APPEARANCES

BOARD MEMBERS

Mr. John Chiang, State Controller, Chairperson, also represented by Marcy Jo Mandel

Mr. John Garamendi, Lieutenant Governor, also represented by Mr. Brian Bugsch

Mr. Michael Genest, Director of Finance, represented by Mr. Tom Sheehy

STAFF

Mr. Paul Thayer, Executive Officer

Mr. Curtis Fossum, Chief Counsel

Ms. Marina Brand, Assistant Chief, Division of Environmental Planning & Management

Ms. Judy Brown, Public Land Management Specialist

Ms. Kimberly Lunetta, Executive Assistant

ATTORNEY GENERAL'S OFFICE

Mr. Joe Rusconi, Deputy Attorney General

ALSO PRESENT

Mr. John Asuncion, Blue Whale Sailing School

Ms. Kelly Baraka

Mr. Stephen Clark, Point San Pablo Preservation Society

Mr. Christopher Dolan

Mr. Daniel Doellstedt

Mr. Fraser Felter, Trails for Richmond Action Committee

Mr. Walt Gill, Chevron

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
APPEARANCES CONTINUED

ALSO PRESENT

Ms. Wende Heath, Point San Pablo Yacht Harbor
Ms. Zelda Holland
Ms. Patricia Jones, Citizens For East Shore Parks
Mr. Derek Liecty
Mr. Bill Lindsay, City of Richmond
Mr. James McGrath, Bay Access
Mayor Gayle McLaughlin, City of Richmond
Mr. Craig Murray, Las Gallinas Valley Sanitary District
Mr. Bill Pinkham, Easy Bay Bicycle Coalition
Mr. Robert Raburn, East Bay Bicycle Coalition
Ms. Mary Renfro, City of Richmond
Assemblymember Nancy Skinner, Assembly District 14
Ms. Nancy Strauch, Trails for Richmond Action Committee
Mr. Tony Suslak

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
# INDEX

<table>
<thead>
<tr>
<th>I</th>
<th>Open Session</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>II</td>
<td>Confirmation of Minutes for the Meeting of October 16, 2008</td>
<td>1</td>
</tr>
<tr>
<td>III</td>
<td>Executive Officer's Report</td>
<td>1</td>
</tr>
<tr>
<td>IV</td>
<td>Consent Calendar C01-C43</td>
<td>12</td>
</tr>
<tr>
<td>V</td>
<td>Regular Calendar Item</td>
<td></td>
</tr>
<tr>
<td></td>
<td>44  Chevron U.S.A. Products</td>
<td>13,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>106</td>
</tr>
<tr>
<td>VI</td>
<td>Public Comment</td>
<td>97</td>
</tr>
<tr>
<td>VII</td>
<td>Closed Session</td>
<td>106</td>
</tr>
<tr>
<td></td>
<td>Adjournment</td>
<td>108</td>
</tr>
<tr>
<td></td>
<td>Reporter's Certificate</td>
<td>110</td>
</tr>
</tbody>
</table>

PETERS SHORTHAND REPORTING CORPORATION  (916) 362-2345
CHAIRPERSON CHIANG: Good morning. I'm calling this meeting of the State Lands Commission to order. All the representatives of the Commission are present. I am John Chiang, the State Controller. I am very pleased to be joined by Lieutenant Governor John Garamendi and Tom Sheehy, who represents the Department of Finance.

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

The first item of business will be the adoption of the minutes from the Commission's last meeting.

Could I have a motion for the approval of the minutes.

COMMISSIONER GARAMENDI: So moved.
CHAIRPERSON CHIANG: Motion by the Lieutenant Governor.

ACTING COMMISSIONER SHEEHY: Second.
CHAIRPERSON CHIANG: Second by Tom.

The minutes are -- without objection, these minutes are unanimously adopted.

CHAIRPERSON CHIANG: The next order of business is the Executive Officer's report.
Paul, may we have that report, please.

EXECUTIVE OFFICER THAYER: Thank you. Good morning, Mr. Chairman and members of the Commission.

I have a few different items I wanted to discuss. And as is our practice, I'd like to briefly go over the status of the violations that we've been pursuing as directed by the Commission.

First, on the Hulbert case, which was the recreational dock that was overbuilt. Since the last Commission meeting, the Office of Attorney General has filed a cross-complaint against Mr. Hulbert requesting or requiring that he remove all the improvements on the lease premises.

