APPEARANCES

John Garamendi, Lieutenant Governor, Chairperson

Michael Genest, Director of Finance, represented by Anne Sheehan

John Chiang, State Controller, represented by Cindy Aronberg

STAFF

Paul Thayer, Executive Officer

Jack Rump, Chief Counsel

Barbara Dugal, Chief of Land Management Division

Alan Scott

ALSO PRESENT

Alan Hager, Assistant Attorney General

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
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PETERS SHORTHAND REPORTING CORPORATION  (916) 362-2345
PROCEEDINGS

CHAIRPERSON GARAMENDI: Good morning everyone. It is now 10:30 and it's time for us to begin our meeting.

Joining me here today is Anne Sheehan, representing the Department of Finance. And Cindy Aronberg, representing the Controller, John Chiang.

Thank you very much. And, of course, I'm John Garamendi, the Lieutenant Governor.

For those of you in the audience, the State Lands Commission administers property owned by the people of California, the state, as well as its mineral interests. Today we will hear proposals concerning the leasing and management of these public properties.

We have our staff here, Paul Thayer and Jack Rump, from the Commission, the Commission staff. And Alan Hager from the Attorney General's office. We're looking forward to working with the staff on moving expeditiously through the agenda.

The first item of business will be the adoption of minutes from the Commission's last meeting. And I assume you've all read that completely. And, Anne, if you will move it.

ACTING COMMISSIONER SHEEHAN: I'll move the minutes.

CHAIRPERSON GARAMENDI: Second?
ACTING COMMISSIONER ARONBERG: Second.

CHAIRPERSON GARAMENDI: And all in favor?

(Ayes.)

CHAIRPERSON GARAMENDI: The minutes are unanimously adopted.

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

Mr. Thayer, your report, please.

EXECUTIVE OFFICER THAYER: Thank you and good morning, Mr. Chair, Members of the Commission.

I just had three things that I wanted to discuss. The first is that at the last meeting the Commissioners, I think really the Controller, were interested in a schedule for how the Commission staff intended for the Commission to comply with the ballast water regulation requirements, we have to have that completed by January 1st of next year. And we have sent a memo around to your offices I think last week. And so we don't intend to discuss that at length today, but I'm just asking if the Commission has any other questions about that to please let me know and we can do that at any time.

ACTING COMMISSIONER ARONBERG: I just wanted to thank you for everything.

EXECUTIVE OFFICER THAYER: Certainly. You're welcome.
The second item is to report that we're continuing to work on establishing and setting up these Public Trust workshops that we discussed at the last meeting. And there is one big purpose and an allied purpose for doing this that the Commission has discussed. The big purpose is to continue what we started several years ago which was to have both an educational outreach and also an opportunity for input from the public regarding the Public Trust Doctrine. And we ran three Public Trust workshops I think about four years ago. We had one in the Bay Area and one in the LA area and one in San Diego. We've discussed this with the Commission at a previous meeting and agreed that we would do that by the end of July.

The other reason that these workshops are being held is to allow for any additional input anybody might want to make on the timeshare issue. So we have developed a draft agenda which was sent around to the Commissioners. And again if there are any concerns about that please let me know. We're in the process of contacting the witnesses that we would like to participate on that and our intent is to have a panel at each of those workshops that would include representatives from business, the environment and one of the grantees. And then moving to the timeshare part of that, we would anticipate that that panel in San Diego would include a representative from the timeshare industry who
then would have a proposal before the Commission in December. So once we've firmed up a schedule that works for the witnesses we'd like to have there, we'll be promulgating that and I imagine that will be in the next couple weeks.

CHAIRPERSON GARAMENDI: Very good.

EXECUTIVE OFFICER THAYER: And then the third item is just to say --

CHAIRPERSON GARAMENDI: Before you move on.

EXECUTIVE OFFICER THAYER: Yes.

CHAIRPERSON GARAMENDI: The workshops' purpose, at least one of the purposes, is to provide information to the public about what the Public Trust Doctrine is all about. The Ocean Protection Council is also taking up the issue of education. And could you look at how we might coordinate with the Ocean Protection Council and their education issues, some of which will involve state lands.

EXECUTIVE OFFICER THAYER: Certainly.

CHAIRPERSON GARAMENDI: Okay. Perhaps we can get some synergy going. Thank you very much.

EXECUTIVE OFFICER THAYER: You bet. I will talk with you and the Chairman about that.

CHAIRPERSON GARAMENDI: Thank you.

EXECUTIVE OFFICER THAYER: And then the final item is just to report that our next agreed-upon Commission meeting date is going to be June 28th, and that one will be
in Sacramento. And we're looking to meet potentially in
July, we haven't firmed this up with all the Commissioners,
in the Bay Area. We'll let you know when that one is
established.

And that concludes, unless there are any
questions, the Executive Officer's report.

CHAIRPERSON GARAMENDI: Okay. Move to the consent
calendar. Before we do, the general procedure here is if
you want to speak at any point you are supposed to fill out
one of these forms which is a Request to Speak. And that
first opportunity to speak would be on any of the issues on
the consent calendar. So if anybody has any desire to speak
on any of those issues, the consent calendar has been a
public record for several days and is in the back of the
room. Apparently everybody is happy with the consent
calendar.

And I know, Cindy, you had a question you wanted
to raise about the consent calendar.

ACTING COMMISSIONER ARONBERG: Thank you.

I'm asking about Item 81 here, and, Mr. Hager, I
just have a question for you which is does the Commission
have discretion to deny the staff's recommendation
consistent with best oil field practices?

ASSISTANT ATTORNEY GENERAL HAGER: If the staff
has made the necessary findings, then the Commission doesn't
have any discretion beyond those findings.

ACTING COMMISSIONER ARONBERG: Mr. Thayer, have

you made the findings consistent with best oil field

practices?

EXECUTIVE OFFICER THAYER: Our Long Beach staff,

which includes several petroleum engineers, has reviewed the

five-year program proposed in Item 81 as well as the one-

year plan which is in Item 80 and concluded that they do

comply with the best oil field practices as required by the

statutes which govern operations of the Long Beach Unit.

ACTING COMMISSIONER ARONBERG: Thank you.

CHAIRPERSON GARAMENDI: And therefore upon

operation of law our action is simply administerial.

EXECUTIVE OFFICER THAYER: That's just about the

case. The Commission's standard of review for this

particular proposal, the five-year program, is whether or

not it's consistent with the best oil field practices and

staff believes that it meets that standard.

CHAIRPERSON GARAMENDI: Very good.

Further questions, Cindy?

ACTING COMMISSIONER ARONBERG: No.

CHAIRPERSON GARAMENDI: Okay.

Then we have the consent calendar before us. Do I

have motion?

EXECUTIVE OFFICER THAYER: There are --
CHAIRPERSON GARAMENDI: Excuse me.

EXECUTIVE OFFICER THAYER: I'm sorry. There are two items we'd like to pull due to various reasons and we'll hear them at a future meeting. And those would be Items 48 and 87.

CHAIRPERSON GARAMENDI: So 47 and --

EXECUTIVE OFFICER THAYER: 48 and 87.

CHAIRPERSON GARAMENDI: 48 and 87 are off the consent calendar and are going to be dealt with at a future hearing?

EXECUTIVE OFFICER THAYER: Correct.

CHAIRPERSON GARAMENDI: Then the remaining consent calendar is before us.

ACTING COMMISSIONER SHEEHAN: I'll move the consent calendar.

ACTING COMMISSIONER ARONBERG: Second.

CHAIRPERSON GARAMENDI: Anne moves, Cindy seconds.

All those in favor?

(Ayes.)

CHAIRPERSON GARAMENDI: And it's unanimous and the consent calendar is approved.

The next item is Item 88, an application for a boat dock on the Sacramento River.

Paul.

EXECUTIVE OFFICER THAYER: Thank you, Mr. Chair.
Making the presentation of the staff will be Barbara Dugal who is Chief of our Land Management Division.

CHIEF OF LAND MANAGEMENT DUGAL: Good morning, Mr. Chair and Commissioners. My name is Barbara Dugal with the Land Management Division and I am presenting information today on Calendar Item Number 88. Before I get to that calendar item, I would like to provide some background information on boat docks. First slide, please.

Thank you.

In 2003, staff began seeing an increase in applications for construction of large new boat docks with second story decks on the Sacramento River. These decks are typically constructed on an expanded dock area, dock roof, or on an adjacent boathouse roof and are built by the adjoining homeowner and are intended for use as a deck.

They are most apparently intended as a deck when they are part of a dock roof, typically there is a safety railing and a stairway ramp for access. The deck can block views from a public road and they have an impact on the view from the water that is greater than what occurs with a normal plain flat roof used to cover docks. Decks can also represent a private use of public lands that is only marginally, if at all, related to the water and are only available to the adjacent landowner.

Next slide, please.
Over the years the Commission has approved a limited number of leases for decks throughout the state. There's 12 on the Sacramento River, although one of those was built without the deck, less than 10 at Lake Tahoe and less than 20 for cantilever decks. However, as I mentioned before, the increase in the numbers for the construction of a new deck in the Sacramento/San Joaquin delta area raises issues with staff.

And the next slide represents some of the decks that have been previously approved by the Commission.

Keep going.

Lake Tahoe. And then the next one is a cantilevered deck in Huntington Park. Okay, the next slide, please. Thank you.

The initial issue is whether a deck is a private nonnavigational use or primarily of a residential nature and therefore are considered to be inconsistent with the Public Trust Doctrine.

