

That brings us to -- concludes the regular calendar.

No, forgive me.

I'm sorry. Item 63 -- forgive me -- is the proclamation in support of Earth Day 2004. How could I forget?

Mr. Thayer, will you introduce the presentation.

EXECUTIVE OFFICER THAYER: Certainly.

Mr. Chair and members of the Commission, Earth Day is an event that's been celebrated not only in the United States but around the world for 34 years now. It's the 34th anniversary of the first one. Senator Nelson being one of the instigators of that and Dennis Hayes helping to implement it.

Many of the goals of Earth Day, in fact all of them I think, are consistent with the mission of the Lands Commission. We have custody over some of the most sensitive environment in the state, with all the underwater lands and the area along the coast. And so it seems appropriate today that we adopt this resolution in support of Earth Day, and calling on all Californians to celebrate appropriately to mark that occasion. It's
usually a day of learning and proactive projects that benefit the environment. And what we would propose to do is send copies of this resolution once it's adopted by the Commission to all of the grantees so that they would understand our full support for the goals of Earth Day.

CHAIRPERSON WESTLY: I think it's a terrific day. Just on a personal basis, there's a fellow named Dennis Hayes who was the student body president at Stanford about ten years ahead of me. And I think he was one of the co-sponsors with Senator Nelson, and something I've followed with great interest and participated in for years.

Are there any other speakers from the audience on this? I don't expect much controversy here. Commissioners?

If not, I'd love to ask for a motion.

ACTING COMMISSIONER GONZALEZ: Before I make a -- some kind of a motion, we still, for some reason, never got a copy of the --

EXECUTIVE OFFICER THAYER: Oh, my apologies. I think the secretary has them. And if you wanted to take a moment to look at it or at least look at the "resolved" sections, that'd be fine. I apologize for not getting it to you sooner.

ACTING COMMISSIONER GONZALEZ: I'm sure it's the
same as what we've done in the past.

CHAIRPERSON WESTLY: Forgive us, Lorena. I know Sidney's reviewed it. And she assures me there are no trick clauses this time.

(Laughter.)

ACTING COMMISSIONER GONZALEZ: I'm sure it's fine. I just very -- for something I hadn't read.

EXECUTIVE OFFICER THAYER: No, I apologize for not getting this to you.

ACTING COMMISSIONER GONZALEZ: We're fine with it.

Fred, were you going to make a --

ACTING COMMISSIONER KLAS: I move the resolution.

ACTING COMMISSIONER GONZALEZ: We second it.

CHAIRPERSON WESTLY: All in favor please say aye.

(Ayes.)

CHAIRPERSON WESTLY: Terrific.

Item 64 is consideration of a letter opposing the development of the 36 federal oil and gas leases offshore. I'd love to hear a presentation.

EXECUTIVE OFFICER THAYER: Mr. Chair and members of the Commission, these 36 leases are in federal waters off of California and for the most part off of central California and further north, and we've seen development
in California in the past.

They're in federal waters. They were leases that the federal government entered into with five or six different oil companies. But have not been developed so far.

They have received suspensions of the due-diligence requirements. These are requirements that are contained in most of the leases that state that lessees must proceed with development in a timely fashion.

There's been recently litigation over the last couple of years brought generally by the Coastal Commission to ensure that the State will have review opportunities before development can occur of these leases.

But simultaneously there's been some efforts, some negotiation ongoing between the federal government and the lessees to see if there's any way to extinguish these leases. And what was done by the federal government in Florida was to purchase these leases back and to end the development of threat from the State.

The State, of course, has already been very proactive in this matter, and in 1994 enacted legislation to prohibit all new oil leases in the State waters. And what the Commission has generally done is taken the position that the feds should act in a similar way.
And in fact in 1991 -- excuse me -- 2001, at a September 17th meeting, the State Lands Commission adopted a resolution calling on the federal government to take all steps necessary to prevent development of these 36 leases.