With respect to the Spirit of Sacramento - this is the ferryboat that parks against one of the levees just south of downtown Sacramento - we're continuing to work with the Attorney General's Office on this. There is no lease for docking -- for either the pilings to which the Spirit of Sacramento's tied and no lease which allows it to remain there. So the Commission has asked us to pursue this as a violation.

So we're working with the Attorney General's Office. On October 31st staff of the Commission and the Attorney General's Office conducted an inspection, found that while the vessel appears to be in poor condition,
it's floating and not listing. It appears to be securely fastened to the dolphins so it is not going to get away and become a hazard to navigation. But we're continuing to pursue this. The owner is in Long Beach. And we're working with the Attorney General's Office to resolve the situation.

The next case involved two larger vessels that have been moored in the Delta. The vessel Faithful and the ferryboat San Diego. These are the ones that, as I explained the last meeting, the nominal owners have no real resources, and so we're working with them to try and find alternative ways to dispose of these vessels.

On one of them, with respect to the ferryboat San Diego, we've contacted the owner's attorney in September because of a contact that we worked up regarding a Mexican scrapper who might be interested in purchasing the vessel. The owner, as far as we know, has not been in contact with this Mexican scrapper. And, again, we're pursuing other options to try and figure out how to remove that. Ultimately, we may have to look for State money or something else to take it out. We don't believe the owner has the funds to be able to do that himself.

Then with respect to the South Bay Yacht Club, the yacht club continues to make progress. Most of the boats and debris that were on State Lands and Water
District property have been removed as of November 24th. The yacht club has purchased docking -- new docking -- or secondhand docking from someone in Berryessa. And it's looking to replace the old docking with that new docking in the next few weeks. The major repairs have not yet been begun yet because BCDC did not issue a permit until November 25th. BCDC issued a permit which enabled them to go forward. And we'd work closely with BCDC staff to facilitate that.

We did talk with Fish and Game. Another permit that's necessary for removal of vegetation has to be granted by Fish and Game. As of December 3rd, today -- we spoke yesterday with Fish and Game. They have not yet issued a permit. But Fish and Game staff indicate that they're soon going to do so, they have the appropriate information. But without that permit, the yacht club can't proceed with removing the vegetation.

The deadline that the Commission imposed last year was for a year, and I believe that expires in another week or so in December. And as we suggested at the last Commission meeting, our approach on this is to continue to work with all of these different agencies, as well as the yacht club to get the work done, and that we'll evaluate that at the first Commission meeting after the deadline has passed. But for now, we'd like to continue to work on
With respect to the Jeanne Bird Taylor houseboat that was parked in the Delta -- and at one point she had it for sale as a house -- as we indicated in the last meeting, she has sold that houseboat to a new owner, who has moved it away from her dock. And rather than applying for an application to us to remove the other encroachments on State lands, she undertook that herself, didn't -- the job does not satisfy entirely the problem of having a cabin and a deck encroach over State lands. And so we're continuing to work with Ms. Taylor on removing the last bit of that.

We've been in contact with the new owner of the houseboat, who tells us that he's going to convert that into a houseboat that isn't intended as a residence, but is meant as a recreational houseboat. And we're locked onto that process obviously. And it's just going to take time to do -- and work through that.

With respect to the Courtland docks, the last item, Shawn Berrigan and Diane House. This is a marina, a very small marina, in the Town of Courtland, which was in poor repair. They have completed the work on the docks. The docks are entirely replaced with new docks, but they have now missed a rent payment. We've worked with them, and we have a schedule to repay the Commission the missing
rent as well as fines and penalties that should be completed -- the payment should be completed by January 1st.

But again, this is an economic situation which is difficult. And we're trying to work to bring the lessees into compliance. And given the expense they've gone through already putting in new docks, we think that they'll work to compliance.

So that's our report on the violations, unless there's any questions.

CHAIRPERSON CHIANG: No questions?

Thank you.

EXECUTIVE OFFICER THAYER: And then the two other items I wanted to mention is with respect to scheduling our future Commission meetings. As of right now, we're scheduled now to meet in Santa Barbara on January 29th to hear the PXP proposal for the new oil lease at Tranquillon Ridge. And we had originally scheduled another meeting on March 3rd to hear the Venoco leases. However, delays in the Environmental Impact Report process suggest that we'd be better off scheduling that for the end of March to assure that that's done -- the EIRs are done before the Commission meeting arrives.

So, we're working with your offices to set up another meeting about April 1st.

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And then, finally, the Chair has requested that we have an informational-only meeting this month on PXP. And we're working with your offices to try and set up some dates that will work for that. And that meeting would also be in southern California to allow people in the area that have an interest in it to attend.

