APPEARANCES

BOARD MEMBERS
Mr. Cruz M. Bustamante, Lieutenant Governor, Chairperson
Mr. Steve Westly, State Controller, represented by
Ms. Cindy Aronberg
Mr. Tom Campbell, Director of Finance, represented by
Ms. Anne Sheehan

STAFF
Mr. Paul Thayer, Executive Officer
Mr. Jack Rump, Chief Counsel
Ms. Kimberly Lunetta, Executive Assistant
Mr. Greg Scott, Assistant Chief, Mineral Resources
Management Division

ALSO PRESENT
Mr. John Asuncion, Blue Whale Sailing School
Mr. John Berge, Pacific Merchant Shipping Association
Mr. Doug Bloyd
Mr. Barry Christian
Mr. Dan Knowlson, Minerals Management Service
Mr. Floyd Robertson, El Paseo Natural Gas
Mr. Gregory Schrage, Venoco

PETERS SHORTHAND REPORTING CORPORATION   (916) 362-2345
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PETERS SHORTHAND REPORTING CORPORATION  (916) 362-2345
CHAIRPERSON BUSTAMANTE: Call the meeting of the State Lands Commission to order.

Two representatives of the Commission are here. One is on their way, apparently looking for some parking space.

I'd like to open this meeting in memory of Claire Dedrick, a former executive director of this Commission, as well as a noted environmentalist who helped pass the California Coast Alliance. I think it is appropriate that we recognize her life's work to preserve and protect our oceans and our bays. From all accounts she was a true gift to the environmental movement in California.

Hello. My name is Lieutenant Governor Cruz Bustamante. I'm joined today -- well, will be joined today soon by Cindy Aronberg representing the Controller -- and Anne Sheehan 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.
Do I hear a motion?

ACTING COMMISSIONER SHEEHAN: I'll move the minutes.

CHAIRPERSON BUSTAMANTE: There's a motion. I second it.

Let the record show that there are two votes in favor of adopting the minutes of the last meeting. And we will assume that -- well, here's Cindy. We'll let her go ahead and cast her vote herself.

We are adopting the minutes of the last meeting.

ACTING COMMISSIONER ARONBERG: Great.

CHAIRPERSON BUSTAMANTE: Support it with us?

ACTING COMMISSIONER ARONBERG: Yes. Agree with the motion.

CHAIRPERSON BUSTAMANTE: All right. Let the record show that the Commission has adopted the minutes of last meeting by unanimous consent.

Next order of business is your report, Paul, as the Executive Officer.

EXECUTIVE OFFICER THAYER: Yes. I have only two things. And the first is just to echo the sentiments expressed by the Chair concerning Claire Dedrick. She is someone that a lot of people still at the Commission on staff worked with closely. She was the Executive Officer of the State Lands Commission from 1982 to 1989. And her
influence continued well past her presence at the Commission, which is someone who's always stayed interested in environmental issues. And I think the Chair summed up the extraordinary value she brought to the State of California and the service she performed for the public.

The second thing I -- the only other thing I have is just to mention that our next Commission meeting will be June 20th, and it will be in the Bay Area. We're looking for public places in either Oakland or San Francisco. And this part of the Commission's policy of bringing our Commission meetings to the various parts of the state. And it's time to visit northern California.

And that concludes the Executive Officer's report.

CHAIRPERSON BUSTAMANTE: Where in northern California?

EXECUTIVE OFFICER THAYER: Either San Francisco or Oakland.

CHAIRPERSON BUSTAMANTE: We don't have a location yet?

EXECUTIVE OFFICER THAYER: We do not. We were in San Francisco last time. So we're looking to see if there's someplace in Oakland that we can center it around.

CHAIRPERSON BUSTAMANTE: Any questions of the
Commission on that?

The next item of business is the adoption of the consent calendar. Follow item have been removed from the consent calendar, for which items have been removed from the consent calendar.

EXECUTIVE OFFICER THAYER: Items 58 and 59 have been removed from the consent calendar, and are likely to be heard at the June meeting. And I'll just note that regular Item 81 is also removed.

CHAIRPERSON BUSTAMANTE: I'd like to also add to -- and pull Item 51 from the consent calendar. The applicant is El Paso Natural Gas Corporation.

EXECUTIVE OFFICER THAYER: Okay.

CHAIRPERSON BUSTAMANTE: Is there any other items that the members would like to pull?

ACTING COMMISSIONER SHEEHAN: No. I have on my notes though 60 was pulled.

EXECUTIVE OFFICER THAYER: Yes. And thank you, Commissioner Sheehan. Jack Rump reminded me that as well. This is the item that deals with an exchange involving the City of Sacramento. Due to a recent Appeals Court decision, we need to go back and look at that item before we bring it to the Commission.

CHAIRPERSON BUSTAMANTE: And so what are the total number of items?
EXECUTIVE OFFICER THAYER: There are four items now. There would be items 58, 59, 60, and the El Paso item, as well as 81 from the regular calendar.

CHAIRPERSON BUSTAMANTE: Okay. The remaining items are on consent. We could take them up as a single vote if the Commission is interested.

ACTING COMMISSIONER SHEEHAN: Yeah, I'll move the remaining consent items.

ACTING COMMISSIONER ARONBERG: Second.

CHAIRPERSON BUSTAMANTE: Motion to move, a second.

Let the record show that those -- all items except for 51, 58, 59, 60 have been approved by unanimous consent.

EXECUTIVE OFFICER THAYER: Thank you very much.

CHAIRPERSON BUSTAMANTE: Let's see. So 51, 58, 59, 60 will be moved to the June calendar?

EXECUTIVE OFFICER THAYER: Yes.

CHAIRPERSON BUSTAMANTE: Okay. And the first order of business that we have to deal with today is Item No. 80.

EXECUTIVE OFFICER THAYER: Yes, sir.

CHAIRPERSON BUSTAMANTE: A report on the well control incident at Platform Gail.

May we have a staff presentation please.
EXECUTIVE OFFICER THAYER: Certainly.

The Commission -- this concerns a leak and spill that occurred at Platform Gail in federal waters. The operator however has several state leases. And last fall when this occurred, on November 17th, the Commission was very interested in learning the cause and perhaps ways of prevention so that this couldn't happen again, and ask staff to prepare a report. Staff delayed responding until we'd gotten the information from MMS, which was doing an investigation of that since it's under their jurisdiction.

They have completed their -- MMS has completed its report. And staff is now looking to it and would like to respond to the Commission's request for information about this.

And Greg Scott from our MRM, Mineral Resources Management Division in Long Beach, will make the presentation.

(Thereupon an overhead presentation was
Presented as follows.)

MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT CHIEF SCOTT: Thank you, Paul.

Good morning, Chairman Bustamante, Commissioners. My name is Greg Scott. I'm the Assistant Chief for the Mineral Resources Management Division in Long Beach.

And this presentation is in response to the
Commission's request last December to report on the Platform Gail loss of well control and oil spill incident that occurred November the 18th.

The information that I'm presenting to you this morning and that which is in the calendar item as well is based on information contained in an incident investigation report prepared jointly by the U.S. Coast Guard and the MMS. And we also received some additional information from vendor regarding their operation activities at the time of the incident.

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MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT CHIEF SCOTT: This is a regional map of the Santa Barbara Channel. Don't know how clearly you can see that. But you have slides with you that you might be able to see them better.

Platform Gail, which is located right there, is an offshore drilling and production facility operated by Venoco. It's approximately nine miles from the coastal city of Oxnard. It produces about 5,000 barrels of oil a day and transports that by a sub-sea pipeline to Venoco's onshore processing facility located in Carpinteria.