Staff has informally consulted with the Attorney General's office representative who has informally opined that the decks are not sufficiently residential to be inconsistent with the Public Trust Doctrine. However, the AG's office also believes that the Commission as the administrator of Public Trust land has complete discretion as to whether to approve these types of structures.
Last year staff sent a memo to the Commissioners regarding the deck issue and was prepared to discuss the issue at a subsequent Commission meeting. But two of the pending applications for a deck were redesigned after staff recommended that the deck component be eliminated from their project. There are currently two more applications for a new boat dock with sundeck in the Sacramento River, one of which alone is Calendar Item 88. This application was received in February of 2005 and it's for the removal of an existing uncovered floating boat dock and the construction of a private boat dock with a sundeck, railing, and stairs.

Because the proposed dock included a sundeck, staff had met with the applicant and his contractor to find that the sundeck components which would include the railing and the stairs would have to be removed and the dock would need to be redesigned with either a pitched roof or with a flat roof that would be constructed out of non load bearing material. The applicant has stated that he did not want to redesign the project but wanted to construct the sundeck so that it would be available as a gathering place for guests. The applicant's contractor sent a letter to the Commissioners on April 27th, which each of you have a copy of, outlining the salient issue for his client's position.

The letter states that the use of a deck is recreational and not residential and should be allowed. The
author's distinction appears to be based on a belief that
absent structures, such as a kitchen, a bedroom, or a
bathroom or a storage room, the Commission should allow the
use of a family recreational area above the boathouse.
Staff believes that no water-dependent private uses such as
that proposed by the applicant, although recreational, are
akin to a private residential backyard and should be located
on private uplands, not on public land.

The letter also then states that the improved
safety and durability that would result in the construction
of a dock and a boathouse as proposed. The arguments
concern the author's contention putting on a comparison to
an uncovered boat dock. Staff was not suggesting that this
dock can't be covered, only that again that the roof be
pitched or be flat with non load bearing materials. Either
of the means that staff is recommending should result in the
same effect presented in the letter.

The letter also suggests in absence of a flat
roof, the dock would have to be moved further out into the
river in order for the gangway. Staff believes that the
same results can be achieved by attaching the gangway from
the uplands to the front of the boathouse with a small
landing area and then proceeding to the dock by stairs which
is not unsimilar to what is being proposed.

Lastly, the letter suggests that the proposed
construction reduces the footprint of the dock by moving the
recreational space to the top of the boathouse. This
suggests that absent a second story use area, a larger dock
would be constructed to accommodate the use of the dock.
Again staff believes that there is no distinction between a
private entertainment area either on top of the dock or on a
larger dock area at water level. The issue is the private
use that should be located on a private upland. Staff would
not recommend approval of a dock that encompassed a larger
area with the same use as proposed on top of a boathouse.

Next slide.

Staff believes that nonwater dependent private use
such as those proposed by the applicant although
recreational are akin to a private residential backyard and
should be located on private uplands, not on public lands.
Therefore, staff has recommended that the Commission
terminate the existing recreational pier lease and approve
the issuance of a general lease recreational use to the
applicant for the removal of the existing floating boat dock
and for the construction of a floating boat dock covered
with either a pitched roof or a non-load bearing flat roof.

And I just have a couple of slides to show as far
as the existing conditions there on the river and what would
be removed and where this would be going. And where the new
dock would be placed.
And this concludes staff's presentation. Thank you.

CHAIRPERSON GARAMENDI: Thank you very much.

EXECUTIVE OFFICER THAYER: Mr. Chair, if I could also add, that although the staff accurately depicted in its presentation on the docks with sundecks and approved by the Commission which amounted to 12, we're well aware that there are other ones out there that don't have the benefit of a Commission approval. I think the intent in giving those figures though was to indicate how much the Commission has been involved in this in the past which is a relatively low number.

CHAIRPERSON GARAMENDI: Thank you. Are there any people in the audience that would like to comment on this? Please, if you would, step to the microphone and introduce yourself.

MR. MORAIS: Thank you, Commissioners. My name is J.B. Morais, I'm the owner of West Coast Docks, I'm the contractor on this project.

My client here. I would like to say a few things and then have him talk about couple things and then finish up, if that's all right.

I have 15 years of dock building experience, before that my family ran a marina on the river. I've pretty much grown up on the Sacramento River and built a
majority of the docks in the last five years up and down the river.

And we would like to discuss the concept of the upper deck. This concept is not new, there is similar designs up and down the river, although there are maybe a couple apparently permitted. It's not a new design, it's been around for 50 years, and there is docks all over the place that show that it has been something that has been in California for quite a long time. This type of design is on over five or six hundred lakes around the country, on numerous lakes all around California, and it's not a new idea.

I'm basically transferring the usable recreational space from the water level to above the slip. It does create a stronger, safer dock. And Rob's going to talk a little bit more about the safety issue and his safety concerns.

We did apply for this permit over two years ago. At the time we weren't told that the design wouldn't be allowed, when other designs had been previously allowed just actually a mile upstream, that one dock that was shown, that large dock that was shown. We have obtained permits with the upper deck from the Army Corps of Engineers, Department of Water Resources, Fish and Game, the Regional Water Quality Control Board, and it was reviewed by the National
Marine Fisheries and U.S. Fish and Wildlife. And they all approved the design, mitigation was established, and we agreed to pay for mitigation. And after pulling all these permits together, we were told that there may be a problem. And then after another year of wrangling, we were told that the staff did not want to or was going to deny the upper deck.

We discussed at that time the possibility of requesting instead of doing a recreational rent free pier lease, we would do a general lease and allow the applicant to pay an annual rent for the privilege of having the upper deck as opposed to having a lease without rent. And we agreed to do that. That was suggested but then pulled back and at that time we were told it would not be allowed, that there was some staff change and policy change and it was not going to be allowed at all. That brings us here.

From a contractor's business standpoint, I just need to know the policy, if you're going to have one, so I don't promise people something and after two years of permitting that they don't do it and have to start all over again with all these other seven agencies that we had to go to. Also we do need a level playing field. That one very large dock that you saw in there, the owner did come to me, I did take a look at it. That was built a lot larger than what they had been permitted for and so I told him I
wouldn't do it. They went ahead and did it anyway. And, you know, it's not a good picture, when you look at that it doesn't look nice, but it is a lot larger and it's not what was originally permitted. And it should be enforced, the original size should be enforced.

The size of this dock is modest, it's a lot smaller, it's just one slip, there are no accessories. We don't believe it's an addition to applicant's residential space. There's no rooms, no balconies or utilities, no water, no electric. It will be used solely for the recreational use of the river.

Rob's going to talk about safety real quick and his concern and then I will finish it up.

Thank you.

MR. VELLANOWETH: Good morning, my name is Robert Vellanoweth, I'm the applicant of the proposed boat dock. In my specific situation if you guys were to approve our current proposal, that is you well know now we went through the various agencies, I'm even willing to put in future restrictions into the lease which could possibly include maybe even limiting the people that are allowed on the boat dock at that period of time, you know, a period maybe during the day that it's to be used for, and J.B. said paying extra lease to the state so the state can benefit so I can have the privilege of, you know, having the upper deck.
And, you know, I'm even willing to reduce the footprint of the upper deck because my main purpose for the upper deck, and J.B. and I have been for some time discussing the overall diagram of the outline of the deck around the safety. I'm a father, I have a two-year-old and one on the way, and my main goal is to deal with having a close place with railing all the way around. I see the upper deck's worth. Most of the decks you see don't have the railings and it's not practical to have railings on the lower deck because when you're on the river and getting on and off the boat, it's just another barrier to get over a railing there. It's obviously possible, but it's more of a barrier, especially when you have current coming by and you're getting people on and off the boats.

And, secondly, the way my house is set up, those last pictures that you were able to see were of my current dock. My house sits far back behind the levee. From the point where my house sits, I'm walking out the backyard, you know, through a gate, up a levee, over a gravel road, across that first gangway that you saw and then down another. So, you know, coordinating, it's a specific request and use for me, but coordinating and getting on and off the boat would be a lot different having them on an upper deck in a secure area versus, you know, back at the house. So we originally decided to choose an off area, because it has a neighborhood
setting unlike, you know, a lot of the county road levee homes that don't have that, again revolving around the safety issue of boat docks and access to boating and recreational use.

Thank you.

CHAIRPERSON GARAMENDI: Thank you very much.

Do you want to wrap it up? I suspect there's some questions coming.

MR. MORAIS: Okay. Well, the second issue we had is reduced footprint. We feel to minimize the environmental impacts, to best decrease mitigation fees which need to be paid, which currently are over $200,000 an acre for mitigation of loss of wetlands, loss of wild habitat. A smaller lot we just did they charged $5,500 just for the mitigation on that.

We've had docks permitted and installed with a lot larger area, but the footprints could be reduced a lot by building the upper deck. In two of the projects last year, the owners we had did pull because they did want to get their docks in last year. They did decide to go without the upper deck because they did want to get the docks in, they were worried about the moratorium because of the levee work.

The third, this is a highly engineered dock, it's very strong, and the manufacturer is nationwide and are on lakes around the country. And it is designed to take a lot
of abuse and it's going to be a lot more durable dock.

This comes down to what should be allowed on docks, and I think that's what the main question is. I have been told by staff that there is an opinion a dock is only to be used to moor a boat. In my experience, that's not the primary use. I have been around the river my whole life and that's why I built a business around the river. Myself and the majority of the people that I know spend much more time on dock than out in a boat. My definition of recreation on the river is swimming, reading a book, gathering with friends, fishing, and just relaxing. It's a lease. I feel it's always been historically what I feel is a lease for recreational use of the river and not just the anchorage of a boat. As people get older, they're less likely to hassle with taking a boat out to enjoy the river. A lot of people just like to hang out at the dock and enjoy it. There is mechanical issues with boats, maintenance issues, fuel costs on the river over $5.00 a gallon. The definition of recreation is obviously open to interpretation.

