APPEARANCES

Cruz Bustamante, Chairperson, represented by Lorena Gonzalez

Tom Campbell, Director of Finance, represented by Anne Sheehan

Steve Westly, State Controller, represented by Cindy Aronberg

STAFF

Paul Thayer, Executive Officer

Jack Rump, Chief Counsel

ALSO PRESENT

Alan Hager, Deputy Attorney General
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PROCEEDINGS

ACTING CHAIRPERSON GONZALEZ: Good morning. I call this meeting of the State Lands Commission to order. All representatives of the Commission are present.

My name is Lorena Gonzalez and I'm representing Cruz Bustamante. I'm joined today by the delegate from Steve Westly's office, Cindy Aronberg, 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 mineral interests. Today we will 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.

Can I have a motion to approve the minutes.

ACTING COMMISSIONER SHEEHAN: I will move adoption of the minutes.

ACTING COMMISSIONER ARONBERG: I will second.

ACTING CHAIRPERSON GONZALEZ: A 2–0 vote. The minutes are adopted by a 2–0 vote.

The next order of business is the Executive Officer's report.

Mr. Thayer, if you want to give the report.

EXECUTIVE OFFICER THAYER: Certainly. I wanted to
report on a couple of different matters, or three or four, to the Commission. A couple of them are in the front of the report pack in response to some of the public comments we received at the last Commission meeting.

The first was from Mr. Lester Denevan. He had some concerns about how Long Beach was administering the grant of public trust land that they manage. He had two issues. The first had to do with whether or not the public trust revenues from the public trust lands were being expended strictly for public trust purposes.

We contacted the City with respect to that. The City has sent us a letter. They are in the process of doing an accounting, they provided some accounting material, and it looks at this point as though the City has not done anything wrong. It appears that the public trust revenues were expended for public trust purposes, however, we're trying to look a little bit more closely at the figures, they didn't come from the City until this week so we haven't had time to analyze them.

The second matter has to do with the convention center there which is on tidelands. There's an agreement between the City and the Commission which requires, first, that the City report to us annually on what convention activities were held and whether or not they were consistent with the public trust, and finally, whether any of those
conventions were run at a deficit to the City. The requirement of the agreement states that in addition to that accounting that if there is a deficit, that can't be made up with public trust funds. The funding for that would have to come from the City's general fund.

On that score, there's definitely been a lack of reporting from the City. The City has acknowledged that in a letter back to us, and they are going back and will provide the missing reports which we will then analyze further and get back to the Commission.

So in some sense, in a great sense, this is a status report of our review. The initial indications on the first matter is that there isn't a problem, on the second matter there certainly is a problem with respect to fulfilling the reporting requirement, and as to whether or not it's more substantive, whether or not public trust revenues were used for nontrust related conventions is something we'll determine through the analysis and we will report back to the Commission.

The second report back had to do with some concerns raised by Mr. Don May. His basic concern was whether or not the Commission was adequately enforcing or implementing agreements that we've entered into. And he had two examples he raised. He raised Queensway Bay, another project in Long Beach, and Mission Bay. At the time he did
not have a lot of details and we attempted to communicate
with him both by letter and by phone. We didn't hear back
from him until yesterday.

He is satisfied that the Mission Bay issue he
raised is not of great concern, in fact, he had a discussion
with Commissioner Gonzalez about that, and he agrees that an
agreement, a binding agreement, had been entered into which
divided up where the land was, what was trust and what was
nontrust, and that the activities over which he had concerns
were in the nontrust areas and therefore not of concern to
the Commission. So we settled it as to that.

With respect to Queensway Bay, he raised the
concern as to whether or not the project is being phased.
When that project first came to the Commission, one of the
concerns expressed by the local residents was that this
project was going to go on forever and it was going to be
phased for a long period of time. Most of those buildings
have been built to this point, but there are two areas from
which the trust had been lifted where the structures have
not been built yet.