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MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT CHIEF SCOTT: This is a -- I'm sorry, Gil. One back.
This is a photo of Platform Gail, showing the approximate location here of where the incident occurred, which was directly beneath the drilling rig, which you can see here.

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MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT

CHIEF SCOTT: And this is the same platform. It's an elevation view showing the distances above water of the drilling rig and some of the operating decks. And the two decks that were actively involved would tie into this deck here. And one below it, which you can barely see here, it extends deeper into the platform.

The well control incident on Platform Gail occurred November the 18th, 2004, during the final stages of a recompletion operation on Well E-15. It was being performed by Venoco to increase the oil production from that well.

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MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT

CHIEF SCOTT: This is a cross-sectional diagram of the well itself, which shows a cutaway of the equipment that is installed in the well from the surface of the platform all the way down to the bottom of the well here. That's about a 5,000 foot distance from here to here.

This particular well produces from two oil
reservoirs, one here and one here. And because of that -- and also shown on this Board on the other side of the room. Because the two reservoirs require separate means of production, each of them requires a length of piping that extends from the surface down to the particular oil reservoir. In this sketch only one of those pipings is shown because that was the configuration at the time of the incident. These were installed separately. And they are supported at the surface by this piece of equipment in blue, which is called the tubing hanger. And at the time of the incident Venoco personnel were involved in actually trying to position correctly this tubing hanger.

Now, normally during all well work operations it's normal practice to fill the well with seawater or heavy fluid. And the purpose of that is to prevent the natural pressure from the reservoir to flow back into the well and come up to the surface.

In this particular case, however, a decision was made to discontinue that flow of seawater coming. And the reason they did that was because where this arrow was pointing here there is a fairly large pin that they wanted to unscrew and remove so they could visually look inside and determine visually if this hanger was in the correct position.

And the next slide is a picture of what those
hangers look like.

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MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT
CHIEF SCOTT: They're in two pieces, in two halves. And when they come together they mate and form a steel cylinder. This is the one that was in the well at the time. And they support about, as I said, approximately 20 tons of piping each as it extends to the bottom of the well.

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MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT
CHIEF SCOTT: This is a picture of the pin that was removed from the wellhead. It's about 11 inches long and an inch and a half in diameter, allowing enough opening to visually look inside the wellhead.

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MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT
CHIEF SCOTT: During the period of time that the seawater pumping was discontinued, however, the level of fluid in the casing had dropped to a point to where it would no longer overcome the natural pressure of the reservoir. When that happened oil and gas and water seeped into the casing itself and overcame the water over -- hydrostatic weight of the water and it began to flow up to the surface.
The well work technician and other operators were unaware of this rise in fluid until it actually reached the surface and started flowing out of the hole where that pin had been removed, even though this well was equipped with prevention equipment which is at the surface of the well, and that is used to seal the well in case there's any sudden release of pressure. That was sealed.

However, because the hole was beneath it, it was not effective in shutting off the release of the fluids.

Therefore, oil, gas and water continued to spray out of the hole on to the well decking, the grading and into the well bay area. And this is a photo of the well bay. You can see -- you can barely see in the back here, that is the well that was being worked on, showing the risers. You can see some staining in the back wall area as well as some staining on the equipment that was stuck in here by the well.

Now, this well also was flowing natural gas through the hole. And because of that, the fire extinguishing data of the system was activated, which sprays a heavy volume of water due to this particular wild bay area. And that was activated to prevent any ignition to the gas that was escaping from the hole.

Platform operations were also shut down manually. And at this point the abandoned platform alarm
was sounded and all nonessential personnel were evacuated from the platform, 39 people, using the platform escape capsules. Those round -- large round vessels that are lowered into the ocean.

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MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT CHIEF SCOTT: Twelve people stayed on-board however to manage the fluid release. And although initial efforts to reinstall the pin were unsuccessful, they were finally able to -- approximately two and a half hours later able to thread a small fitting with a valve on the end into that hole and then turn the valve to the closed position and finally secure it as well.

During this entire period approximately three barrels of oil were released from the well, an unknown amount of well water was released and also an unknown amount of gas was released. Of that three barrels of oil, approximately three gallons of that oil and water -- plus water spilled off the deck and into the ocean.

The coast guard arrived on site and transferred the personnel from the escape capsules to boats for transit to shore. And during the entire incident no injures to personnel occurred and no harm to wildlife was observed. However, I understand that there was a considerable amount of seasickness going on in the escape
capsules before they were picked up by the coast guard.

(Laughter.)

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MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT

CHIEF SCOTT: That was the incident. The coast guard and MMS conducted an on-site investigation the next day. They examined all of the equipment that was involved in the incident. They photographed all of the parts, photographed the pins, the oil areas that were stained, conducted interviews with the key personnel on the platform as well as on shore at Venoco's office. They collected all of the documentation related to permits from the ports, personnel manifests and so forth. And then they inspected the platform evacuation and lifesaving equipment to ensure that those escape capsules would go back in the correct position and operable.

After the investigation was completed, Venoco was authorized to return the platform to production.

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MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT

CHIEF SCOTT: The MMS as a result of their investigation identified two main causes -- direct causes. These were:

1) they discontinued pumping well control fluids down into the well, which allowed the natural reservoir pressure to be built up in the well and float up to the
surface.

The other was the decision made at the field to remove this lock-down pin. And that in doing that it defeated the pressure intake of the wellhead itself.

Some of the other contributing causes were that the MMS found the operator not adhering to some of the rules and permits. They felt that there was inadequate operator training as well as inadequate monitoring of the fluid level in the well. If they had been able to detect the fluid level had been rising, I don't think there would have been a problem.

Then, in addition, they determined that there was inadequate supervision by the operator.

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MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT CHIEF SCOTT: The actions taken by both the MMS and the coast guard were: The day of the incident the MMS issued two noncompliant citations to Venoco. The coast guard issued Venoco a letter of warning. About six weeks later the team finalized their incident report and issued that to all of their operators as well as the State Lands Commission. And then a week later they submitted a safety alert notice to all of their operators which described basically a summary of the incident report. And we received a copy of that and the safety alert as well.
MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT

CHIEF SCOTT: Some of the things that the MMS is doing presently is they're reviewing the regulations for possible revision. They are looking at their communications procedures to see if there's better ways to -- for the personnel to communicate on the platform during the well work operation. And they are also evaluating with the lessee what the limitations of the contract duties should be during well work operations.

MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT

CHIEF SCOTT: And, finally, the State Lands Commission also has taken action as a result of the incident. And that initially consisted with a thorough review of our existing State Lands regulations for drilling and production. We have found them to be extremely comprehensive and detailed to the level that they are found to be sufficient to adequately handle a situation like this.

We have issued letters to all of our operators describing the incident and provided them with copies of the report and the safety alert. And we've also begun conducting workshops with each of the operators individually to discuss proper procedures during well work.
operations, review their training for well control
situations, and focus on some of the routine work that is
done. Perhaps may have some failings or weaknesses that
could result in a problem if they are not attended to
properly.

And of course we discussed the incident with all
of our staff, our operations and engineering personnel.
And, finally, we are reviewing the well control training
courses and their curricula that the operators send their
people to so that the course of training is relevant to
the activities that we have on offshore platforms.

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MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT
CHIEF SCOTT: That concludes my presentation. I'm
available for questions.

And Venoco and the MMS also have representatives
here if you'd like to have them respond to questions.