I always thought that a lease was to have a dock to recreate on the river and now we're being told that in order to use the river you have to own a boat, you can't recreate on your dock. Honestly, I would rather spend time on the dock and I shouldn't have to own a boat if I don't want to. Why do people go to the beach, it must be to look
out at the ocean. And why is the river any different? Many
people would rather sit and enjoy the scenery and the
ambiance and relax next to the water, they shouldn't
necessarily have to get in a boat and go back and forth in
order to enjoy the river. Everyone's definition is
different and gathering on a dock during the day should be
allowed in our opinion. The upper deck concept is just a
safe way providing a smarter, a stronger, and a safer dock
for the applicant.

Now, we appreciate your time, we hope you see our
point of view, approve this project with the upper deck.
Like Rob said, we are open to any restrictions that you
impose. Time restrictions, use during the day; number of
people; no parties; and there are families out there. And I
don't think if you had a neighborhood that had a dock like
this you would want them out there having wild parties, but
I completely understand any restrictions like that. I
believe after getting into this more that it may not be a
use that's for everyone, there's a lot of homes on the levee
side of the water, so they can see the water, they have
backyard lawns that come down to the water so they can
easily spend time and sit on the lawn area while people come
and use that for recreation and they wouldn't need the upper
deck.

It's a big state, it's diverse, there's a lot of
different locations, some with a view. And the public does not need to have this type of dock. In Rob's case, their house is over the levee and you can't see the river from his house, when you look out his back door you see a levee, and it's not that type of house where you know. To be able to use the river, he has to be out on the dock to enjoy the river.

I believe that approval of these types of docks should be maybe done on a case-by-case basis instead of a blanket moratorium on it. In this case, my client feels that the upper deck should be an acceptable design and I urge you to support the design with restrictions you feel appropriate and any applicable fees to the state so the state can benefit. And we would be happy to answer any questions.

CHAIRPERSON GARAMENDI: Thank you very much. There will undoubtedly be questions.

What I've discussed with staff thus far is that we really need to establish a policy here and the most appropriate way to do that has yet to be determined and we'll discuss that in a few moments. But clearly staff has come to the conclusion that a new policy needs to be established, and you have been the first to be caught up in that process. It is asked of the three commissioners to set the policy, and, sorry, but you are now the test case of
what the policy is going to be. We need to have a good
discussion on this matter and I'd like to start that
discussion. Now, it's going to take us a few minutes and
you may want to just stay there because you now are at least
one of the experts in this today.

A couple of things that I would like to do to
start this is a review of what the law is with regard to
docks and the recreational use of docks. Alan and Jack, I
have not previously asked you to do this, but we're going to
start with the foundation.

Alan, what's this recreation all about and the law
that's applicable?

ASSISTANT ATTORNEY GENERAL HAGER: Well, there are
two things. There's a recreational pier lease and a general
lease. The recreation pier lease is for both the formal
land owner, you have to own a home, and a significant part
of it is it's rent free. The legislature --

CHAIRPERSON GARAMENDI: Rent free, you have to own
a home, and the dock has to be on the land that you own.

ASSISTANT ATTORNEY GENERAL HAGER: And it has to
be on the land abutting.

CHAIRPERSON GARAMENDI: Abutting. But you have to
own it?

ASSISTANT ATTORNEY GENERAL HAGER: Yes, and you
have to own it. It has to be a single family home. And the
legislature has made certain findings on how these
recreational piers provide a public benefit and that's the
justification for not charging rent.

CHAIRPERSON GARAMENDI: Are any of those findings
applicable to the issue before us?

ASSISTANT ATTORNEY GENERAL HAGER: No.

CHAIRPERSON GARAMENDI: So is recreation defined?

ASSISTANT ATTORNEY GENERAL HAGER: Not in that
section, I don't believe.

CHAIRPERSON GARAMENDI: Is it defined in any other
section of the law that would be applicable here?

ASSISTANT ATTORNEY GENERAL HAGER: Not that I know
of, no. I mean recreation, one of the problems has been
saying is this a Public Trust issue or not. Recreation
being deemed as, you know, our office, State Lands staff, it
means water only for recreation. It doesn't mean something
else.

CHAIRPERSON GARAMENDI: So water-oriented
recreation. Has there been any definition of what water-
oriented recreation is?

ASSISTANT ATTORNEY GENERAL HAGER: We have done it
in the context of the Mills Project and the Piers in San
Francisco, and it was more or less institutionalized
recreation.

CHAIRPERSON GARAMENDI: Those are the big shipping
piers in San Francisco?

ASSISTANT ATTORNEY GENERAL HAGER: Yes. I mean it would be like is boating water-oriented recreation or is swimming. And these are obvious situations. What about going out and playing frisbee on a dock or skateboarding. It gets a little vague, but those issues. I mean when you hear recreation and what is recreation, is it sitting around on a dock enjoying the river or do you have to have a boat. I mean I don't think there's any law that says what is what and as far as, you know, just because you might even say some of this stuff is water-oriented recreation, it doesn't mean it's without your discretion to say we don't want to issue a lease for that.

CHAIRPERSON GARAMENDI: So we may say, if we choose to, that recreation as associated with these pier projects is only boat? You know, somebody may test that.

ASSISTANT ATTORNEY GENERAL HAGER: Yes. You may in your discretion say that, yes.

CHAIRPERSON GARAMENDI: Okay. Or we may say that the pier can only be used for sunbathing?

ASSISTANT ATTORNEY GENERAL HAGER: Yes.

CHAIRPERSON GARAMENDI: Dip your toes in the water.

(Laughter.)

ASSISTANT ATTORNEY GENERAL HAGER: Right.
CHAIRPERSON GARAMENDI: Or maybe your toe doesn't have to be in the water. Swimming or diving or things of those sorts, if we define those, we can define recreation as -- I suppose somebody could sue us and say that's too narrow or too broad.

ASSISTANT ATTORNEY GENERAL HAGER: Yes. And, as I say, I don't think there's any statutory standard and you know if you don't make this based on the Public Trust, you don't have to deal with what is recreation under the Public Trust Doctrine.

EXECUTIVE OFFICER THAYER: And one other thought that occurs to me and obviously we'll look further into this as part of the further explanation of this that I think the Commissioners are going to want is how the legislature intended or was really using the word recreational when talking about recreational piers in the statute that Alan refers to. And I think a strong argument is there, and I haven't looked in a while so we'll have to double check this, is the recreational versus commercial, that this wasn't meant, oh, you can have a pier to recreate entirely, but that this pier would be intended for recreational boating, that kind of activity, versus the commercial boating. But it's something we'd want to look at too.

CHAIRPERSON GARAMENDI: You know, there are piers and piers are there not? There are piers that are for
docking boats and there are piers for fishing.

EXECUTIVE OFFICER THAYER: Certainly.

CHAIRPERSON GARAMENDI: All of which come before the Commission?

EXECUTIVE OFFICER THAYER: Yes.

ASSISTANT ATTORNEY GENERAL HAGER: And Paul made a point that made me think that in the justification for legislative findings as to why rec piers should be rent free, it's mostly dealing with boats. I think when they say the idea is a rec pier would be out there available for a boat to moor in the time of a storm or if there was an accident or the boat had some problem. These are more boating-oriented justifications for the absence of rent.

CHAIRPERSON GARAMENDI: Anne.

ACTING COMMISSIONER SHEEHAN: Well, yes, a couple of questions. But if you don't require that they own a boat to do that, then that was sort of -- you didn't say that, but you implied, right? So you could have and approve a dock that you know if some of their neighbors come and visit them and they use the water as the transportation to get there because that's the primary use of the dock is boating. So it's not just water recreation, if I understood you, Alan, it's boating, is that what the statute has referred to?

ASSISTANT ATTORNEY GENERAL HAGER: I haven't read
it for a little bit, but I'm trying to recall, and most of
the justifications for the absence of rent on recreational
piers deal with boating.

ACTING COMMISSIONER SHEEHAN: Okay. Because I
need to get clear on that.

And then, Alan, you said something right at the
end that confused me or I would like some clarification.
Something about if we don't do it under the Public Trust
Doctrine. What --

ASSISTANT ATTORNEY GENERAL HAGER: I'm trying to
say that, okay, you can define water-oriented recreation
under the Public Trust Doctrine. What does the Public Trust
Doctrine mean is recreation, and then what you want to
define as recreation for purposes of issuing recreational
pier permits. There are two different definitions.

ACTING COMMISSIONER SHEEHAN: Under our general
statutes, is that what you're saying?

ASSISTANT ATTORNEY GENERAL HAGER: Yes, yes.

ACTING COMMISSIONER SHEEHAN: Not under the Public
Trust Doctrine, it's written down.

ASSISTANT ATTORNEY GENERAL HAGER: Right.

ACTING COMMISSIONER SHEEHAN: All right. So what
would be helpful to me is the distinction between those two
in taking action.

ASSISTANT ATTORNEY GENERAL HAGER: Okay.
ACTING COMMISSIONER SHEEHAN: Do you see what I mean? One is under the Public Trust and one is under the statutory --

ASSISTANT ATTORNEY GENERAL HAGER: I can see in the recreational pier leases the statute authorizing those rent free. More a legislative discussion of boating where under the Public Trust Doctrine recreation must be water-oriented recreation, but it certainly is not limited to boating.