The first one of those is in the IMAX site. A
proposal had been made that an IMAX theater would be located
in the development. That was a nontrust use and the trust
was lifted from that. And let me drop back for a second
here. The agreement provides that if some aspect of the
agreement is not fulfilled with respect to any particular site from which the trust had been lifted, that the trust would then be reimposed upon that site.

With respect to the IMAX site, the City is now proposing and a developer has come on board to have a hotel on that site. So, in fact, it will become a public trust site, the language designation again, and a hotel is a public trust use, and the fact that whether or not there is any phasing involved isn't as relevant anymore because it's going to go back into public trust uses anyway and a use that would be consistent with the public trust.

The other use for which there hasn't been any construction is a retail site. I think originally it was designated for either a bookstore or a clothing store, although again the designation is officially retail, it can be used for a variety of nontrust uses. No construction has occurred there. The City has argued that the phasing requirements don't require them to build a building if they don't have a user in place. I'm sure that's right. And as with the issues from Lester Denevan, we're going to continue to review this with the City.

Our procedural remedy is to file a 60-day notice that we don't think they are in compliance and let the City explain why they are in compliance. But at the State we want to do some additional review. But there is some
indication that that site could be subject to the agreement
and might have to come back into the trust since no
construction has occurred there. But we will report back on
that further at the next meeting.

The other matter I was going to talk about is the
South Bay Yacht Club, which is a lessee of ours in San
Francisco Bay, but I see that John Asuncion is here, he's
the one who originally brought it to our attention, and I
think he's going to speak to the Commission during the
public comment period probably about this issue and so we'll
just discuss it further then.

The final thing I wanted to mention is that we
have two longtime staffers who are in the room who are
retiring in the near future. The first one if Bill Morrison
who has handled all of our legislation and certainly his
good work for us are exemplified by the fact that SB-365 got
through reestablishing our authority to do exchanges. It
was a big deal for us, it was a hard thing to do because it
really didn't get into print until the last of the sessions
and to get something through like that. We had only one no
vote all the way through, so it's a credit to him. And I
wanted Bill Morrison to stand up to acknowledge. He's not
here.

(Laughter.)

EXECUTIVE OFFICER THAYER: But he's actually
working on the press release for the resolution which is why he's back there to make sure it's all coordinated. But anyway, he's been very helpful to us and he's going to be retiring at the end of November.

The second person I wanted to acknowledge may be at our next meeting, but she's not sure, it depends upon whether things come up, and that's Jane Smith, who I know is here. Please stand up. Jane's been with the Commission again for about forever. You wouldn't know it from looking at her, it seems like she reported for work yesterday. But she has one of the items up today and she will be retiring at the end of the year. And so she may be down at the San Diego meeting, but I was afraid she might not be and I wanted to acknowledge her good work for the Commission while she was here.

MS. SMITH: Thanks.

EXECUTIVE OFFICER THAYER: Thank you, Jane.

(Applause.)

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

ACTING CHAIRPERSON GONZALEZ: Thank you, Paul. And having been able to work with both Jane and Bill, I know you are missing two very important people at the organization, and I'm sorry for that, but happy retirement.

The next order of business will be the adoption of
the consent calendar. Are there any items that have been
removed from the consent calendar?

EXECUTIVE OFFICER THAYER: There are three items
we'd like to remove. Two of them would be heard, we plan on
hearing at our next Commission meeting December 8th in San
Diego. The first is Item Number 18 which has to do with the
transfer of an Offer to Dedicate for public access that we
previously accepted and plan to transfer to Access for All,
a nongovernmental organization. The second one is the
Millenium Railyards project here in Sacramento. There is
some additional work that needs to be done on the toxic
matters, and so that's Item 38.

Finally, we received some opposition to Item 33
which has to do with the moorings at Catalina Island. We
would like to hear that today, and, therefore, we would like
to take it off the consent calendar and move it to the
regular calendar. The rest of the items we will move.