CHAIRPERSON BUSTAMANTE: Any questions by the
members of the Commission?

Please.

ACTING COMMISSIONER ARONBERG: Controller Westly
asked the Commission to call for this. We do have grave
concern for our coastline and that incidents like this not
occur.

So I want to ask the staff about -- I saw a list
of actions that MMS had taken. I didn't see anything
about penalties imposed or something to ensure that this
be an educating experience for Venoco and others and in
turn for future incidents such as this.

EXECUTIVE OFFICER THAYER: It's my understanding
that -- and there's a representative here from MMS who can
probably speak with greater certainty about this. But
it's my understanding that they haven't completed their
review of the incident to decide if enforcement's
necessary.

But you might want to talk directly to the MMS.

MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT
CHIEF SCOTT: I can comment on that too a little bit and
then MMS.

EXECUTIVE OFFICER THAYER: I don't I think they
had -- I think that Commissioner Aronberg is correct. As
of now my understanding is there have been no penalties
imposed.

ACTING COMMISSIONER ARONBERG: Maybe we should
ask our staff and also the MMS --

MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT
CHIEF SCOTT: The MMS -- I have spoken to an MMS
representative in Camarillo, who's said that they do have
a civil penalty program. This particular incident
triggers that program. They are -- their Compliance
Office in Washington I believe is evaluating this incident and will make a decision as to whether it warrants further action in the way of a civil assessment. But that will take another month or two, I'm told, before they come to that decision.

ACTING COMMISSIONER ARONBERG: Maybe Paul would we be able to urge the MMS to --

CHAIRPERSON BUSTAMANTE: Is there a representative here from the MMS?

Please come forward.

MR. KNOWLSON: Hello. My name is Dan Knowlson. I'm a petroleum engineer in the Santa Maria District Office with Minerals Management Service.

CHAIRPERSON BUSTAMANTE: Go ahead.

ACTING COMMISSIONER ARONBERG: If you know, can you tell us what process the MMS is undergoing right now to decide whether to assess initial penalties.

MR. KNOWLSON: What I heard was accurate, that we are still pursuing the civil penalty review process. And I guess there's several layers it has to go through. And it's my understanding that it would be another month or two to go through the process.

CHAIRPERSON BUSTAMANTE: How are we notified?

MR. KNOWLSON: I'm sorry?

CHAIRPERSON BUSTAMANTE: How are we notified with
respect to the outcome?

MR. KNOWLSON: We -- I don't know. I guess we could set up some kind of a line of communication and just let you know as soon as --

MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT CHIEF SCOTT: But we will request from the MMS notification once they have arrived at a decision on that.

CHAIRPERSON BUSTAMANTE: I think that's what the Commissioner's looking for.

ACTING COMMISSIONER ARONBERG: It may be. I'm wondering if we could have some input in that process, such as, if the other Commissioners would agree, sending a letter expressing our concern about the incident, and urging the MMS to take maximum action that it can.

Something like that, if the other Commissioners agree, I think that's what the Controller would be interested in.

CHAIRPERSON BUSTAMANTE: I think we clearly have history. And I think we could probably indicate what our history is with this particular provider, and ask that all of the our history with this vendor to be considered in this -- in whatever their findings are.

ACTING COMMISSIONER SHEEHAN: Could somebody give me a brief, as a newcomer on this, a brief history of this provider and what are the range of penalties MMS has. I mean just a little bit of background on this. And I don't
know who the appropriate --

MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT

CHIEF SCOTT: I have some information, but I'm not an expert in that area.

The range of penalty in the civil program is, depending on the type of incident and if there were any injuries to the personnel or significant environmental damage, range anywhere from 5,000 to $20,000 per day per violation; and, again, depending on the nature of the incident.

And that is basically the extent of the range of fees that are assessed.

ACTING COMMISSIONER SHEEHAN: Okay. And this was -- if the incident was a one-day incident but the issue would be some of the other procedures that could have -- you know, if they reasonably may not have been followed consistently previously or if MMS investigation has determined it's a -- just fill in the one-day incident?

MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT

CHIEF SCOTT: Yeah. I won't speak for MMS. But I believe that they view the incident as a one-day incident, and had made corrections to the areas that they were violating that same day or the next day. So I believe it's just a one-day violation.
ACTING COMMISSIONER SHEEHAN: Okay. And someone else maybe have the history on this operator, this platform, I guess with the --

MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT CHIEF SCOTT: With regard to state waters we have that information. I don't have the information as to their record in federal waters.

But the state waters they are really on par with the other operators that we have in California. There really are only four major offshore platforms in state waters. Venoco has one off of Santa Barbara.

We have reviewed the last six years of history. Venoco has had three spill incidents. The total amount has been about eight gallons of oil. And almost all of that occurred in one event.

The other operators' history put in comparison is: We have two that are anywhere from six to eight incidents during that same period; and one of the operators just had one incident. So I'd say they are right in the middle there as far as how they compare with the other offshore operators in state waters.

As far as their -- another measure that we look at to evaluate an operator is the history of their safety and compliance. And that is reported to OSHA. And in the last two years that we have records for, Venoco has been
equal to or better than the other operators and well below the industry average. So we feel from a safety -- personnel safety standpoint they are, you know, a very capable operator and have shown a good safety record.

And we have also incorporated a safety audit program from all of our offshore platforms. And the work that we have done on Venoco has resulted in part in bringing their safety record to an even better level.

CHAIRPERSON BUSTAMANTE: Isn't it true that the Venoco platform was at one point shut down?

MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT CHIEF SCOTT: In state waters?

CHAIRPERSON BUSTAMANTE: Yes.

MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT CHIEF SCOTT: Yes, sir, it was. In 1999 it was.

CHAIRPERSON BUSTAMANTE: Wasn't it during that time found that there were dozens of major violations on that platform?

MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT CHIEF SCOTT: That was in 1999, which was that one incident where the eight gallons occurred -- most of the eight gallons. We had conducted a safety assessment of the platform following that incident. And the number of action items, as we call them, during that particular review -- and I may have to defer to our Operations
Supervisor, Pete Johnson, who handles that. But I believe it was in the neighborhood of about 500 items on that particular safety audit, which is about the norm when we do an offshore facility, because it's a wide range of items that are looked at. The most critical ones usually fall into the 1 to 3 number. Then you get the lesser critical type of items that, you know, bring the number well up into the hundreds.

CHAIRPERSON BUSTAMANTE: Maybe we need to change our protocol if when we go out there we're finding 500 items --

MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT CHIEF SCOTT: We don't -- we --

CHAIRPERSON BUSTAMANTE: -- on average.

MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT CHIEF SCOTT: Yeah, we do not find 500 on -- these are --

CHAIRPERSON BUSTAMANTE: That's what you said.

MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT CHIEF SCOTT: Yes, sir. But these are items that have to do with the actual design and physical make-up of the platform.

CHAIRPERSON BUSTAMANTE: Well, regardless of what it is, it's not done properly. We're finding 500 items out there.
CHIEF SCOTT: But those have all been remedied. We conduct a monthly on-site inspection using our field inspectors --

CHAIRPERSON BUSTAMANTE: Were you doing that before this -- that spill?

MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT CHIEF SCOTT: Yes, we were. But they were not involved with the engineering design of the platform. So this was something -- this is a new program that we have initiated to not only look at the function of the safety of the facility, but also to evaluate and examine very carefully the actual make-up of the platform, how the platform was constructed, is it capable of the loads that are placed on the platform, are the pipings designed properly, are the diameters and their ability to withstand pressure adequate for the use on the platform? That was something that we hadn't done in the past, but we have incorporated that into our new program, which was started again as a result of the 1999 incident. And --

EXECUTIVE OFFICER THAYER: Well, I was just going to add that I think a number of the shortfalls were 1 to 1 off problems, that once they were fixed -- it isn't a question of deferred maintenance, more like: Is the valve in the right place and that kind of thing. And once it's put in the right place, you're done.
So we're going to do these engineering safety audits on a regular basis depending upon funding, which is an ongoing problem.

But we fully expect that the next go-round won't identify nearly as many, because we will have taken care of kind of the endemic problems that have existed out there, and that we didn't have a handle on because we didn't have the expertise and the staff that we needed to go out there and do it.

MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT CHIEF SCOTT: And the next go-round is this year actually. They're a five-year cycle. It came up this year, and they will be reevaluated again toward the end of this year.

ACTING COMMISSIONER SHEEHAN: And that's on the engineering design --

MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT CHIEF SCOTT: Exactly, yes.

ACTING COMMISSIONER SHEEHAN: -- that investigation? Okay.

CHAIRPERSON BUSTAMANTE: Any other questions?

ACTING COMMISSIONER SHEEHAN: I guess MMS -- in terms of history of the record for Venoco with MMS and some of the issues, do you have --

MR. KNOWLSON: I don't have the records available. We have a ranking process. And I believe
they've done fairly well over the years.

ACTING COMMISSIONER ARONBERG: In my opinion, none of this can be considered good or -- or good at all. I think that we have these safety procedures in place because the risk that is so -- even if it's a small risk of a spill, even if it's one gallon, that's one gallon too much. And the safety of the folks working on the platform is obviously very, very important. So seemingly small violations or only one or only three major violations is too many, in my opinion.

EXECUTIVE OFFICER THAYER: Certainly.

ACTING COMMISSIONER ARONBERG: And these are very, very risky operations we have off our extremely economically and environmentally important coastline. So --

CHAIRPERSON BUSTAMANTE: Perhaps the Commissioner might work with staff to prepare a draft that could be then circulated to the other members of the Commission.

EXECUTIVE OFFICER THAYER: Certainly.

CHAIRPERSON BUSTAMANTE: Okay.

EXECUTIVE OFFICER THAYER: The one thing that I would add is that it seems as though on a one-day basis these fines are not very big, because it's just one single incident that's being looked at.

The flip side of that though is that just as we
would be going through a process looking at a variety of factors to determine what the appropriate fine is, I'm sure MMS is going through the same thing. And there is some argument to be made that the heaviest fines should be reserved for those operators -- and there are few of them, but they are there occasionally -- who are non-cooperative, who have been negligent or are willfully causing problems. And I think the analysis shows that that wasn't the case here. That doesn't mean that it's -- that any spill is forgivable. But the question is whether or not the most severe fines should be reserved for those cases where the operators are willfully causing a problem or refusing to take any steps to remedy --

CHAIRPERSON BUSTAMANTE: Well, maybe I misunderstood then. My understanding was that there was established protocol for maintaining certain fluid levels, and that wasn't done. And you don't call that negligence?

EXECUTIVE OFFICER THAYER: I believe it was negligent. I'm sorry if I misspoke. But I don't think it's willful. I don't think somebody said, "Who cares about the water. We won't put any down" or "We know we're not supposed to take that pin out." I suspect when the pin was taken out that the person was just saying, "Oh we're making sure that that's there." I'm not saying that's a correct procedure. But I am saying that we
occasionally run into circumstances where operators are much more willful about their disregard of the regulations. And should they be fined the same amount as somebody who isn't?

CHAIRPERSON BUSTAMANTE: Well, is the procedure that was outlined, is this -- you know, a difference between federal and the state?

EXECUTIVE OFFICER THAYER: No, we believe our regulations would have prohibited that procedure that was followed out there, the illegal procedure in state waters as well.

CHAIRPERSON BUSTAMANTE: Now, the people who performed this procedure, was it Venoco people or was it some independent contractor?

EXECUTIVE OFFICER THAYER: I believe it was an independent contractor. But that as far as I'm concerned is still Venoco's responsibility to make sure that --

CHAIRPERSON BUSTAMANTE: Right. But I'm just trying to figure out -- I mean -- are they still there?

EXECUTIVE OFFICER THAYER: I don't know.

MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT CHIEF SCOTT: The --

CHAIRPERSON BUSTAMANTE: Are the Venoco people here?

EXECUTIVE OFFICER THAYER: Yes.
MINERAL RESOURCES MANAGEMENT DIVISION ASSISTANT

CHIEF SCOTT: Yes, they are.

CHAIRPERSON BUSTAMANTE: Would somebody from Venoco please come forward.

Welcome. Would you mention your name for the record please.

MR. SCHRAGE: Greg Schrage with Venoco.

Just to expand on some things I've heard.

We take it very seriously as well, and we intend to follow the regulations.

And the thing that I believe Paul was alluding to was that we make every effort to follow those rules and be a good operator and to take care of this.

The personnel that were involved in it were independent contractors. They were subsequently terminated from our service. It's been very clearly expressed, anybody involved in this operation that's going to -- will not be acceptable in our operations.

So we terminated personnel that hadn't had significant experience and we believe were solid personnel. The wellhead company that was doing the procedures for us was an authorized representative of the wellhead manufacturer. We've terminated their services.

And we actually fly people in from out of state to perform these operations because they have higher level of
expertise.

So we have made those type of changes, made it clear to everybody involved that this is not acceptable and will not be tolerated --

CHAIRPERSON BUSTAMANTE: Are they working on any other platforms that you have?

MR. SCHRAGE: Not working on our platforms, no.

CHAIRPERSON BUSTAMANTE: But I just want to ask you: The personnel or the contractor, they're not working on any of your other platforms on our state waters"

MR. SCHRAGE: The wellhead contractors that are working on our -- we fly in some --

CHAIRPERSON BUSTAMANTE: Are any of the contractors who were involved in this procedure and this spill activity?

MR. SCHRAGE: The individual personnel are not. Some of the contract companies are.

CHAIRPERSON BUSTAMANTE: And the contract companies that are, they are there with your full confidence?

MR. SCHRAGE: I believe they have very good representatives on board, yes. We've --

CHAIRPERSON BUSTAMANTE: So they've changed out their personnel. You still have -- you still have confidence in management, but you don't -- you didn't have
confidence in personnel?

MR. SCHRAGE: I didn't have -- we didn't have confidence in those particular individuals, yes. We were disappointed in their performance and --

CHAIRPERSON BUSTAMANTE: So what kind of safeguards do we have at this point that the supervision of this new personnel are not likely to do the same thing or go beyond some other protocol that's fairly established in the industry?

MR. SCHRAGE: Well, one of the things we have is we do look for various skilled personnel. I think that goes without saying, that we're trying to -- we deliver the best personnel we can get. We believe we have them.

We've also gone through this incident with our contractors. And this whole process obviously is not acceptable. So we've sat down with those contractors, expressed that to them. We've gone through it with their personnel, up and down. They've instituted new procedures with these personnel to look forward so they have better reviews and better job safety analysis about what's coming up in the day as they move forward through the procedures, so that there'll be less of an opportunity to vary from an agreed-upon procedure. So they have -- they have more formalized methodology for what they're going to do as they go -- as they work it up.
We've always had formal procedures. But we've actually added more layers to that to increase that awareness and kind of force people into that agreement that they develop the procedures and --

CHAIRPERSON BUSTAMANTE: Okay. So you have a group of people who are involved as a contractor and you've eliminated the personnel and brought in new personnel to establish the other procedures and other protocols.