ACTING COMMISSIONER SHEEHAN: Right. So that is actually broader or could be construed as a broader definition of recreation?

ASSISTANT ATTORNEY GENERAL HAGER: Than under a recreational pier.

ACTING COMMISSIONER SHEEHAN: Okay.

ASSISTANT ATTORNEY GENERAL HAGER: I remember the applicant saying, you know, they proposed a general lease as opposed to a recreational pier lease.

ACTING COMMISSIONER SHEEHAN: Right.

ASSISTANT ATTORNEY GENERAL HAGER: Which would be under a different statute.

ACTING COMMISSIONER SHEEHAN: Okay. All right. That's what I wanted to clarify when you said that.

EXECUTIVE OFFICER THAYER: And you will recall I think in the staff presentation, if not I want to make it
clear here, speaking for Alan, but Alan can do it better, but if you believe the Commission has the discretion to go either way on this under the Public Trust Doctrine, that you could accept the arguments that the applicant has made, and he does not believe there's a legal bar to the Commission approving a certain thing. What staff is concerned about is the exact same principles that formulated the Public Trust Doctrine which is that this is water-oriented land that should be used for water-related purposes suggests that a sundeck which, you know, could have a barbecue, could have a cocktail party, all those sorts of things, is inconsistent with what the Public Trust Doctrine generally requires for the water.

Alan would say that the document is not prohibitive and our concern is that may be so, but does the Commission want to have this sort of private use of the public's land for a backyard sort of recreation. And so our approach is not to tell you that this is inconsistent with the Public Trust Doctrine, but that the issues raised by these proposals are very similar to the ones that one talks about when you talk about the Public Trust Doctrine, what's the appropriate use of these lands under your management and you can decide.

So basically it comes down to it's a harder decision as a result to the Commission. We're not coming to
you and saying this is inconsistent with the law, we think it's that policy and we think it's within your jurisdiction to say that he shouldn't be there.

CHAIRPERSON GARAMENDI: Cindy, you had a question?

ACTING COMMISSIONER ARONBERG: I do. When we were discussing the issue that raised the most concern for me was what you just touched on which is public access, public versus private. Can you expand on that? To me that was the most interesting point because I think it sort of gives a feel for the test case. What about public access and public versus private?

EXECUTIVE OFFICER THAYER: Again, to touch on then it's a test case. This is the first one to come to the Commission and staff was interested last year in bringing this to the Commission so that we could get a decision and we could move forward with however that is. But the other two applicants chose instead of coming to the Commission to remove those. So this is the first one to come to the Commission, but others have dealt with this impact in terms of equity to the two applicants last year who have constructed a project without these decks in order to accommodate the Commission staff's concern.

Obviously there are different applications to the Public Trust Doctrine which I think are consistent but end up with different kinds of physical facilities being
allowed. And by that what I mean is that the same kind of
deck that the applicant here proposed would be consistent
with the Public Trust Doctrine if it were more broadly
available to the public. And the great analogy to that is
all the riverfront and waterfront restaurants that you see
where there are decks out there that people sit in chairs
and eat and drink, much as they're proposing to do
themselves. But they are available generally to the public.
If people want to go out there and take a meal others can do
that. The difference here is that it's going to be limited
to the guests and the family itself.

It's not unlike, again referring back to Public
Trust principles, it's not unlike the difference between a
house and a hotel room, that the Public Trust Doctrine does
not allow for residential use because, you know, the prime
example is converting the public's land to a strictly
private use, whereas a hotel people still sleep in it and a
lot of the same things as you would if you were in a house,
but because it's generally available to the public under the
Public Trust Doctrine that's permissible and we think that
from the Commission's staff perspective is the kind of
argument we see for not having private owners having decks
out there.

CHAIRPERSON GARAMENDI: If the deck were on the
dock itself, not on top of the boathouse, what would be the
staff's view?

EXECUTIVE OFFICER THAYER: The staff's view, and we've informally pursued this, is that when you look at streams, if someone came in and proposed a dock that was a hundred feet by a hundred feet and they were going to put volleyball courts on it and that sort of thing, we would say that from a Public Trust perspective or certainly from a policy perspective that that is inconsistent with good use of the public's land, it's a private use. The public's land has been converted to a private use. And so you can think in extremes of situations which everyone would agree would be inappropriate.

As you narrow that down to the more practical real-world situation, our view and the things we generally ask if someone has come in with an especially big private dock, we've said why do you want 85 feet, do you have 85 feet worth of boat. We want to know that this is going to be used for a boat and not as a deck and dock. And so this response to what the applicant has said here which is wait a minute, we're just moving the square footage that would normally be used for recreational purposes on the dock to the upstairs which would make this bottom part smaller. Our view is the bottom part should be sized for the water-oriented use the dock should be put to. And so I know that's a tough one to make a judgment on, we do ask those
CHAIRPERSON GARAMENDI: As I understand this, it's a dock with a boathouse, a structure that houses a boat; is that correct?

MR. MORAIS: Correct.

CHAIRPERSON GARAMENDI: And that structure is sufficient. Now, what's the size of the structure.

MR. MORAIS: Overall, 40 feet long by 22 feet.

CHAIRPERSON GARAMENDI: Is that somewhat bigger than -- do you have a 40-foot boat, I guess that's the question?

MR. MORAIS: Yes. Basically the inside is designed for a 28-foot boat, really.

CHAIRPERSON GARAMENDI: So that leaves you six feet on either side presumably, the front and back of the boat, the bow and stern?

MR. MORAIS: Yes. On the front of the deck, on the front of the boathouse there is just a minimal space now because the boat takes up three feet inside and four or five feet outside. And out of 40 feet, there's about 30 feet of boat slip inside and 10 feet -- then the building takes up about three feet, and then the stairway and the front area I think is about five feet.

CHAIRPERSON GARAMENDI: So essentially the dock is designed for the size of the boat and you have a space on
the river side to get on the boat?

MR. MORAIS: Correct. There's about three feet access on the outside of the wall and three feet access on the inside which is minimum, and there would not be a really area to gather the way it's running now without the upper deck.

CHAIRPERSON GARAMENDI: So if there were to be a family gathering, not that that's illegal, there's no place for then people to sit?

MR. MORAIS: Not under the current.

CHAIRPERSON GARAMENDI: Unless it's on top of the boathouse?

MR. MORAIS: Correct.

EXECUTIVE OFFICER THAYER: I think it would be helpful to the Commissioners, there is an exhibit attached to the calendar item, it shows an outline of the proposal. On the last page of the staff report.

ACTING COMMISSIONER SHEEHAN: I have a question. Is the access to the deck, to the top of the second level and then you go down to get into the water or do you --

MR. MORAIS: The access, currently we're going to utilize the existing gangway that he has there now so we don't have to install a new gangway at a higher cost. We're going to use the existing gangway which is going to a lower level at this point. In the future we were going to try to
adapt that to a new gangway that would come down to the upper level which would make it not quite as steep right now, it's about a 45-degree angle from where it's hinged above floodplain down to the water. So in the future we are going to redesign it and have it come to the upper level, but for the time being it was originally designed now just to bring the new dock in and use the existing gangway.

ACTING COMMISSIONER SHEEHAN: Okay. Because I don't want to redesign your deck for you. But I mean because of how steep the side is, you have to go to the upper deck and then you go down to the water and the railing down the stairs, you know, there may be ways to do -- but it depends on what the situation of the sort of geography right there and the engineering in terms of that.

MR. MORAIS: Yes. And that's the initial goal. We at this point didn't want to come up with a big estimate for a new gangway, although we could adopt the current one. If you want to make that recommendation, we would be happy to shorten the gangway and attach it to the upper deck.

ACTING COMMISSIONER SHEEHAN: It's going to go this steep in some of the pictures and that's what I couldn't quite figure out from one of the things that was said because the access is still because of how steep it is and then you go down the stairs. And I've seen those where you go down the stairs to the water and the boat is covered
under by that to the access.

MR. MORAIS: And from my experience, going further upriver another ten miles upriver, the floodplain gets higher, instead of the 20-foot floodplain where he's at now, it's 36 feet and it's even a steeper, longer ramp. You've got to use a 70-, 80-foot ramp to get out at a decent pitch to get out there. So bringing it out to an upper deck would drastically help and we have done some covered docks with a fishery but have the ramp come out to about the top of the roof and just have stairs going down just so it's not as steep, as steep angle.

ACTING COMMISSIONER SHEEHAN: All right. That's what I couldn't figure out.

Did you want to say something?

EXECUTIVE OFFICER THAYER: No. Just that staff doesn't have any problem with those sorts of designs. You know, presumably if there needs to be some sort of railing around the immediate area where people have walked out on the ramp and then they are going to go down the stairway for safety purposes, you know, there's no issue at all. But the purpose of that railing is not to enclose a deck, it's to provide safety to the people who are trying to get down on the dock.

ACTING COMMISSIONER SHEEHAN: And that was one of the issues, getting down to the boat. But I wouldn't want
to triple your costs in terms of how you do it. That was
the question I had.

CHAIRPERSON GARAMENDI: This issue seems to be
coming down to the law which allows for a free boat dock,
and the Public Trust issue which allows for recreation. So
the question here is how are we going to proceed with this
thing. I think it's foolish for us to assume that a deck or
dock is not going to be used for recreation, sunbathing,
sitting around drinking beer, somebody could even barbecue
out there, whatever. I mean that's going to happen. At
least everything I know about the river it happens on a
regular basis, particularly the beer drinking.