This spring we've started to enter into a critical phase with respect to those negotiations. And there's been some difficulty in reaching a conclusion. But I think the Chair of the Commission -- I know the other Commissioners -- the Lieutenant Governor was involved with the initial resolution -- that the Commission is eager to see a conclusion to this in a manner which would prevent future development.

And so the letter which we're asking you to sign will -- actually a copy of it's here today for you to sign, if you'd like; or, if necessary, we can send it down for the Lieutenant Governor's signature before we send it out -- in which we're going to reaffirm the Commission's position on this and forward a copy of that earlier resolution to the President, with copies to Department of Interior, that actually controls this lease, and to members of the State's congressional delegation and to other appropriate authorities to make sure that the position of the Commission is well understood.

CHAIRPERSON WESTLY: Let me just say a quick word.
We asked that this letter be drafted. And I know the Lieutenant Government's staff has worked on it again. We all recognize there are many current oil leases that were signed into effect in the fifties and sixties. You know, obviously we need to honor those commitments. But in terms of new oil leases and drilling, I think we need to send a clear and consistent message to the federal government, frankly, everywhere that we do not want to see any additional drilling in this state.

What I wanted to ask from you is: When you identified the area and region, you said it's further north than we've typically seen. Can you give the Board a sense of where?

EXECUTIVE OFFICER THAYER: It's -- I don't -- I'm sorry, I don't have a map with me. But it's off -- more off of San Luis Obispo County.

Let me ask Paul Mount to make sure I'm complete about that.

Is that -- Paul does have a map.

Let me bring this up to the Commissioners.

CHAIRPERSON WESTLY: Great. Thank you. Is there any of the other Board members who would like to comment on this?

ACTING COMMISSIONER GONZALEZ: I have quick comments from the Lieutenant Governor. And I'm sorry that
I wasn't able to get you these before the letter was
drafted completely. Just two slight, slight changes.
He'd like in the third paragraph, the last sentence there
was -- I don't know if this was already caught an
inappropriate "comma" after "ocean."

EXECUTIVE OFFICER THAYER: Okay.

ACTING COMMISSIONER GONZALEZ: Sorry. I usually
like to do those before the meeting.

And in the last -- or second to last paragraph --
excuse me -- the sentence, it's midway through, it says,
"The impacts from development discussed above suggest that
such development may not be consistent with California's
coastal management program." He would like to know if we
could change that to "is not consistent," so just to be a
little stronger.

Is there a problem with that?

EXECUTIVE OFFICER THAYER: Absolutely not.

ACTING COMMISSIONER GONZALEZ: Okay.

EXECUTIVE OFFICER THAYER: And then we'll
incorporate those changes and just circulate the letter to
the offices to make sure we get those signatures on them.

CHAIRPERSON WESTLY: We're 100 percent
comfortable with those changes. And --

ACTING COMMISSIONER KLASS: I believe we are --

CHAIRPERSON WESTLY: -- Mr. Klass, if you are as
well, I'd love to ask for a motion that we support the letter.

ACTING COMMISSIONER GONZALEZ: Move to support the letter.

ACTING COMMISSIONER KLASS: Second.

CHAIRPERSON WESTLY: All in favor?

(Ayes.)

CHAIRPERSON WESTLY: Great.

Well, Mr. Thayer, you've gotten off easy this time so far.

We do -- that includes the regular calendar.

There are, however, speakers who wish to address the Commission during the public comment period. This is very important to me. There are a number of complex issues we need to deal with judiciously.

There's always members of the public who wish, and I think should be granted, the right to speak on issues of concern.

And what I'd like to do is ask that Toby Levine from the Northeast Water Advisory Group, Port of San Francisco, to come up.

And I think Jennifer Cleary could perhaps be on deck.

And if you could start by identifying yourself.

MS. LEVINE: Good afternoon, Commissioners.
My name is Toby Levine, and I'm the Chair of the Northeast Waterfront Advisory Group. This is a group that advises the Port of San Francisco in the area of between the Agriculture Building and Pier 39. Actually we stop at Pier 35. And I'm the chair of the group. And we came today to talk to you about some difficulties that we are having, in a nutshell, to Piers 27 and 29 and 31.