And to what extent are you going to be supervising the supervisors now to make sure that it wasn't them and not the personnel?

MR. SCHRAGE: Supervise -- we have --

CHAIRPERSON BUSTAMANTE: You have the contracts or --

MR. SCHRAGE: Well, we have a company engineer, a drilling engineer who's in communications with the personnel throughout the day essentially, on call -- their personnel are on call. The engineers are --

CHAIRPERSON BUSTAMANTE: Well, where are they contacted about the day before?

MR. SCHRAGE: They are in contact. And variations from accepted procedure are generally expected to be discussed with the engineers. It was not discussed in this particular incident.
That particular process has been reinforced with the personnel we do have that, yes, we expect these procedures to be followed. There are -- there was an FMC wellhead landing procedure that was not followed. We've reemphasized with all those people -- like I said, we've started these 24-hour looking-forward type of procedures that they -- the engineer and the personnel on-site will have a written agreement on more of the specifics of what might have been construed as a routine activity historically.

CHAIRPERSON BUSTAMANTE: But the Commission has -- as you can imagine, we're at a zero-tolerance policy for spills. My guess is that everybody says that that's their goal as well.

But when members of your company indicate that oil and gas business is all about economics, we want to make sure and assure you as their representative that it's not just about economics.

MR. SCHRAGE: But I fully agree. It's not just about economics.

CHAIRPERSON BUSTAMANTE: We want to communicate back to Mr. Edwards that it's not just about economics. It's -- because people of the State of California don't believe it's that cut and dried.

MR. SCHRAGE: And I agree with you. I'm born and
raised near the coast and have grown up along one my whole
life. And I love it there. And I -- if I can't smell the
ocean, I think something's wrong. So I --

CHAIRPERSON BUSTAMANTE: Are you into surfing?

MR. SCHRAGE: I've got -- surf, scuba dive,
deep-sea fish. I thoroughly enjoy it.

But we value it as well. I mean we do have a
dedicated staff for our safety and processes. We have a
lot of programs in place. It's not just about economics,
you know. And obviously it brings -- business economics
are important. But safety is paramount for the
environment and our personnel. I believe that's why
Venoco has been able to work so well in Santa Barbara
County, in Lake Texoma, a private refuge. We're in the
Sacramento area, a lot of the duck refuge areas. And we
intend to be a good neighbor and a good environmental
citizen. That's one of our corporate goals as well.

CHAIRPERSON BUSTAMANTE: We look forward to that.

MR. SCHRAGE: We're working on it everyday.

Thank you.

CHAIRPERSON BUSTAMANTE: Any other questions?

ACTING COMMISSIONER SHEEHAN: Well, I just had a
question, as I say, as a newcomer, and probably to the
chairman.

Did I miss a meeting where Venoco said this was
only -- only the economics? Was that in something that
we've ever seen --

CHAIRPERSON BUSTAMANTE: It was the L.A. Times.
A gentleman by the name of Mike Edwards of their company
said -- you know, an article in the L.A. Times.

ACTING COMMISSIONER SHEEHAN: Maybe staff could
send me that, yeah, because I have not seen that.

CHAIRPERSON BUSTAMANTE: Sure.

ACTING COMMISSIONER SHEEHAN: Thanks.

MR. SCHRAGE: I quite honestly -- I'd make a
supposition that maybe there was something taken out of
context there. But that wouldn't surprise me. I mean
I -- I don't remember the article, but that is not our --

CHAIRPERSON BUSTAMANTE: Well, we'll send you a
copy.

(Laughter.)

MR. SCHRAGE: I still go with -- I still would
hope that there was something said taken out of context by
a reporter at the Times. I'd be glad to look at it.

CHAIRPERSON BUSTAMANTE: I doubt that that would
ever, ever happen.

(Laughter.)

CHAIRPERSON BUSTAMANTE: Based on personal
experience, I don't think that --

(Laughter.)
MR. SCHRAGE: But we do -- we take it very seriously, I can assure you of that.

CHAIRPERSON BUSTAMANTE: Very good. Thank you very much.

Any other questions?

ACTING COMMISSIONER ARONBERG: Yeah, in thinking about it though, in the letter -- I think the other suggestion was great -- sounds to me like in the methods sort of outdated fine structures where, if that's the maximum you can -- it has to involve some personnel. Seems like there should be a much greater range of fine and maybe some really, really old point instruction on that. What kind of disincentive is that to a company to engage in --

EXECUTIVE OFFICER THAYER: I think that's a good point. And perhaps what we could do in this letter is, number one, make that observation, that it's apparent -- it seems from our understanding of this -- and it's not our reg, so we could be missing something -- that for one-day events that could have catastrophic consequences, that fine structure that we certainly just heard today doesn't seem to address this situation. So I think that could be part of the letter.

And then if I could just suggest that, because it's MMS and they have their own structure here and they
consider various factors in imposing the fine -- but we want to express our concern is what I'm hearing the thrust of the Commissioners' comments. And I think the letter can certainly do that, and ask them to take appropriate action. While noting our great concern and the fact that this is one of our operators, and we all share the ocean though. And so we want them to look at this carefully rather than recommending a particular --

CHAIRPERSON BUSTAMANTE: Perhaps even more importantly, that we might want to include any enforcement history in any future actions that the staff takes, and they include that as a part of the consideration when we're reviewing and we are making determinations about their operations on state lands.

EXECUTIVE OFFICER THAYER: I understand. Good point.

ACTING COMMISSIONER ARONBERG: And I think without regard to, you know, what the norm is in the industry, because it sounds like the norm is really -- it's really bad. And if we accept all sorts of violations as the norm, that doesn't seem right and I don't think that's the proper way to look at this.

EXECUTIVE OFFICER THAYER: All right.

CHAIRPERSON BUSTAMANTE: What's the disposition of this item?
EXECUTIVE OFFICER THAYER: It was agendized primarily as an information item and to give the Commission -- or it's an opportunity to speak with Venoco about our concerns. But, again, if it's the Commission's direction, we'd be happy to draft up a staff letter and circulate it to the Commissioners' offices --

CHAIRPERSON BUSTAMANTE: I think that's the interest of the Commission, if we could pass it along.

My understand is Item 81 has been pulled?
EXECUTIVE OFFICER THAYER: Yes, sir.
CHAIRPERSON BUSTAMANTE: Okay. So we're going to item 82?
EXECUTIVE OFFICER THAYER: Yes.
CHAIRPERSON BUSTAMANTE: And there's no further action necessary on Item No. 80?
EXECUTIVE OFFICER THAYER: Correct.
CHAIRPERSON BUSTAMANTE: Okay. Item No. 82.
EXECUTIVE OFFICER THAYER: Item 82 is a resolution proposed for Commission adoption at the request of the lieutenant Governor to express the Commission's concern about proposals that have been made in Congress and discussed in Washington regarding lifting the ongoing federal offshore oil and gas leasing moratorium. This moratorium has been in place in federal waters for some time. And there are a variety of legislative proposals
that would change or eliminate that moratorium.

The State -- as the resolution notes, the State of California has a long history of protecting its own waters. This Commission adopted an administrative moratorium on new oil and gas leases in state waters clear back in the late eighties, which the Legislature eventually ratified in the mid-nineties to put into statute. So California and this Commission's expressed a leadership role in stopping new oil and gas leases offshore California.