(Laughter.)

CHAIRPERSON GARAMENDI: So I cannot imagine that
we would put any kind of a restriction on what kind of
recreation is going to go on there. If the law says that
it's boat-oriented for free, and that you not have to pay,
then that takes us to an area where we may be able to say
that if this dock is designed in such a way as to encourage
nonboating recreation, such as a permanent water cooler,
then we're into a general lease, which may then bring us to
you're going to get to pay for the privilege of that kind of
recreation. It's going to get very difficult for us to make
the determination on what is which, and that's going to be a
troublesome and ongoing problem. I suppose a deck on top of

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a boathouse would be a little difficult to say you're
getting from that deck on to the boat directly, and so it
would be easier to define that as general recreation, rather
than boating specifically.

So we might be able to move this thing to a point
of saying, okay, if you're going to put a deck on top of
your boathouse and that deck is not specifically associated
with getting into the boat, unless you jump --

ACTING COMMISSIONER SHEEHAN: They do that after
all the beer.

CHAIRPERSON GARAMENDI: I know.

(Laughter.)

CHAIRPERSON GARAMENDI: Anywhere between 13 and 18
years of age, that's how they do it.

And then you're going to get to pay a lease.

There's going to be some payment for that because it's not
specifically for a boat.

EXECUTIVE OFFICER THAYER: Chair of the
Commission, we have several items that are on the consent
calendar where there were preexisting decks that have
previously been approved by the Commission.

CHAIRPERSON GARAMENDI: So you're going to make
this more complex by saying we have grandfathers around
here?

EXECUTIVE OFFICER THAYER: Well, for the 12, yes,
our staff believes the approach should be, well, the
Commission did approve it and there were terms --
CHAIRPERSON GARAMENDI: Before we go to making
this thing more complex, can I deal with the simple portion
of this?
EXECUTIVE OFFICER THAYER: The only reason I
wanted to raise that is it's in that context staff's already
charging rent as you're suggesting might be the case for a
dock.
CHAIRPERSON GARAMENDI: Okay. Excuse me for
interrupting a continuation of my train of thought.
EXECUTIVE OFFICER THAYER: That was the only point
I wanted to make is that staff's recommendation is that if
you do decide you're going to allow these decks, that we
charge rent and in fact there are items here where they have
been grandfathered in in a way that we otherwise wouldn't
presently recommend approval of them, but where they're
already there, we're saying, okay, we'll charge rent. And
so that's what we need to do with that.
CHAIRPERSON GARAMENDI: Well, let me continue on.
My thoughts here is that if you have a deck on top of a
boathouse and it's more clearly for general recreation, at
least it's easier to argue it's for more general recreation
such as party, beer drinking, and sunbathing. Perhaps
diving into the water would be an exception to that. But in
any case I think we can probably say that's for that purpose. It's not specifically to get on to a boat or to moor a boat, and therefore a rent, a rental fee, would be appropriate for that use taking us to the general Public Trust Doctrine and away from the law that allows for a free boat dock.

The next point I want to get to is the nature of the dock itself. There are docks on the river that have hot tubs, and there are docks on the river that are clearly for nonboating, or at least a good portion of the dock, for nonboating recreation, I think. In fact, I know that to be the case. Those would be into the category of recreation, and whether they are appropriate or not would seem to be a second issue over and above the one that we have described that we're faced with here. That question then is it appropriate for the state to authorize a dock lease or authorize a dock that is far more than boating, and much more so for simple private recreation, as in the case of a hot tub, wet bar, et cetera. I would like to raise that point and then ponder it for a while here. But to stay to the specific before us which is a dock that is clearly for boating, it's got a slip, it's got a boathouse, and with the addition of a deck whose purpose is principally nonboating recreation, in that case I think we should approve those but charge at least for that deck that is clearly not...
specifically for boating purposes. So I would put that out there for discussion as a way of resolving this particular set of issues.

ACTING COMMISSIONER SHEEHAN: And to add on to the idea there, on the ones that you said we had done or grandfathered or whatever, I guess what I would suggest to staff is other constraints in the lease, because I think we should be clear, you know, we don't want them to build permanent structures like we saw. That's where I get -- you know, where they really truly make it into their extra patio. And I know I have had this discussion with the applicant and with others about if you want to sit there and enjoy the water, you know, swim, but I don't want us to encourage people that one will apply under a general lease and then sort of turn that into their third patio or their second patio where they bring out a refrigerator and barbecue and all that. I understand, but I mean I think at least we need to say, okay, you can have this for water recreation, if that's the direction the Commission wants to go, but I would make sure I mean we are clear in any of these other things they can't add on to it or to turn it into that.

Because I think if we're not clear in some of this, that we are going to end up with those things where you know they're a second living room and they run the TV
out there and all that. That's the concern I have. You
know, I understand on the general lease, okay, if you want a
deck that you sit in your chair and enjoy, but nothing
permanent, nothing more permanent on their than railing.
And I can understand for safety purposes if you have
children going up and down with that, I'm not sure under the
building code whether you could actually build something
that was load bearing without a railing. So that would be
an issue I would want to explore, if that's the direction we
want to go.

CHAIRPERSON GARAMENDI: Cindy.

ACTING COMMISSIONER ARONBERG: I have a concern
about folks using the public land as an extension of their
private backyard, and that's the main point here for me is
that it's the public's land and the more we give, the more
space and more space and more intrusive use, that's what
backyards are for. And so I'm inclined towards the staff's
recommendation. If you want to bring some deck chairs out,
you know, enjoying swimming, I think that's what these piers
are intended for. But to throw parties, what are folks
going to think who are using the rivers to float their rafts
down or whatever they do and they see a large private party
and it doesn't seem anymore like it's the public's land,
which it is. That's my concern.

EXECUTIVE OFFICER THAYER: I might have not have
been properly responsive to a question the Chair asked earlier which is that from the staff's perspective, we're looking at physical improvements and making that the boundary. So if someone has put in a dock that has cleats and doesn't have rails, it looks like a dock, tastes like a dock, and somebody wants to bring down a chair and put it there and eat or whatever, even a portable barbecue that they bring back up, but they're not putting in permanent improvements. We're not going to get involved in that. I mean it doesn't seem worth the Commission's time to do that. But it's when the physical improvements are put in to accommodate that sort of thing, so if you permanently do something, that's where staff is making the objection. I heard the Chair suggest that perhaps we could allow for some railings or other permanent improvements and I guess we want some guidance in terms of figuring out, well, you know, how far would we want to go in that direction if that's what the Commission wanted to do. But again staff's recommendation is not to stop somebody from bringing out a chair, that's okay, I mean we're not going to get involved in that. But it's drawing the line at physical improvements that are intended to make a whole new deck.

ACTING COMMISSIONER ARONBERG: What about bringing out a bunch of chairs?

EXECUTIVE OFFICER THAYER: It's where there is
physical improvement. You look at this and they've got the railing around the edge and the pictures were intended to display that as where the thing was being constructed with a purpose in mind. And, in fact, the applicant indicated that from their perspective people should be able to put out a dock even if there is no reason, if there is no need for a boat, they should still be able to go out there. And Commission staff has a concern about that approach to it that the improvements of the public's land for in the case of the property owner should be related to the water. They kind of have a leg up already because we generally do not allow someone to put in a float or a dock or something like that unless they own the adjoining property. So anybody who doesn't own riverfront property doesn't even get a private dock. So the residents who happen to live on a river or a lake already have an opportunity to do something as riparian owners that the rest of the public doesn't have an opportunity to do with respect to owning their own docks. But again this is up to the Commission and the Chair as to where to draw the line here. Staff could go off and research a little further and perhaps and come back with a white paper that lays out these options and perhaps tries to explore some of these choices to see if there is some way to accommodate what the Chair was suggesting and draw the line somewhere else.
CHAIRPERSON GARAMENDI: We've got a few more issues on our agenda, but I think by our time, we have about an hour remaining on our proposed schedule. So I think another ten minutes or so is not going to hurt us here as we try to push through this.

We know that we have a state law that says that a landowner can put in and apply for a boat dock. Okay, that's free of charge. Restrictions of all different kinds from seven different agencies or eight different agencies.

The question is now can that dock be for nonboating recreation; sunbathing, party, whatever. And if so, are there limitations on it, and is there a fee to be paid for that additional privilege. I think that's where we are right now.

Now, somewhere along the line the dock morphed into a boathouse. The dock's morphed into a boathouse. Was there any decisions, any discussions made as that came about?

EXECUTIVE OFFICER THAYER: I think that was long before any of us came along.

CHAIRPERSON GARAMENDI: You never mentioned anything, but boathouses are okay?

EXECUTIVE OFFICER THAYER: Right. It protects the boat.

CHAIRPERSON GARAMENDI: Okay. And now the

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question is can you put a deck on top of the boathouse. Can you use the top for activities other than to shield from sun and rain.

It seems to me, here's my proposal, is that we would continue to authorize, at least authorize docks, I think lease is a different word here. But we would authorize construction of the dock for the purposes of boating, and that that dock be limited and in that circumstance limited to a facility necessary for boating.

And then if somebody wants to apply for a dock for boating purposes that has a deck associated with it, either on top of the boathouse or added to what would be a normal dock for boating purposes, that we then look at that for the following purposes. One, that it be limited in size necessary for the boat, in other words, only on top, and that there be a lease associated with it. And, thirdly, this comes from what Anne was saying a moment ago, and that is that it not be of a nature to become -- that there be amenities beyond those necessary for safety, specifically a railing. And we're not talking about a hot tub, we're not talking about a permanent wetbar, we're not talking about allowing other amenities that would be associated with a, I want to say backyard, because that's what we're talking about. In other words, rather limited use. So a lease payment in some appropriate amount, limited in size and

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shape and form and limited in functionality.