ACTING CHAIRPERSON GONZALEZ: Is there anyone in
the audience who wishes to speak on an item still on the
consent calendar? If not, the remainder of the consent
items will be taken up as a group for a single vote. We
will now take that vote.

ACTING COMMISSIONER ARONBERG: Madam Chair, I just
wanted to make a comment, not to remove anything. Item C-
41, the Controller will be voting for this and is just very
pleased and wanted to commend staff on the number of wonderful safety assurances. And without all of these, there is a number listed here and I won't bother reading them all, but we've got an early safety audit, an early safety training, a whole load of oil spill exercises, that would allow the Commission to shut down operations in the event of any incident, and then a number of financial assurances as well. So the Controller wants to thank staff, wants to thank DCOR for raising all of these, and because all these conditions have been agreed to, the Controller will be indeed voting for this item.

EXECUTIVE OFFICER THAYER: Thank you.

ACTING COMMISSIONER SHEEHAN: I will move the consent calendar.

ACTING COMMISSIONER ARONBERG: I second.

ACTING CHAIRPERSON GONZALEZ: Let the record reflect that the consent is accepted with a two-zero vote.

We're moving on to the general calendar, Item 42, which is the expiration of the regulations concerning the federal oil drilling moratorium.

Do we have a staff presentation?

EXECUTIVE OFFICER THAYER: I do have some prepared comments on this. The Commission has dealt with this matter before several times. This particular resolution expresses the Commission's continued opposition to new leasing and
development in the federal waters off shore of California, this long history in California of restrictions and prohibitions on offshore oil development in state waters. And what the resolution does is continue to put the Commission on record as opposing the same sorts of things in federal waters.

Within the state waters, there have been no new leases of state lands since 1969, the Santa Barbara oil spill. There has been a legislative moratorium in place for first many of the areas off the coast, and now all of the areas. The State Lands Commission even before that moratorium was adopted in statute had its own policy of no new leases. In 1994 the Legislature enacted the present moratorium which prohibits all new leases in state waters.

The reason we're revisiting this is because there are new threats to lift or weaken the federal moratorium. There has been a new energy related bill that has been issued or promulgated which calls for the lifting of the moratorium with respect to gas development, and there have been proposals made and are still being evaluated to weaken the moratorium with respect to oil development and leasing. So as a result, both the Lieutenant Governor and the Controller have asked that the Commission renew its opposition to these things.

It's especially timely that the Commission act
right now because our understanding is that there may be a markup of some of this legislation as early as October 26. So should the Commission approve this resolution, we can ensure that our position is once again made known as promptly as possible. The resolution calls that it be sent to all the congressional leaders, the President, and our own state delegation so that it's clear where the Commission stands on this.

That's about it and I would be happy to answer any questions.

ACTING CHAIRPERSON GONZALEZ: Well, on behalf of the Lieutenant Governor, I want to thank you. It is becoming redundant the number of these resolutions that we've passed and upward, but obviously this is a continuing threat and something that we need to keep our eye on and obviously we just need to remind the federal government where we stand. So thank you for getting the resolution done.

EXECUTIVE OFFICER THAYER: Thank you.

ACTING COMMISSIONER ARONBERG: First of all, looking right here at what's going on it's very timely actually.

ACTING COMMISSIONER SHEEHAN: Question. Is it still in committee in Washington or has it passed either the House or --
EXECUTIVE OFFICER THAYER: I don't think it's passed either house.

ACTING COMMISSIONER SHEEHAN: Okay.

EXECUTIVE OFFICER THAYER: And I think what's happening is that there's still some reconciliation occurring between the House and Senate, and I think that's what this meeting is about on the 26th. But you're right, normally they do the markup or the reconciliation after versions have passed both houses, so I may be incorrect on that. But there is also some anticipation that it might go into yet other bills, the stronger language, the language that's already been promulgated merely, not merely, but it's limited to allowing for new gas leasing. But there's additional discussions going on as to whether or not there will be new oil leasing provisions that could go into there.