And this resolution's consistent with other actions and other resolutions that have been adopted by the Commission in the past and is complete timely because of the discussion that's now occurring over the energy bill and other pieces of legislation.

This is also consistent with what the Ocean Protection Council adopted several -- or a letter that was sent out several months ago expressing a similar concern over the loss or the potential loss of the moratorium.

So staff has drafted up this resolution and is recommending that the Commission adopt it.

CHAIRPERSON BUSTAMANTE: I don't know as the Commissioners feel comfortable enough to pass it even though they've had only a short time?

ACTING COMMISSIONER SHEEHAN: Yeah -- no, this
has been -- at least from our perspective, it's been
circulated and is fine with passing it -- approving it.

CHAIRPERSON BUSTAMANTE: Well, then we'll take --
I'll take a motion to move this resolution.

ACTING COMMISSIONER ARONBERG: So moved.
ACTING COMMISSIONER SHEEHAN: Second.

CHAIRPERSON BUSTAMANTE: It's been moved and
seconded to send the resolution, by the California State
Lands Commission, requesting Congress to continue the
federal offshore oil and gas leasing moratorium.

There's a motion and a second.
Let the record show that the resolution passes by
unanimous consent.

EXECUTIVE OFFICER THAYER: Thank you.
This will be forwarded on to the Congressional
delegation and other representatives in Washington so that
they'll know about the Commission's position on it.

CHAIRPERSON BUSTAMANTE: Will it also be sent to
the leadership of both houses?

EXECUTIVE OFFICER THAYER: We'll make sure that
that happens.

CHAIRPERSON BUSTAMANTE: And the White House.
EXECUTIVE OFFICER THAYER: That the White House,
yes.

CHAIRPERSON BUSTAMANTE: Any other business
before the Commission?

CHAIRPERSON BUSTAMANTE: There's some public comment period. I think there's some speakers signed up to make comments.

CHAIRPERSON BUSTAMANTE: At the end of every meeting we allow the public to come forward to be able to discuss any items. And we have several people who have requested to speak.

If you have -- if you'd like to speak and you have not yet filled out one of these request to speak forms, we ask that you please do so and bring it forward.

This first person, I'm not sure I understand the -- I'm sorry. You must be a doctor, from a school. And I think it's John --

MR. ASUNCION: -- Asuncion.

CHAIRPERSON BUSTAMANTE: I'm sorry?

MR. ASUNCION: John Asuncion.

CHAIRPERSON BUSTAMANTE: Okay. Please come forward.

MR. ASUNCION: My pleasure. Thank you. Thank you for this opportunity.

I'll introduce myself. I'm John Asuncion.

CHAIRPERSON BUSTAMANTE: Remember, all public comments are limited to approximately three minutes.

MR. ASUNCION: I'm John Asuncion and I'm the
President and founder of the Blue Whale Sailing School.

We're charitable educational corporation here in the state. This is our 11th year. And my residence is in Santa Barbara. I live in Santa Barbara County. But I have a project in northern California in San Francisco Bay in Alviso. And myself and my wife have adopted the Alviso Slough six years ago when we purchased this property for our educational foundation and then donated it to the foundation.

We've spent approximately about $500,000 in cleaning up the Alviso Slough. Derelict boats have been abandoned, you know, trash, tires, all those particular things that have been polluting the bay. And the main thing that we're trying to accomplish is we purchased this property to provide public access for the people of the State of California.

We're really environmentalists. I'm a retired golf course architect and a landscape architect. So what I do is build parks, donate them, and do retrofits and wetlands. And I've done that my whole life up and down the state in different projects.

So I have -- you know, I want to thank State Lands, number 1, Mr. David Plummer and his assistant, Nancy Smith, for working with us over the years. We're in the position right now to try to lease a small piece of
the property from the state. And we have a neighbor next
door that's polluting the bay. And I've stepped forward
to pay for the cleanup. It'll probably be about a million
plus to clean it up. And we want to work with the state
to clean this up so provide public access.

And 80 percent of our students are all
handicapped adults that we provide -- we take them
sailing, we take them boating, we take them hiking. And
we provide universities in the south bay, Santa Clara
University to do research; san Jose State, Coach
Montgomery is one of my board of directors. His brother
Mike with the Warriors. Joe Capp -- all us old football
players or whatever you want to call us, okay? What we
try to do is try to give something back to the community.

CHAIRPERSON BUSTAMANTE: That's very generous.

MR. ASUNCION: But I need to just really thank
Mr. Plummer to try to -- you know, assisting us for the
last year, and his assistant Nancy.

And so I just wanted to take some time and see if
the state and our educational foundation could work
together on this parcel next door that is polluted.
There's fuel, oil, derelict boats. And I put a package
together for you.

CHAIRPERSON BUSTAMANTE: What do you think, Paul?
Do you think you can work with this gentleman?
EXECUTIVE OFFICER THAYER: Absolutely. In fact, as he's alluded to, we've had several conversations I think in the last few weeks, and further before that.

We've been involved in a couple different cleanup efforts down in that location. We don't have any money really to take these boats out. But we've been able to work cooperatively with several other agencies. And there was a big cleanup I think several years ago. But we got volunteered trucking services to truck away some of the debris.

But particular the facility that the gentleman is referring to is largely not on state lands. It's in an artificial cut. So although they have a lease for part of their facility, to get a real handle on this we're going to have to work cooperatively with DCDC and some of the other agencies so that the different jurisdictions can make sure that we can address the issue,

CHAIRPERSON BUSTAMANTE: But does the pollution impact state lands?

EXECUTIVE OFFICER THAYER: Oh, Absolutely. And we are -- there's definitely a nexus and they do have a lease from us, so that we have some opportunity to get involved. It's also true that that entity --

CHAIRPERSON BUSTAMANTE: Can we get any help from Finance?
EXECUTIVE OFFICER THAYER: It's also true that --
CHAIRPERSON BUSTAMANTE: Finance is committed.

EXECUTIVE OFFICER THAYER: That's what we like to hear.

It's also true though that this facility is in the process of getting permitting for a pump-out station for boats for the septic. And so that we're hoping that once that gets in place, that will address at least some of the problem. That's not to say it's going to deal with the other issues that you've raised.

MR. ASUNCION: Well, we're working with the state to have a pump-out station at our site. The reason why is they have no access to it because it's all polluted, derelict boats. But I accept that personally. I'm not asking for any money from the state or anybody. I will pay for the cleanup on the state property. And, you know, there's a continuance on that, because what I want to see is public access for the community. There is no public access in the south bay except for our site. And we provide public access. That's one of the criteria of our educational foundation and -- to provide public access and boating to everybody in the state that wants to put a kayak in or a boat or a sailboat.
CHAIRPERSON BUSTAMANTE: John, any more at home like you?

ASINCION: Well, there is --

CHAIRPERSON BUSTAMANTE: You need a family to adopt you?

(Laughter.)

MR. ASUNCION: There actually is. Yeah, you know, if it wasn't for my wife to -- this is her thing, you know. And I'm just a side cart, you know. But she -- we've been, you know, activists to try to clean waters up. And especially, you know, living in Santa Barbara with oil spills over the years. So listening to these gentlemen as we're out there sailing with our students and everything like that.

CHAIRPERSON BUSTAMANTE: Well, great. Thank you so much.

MR. ASUNCION: I just wanted to take some time --

CHAIRPERSON BUSTAMANTE: We appreciate your work and we appreciate your effort. And they're very, very generous actions.

MR. ASUNCION: Thank you.