And I do have remarks printed out. So I don't know how you handle that. Do I give them to you or --

CHAIRPERSON WESTLY: You know, Toby, what I would love is if you could maybe hand your remarks out to the staff and the Board if you have them. And then maybe just summarize -- you don't need to read every word, we can go through it -- but the thrust, that would be terrific.

MS. LEVINE: Right. Okay.

Our committee recognizes the ways that State Lands and BCDC and the Attorney General's Office has improved our project, that is, the Mills project combined with the YMCA and America True, which is a sailing training group. And we do recognize the fact that you have made some important improvements to that project.

And of course you were also aware of the fact that San Francisco has many different plans, a variety of plans which control and direct the development of the waterfront, including the BCDC Special Area Plan, the
Waterfront Land Use Plan, and then the Northern Waterfront Land Use Plan. And all of these together provide guidance with regard to our development.

But the problem is that we have -- and your staff knows very well that we have a whole series of piers which are historic, but also many of them rotting. And in order to make it possible for these piers to be rehabilitated, we have to find uses which make it possible for the developers and the people who have funds to redevelop these piers and make them seismically safe and historically restored, which is the goal at least at 29 and 31.

Now, the focus that we have chosen for those piers is recreation. And it's primarily to be a recreation project. And that's why the Y is there and that's why America True is there.

But the Y provides affordable recreation. They don't provide high priced recreation.

So there has to be some way -- some other way to raise funds for restoring the two rotting piers and to do the historic rehab.

And so as a result of that, there has to be some uses which produce funds. And those of course are the office uses and the retail uses that we are permitted to do.
However, we would like to be able to expand the recreation in a bigger and stronger way. And to some extent we are limited on that, because I believe, unless we've gotten it mixed up, that most indoor recreation that's sports oriented is not permitted as a trust use.

And so what we are doing -- or what we're doing today is asking that you look further at the issue of recreation and recreation -- indoor recreation, which is sports oriented, so that we can make this project even more recreation oriented than it already is.

And the reason that we want to do that is, if you look up and down the waterfront right now, we -- have one minute. I'll finish in a minute. Thank you.

We have the ballpark, which really draws a lot of residents, and it's very, very beautiful and people do love it. We have now the Ferry Building. If you've been down there, you know that the market and the ferry boats are really attracting people to that area. And you're all familiar, I'm sure, with Pier 39 and you know how interesting the sea lions are to the people who go to Pier 39 as well as the shopping.

What we really want to do is to create a strong recreation project. And we want your help in whatever way you can give it to us so that we can expand that element and perhaps reduce some of the elements that are not
recreation oriented. And you'll find if you read through
this letter that that is what this letter says, probably
in a better way than I have said it just now.

And that's about it. And we're interested in
attracting both visitors and residents to Piers 27 and 29
and 31, which are 1,400,000 square feet when you put it
all together. I mean it is huge.

So thank you.

CHAIRPERSON WESTLY: Thank you, Ms. Levine. I
appreciate that. I appreciate your coming all the way up
from San Francisco. I think everybody understands it's
huge assets for the city and the state, and we want it to
be developed the most appropriate way.

MS. LEVINE: Right.

CHAIRPERSON WESTLY: Let me ask: Do the
Commissioners have any other questions or comments. And
I've got a brief one.

ACTING COMMISSIONER GONZALEZ: I do have a quick
question. I want to make sure it's well understood -- and
I know from conversations with other people in San
Francisco that maybe it's not -- we, I think, at the
Commission don't establish the public trust doctrine. We
simply try to follow it --

MS. LEVINE: -- interpret it.

ACTING COMMISSIONER GONZALEZ: -- and interpret
it with the help of the Attorney General's Office. And in this case that's exactly what we've done. So in a way I think that you're asking -- and I could be speaking out of turn -- but at least from our perspective -- the Lieutenant Governor's Office perspective, there's something that maybe we can't do, we can't change the public trust doctrine.

But we could ask once again -- and I know that there's been constant work and cooperation with our offices -- maybe once again to come together and see if maybe on some of the designated areas which were not designated for public trust uses, there could be recreations in there in place of office or retail. But maybe there's some more negotiations that could be done.