ACTING COMMISSIONER SHEEHAN: So we do appreciate the work you all did this.

EXECUTIVE OFFICER THAYER: Great, thank you.

ACTING COMMISSIONER ARONBERG: I will happily move approval of the resolution.

ACTING COMMISSIONER SHEEHAN: And I will second.

ACTING CHAIRPERSON GONZALEZ: Great.

Moving on to Item 33 which was pulled from the consent calendar and a staff presentation.

EXECUTIVE OFFICER THAYER: Apparently that item
will be presented by Jane Smith.

MS. SMITH: Good morning. Before I begin, I would just like to say that it has been an honor to have been a member of this staff for the last 27 years.

Madam Chair and Members of the Commission, my name is Jane Smith and I'm a member of the Land Management Division. Calendar Item 33, consideration of an application submitted by the Santa Catalina Island Company and the Santa Catalina Island Conservancy to amend their existing lease to add 32 additional moorings around Catalina Island.

The lessee has determined that some of the moorings were needed for seasonal employees and for administrative purposes, such as harbor patrol, lifeguard and sheriff's vessels, shoreboats, work skiffs, pumpouts, and trash boats. The current lease which was authorized by the Commission on November 25th, 2001, is for continued use and maintenance of 720 revenue-producing moorings and six revenue-producing stringlines. The lessees propose to add two moorings at White's Cove, eight at Isthmus Cove, two at Emerald Bay, and 20 at Catalina Harbor. All of these moorings will be located within existing established mooring areas.

During our review of the application, issues were raised by a small group of boat owners over shallow anchoring restrictions and the appropriate width of the
fairway at White's Cove. The lessee acknowledged that in
the past their harbor patrol personnel have not been
consistent with the implementation of their policies and
procedures relative to these issues. The lessees have
revised their anchorage and mooring policies to address the
inconsistencies and have advised their harbor patrol
personnel of the revisions.

At the request of Commission staff, the lessees
prepared new illustrated plats to be incorporated into the
lease that clearly identify the various mooring and
anchorage areas, fairways, piers, and camp zones within the
lease premises. The plats will be included in lessee's
policies and procedures manual and it will be available to
all boaters.

Commission staff also requested and reviewed the
lessee's policies and procedures manual, we believe that it
to be a furtherance of lessee's responsibilities for safe
management of this area.

Letters of support for the staff's recommendation
have been received from the Newport Harbor Yacht Club and
the San Diego Yacht Club. Staff recommends that the
Commission authorize the amendment of Lease PRC 3639.1 for
the installation of 32 additional moorings and to authorize
the replacement of the illustrative plats presently attached
to the lease with the new illustrated plats which are named
Exhibits A1 through A9.

Representatives of the Island Company and the Conservancy and Commission staff are happy to answer any questions the Commission may have. Thank you.

ACTING CHAIRPERSON GONZALEZ: The first speaker who I believe is concerned about the item, Jerry Desmond from Recreational Boaters of California.

MR. DESMOND: Thank you and good morning. My name is Jerry Desmond, Jr., I'm the Director of Government Relations for Recreational Boaters of California. We're a statewide organization for the boating community with 75,000 boating families. And specifically I work over at the State Legislature and the executive branch on boating-related issues.

And I think the last time we appeared before the State Lands Commission was in regard to the renewal of the lease. I think it was 1982 when our organization supported the lessee and the awarding of the leases. And I don't think we've appeared since then at the Commission.

And I want to, first, this is the first time I've appeared, is to say thank you again to Jane, who I didn't know was retiring, but we became activated on this issue just yesterday when we started hearing from some of the local boaters that there might be some confusion and maybe some miscommunications that had taken place maybe from some
of the individual boaters and the things to try to find out what's going on and the issues raised about issues for possible resolution. And I want to thank Jane and the people with the Conservancy and the company for the ability to get a handle on these things.