EXECUTIVE OFFICER THAYER: I would point out to the Chair that one of the other people who signed up, you've probably noticed, Doug Bloyd is concerned about the same matter. And so you may want to take him --
CHAIRPERSON BUSTAMANTE: Is Doug here?
Please come forward.
Is that Doug Bloyd?
MR. BLOYD: Doug Bloyd, yeah.
I'm just going to read my letter, if you don't mind.

CHAIRPERSON BUSTAMANTE: Please. Go right ahead.
MR. BLOYD: And I'm a person who went to Mr. Asuncion and asked for public access, and he gave it to me. The South Bay Yacht Club didn't. Okay?
And I've given you some information. I've given you a copy of the lease that this gentleman was talking about. I've given you some photographs and some other information that is referenced here.

My name is Doug Bloyd. I'm a resident of San Jose in Santa Clara County. I'm a boater, fisherman, hunter and a friend of the Guadalupe River watershed that flows into the south end of the San Francisco Bay through Alviso Slough. Please give consideration to my concerns.

I do not understand why the state is allowing the stretch of state-owned land in Alviso Slough being leased by the South Bay Yacht Club to be managed the way it is. I reviewed the state's lease No. PRC 3979.1, and the South Bay Yacht Club is clearly in violation. They provide no public access to the lease property. They do not maintain
the facilities. And as you look through the pictures, you'll see -- it's not rocket science -- they're not maintaining it. And their derelict boats and docks are a flood danger to the surrounding town of Alviso.

And I've had representatives at the Santa Clara Valley Water District tell me that these -- if there was ever like a hundred year flood, some of these big derelict houseboats, they would break loose at the point, they could sink, clog the channel, flood into Alviso. So the water district knows. But they are -- for some reason they're letting them stay there. I'm not sure exactly why.

CHAIRPERSON BUSTAMANTE: Okay.

MR. BLOYD: Also I fear is that the state of the South Bay Yacht Club grounds could severely jeopardize the funding of a project called Alviso Slough Restoration Project being proposed by the Santa Clara Valley Water District. And I've included that as well.

The project plan clearly states that the water district will only be responsible for using -- removing plant and root matter in the proposed area. And there's no way a crew could ever stay on budget having to work around all the derelict boats and docks in the state of this property.

CHAIRPERSON BUSTAMANTE: Do we know about how
many there are, so --

MR. BLOYD: Yeah, I'd that there's like -- if I counted them, probably 14 or 15. It's not a huge amount, but it's just -- it's a problem.

This project will increase flood protection to the town of Alviso, it will improve navigation so the community can expand on boating and other recreational opportunities, and restore historic public access and aesthetics for the Alviso community.

I would hate to see this project go away because of the negligent actions of a few. Please do something about this.

I think one of the problems is because it's been, oh, so overgrown, people don't see it. And the problem is in two years the State Boat and Waterways has partnered with the Santa Clara County Parks and Rec Department about -- probably a quarter mile downstream they're going to be putting in -- finishing like a $5 million project like 2006, 2007. Right now they're finishing the first phase of it, which was from 2004 to 2005, which was a $2 1/2 million project. And then what they're doing is they're going to put a new boat launch so that people would actually finally be able to access the south bay. There's nothing at the south end of the bay for people to access. And I'm duck hunter and fisherman. That's why I
like Mr. Asuncion, because he let me go out there.

Now, do you think if you have a problem with that now, you wait for two years when all of a sudden all the people from the Bay Area start going up and looking at those grounds? You just can't see it now unless you're in the slough. Because I'm in the slough fishing and hunting, I see it. There's going to be a bigger problem once these people get to that boat launch and start driving up there and seeing the problem that there is up there.

Those are my concerns.

CHAIRPERSON BUSTAMANTE: Okay. Thank you so much. Appreciate the information.

Staff has made note. We are moving.

And why don't we -- I mean I don't know what the other members of the Commission feel. But I think that this warrants some kind of a follow-up by staff back to the Commission, at least give us a report as to where we're at on the next -- by the next meeting.

EXECUTIVE OFFICER THAYER: Certainly. As I indicated earlier, we're already in contact with DCDC and the regional water quality control board about this, and water agencies, and we're trying to coordinate with them to accomplish much of what they're asking for.

CHAIRPERSON BUSTAMANTE: Pacific Merchant

Welcome.

MR. BERGE: Thank you.

CHAIRPERSON BUSTAMANTE: Please give your name for the record.

MR. BERGE: Thank you, Mr. Chairman. My name is John Berge with the Pacific Merchant Shipping Association. We represent the major vessel operators throughout California ports. And I'm basically here just to make the brief comment on an item that's not on the agenda but I expect to see on it probably in your June meeting. And, that is, the proposed rule-making package on the coastal transfer ballast water that the State Lands Marine Facilities Division is working on.

I'm a little ahead of the game here. But I think there was a slight delay in the proposed rule-making package, so we've actually been working this issue over the last few months.

And I just want to state that, you know, our industry, we support -- we supported AB 433, the current ballast water law. We also supported the previous law, which was Ted Lambert's -- gosh, I think it was 733 -- bill previously. And, you know, I think what this gives California is probably the most rigorous protection in terms of invasive species probably in the world. I think
the proposed regulations that are being formulated now will probably strengthen that considerably.

Our concern primarily deals with a small -- a very small population of vessels that due to their construction or particular trade restraints that might affect the voyage duration between one port and another, in a sense could face an economic barrier to continuing these particular trade routes. And we just would like to urge the Commission and the staff to work with us to kind of accommodate those instances somehow so that we can basically -- continue moving these regulations forward and at the same time not necessarily terminate or eliminate certain trade routes -- certain pieces of business I think that are important in California.

CHAIRPERSON BUSTAMANTE: Well, California clearly, Mr. Berge, believes that it is a national port. It is a pathway of goods and services to the entire nation. We believe that we service the entire Pacific Rim through our ports. And as a result, that has benefited our economy and the people of the State of California.

But, you know, tell me what ships are not going to be in compliance, and we won't put them -- you know, we won't enforce the regulations on them. How do we know which ships are going to have what it contained inside the ballast water? How do we determine that?
MR. BERGE: Well, the good news is when we reached out to our membership -- and I must point out that are membership is not necessarily representative of the entire fleet that calls at California ports. But the vast majority of them, I would say 99 percent of them, said, "We will be able to comply with these regulations." There might be some difficulties, some costs, but, you know, we understand the problem.

As far as those that cannot, I think there were probably two scenarios. There are probably -- you could probably name them on a hand the number of vessels that are regularly involved in certain trade routes in and out of California. I know one tanker industry, for instance, has a couple of their vessels that they feel under these regulations would probably have to -- they'd probably have to pull those from those particular trade routes. In those instances it would be great if we could somehow work some sort of a solution out. And I think there's probably language in the regulations now to address some of that.

The other scenario though --

CHAIRPERSON BUSTAMANTE: Where are they going to go? They're not going to be accepted in Seattle and Portland. I mean are they going to go to Mexico?

MR. BERGE: The vessels?

CHAIRPERSON BUSTAMANTE: Yeah.
MR. BERGE: The tankers?
Well, this is a particular —
CHAIRPERSON BUSTAMANTE: They're eliminating in
California from their trade route.

MR. BERGE: They might have to run this I guess
maybe through a pipeline instead. I can't honestly speak
for them because they're not part of my membership.
CHAIRPERSON BUSTAMANTE: Okay.
MR. BERGE: But the other scenario is there are
vessels that I think by and large would not have an issue,
but under certain circumstances they may find themselves
in a situation on a very short voyage duration going from
San Diego to Los Angeles, San Francisco to Eureka, where
the short voyage duration and the amount of ballast water
that needs to be exchanged almost precludes them from
fitting into that trade route.