And then the final item I wanted to mention is the -- we had presented to the Commission the Public Trust brochure about a year ago.

Are copies up there? I can't --

CHAIRPERSON CHIANG: They are.

EXECUTIVE OFFICER THAYER: And so we wanted to bring this back to you. And some of the commissioners, particularly the Lieutenant Governor, believes that the text was too small in the last one, so we've increased the size of the format --

(Laughter.)

EXECUTIVE OFFICER THAYER: -- so that it's easier to see. And copies of this will be made available to the public. It's meant to be a generalized description of what the Public Trust Doctrine is. And we'd be glad to supply copies of this to your office in case you get questions as Commissioners that this might help you with. But hopefully this will do a good job of giving you a basic background of the trust doctrine.
COMMISSIONER GARAMENDI: It has a good look to it and we can read it now.

EXECUTIVE OFFICER THAYER: Good. And we've been successful at making those changes.

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

CHAIRPERSON CHIANG: Please.

COMMISSIONER GARAMENDI: Thank you. I appreciate the report.

We've been discussing on and off over the last year or so the derelict boats and other hazards to navigation that exist in the rivers and in the bays. I had a discussion with Boating and Waterways about this. And apparently they have money to remove these obstructions, but they don't have partners to do it. They can't do it themselves under the current law. And the counties have to apply for the money to do it. And then there's the reluctance on the part of the counties to get engaged and involved. And I think I'd like you to engage in a discussion with Boating and Waterways about some way for us to clear the obstructions from State land, because almost all of these are on State land.

Maybe we need the authority and we can do the work -- the State Lands could do the work, or maybe a bill that would allow the Boating and Waterways to do the work...
or to contract for the work to be done.

But we ought to be moving forward, because there are -- there is money available through the fees -- the boating fees to deal with this.

So if you'd take a look at that, I'd appreciate it.

EXECUTIVE OFFICER THAYER: We'd be glad to do that. We did have a meeting - and I was involved with that - with members of the Boating and Waterways staff a couple months ago and talked about some legislation we were interested in pursuing to give the State Lands Commission a larger role. We already have some authority and we'd like to enlarge upon that and find some way for us to get the funds. And Boating and Waterways was somewhat resistant in that conversation, saying that they felt they were responsible for that. And we suggested that perhaps if we could be an eligible applicant and be the same status as the cities and counties, why couldn't we do that? There was some reluctance. But we'll continue those conversations.

COMMISSIONER GARAMENDI: Well, perhaps we can persuade them to be more accommodating.

EXECUTIVE OFFICER THAYER: We'll do our best.

COMMISSIONER GARAMENDI: Well, between John and I and the Department of Finance, perhaps there may be some
additional persuasion involved.

EXECUTIVE OFFICER THAYER: We could draft a letter, that if the Commission would like us to send or if the Commission wanted to sign; it would be a letter just suggesting that we're partners in this and we'd like to have the opportunity to pursue this further.

COMMISSIONER GARAMENDI: Why don't you have a conversation first, then get back to us, and we'll be meeting. And Tom is certainly in a position to have some sway over this.

ACTING COMMISSIONER SHEEHY: Mr. Chairman?

CHAIRPERSON CHIANG: Yes.

ACTING COMMISSIONER SHEEHY: Mr. Thayer, I'm in full agreement with the Lieutenant Governor if there are funds available for this purpose. This would be a high priority.

Does the State Lands Commission need any additional statutory authority or not? I was unclear about your answer whether you have the statutory authority to be directly involved if necessary.

EXECUTIVE OFFICER THAYER: We have authority to remove vessels in certain circumstances. And this gets complicated, because I think that when -- when there are health and safety issues or -- I can't remember the exact criteria -- or perhaps obstacles to navigation are
involved, so there's a certain subset of the regs where we already have authority. But we were looking to enlarge upon that so that it wouldn't become a debate between us and, say, a potential owner of the boat or somebody else as to whether or not we had authority in that particular situation. We wanted to have broader authority on that.

ACTING COMMISSIONER SHEEHY: Well, Mr. Thayer, members of the Commission, I'd like you to know that I would be delighted to work with you and your staff on a legislative proposal, if that's appropriate, in order to give -- propose to give the Commission some additional authority in this area. And if there's anything that I can do to help that process, it would be my pleasure to do that. So just follow up with me as appropriate and we'll see what we can do this year.