ACTING COMMISSIONER SHEEHAN: Can I ask a couple of questions?

CHAIRPERSON GARAMENDI: Absolutely. That's what we're doing right now.

ACTING COMMISSIONER SHEEHAN: Okay. And I understand where the Chair wants to go, and I think it's not building a building and I'm trying to figure out the distinctions between. Because one of the issues I have is informing our current leaseholders, applicants, whoever, you know, what the policy is, that we have this new policy. The issue would be are there some people who have these two story or second story, you know, that are free, they aren't paying, they were granted under the recreational one, and now if we were to adopt a new policy should arguably be paying under the general lease policy and trying to find out.

Because I think one of the issues is the enforcement, you know, is, one, communicating the policy and, two, the enforcement. Because I think what's happened, it sounds like what happened over time like the pictures we saw, you know, they go out and get it and they said, oh, nobody's going to look and, you know, people do this on their homes all the time and don't get the proper permits and whatever. But somehow reconciling, giving people notice
that the next time they come up for their lease application, you now fall under this side and not that side as a result of this. So that would be a question I would throw out to the staff, is that is there a way we can figure that out short of navigating all the waterways in the state of California?

EXECUTIVE OFFICER THAYER: We could certainly notify the existing lessees and we can put up something on our website so that prospective lessees have some opportunity to understand what's available to them. I don't think we would want to send something out that would say if you have a railing we might charge you later because the lease is for a certain set of improvements, and if they want to change those improvements say by adding a railing, they should really be coming back to the Commission as a term limit and then at that time we would start charging rent, just as the other items were.

The other thing that happens is that these rec pier leases are only good for ten years, it's a ten-year lease, and we require them to send in pictures when they reapply, and so if they do happen to have added a rail, we have an opportunity to capture them and say okay, you know, we're charging rent. But in terms of a set, whatever policy the Commission decides, whether it says the Lieutenant Governor provides or whatever comes out of this, I think all
the Commissioners and I know the Chair has talked about this
too agree that we should be transparent about this and it
should be apparent to anyone what they can and can't do.
And there are different ways to do that, whether it's
communicating directly with the lessees and/or putting stuff
on the website. We can do that.

ACTING COMMISSIONER SHEEHAN: Yes. Because I
guess the other thing is other additional enforcement. You
know, if it comes to our attention or if someone, you know,
who comes and is playing by the rules and someone else is
not, you know, people knowing that we will enforce this
policy once we do it. And I don't know in terms of what
legal authority we have in terms of, well, citations or, you
know, some sort of infraction or what. I mean I'm not sure
what our authority is to issue somebody a citation that
you're out of compliance with your lease or your
application.

EXECUTIVE OFFICER THAYER: Interestingly, Alan and
I just had a conversation about that before the meeting and
we've talked about it at our previous meeting about what is
available and maybe something in the way of trespass. And
basically we're looking to bring, because we think there is
almost encouragement for people not getting the proper lease
because nothing happens to them.

ACTING COMMISSIONER SHEEHAN: Well, yes, that's
why a ticket or an infraction or a penalty or a fine, something, to figure out. And Alan's office obviously has great expertise.

EXECUTIVE OFFICER THAYER: And maybe just trespass is enough.

ACTING COMMISSIONER SHEEHAN: And I don't know what it would be under our statute or whether we would need additional, you know, language. But there isn't any incentive for somebody to play by the rules.

EXECUTIVE OFFICER THAYER: And that's not fair because the people who do get a lease actually have to pay us for our staff cost so they're out some money. They're complying, why should the noncompliance be rewarded.

CHAIRPERSON GARAMENDI: Okay. I think we're coming to a point where we have a sense, at least I have a sense of direction, I'm not sure where my colleagues are yet. So I'm going to -- it's already been said, I guess you could read it back, I'm not sure I could say it in the same way I said it the first time, but I think we ought to be establishing a policy here that is consistent with two of our mandates, one, a law that would allow boat docks free of charge. There apparently is no size restriction on those docks, either by law or by our practice. I think we best be careful here because we may wind up with some battleship or some such creature being docked along the waterways.
Do we have any size restrictions?

EXECUTIVE OFFICER THAYER: Well, again, we do not have anything written down, but as I explained earlier, you know, staff's perspective is that these docks should be sized for boating use, and so we tend to --

CHAIRPERSON GARAMENDI: That's where I was headed. In fact, I think that's what I said earlier is that consistent with the law that allows for a free boat dock, that an applicant must come in with a proposal and that is appropriate for a boat, recognizing they vary in size. Secondly, that if that proposal -- well, let me just finish that thought. That the applicant come in with a proposal that is appropriate for a boat and space necessary for boating recreation.

MR. MORAIS: Mr. Chairman.

CHAIRPERSON GARAMENDI: Go ahead.

MR. MORAIS: We do have size restrictions by other various agencies. County restrictions allow 60 foot docks. The Corps of Engineers regulates the size very strictly, so we do have laws with size restrictions.

CHAIRPERSON GARAMENDI: That's helpful, thank you. So I think my words are still applicable here. We don't need to then on our side to regulate the size if somebody else is.

So we have an applicant for a boat dock, sized
appropriate for a boat, and consistent with other regulating agencies and regulatory agencies, that the dock be sized for that boat. Now, if there is a boathouse in the application, that that boathouse could have a deck no larger than the boathouse, which again is sized appropriately, and that if there is such a deck, it have no permanent recreation amenities such as wetbar, refrigerators, hot tubs --

EXECUTIVE OFFICER THAYER: So safety devices only is what I heard you say, railings.

CHAIRPERSON GARAMENDI: Railings, exactly. And that there be an appropriate rental fee associated, rental fee applied.

EXECUTIVE OFFICER THAYER: Okay.

CHAIRPERSON GARAMENDI: I would propose that as our policy going forward. Now, it seems as though we need to have that proposal written and vetted before we vote on such a thing, and, therefore, I recommend a delay of no more than one meeting for this applicant. And I would suggest to the applicant that if the application is outside of that, is contrary to what I just said, you may want to consider modifications, because I don't think I'm going to be voting for it. But I would like you not to have to wait another year and a half or whatever the length of time is. Our next meeting is a month, two months away?

EXECUTIVE OFFICER THAYER: June 28th, so a month
and a half.

CHAIRPERSON GARAMENDI: Okay. That we take up this specific application together with the general policy, and between now and then and with sufficient time for public notice, if you could figure out what the appropriate way for us to state policy.

EXECUTIVE OFFICER THAYER: Certainly.

CHAIRPERSON GARAMENDI: Recognizing that I would propose that what I said be put into appropriate writing, made public, and recognizing that we may seek modifications without further public hearing at the next meeting. I think we can do that.

EXECUTIVE OFFICER THAYER: Certainly.

CHAIRPERSON GARAMENDI: If that's contrary to the rules of the law, then be instructed so.

Comments from my colleagues on this?

ACTING COMMISSIONER SHEEHAN: I have a question in terms of how the remuneration under the general lease is figured or calculated?

EXECUTIVE OFFICER THAYER: There's a couple different mechanisms. They start with getting an appraisal of the value of the riverbed. There's sometimes implemented as well two benchmarks that are adopted for geographic areas so that we don't have to do an appraisal for every pier and so the amounts usually vary from pier to pier depending on
the sort of pier expected.

ACTING COMMISSIONER SHEEHAN: Okay. Because I noticed as we were talking about this, as I went through the consent calendar, many of them were the recreational lease, there was a few that are general leases, and I'm just trying to figure out in terms of -- because it would be helpful to understand, you know, what kind of dollar amount we're talking about for let's say a dock the size of this application.

CHAIRPERSON GARAMENDI: We have some --

ACTING COMMISSIONER SHEEHAN: Can somebody give me a --

CHIEF OF LAND MANAGEMENT DUGAL: Yes, we did that analysis and it came out to $99 a year based on the benchmark that Paul used.

EXECUTIVE OFFICER THAYER: That, however, is an older benchmark and we just revised our benchmark at Tahoe, and so it's much more fair and enlightened and we're looking at revising our benchmarks, it hasn't been done in a while, for the delta area so it probably will end up more than that once we've done that work.

CHAIRPERSON GARAMENDI: What it is it will be.

EXECUTIVE OFFICER THAYER: Right.

CHAIRPERSON GARAMENDI: Further questions?

Then I advance my proposal. Staff will take that
Clarification? What is the Chairman thinking?

ASSISTANT ATTORNEY GENERAL HAGER: I was just going to bring up one point. We had a problem just a while ago about policies becoming underground regulations. We don't want that to happen. So let us look and see how best to present these policies so that they're not considered regulations.

CHAIRPERSON GARAMENDI: I raised this issue with Mr. Thayer when we met earlier this week and if anybody knows about this issue it's the former Insurance Commissioner.

(Laughter.)

CHAIRPERSON GARAMENDI: We wrote more regulations than any other agency in the state by a factor of probably 20. So, yes, it's an issue and I ask that that be dealt with and we do it appropriately.

I think we are where we are. I thank you very much for your time in helping us understand this.