I just want to make sure that it's clear that we can't re-examine the recreation and I think at this point come to a different conclusion about whether or not it fits with the public trust doctrine.

MS. LEVINE: Right. Thank you. I think that's a good point.

CHAIRPERSON WESTLY: Let me just add to that. And then I want to ask Ms. Cleary if she can begin to come forward.

MS. LEVINE: I'm not sure that she's hear. She's from San Francisco Tomorrow. And I do not see her in the
Do you have any other speakers?

CHAIRPERSON WESTLY: Okay. Well, in that case don't go away.

I'm very interested in this issue. And I was just talking about Paul and Jack. We may know about this very issue in the last week, and cares about the same thing. And --

MS. LEVINE: -- interested in more recreation too. I know Telegraph Hill is.

CHAIRPERSON WESTLY: You're very outspoken in voicing that concern.

What the Lieutenant Governor's representative said is key. There's only so far we can go. But within those realms we'd like to go as far as we can, exactly. And I was literally just talking with Paul and Jack about this issue last Friday, I think, or last week. And I know they've been doing some work on it. So we don't want to get expectations unduly high, but I do want you to know we are working, and there still may be some small things we can do.

But, Paul, would you, or Jack or staff, do you want to comment briefly on this? I know this is not a new issue. It's something you are genuinely working on.

EXECUTIVE OFFICER THAYER: Of course we were
involved with this before the Commission acted on it last June when it took its decision on El Segundo. And we've benefited from input from the Attorney General's Office, who wrote a letter last May which basically described the problem with using indoor recreational use as a public trust use.

But we're also mindful of the fact that the Commission wants to look -- that life is more complex than the law and that we're always on the lookout for ways that we can accommodate what life requires.

I think Commissioner Gonzalez is correct, that as a whole indoor public recreational -- indoor recreational uses are not per se consistent with the public trust doctrine. And the challenge is to find one or more that would be consistent. So in certain circumstances, for example, indoor pools are -- swimming pools are considered to be a public trust, especially when it's available in a very broad sense rather than just to a local community.

So there may be other things like that that we can find. And certainly we're going to be in discussions with Paul and others from the community, such as yourself, to see if there's something we can do.

But I want to say both things at the same time, which is it's tough to get through that eye of the needle with respect to public trust doctrine. And certainly the
case is that the developer, should he -- he or she choose, could incorporate into our recreational uses as to replace existing non-trust uses, that we have no issue with that. But that's difficult.

CHAIRPERSON WESTLY: Mr. Thayer, could I ask --

MS. LEVINE: The community understands that, by the way.

CHAIRPERSON WESTLY: If I could just ask Mr. Thayer then -- and I appreciate you're in a Solomon-like role, in between the developer and the community -- to see if you can perhaps do one more level of outreach with the community and the developers to see if there are one or two things we might do, given that the options are somewhat truncated at this point.

But I very much appreciate, Ms. Levine, you coming here.

By the way, I'm a big fan San Francisco Tomorrow. I was hoping to hear the representative from that group. Please know we are listening and trying to do as much as we can.

MS. LEVINE: I will do that.

Now, you have no more public comments now? Are you finished with public comment? Because I'm wondering if she can come later, you know, if you're going to be doing more --
CHAIRPERSON WESTLY: We are done with public comment now. And I think we're going to need to adjourn to closed session.

MS. LEVINE: Closed session. Okay. So that's -- so that's it.

Okay. Well, thank you very much. I appreciate it.

CHAIRPERSON WESTLY: Well, we appreciate you being here and for leaving a letter with staff. This sort of public comment helps us greatly.

MS. LEVINE: Okay. Great.

Thank you.

CHAIRPERSON WESTLY: Great.

That concludes the open meeting. We will now adjourn into closed session. And I would please ask if we could have the room cleared.

(Thereupon the California State Lands Commission meeting adjourned at 2:55 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 12th day of April, 2004.

JAMES F. PETERS, CSR, RPR
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