EXECUTIVE OFFICER THAYER: Sure. We'll work with all of the Commissioners' offices on this.

CHAIRPERSON CHIANG: You'd want it brought up during the next meeting, the proposal?

COMMISSIONER GARAMENDI: Well, we needed the introduction in January to get this legislation.

EXECUTIVE OFFICER THAYER: We have some drafts already of bills that some of our attorneys have been working on. Curtis and retired annuitant, Peter Pelkofer, have drafted up some bills. So we could bring -- we could
send you that now and perhaps discuss this at the next Commission meeting.

CHAIRPERSON CHIANG: If you could please schedule that informational hearing.

EXECUTIVE OFFICER THAYER: Sure.

CHAIRPERSON CHIANG: Thank you.

Does that conclude your --

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

CHAIRPERSON CHIANG: Perfect. Thank you, Paul.

The next item is the consent calendar.

Paul, do you want to mention any items that have been pulled?

EXECUTIVE OFFICER THAYER: There are three items that we'd like to remove from the consent calendar. And all three of these will be heard at a future meeting. And those are items 20, 28 and 39.

CHAIRPERSON CHIANG: And did you want to pull any other additional items?

No. Okay.

If not, could I have a motion on the consent calendar.

COMMISSIONER GARAMENDI: So moved.

CHAIRPERSON CHIANG: We have a motion by the Lieutenant Governor.
ACTING COMMISSIONER SHEEHY: I second.

CHAIRPERSON CHIANG: Second by Tom.

Without objection, motion passes.

Next item.

EXECUTIVE OFFICER THAYER: We move to the regular calendar. The next item is Item 44, which is the proposed lease to Chevron for use of an existing marine terminal in Richmond.

I believe Barbara Dugal will start the -- or Judy Brown will start the first staff presentation on this.

(Thereupon an overhead presentation was Presented as follows.)

PUBLIC LAND MANAGEMENT SPECIALIST BROWN: Good morning, Mr. Chairman and members of the Commission. My name is Judy Brown and I work in the Commission's Land Management Division.

Before I begin my presentation, I would like to read an amendment into the record. On the staff's report for Calendar Item 44, on page 8, there are two references to the value of the easement for the construction of the Bay Trail. And we would request that those be removed from the calendar item.

So Calendar Item 44 involves the proposed certification of a Final Environmental Impact Report, termination of an existing dredging lease, and issuance of
a new 30-year general lease - industrial use to Chevron U.S.A. Products for the use, operation and maintenance of an existing marine oil terminal located on sovereign lands in San Francisco Bay, City of Richmond, Contra Costa County.

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PUBLIC LAND MANAGEMENT SPECIALIST BROWN: The existing marine terminal, which is often referred to as the Long Wharf, is comprised of a 3,440 foot long T-head pier, a 4,200 foot long causeway and pipeline trestles, four deep water outer berths for mooring oil vessels and barges, two inner cargo berths, an additional inner berth that provide temporary moorings for standby tugs and barges, and launch facilities for crew and oil spill response boats. The Long Wharf operates 24 hours per day, 7 days per week.

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PUBLIC LAND MANAGEMENT SPECIALIST BROWN: Chevron's upland refinery processes over 240,000 barrels of crude oil a day, and the primary products are motor gasoline, jet fuel, diesel fuel, and lubricants.

To give you a little history about the project, Chevron's upland refinery began operation on July 3rd, 1902. However, crude oil was initially shipped by a rail car to the refinery from the San Joaquin Valley until the
Long Wharf became operational later in 1902. The Long Wharf was originally a wooden structure supported on timber piles, but was modified in 1946 with the construction of a concrete wharf causeway structure supported on deeper concrete piles.

Various improvements to the wharf have been completed since the wharf was originally installed, including a modification in 1974 to accommodate larger vessels, a platform was added to Berth No. 4 in 1986, a breasting dolphin at Berth No. 3 in 1990. In 1991 a vapor control system was installed. In 2000, an upgrade project was completed that will enable the wharf to withstand a 475-year period seismic event. And in November 2004 a comprehensive electrical infrastructure upgrade project was completed.

The Commission, as lead agency, under the California Environmental Quality Act, managed the preparation of an Environmental Impact Report (EIR) for Chevron's continued operation of the marine terminal. During the EIR process, it became apparent that the issue of access around Chevron's upland facility via the Bay Trail was important to the citizens of Richmond and other Bay Area community members. The Bay Trail is planned to be a continuous 400 mile recreational corridor that would encircle the entire San Francisco Bay Area and
connect communities to each other in the bay.