I know that the staff has, you know, been open to
these issues before. However, I'll also note that under
the regulations I believe the Commission is the body that
needs to provide for these exemptions -- one time
exemption, what have you. And I'm just concerned that in
the course of business whether or not the Commission would
be able to react fast enough to deal with those issues.
CHAIRPERSON BUSTAMANTE: I understand your
concern. And I understand that there is some interest in
having some leeway in California to California trips. I
think we'll be swayed by good science. I think that's
where it's going to fall. If we have good science that
says -- that allows us to be able to do these kinds of
activities, I think that's where we'll be swayed. I think
that you would be swayed as an industry. Even though
you're actively promoting this industry, I think you would
have to be swayed by good science.

And so I think that that's probably the best
thing that we can suggest, is that we're going to try to
do the very best that we can in trying to assess the
situation. We already have contamination. We already
have species from all over the world that are in this.
And there's more and more. And there are some ports that
are not doing a very good job internationally, and they're
always trying to do something in which -- whether
intentionally or unintentionally bringing a variety of
different organisms here and potentially the destruction
of many of the species and many of the environmental areas
that we have here in California.

So I know that that's not your intention. I know
that your intention is to try to figure out how to make
things smoother, help the bottom line, which I perfectly
understand, and be able to provide the most efficient way
of doing business for your industry.
But after all that is said and done, I think it would be good science that we would have to default to. And I hope you'll work with us on that. And feel confident to be able to come to us as a commission to be able to say that, "Well, we don't think -- you know, Paul got this crazy person, you know, and the guy, you know, doesn't know what he's doing. And we've got this information that we think is good science and we want you to consider it." We're always open to be able to do that. We're always open to that kind of logic and reasoning.

But in the end, my guess is it will be good science that will prevail.

MR. BERGE: No, I appreciate those efforts, Mr. Bustamante. And we're certainly not asking for some sort of a carte blanche exemption. We feel confident that we can work with both the Commission and the staff through this rule-making process to address this issue.

CHAIRPERSON BUSTAMANTE: You should -- reverse osmosis planted on every single tanker ship.

MR. BERGE: If it gets to that point, I guess we will, you know. I think that science is still kind of in its infancy here. So we're all trying to move this forward.

CHAIRPERSON BUSTAMANTE: I think you're right.

Thank you.
MR. BERGE: Thank you.

CHAIRPERSON BUSTAMANTE: Really appreciate your being here and speaking on behalf of the industry.

Barry Christian. I believe that's -- did I say that correctly?

MR. CHRISTIAN: Yes, you did.

CHAIRPERSON BUSTAMANTE: And you're to speak on the --

MR. CHRISTIAN: -- the State Lands Pond, we call it.

CHAIRPERSON BUSTAMANTE: Please, have a seat.

MR. CHRISTIAN: Is that hard on your neck --

CHAIRPERSON BUSTAMANTE: That's quite all right. I'll just turn my chair. Don't worry about it. Go ahead and state your name for the record.

MR. CHRISTIAN: I'm Barry Christian. I'm a citizen volunteer from the City of American Canyon on the -- just inside Napa County on the southern border, on the north border of Vallejo. And we share -- well, we have a border with the Napa River too. It flows along our entire western border. But there's not any public access there.

So that's how I got involved in this. There's a closed landfill out there. And we believe we have an agreement at least on staff level with the city and the
Waste Management Authority that will allow public access perhaps next year along the landfill, the perimeter access road which goes along the Napa River.

And what that brings me to is a piece of State Lands property. It's a -- I gave you a little map of the assessor's parcel. And in the center there it says, "State Lands com." It's a little triangle-shaped piece of land.

CHAIRPERSON BUSTAMANTE: Right.

MR. CHRISTIAN: Traditionally this was an inlet. It was open to the river. And I believe that's why it was never actually a parcel. Someone built a levee across there, where it's the little cross-hatching, the beach area and created a large pond in the middle. That's why we call it the State Lands Pond.

The levee was constructed of landfill burn pit material. So it's slag. I've given you a couple little photos.

I've been in contact with your staff. And I want to commend your staff. Nancy Kasana answered my questions. Nancy Smith did some good research in finding out more about this. And Dave Plummer's been very helpful. And I think they support this.

The problem with that levee is it's eroded into the river, and so it's allowing lead contamination -- I
believe it's contaminated with lead and PNA's. I'm not
even sure what those are. But it doesn't appear to be
highly toxic. It's low levels.

The -- Mr. Trent Cave, the Director of the Napa
County Environmental Management Office -- they oversee the
landfill. And a couple years ago they floated Prop 13
proposal to get that levee taken out, place it into the
landfill before it closed and restore the area to
wetlands. But they were prevented by the State Regional
Water Quality Control Board because they couldn't put the
waste into a Class 3 landfill. They wanted to go to a
Class 1, which is going to greatly increase the expense.

So right now I've been looking for a way around a
variance. We can still -- I'm told we can still open up
that landfill and get those placed in there. It would be
better, we feel, in a landfill than eroding into the river
if it's contaminating it.

And also if we do get that public access, that's
going to bring the public into this area. And so, you
know, we could probably have people wondering out there.
So it really needs to be cleaned up. Maybe it's a
question of how and funds and getting everybody together.

I've also contacted Wesley Chesbro's office and
how they can get with regulatory relief.

So I wanted to just let you know what I'm up to.
I sent photographs to your staff. I didn't give you a lot of great materials. But this was three minutes.

And I also wanted to thank you all for your service to the State of California.

So I'll just be working with your staff and trying -- I figure it's going to take a large group of funding, a lot of different agencies all cobbled together to try to get this cleaned up. But it needs to be done now. We may end up putting a fence around it for the time being to keep the public out.

So thank you.

CHAIRPERSON BUSTAMANTE: Thank you. Appreciate it.

Do we have --

EXECUTIVE OFFICER THAYER: I think this is very analogous to the earlier gentleman. Both of these people have done a great job in their community to try and improve public amenities, and that we've had some land involved.

As the gentleman has said, we've worked with him. And it's one of these things that's going to require several different agencies. There's some discussion about perhaps getting some money from the Coastal Conservancy. And if that's what it takes, I presume the Commission would find it appropriate that we write a letter in
support of this for that kind of funding from the Coastal Conservancy and take whatever other steps we can take to bring this about.

I'm not sure legally where the landfill company is with respect to responsibility for that levee. I think they've indicated some willingness to remove it. But, again, they have this hope that they can dispose of it right next door at the dump, which is right there.

But, again, there's probably good policy reasons why there's some restrictions on disposing of this more contaminated material there. And it's just one of those things we're just going to have to work through with a lot of staff time to try and find some way that we can make all this happen.

CHAIRPERSON BUSTAMANTE: Great.

MR. CHRISTIAN: Thank you.

CHAIRPERSON BUSTAMANTE: Thank you.

Is there any other person who is interested in making a public comment?

Going, going, gone.

I believe that concludes the business of the Commission for today.

Is there any other items for the Commission?

EXECUTIVE OFFICER THAYER: Just closed session is all.
CHAIRPERSON BUSTAMANTE: Okay. Well, then we'll adjourn this meeting and go into closed session.

(Thereupon the California State Lands Commission meeting adjourned open session at 11:20 a.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 9th day of May, 2005.

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