Now, I want to also move to just one more thing here and state that we will undoubtedly have applications that are clearly way beyond what boat docks should be, and I would recommend that staff very carefully analyze those as to the policy or the proposed policy that we talked about here. If somebody is coming along with permanent backyard...
facilities on a dock on public lands, I for one have a
rather dim view of that and I'm not sure how to go forward
with that. Clearly it's not the boat dock situation. So
forewarned.

Okay. Let's move on to our next item. Mr.

Thayer, if you could instruct us where we're going next.

EXECUTIVE OFFICER THAYER: This item is a
rehearing on the Cabrillo Power --

CHAIRPERSON GARAMENDI: Excuse me, before we move
on, I just want to make this point. On the number of people
and the kind of activities and the hours in which it could
be used and so on and so forth, I don't even want to begin
to go there. okay.

EXECUTIVE OFFICER THAYER: That would be very hard
to enforce.

CHAIRPERSON GARAMENDI: It would be very hard to
enforce.

Okay, next item.

EXECUTIVE OFFICER THAYER: The next item is
rehearing of the Cabrillo Power Plant lease for the once-
through cooling facilities. The Commission will recall that
at the last meeting we had three renewals of leases for
these kinds of facilities and the Chair had a concern about
whether or not there might be some shoreline erosion because
of the jetties there.
Alan Scott from our staff will make the presentation on this.

MR. SCOTT: Good day, Mr. Chairman, Members of the Commission. I'm Alan Scott with the Commission's Land Management Division, and I'm presenting information on Calendar Item Number 89.

This item involves an upland powerplant that utilizes once-through cooling technology and was the subject of a calendar item first presented to the Commission for approval at the February 5th, 2007, Commission meeting. However, during that meeting questions arose as to whether or not the rock groins covered by the proposed lease have an impact on sand transport and local beach erosion, and the Commission asked that this issue be investigated and the matter returned for the Commission's reconsideration.

Staff has completed its investigation and offers the following. In the early 1950's, San Diego Gas and Electric Company constructed a steam-powered electric generating plant. As part of that project, as the San Diego Gas and Electric Company deepened Agua Hedionda Lagoon and constructed two rock groins protecting the lagoon entrance so that it would remain open to the ocean. The sand dredged from the lagoon was placed on local beaches significantly expanding the width of those beaches beyond their natural, relatively narrow conditions. Additionally, the dredging
project enhanced inland portions of the lagoon for public
boating and increased tidal action enhancing the lagoon's
fishery habitat.

Now, I might point out that there's an aerial
photograph on the easel of the area that we're talking
about, the Aqua Hedionda Lagoon, the entrance channel, the
powerplant locations, and a few other important pieces of
information on this.

Shortly after operation of the powerplant began,
the lagoon entrance and near shore portions of the lagoon
began clogging with sand, reducing the tidal flow into the
lagoon and subsequently the amount of water available for
cooling at the powerplant. To remedy this situation, San
Diego Gas and Electric began a maintenance dredging program
to maintain tidal flow into the lagoon. During the
California Coastal Commission's permit process in 1999,
concerns were raised regarding the potential impact that
maintenance dredging and sand placement was having on local
beaches and the Coastal Commission required that an
independent study of sand transport in the area be
conducted. This study was completed in April 1999.

The study's primary purpose was to determine what
impact, if any, the continued operation of the powerplant
and its dredging program was having on sand transport within
the literal cell. The study concluded that so long as the
rock groins at the lagoon mouth remained in place, dredging on the lagoon would need to continue, not only for cooling water intake, but because sand would naturally be pulled into the lagoon and lost to the along shore transport regardless of other activities within the lagoon. Also local beaches would lose the benefit of regular sand replacement provided during the maintenance dredging program.

The study also identified the best locations in the vicinity of the powerplant where the most public benefit would be achieved through placement of dredged materials. Based on this study, the Coastal Commission continued to issue individual coastal development permits for each separate dredging project requiring the placement of the dredged material at specific beach locations and in specific volumes to assure continued maximum public benefit and to provide for a continuing sand supply to the along shore transport within the literal cell.

The Coastal Commission has also required pre and post surveys of beach profiles at soil deposit sites so that adjustments could, if necessary, be made to deposit locations. Additionally, they required compliance with Army Corps of Engineer regulations regarding quality of sand used for beach enhancement.

The proposed lease now includes specific language
requiring Cabrillo, the proposed lessee, to continue maintenance dredging of the lagoon mouth for so long as the powerplant requires cooling water from the lagoon and to continue to place the dredged materials in accordance with the requirements of the Coastal Commission permit and this Commission's Dredge Spoils Placement Lease.

It was suggested by the Lieutenant Governor, we have incorporated into the lease a requirement that provides assurance that the lease improvements will not have a negative impact on sand transport or supply in this literal cell. The proposed lease also contains specific language requiring once-through cooling compliance with other regulatory agency requirements and requires a public hearing in five years to evaluate Cabrillo's compliance with the Commission's lease conditions, including other regulatory agency requirements, and the placement of dredge spoils.

Staff recommends that the Commission approve the lease as submitted today.

I will remain available, along with a representative of Cabrillo, to answer any questions from the Commission.

This concludes my presentation.

CHAIRPERSON GARAMENDI: Thank you very much and thank you for the detailed information. It answers all the questions that I had.
I was trying to recall the discussion when we took this up a couple of months ago about the decommissioning of this plant.

MR. SCOTT: Right now there is no specific proposal for decommissioning of the plant. There is a proposal, I believe on the drawing boards and maybe perhaps Cabrillo's representative can answer this, indicating that Cabrillo is considering the possibility of adding on some of their property some small peaker plant facilities, that would be inland of the existing powerplant, would not use once-through cooling, would use an alternative method of cooling, and should that come to fruition, they would then begin decommissioning of some of the existing older facilities in the existing powerplant location.

CHAIRPERSON GARAMENDI: Where I'm going here is that the once-through cooling maybe over in California at some time in the future, in which case the decommissioning that I'm referring to is the decommissioning of the outflow structure. Does the lease require them to return the beach to its previous natural state?

MR. SCOTT: Yes, it does, Mr. Chairman. There are standard provisions within our lease that require restoration of the lease premises at the direction of the Commission should a lease be terminated for any cause, whether it is the date termination of the lease as it
expires naturally or for some other reason that there is a
need to terminate the lease.

CHAIRPERSON GARAMENDI: Thank you, that answers my
questions.

Do you have anything?

ACTING COMMISSIONER SHEEHAN: I'm fine with it.

ACTING COMMISSIONER ARONBERG: I move staff's
recommendation.

ACTING COMMISSIONER SHEEHAN: I will second.

CHAIRPERSON GARAMENDI: We have a motion and a
second. All those in favor?

(Ayes.)

CHAIRPERSON GARAMENDI: Opposed?

This is approved.

Moving on.

Paul.

EXECUTIVE OFFICER THAYER: The last item on the
regular calendar has to do with a resolution that was
proposed by the Controller's office which would support H.R.
1187. This is a bill introduced by Congresswoman Woolsey
and others. It's purpose is to expand the Cordell Bank and
Farallones, the bulk of the Farallones National Marine
Sanctuaries. The map shows this expansion. The dotted
yellowish lines are the existing boundary to the two
sanctuaries and the green blockier lines to the north are
the areas proposed for the expansion of the sanctuary by H.R. 1187. As you can see, they include the coast of Sonoma County and the southern portion of Mendocino County.

The expansion would completely include the ecosystem that's caused by the upwelling in this area. This upwelling is caused by offshore winds that move the surface waters away and causes them to be replaced by nutrient rich deeper waters. This phenomena exists in only four other places in the world and creates a very rich environment. The number of species and the number or amount of wildlife in this area is especially dense because of the support that comes from this upwelling. And again this expanded sanctuary area would more fully encompass the whole of that area.

The inclusion in this sanctuary will cause these additional areas to be managed along with the rest of the sanctuary. That means additional review for potential projects that might impact the values, the environmental values here. And the sanctuary language also prohibits any new oil and gas exploration or development from this area should otherwise that be proposed. This area is also very important for the fishing, the good fishing that's there both for recreational fishers and commercial fishers.

Zeke Grader from the Pacific Coast Fishermen's Federation has reviewed the bill and has helped draft these
lines. He's in support of it.

We know of no opposition to this bill or to this resolution. We have one letter in support, which I think the Commissioners have had, from the Russian Riverkeeper.

The resolution, as I say, will support this measure, H.R. 1187, and the provisions of the resolution would also cause the Commission to send copies of the resolution to not only the author but other congressional leadership and the California Congressional delegation.

So staff is recommending that the Commission adopt this resolution.

CHAIRPERSON GARAMENDI: This being the Controller's motion, Cindy.

ACTING COMMISSIONER ARONBERG: I will move approval.

ACTING COMMISSIONER SHEEHAN: I'll second.

CHAIRPERSON GARAMENDI: We have a motion and a second.

All those in support, aye.

(Ayes.)

CHAIRPERSON GARAMENDI: Opposed, none.

The motion passes.

I believe that completes our formal agenda. We now have the opportunity for public comments, and we have Andy Mardesich.
MR. MARDESICH: My name is Andrew Mardesich, I'm president of San Pedro Peninsula Homeowner's Coalition, and we represent 11 homeowners organizations in San Pedro and the eastside of Rancho Palos Verdes.

And we are warming up the computer.

I'm a new face to you all, but I'm an old hand to Curtis and Paul and staff. And you will see that I have been schooled in the Paul Thayer and Curtis Fossum workshop on State Lands and how it works.

CEQA, the right to know about impacts. Off of port lands. The Rancho Palos Verdes/San Pedro. Next slide.