We note that the two yacht clubs have indicated their support for the lease and we're not here to oppose it. We have heard from some of the individual boaters down in the area who utilize it that their maintenance and practices in the past where pleasure boats, boats under 31 feet, as opposed to boats under 80 feet, would have been anchoring in the area of White's Cove which is between where the moorings will be and where the shoreline is and there may be some concerns that they will not be able to do so in the future. And also understanding that there this issue has been explored and staff has done the work and accompanied the Conservancy to determine what are the right safety conditions there.

What we are interested in is a further discussion of those and maybe other issues so that the boating community has more bite into the pie. Because I think perhaps we're guilty of not having been engaged earlier and our representatives of the local boaters down there that there is a confusion based on past practices and I think that with a discussion that will take place subsequent to
today that perhaps there could be a meeting of the minds.

And that's our main issue. Thank you.

ACTING CHAIRPERSON GONZALEZ: Thank you for expressing that concern.

I know that we have Oleg Olser from the Santa Catalina Island Company, correct?

MR. OLSER: Correct.

ACTING COMMISSIONER GONZALEZ: And I don't know if you still want to speak or Mel from the Santa Catalina Island Conservancy, are you guys okay with not speaking?

MR. OLSER: Yeah, we're okay.

ACTING COMMISSIONER GONZALEZ: Can we just have maybe one of you come up and maybe comment on the ability to work with some of the boaters, the issues that Jerry brought up, and maybe some sort of plan to really explain the goals to make sure that there is not this confusion so that we can at least put to rest those concerns.

MR. DINKEL: Good morning. Mel Dinkel, Chief Operating Officer for the Conservancy.

As the gentleman before me mentioned, we offered to sit down and talk about the issues with them. We have been attempting to do that for the last year and have had a difficult time finding the right avenue because there is no one voice that we have been able to find. We talk to individuals and try to resolve those issues and we actually
The fairway issue that was identified, we agreed that it had not been consistently been administered and we changed that method so that I think everybody has agreed with it. I think there is just a few others that feel like that things that have been done in the past they want to continue to do, which aren't safely being able to be administered, and so we will go and talk with them about that.

But I think the way in which staff has asked that specifics be identified on the plats will help our harbor patrol people, along with the others, the boaters, to have specific guidelines that now can't be just administered based upon personal feelings. So I think it's a great recommendation by the staff.

ACTING CHAIRPERSON GONZALEZ: Thank you.

EXECUTIVE OFFICER THAYER: If I could respond to a couple of those points as well?

I think that what has been brought to the Commission in the way of staff recommendation in these amendments are an attempt to kind of resolve this in the fairways. There are sort of two areas of concern, as I understand it, one is whether or not boats should be allowed to anchor between the established mooring lines and the shore, this area is two to three hundred feet wide, and the
Island Company believes that that is not safe and they have
e-mail from the Coast Guard which substantiates that, that
it's not so safe.

But the other area of concern is what should be
the size of the fairway. What the fairway is, and you can
see it on, I guess it's Plat A2, one of the green sheets
from the staff report, the back of the staff report, is
merely the open area of water which comes in from the ocean
and it's between two lines of mooring buoys and it leads up
to the pier on the shore. And so the concern there is we
don't have boats anchoring there because it interferes with
safe passage into the pier.

But as the previous speakers have pointed out,
upon occasion the Island Company employees had fairly
aggressively defended that fairway, perhaps had stopped
boats from entering in areas which weren't directly in the
fairways. So the net result of these maps is to very
clearly establish what areas are okay to anchor in and what
areas are not okay, and consistent with the safety concerns
of the Coast Guard and the company. And by mapping out the
fairway, it helps ensure that boaters who are there
appropriately outside of the fairways aren't going to be
harassed and, on the other hand, it puts everybody on notice
on what areas should be kept clear.

And so there have been these letters dealing with
these issues and expressing the concern from some of these boaters for close to a year and there have been some discussions with the individuals, some of the individuals who have written those letters, and appropriate correctional steps taken on the part of the Island Company to try to deal with some of those concerns. And so we think as the staff these plats will make it clear to everyone, you know, where you can go and where you can't go and establish a more coordinated approach to this.