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PUBLIC LAND MANAGEMENT SPECIALIST BROWN: The Bay Trail plan, including a specific alignment, was developed by the Association of Bay Area Governments in response to Senate Bill 100, which was passed into law in 1987.

Earlier this year, Chevron received approval from the City of Richmond for construction of an energy and hydrogen renewal project at Chevron's upland refinery.

During the consideration of that project, Chevron and the City of Richmond executed a community benefits agreement that outlines various commitments made by Chevron.

The following is a summary of the commitments that relate to the Bay Trail:

1. Chevron will dedicate an easement for construction of the Bay Trail and public access.

2. Chevron will fund the construction costs for security enhancement up to a maximum of $2 million and agree to maintain all facilities and equipment that Chevron funds and installs on or next to the Bay Trail.

3. Chevron will work with the Bay Trail members, the City of Richmond, the Association of Bay Area Governments, CalTrans, and others in good faith to secure base funding for construction of the Bay Trail.

Today, in addition to certifying the EIR and
issuing a new 30-year lease to Chevron, staff is
requesting that the Commission consider authorizing staff
to execute a letter of agreement with Chevron confirming
Chevron's commitment to the Bay Trail as is contained in
the Community Benefits Agreement between the City of
Richmond and Chevron and to reporting to the Commission
with respect to cold ironing or other comparable
technology.

This concludes my presentation.

Staff of the Commission's Division of
Environmental Planning and Management will be providing a
brief summary of the environmental process for the marine
terminal. And staff of the Commission's Marine Facilities
Division are available to answer questions pertaining to
the Commission's regulations for operations at the marine
terminal. And representatives of Chevron are also here to
answer any questions you may have.

EXECUTIVE OFFICER THAYER: Marina Brand from our
Environmental Unit will make the next presentation.

DIVISION OF ENVIRONMENTAL PLANNING AND MANAGEMENT

ASSISTANT CHIEF BRAND: Good morning. Good morning,
Chairman Chiang and members of the Commission. I am
Marina Brand. And I'm the Assistant Chief for the
Commission's Division of Environmental Planning and
Management.
Early in the application process a determination was made to prepare an Environmental Impact Report in order to comply with the California Environmental Quality Act. The process was initiated on November 30th, 1998, with circulation of the Notice of Preparation. In support of this notice, a public scoping meeting was held in the City of Richmond on December 10th of 1998. Federal, state, and local agency representatives, as well as public interest groups, affected landowners, and other interested parties were invited to participate in this portion of the CEQA process.

A draft EIR was prepared and circulated for public review on February 24th, 2006, for a period of 45 days. And that 45-day public review period ended on April 13th.

In addition, on March 9th of 2006, a public meeting was held to discuss the contents of the Draft EIR, answer questions, and receive comments from agencies and interested members of the public.

On March 7th of 2007, the Final EIR was released. The Final EIR addressed all of the comments and issues that were raised during the 45-day public review period for the Draft EIR. And on November 19th of this year, a Notice of Intent to certify the EIR was mailed to federal, state, and local agencies as well as to environmental and
public interest groups, affected landowners, and other
interested parties, as well as to all individuals who
commented on the Draft EIR.

The major issues that were addressed in the EIR
were operational safety and risk of accidents, water
quality, biological resources, commercial and sport
fisheries, land use and recreation, air quality, noise,
vehicular and rail transportation, visual resources
including the effects of light and glare, cultural
resources, geological resources, and a review of -- which
included a review of the structural integrity of the
facilities, socioeconomics and environmental justice.

As a result of the impact analysis, it was found
that continuation of operations at Chevron's Long Wharf
facility would not have a significant impact on air
quality, vehicular and rail transportation, cultural
resources or socioeconomics.

In addition, the analysis showed that although
there would be a potential for significant impacts in some
issue areas, these could be mitigated to a
less-than-significant level through the implementation of
a variety of measures. These issue areas include
geological resources, integrity of facility structure, and
environmental justice.

The remaining issue areas that were analyzed in
the EIR were found to have impacts that range from less
than significant to significant even after mitigation
measures are applied.

With respect to noise, Chevron has agreed to
identify noisy ships and work with their operators to
reduce noise levels. But even with this measure, the EIR
determined that the impact would remain significant.

The remaining impacts that cannot be mitigated to
a less than significant level center around two types of
events. These are the effects of oil spills that are
greater than 50 barrels in size, that could occur during
product transfer operations, and the potential discharge
of ballast water by visiting tankers.