The owners coalition reached a settlement in granting injunctive relief to allow the operation of the China Shipping Terminal to proceed. It was a $50 million grant in that -- grants in the settlement agreement, 10 million for the gateway cities project, 20 million for further emissions reductions from ships, tugboats, locomotives. And then uniquely, 20 million to reduce industrial blight in surrounding communities through the creation of open space, parks, and other community-based projects.

Also there was a codicil in the agreement that replaced four cranes with low profile cranes at China Shipping. Next slide.

There's been a failure of the industrial blight...
settlement agreement. The Port rather than evaluating off
port lands' impacts and then having the Port Community
Advisory Committee, PCAC, which I'm a delegate member of,
recommend a project-specific mitigation, created a contest
atmosphere process for community ideas which continues to be
promoted. Allocations for recommended projects now languish
for a lack of nexus.

Common ground. Our organization, as well as State
Lands staff, agree on these fundamentals of the State
Tidelands Trust Act. And the current situation at the Port
of Los Angeles. There is no record of impacts of off port
lands, impacts, if any, of off port lands need to be on the
record. To mitigate their needs to be a nexus. Mitigation
should be project specific.

Failure of the crane settlement. The four 16-
story China Shipping terminal cranes were never replaced.
In the alternate and as a remedy, the homeowners' coalition,
which I represented, has offered a quality of life study
program. The study would specifically focus on the impacts,
if any, of off port lands and would be under the guidelines
of CEQA.

Reality. EIRs for the many pending projects
valued in the hundreds of millions, and I would suggest that
we're approaching the billion with what's in the queue, will
be silent as to off port land impacts to Rancho Palos
Verdes, San Pedro and Wilmington. In a programmatic fashion, EIRs will be trailed with a letter of overriding consideration. There is no guarantee that any off port lands' impacts will ever be mitigated without political will.

State Lands remedy. State Lands use -- we're asking State Lands to use its sovereign right under the state constitution to ensure that under CEQA the citizens of Rancho Palos Verdes, San Pedro, and Wilmington know what impacts are off of port lands. So we're not asking for mitigation, we're not recommending anything, we're just asking for the knowledge of what those impacts are, either positive and/or the negative.

Homeowner coalition remedy. Because of the settlement agreement, San Pedro Peninsula Homeowners' Coalition would make funds available from the China Shipping settlement available to accomplish a knowledge-based program. These are slides that were shown I think about four years ago to a prior State Lands Commission and this is an example of blight that has never been recorded. Next slide.

Next slide.

Next slide.

Next slide.

Next slide.
Now, this is Ranchos Palos Verdes. Who ever thought Rancho Palos Verdes which actually is only a thousand yards away from the Port would be impacted. But they are. As a matter of fact, as you go up the hill and the peninsula, the impact, the visual blight and intrusion is greater.

Next slide.

Next slide.

Next slide.

China Shipping cranes here. They were delivered shortly -- they were a 18-month schedule and they were delivered six weeks after the EIR was scheduled to be approved but was delayed because of our litigation.

Next slide.

The China shipping cranes.

Next slide.

So what we're asking for is that State Lands request and ensure from the Port that they conform with CEQA and do what they should do anyway under the law. When you look at, when you say how can this be, but it is.

CHAIRPERSON GARAMENDI: I'm a little curious here as to what you're asking State Lands to do.

MR. MARDESI: I'm asking State Lands to direct their trustee to follow the law.
CHAIRPERSON GARAMENDI: Well, I think we had a settlement, did we not? It was a CEQA lawsuit and it was settled and approved by the court and I don't know all the details, but let's assume that you have listed at least some of the pertinent details with regard to the cranes which you showed us here. If there was a specific order in the settlement that the cranes be removed and replaced with a lower profile crane, then that's an action that you take to the court and ask for a specific remedy.

MR. MARDESICH: When you ask my organization to report, you're saying forget it. Because in the litigation, so you understand, we put all the documentation together, we put the package together, and then we went and found a white knight. And that white knight came in and they spent well over a million dollars at their risk.

CHAIRPERSON GARAMENDI: I understand that.

MR. MARDESICH: And the thing is is that they found ways of working around the language of the settlement agreement. Now, we can go back to arbitration, we can do all sorts of things. We had a meeting with our attorney of record and a participant also, our white knight, which is the NRDC, Natural Resources Defense Council. We met with them this week and we gave them specific instructions, because there's a four-year timeline on this and we have asked for an extension. We've given direction to our white knight.
knight to withdraw the request to extend this period of
mitigation, that we insist that we draw the line in the
sand, that we substitute out the failure of the crane
portion of the settlement agreement with a quality of life
study which matches CEQA to evaluate off port lands.

Our concern is not what's happening at the Port on
state lands and submerged lands or uplands, we're asking
what is the impact of the operation to off of port lands.
And that's where the Port historically and programmatically
has always been silent. And so we're saying the funds that
were dedicated for the cranes effort can be developed. The
Port has been playing games with us and saying yes, no, and
then now coming back and watering down our request, and
we've told State Lands -- I mean, excuse me, NRDC.

CHAIRPERSON GARAMENDI: Excuse me.

Question to State Lands. Are we a party to the
settlement?

EXECUTIVE OFFICER THAYER: No, we're not.

CHAIRPERSON GARAMENDI: We have then marginal
standing. We have no standing in the court. I suppose we
could ask the Port to obey the settlement. What power do we
have here?

EXECUTIVE OFFICER THAYER: I think that we have a
general oversight of how the Port conducts its business,
specifically with respect to Public Trust issues. We have,
I believe, in the past sent letters to the Port encouraging them to comply with appropriate environmental regulation in California. Specific mechanisms for compliance that Mr. Mardesich is referring to we usually don't get involved in. In other words, there's a variety of ways in which one can comply and generally that's their responsibility. So there's some opportunity here if the Commission decided that we could send a letter to the Port recommending or urging them to comply with the California Environmental Quality Act, which I think --

MR. MARDESICH: That's all we're asking.

EXECUTIVE OFFICER THAYER: -- is mostly what he's after. So without prejudice, something like that. But I would not recommend getting involved in a fight over the settlement terms and how they are being implemented, we're not really a party to that.

MR. MARDESICH: The history, a little history, during the negotiation phase --

CHAIRPERSON GARAMENDI: Excuse me, I want to try to understand what our options are before we go into it further. So with regard to the settlement, that's settled. There may be clauses in the settlement agreement between the parties that could reopen some piece of it I suppose, but we're not in there. So among the things you're asking us to do is ask, encourage, the Port to pay attention to CEQA and

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I suppose pay attention to the settlement?

MR. MARDESICH: Correct. I also in our negotiations that I didn't bring to the table here, but at the original settlement agreement, one of the things that I was asking for representing our component in the original settlement and now I'm asking for in this quality of life study is that State Lands come in to police and to ensure that it's done and to give the proper guidance processwise and governance to make sure --

CHAIRPERSON GARAMENDI: Excuse me. What does off port mean?


CHAIRPERSON GARAMENDI: So it's quality of life off the port is what you're talking about?

MR. MARDESICH: Yes. In a sense one of the components was covered in the first presentation where the visual impairment to the river was a big concern.

CHAIRPERSON GARAMENDI: I understand. I just didn't know what you meant by off port.

MR. MARDESICH: Off port is beyond the uplands. I've been very well schooled earlier by Paul and company.

CHAIRPERSON GARAMENDI: Comments from my colleagues?

ACTING COMMISSIONER ARONBERG: I feel comfortable writing a letter urging the Port to comply with CEQA.
And Mr. Mardesich, is that something --

MR. MARDESICH: I would add make it a strong
letter, but at the same time as I go further with
negotiations on the quality of life study to substitute
because the cranes will never happen, that I would like to
invite State Lands to participate in that process, at least
as a facilitator. Because it didn't work the first time
around.

CHAIRPERSON GARAMENDI: I don't think I want State
Lands to participate as a facilitator. We have to deal with
those issues that are specific to our responsibilities which
are the Public Trust lands.

MR. MARDESICH: Right.

CHAIRPERSON GARAMENDI: And the issue of CEQA,
while it intersects and interacts with our work, we're
getting far afield if we were to proceed as you're
suggesting, so I'm not of a mind to do that. As to a
question of a letter, I'm always willing to see a draft of
the letter. We can take that issue up as to whether we want
to proceed.

So, Paul, if you would draft a letter along the
lines suggested and limited, we can have a look at that and
act formally upon it at our next meeting.

Okay. Thank you very much for your time and we'll
take it up at the next meeting as to what this letter might
be. We will look at it and make public at that point as to how we act upon it.

MR. MARDENI: Would that then be like an agendized item or something?

CHAIRPERSON GARAMENDI: It would have to be.

MR. MARDENI: Okay.

CHAIRPERSON GARAMENDI: Great.

And if you could send us a copy of a draft of that before the meeting so that we would have that opportunity individually to comment on it.

EXECUTIVE OFFICER THAYER: Certainly.

CHAIRPERSON GARAMENDI: Keeping in mind the public meeting law.

EXECUTIVE OFFICER THAYER: Right, right. There may be some legal implications that require --

CHAIRPERSON GARAMENDI: It just occurred to me there might be. Okay.

Thank you.

MR. MARDENI: Thank you.

CHAIRPERSON GARAMENDI: I have no other requests to speak. I think we have gone through our agenda. And I thank you all very much. Staff, thank you very much.

(Thereupon the meeting of the State Lands Commission was concluded at 12:15 p.m. on May 10, 2007)
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 29th day of May 2007.

Michael J. Mac Iver
Shorthand Reporter

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