ACTING CHAIRPERSON GONZALEZ: Again, I just want to encourage both sides to continue talking. I understood the problem to be more a lack of communication.

I would entertain a motion.

ACTING COMMISSIONER ARONBERG: Move adoption of the item.

ACTING COMMISSIONER SHEEHAN: Second.

ACTING CHAIRPERSON GONZALEZ: Okay. It has been approved in a two-to-zero vote.

That concludes the regular calendar.

Is there anyone here who wishes to address the Commission during the public comment period. I see one slip for public comment. John Asuncion.

Welcome back.

MR. ASUNCION: Good morning. Thanks for giving me this opportunity to speak to the Commission.
Number one, I want to applaud the State Lands Commission for assisting us down in El Viso and, number one, I'm the President and founder of the Blue Whale Sailing School. We're a charitable educational corporation. And when I created this educational foundation with my wife Judy out in the audience, the educational foundation was created for innercity adults, handicapped adults, people of color like myself, and to give them an opportunity to go sailing, go on field trips. We use public lands.

I have been an advocate my whole life working on and designing golf courses and parks along properties, and I have been really fortunate. So the project that we have in El Viso has been a project for the public. We provide public access and we get no funding from the state, the county or the government. Myself and my wife purchased and paid for everything on our different projects here in the state.

And this last week we had a great cleanup party. We spent approximately $18,000 of our money, not taxpayers' money, at no cost to the public. We had a great group of women and men up and down the state that supported our project, not with money, but with their time and equipment. As I'm a retired golf course architect and landscape architect, so we have means to pull in equipment where it would cost so much money.
And I would like to address the South Bay Yacht Club. Six years ago I told the City of San Jose, the water district and BCDC that I would give them a hundred thousand dollars to assist them clean up because I had the equipment. And it fell on bad ears I guess or whatever and, you know, it's just a shame it's happened. This is a public land that the public has to have a chance to use, and you have a clean environment for the community.

And I just want to thank State Lands and your office and our Lieutenant Governor Cruz Bustamante for looking into this matter. And just one other thing I would like to say, and Bill Morrison isn't here today, and I would like to have this given to Bill Morrison and Nancy Smith.

EXECUTIVE OFFICER THAYER: I can certainly pass these out, thank you.

Nancy Smith is one of our staffers who works on the Bay.

MR. ASUNCION: And she's a great help. And to like I said, Bill Morrison, and to Mr. Dave Plummer. Without his help on this matter I don't think we could ever accomplish what we've accomplished, and I am still willing to spend myself and my wife's money to assist the state --

(Laughter.)

EXECUTIVE OFFICER THAYER: Dave Plummer is here today and he has gone down and investigated the South Bay
Yacht Club and is working with BCDC and the local water
district. The local water district probably controls about
two-thirds of the site of the yacht club and we about a
third. So there is a lot of coordination that has to occur.
And he's also met with people from the South Bay Yacht Club,
and some of the people he's met with have indicated a
willingness to address a lot of the issues that Mr. Asuncion
has just raised and we're looking forward to that happening.

MS. ASUNCION: And thank you for your time and
it's nice to see you.

ACTING CHAIRPERSON GONZALEZ: If there are no
other speakers, that concludes the meeting, we will now
adjourn into closed session.

(Thereupon the meeting of the State
Lands Commission was concluded at 10:38
a.m. on October 20, 2005.)
CERTIFICATE OF SHORTHAND REPORTER

I, MICHAEL J. MAC IVER, a Shorthand Reporter, do hereby certify that I am a disinterested person herein; that I reported the foregoing State Lands Commission proceedings in shorthand writing; that I thereafter caused my shorthand writing to be transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said State Lands Commission proceedings, or in any way interested in the outcome of said State Lands Commission proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of November 2005.

Michael J. Mac Iver
Shorthand Reporter