Oil spills greater than 50 barrels in size would
have significant and unmitigable impacts on water quality,
biology, commercial and sport fisheries, recreation, and
visual resources.

Should an oil spill occur, it would substantially
degradede quality of the water affected. It would
impact biological organisms at or near the terminal, and
potentially the oil spill could spread through the
Carquinez Strait into Suisun and San Pablo bays.

Sensitive species and habitats that could be affected
including Castro Rocks, eelgrass beds, and the
double-crested cormorant breeding colony that's located on

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the Richmond-San Rafael Bridge.

Commercial and sport fisheries could also be potentially severely impacted by an oil spill that is greater than 50 barrels in size. Shrimp, herring and sport fisheries in central and north San Francisco Bay, San Pablo Bay, the Carquinez Strait, and elsewhere in the estuary are at the highest risk of spill contamination.

And depending on the location and size of the spill, as well as water and weather conditions, areas upstream of the confluence of the Sacramento and San Joaquin rivers could also be affected. In other words, the Delta.

Likewise, an oil spill could potentially impact recreational facilities, such as parks, wildlife preserves, and other forms of open space, as well as recreational uses, such as nature viewing, boating, fishing, surfing and other types of uses. The effect would be to preclude access and uses for some unknown period of time.

And, finally, the visual impact of a spill at or near the terminal could last for a long period of time.

Spills for vessels that are in transit to the terminal would change color and texture of the water and shoreline conditions, and could be considered a significant impact depending on the characteristics of the spill and residual
The other type of event that the EIR concluded could result in significant and unmitigable impacts is from potential discharge of ballast water by visiting tankers.

Ballast water that contains harmful microorganisms could impair several of the beneficial uses located in the area of the marine terminal facility. This would include effects on commercial and sport fishing, estuarine habitat, fish spawning and migration, wildlife habitat, rare and endangered species, as well as water contact and non-contact recreation.

Now, several of the actions that you are being requested to take today involve the EIR. First, we are requesting that the Commission certify the EIR that was prepared for this project and adopt the associated mitigation monitoring program. Since the EIR identified a number of significant environmental effects, we are also requesting that you adopt the findings that have been prepared as required by CEQA.

And, finally a number of significant effects were identified in the EIR that can not be mitigated to below a level of significance.

So should the Commission approve a new lease for

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the continued operation of the Chevron Long Wharf Marine
Terminal, CEQA requires that the Commission adopt a
Statement of Overriding Considerations. And this
Statement of Overriding Considerations is included as
Exhibit E to the calendar item.

This statement provides the specific reasons why
the benefits associated with this project outweigh the
unavoidable adverse environmental effects.

Thank you. That concludes my presentation.

CHAIRPERSON CHIANG: Thank you.

EXECUTIVE OFFICER THAYER: And that concludes
staff presentation on this item.

CHAIRPERSON CHIANG: Very good.

Questions, comments?

COMMISSIONER GARAMENDI: Thank you, Mr. Chairman.

There are a series of findings -- CEQA findings
that relate to spills and other kinds of incidents that
might occur. It appears from the documents presented here
that these issues are addressed. And in the remaining
discussion, perhaps with Chevron, I'd like to hear about
how these issues are addressed.

EXECUTIVE OFFICER THAYER: Would you like staff
then to --

COMMISSIONER GARAMENDI: Well, let's hear what
Chevron has to say. And then there's, you know, half a
dozen different CEQA issues that have come up with regard to spills, and then the mitigation for those. I'm thinking back on a certain ship that hit a bridge, and bar pilots and OSPR and others that are relevant here.

EXECUTIVE OFFICER THAYER: I understand. And we'll hear from Chevron. And then if there's additional information we need to provide, we'll be glad to do it.

COMMISSIONER GARAMENDI: Thank you.

CHAIRPERSON CHIANG: Would the representative from Chevron please join us.

Good morning. Please introduce yourself.

I'm not sure if you heard the Lieutenant Governor's query but --

MR. GILL: I believe I did.

Good morning, Chairman Chiang and Commissioners.

My name is Walt Gill. I'm the Government Affairs Manager from the refinery.

And regarding the Lieutenant Governor's question about spills and our spill response, I can tell you that's something that we take very, very seriously. It is something that we, as a company on the wharf, prepare for and drill for. We have an extensive amount of equipment on the wharf. We work closely with OSPR, who's the primary state agency in charge of spill preparation and spill response.
And in addition to that, we have a contract with our oil spill response organization, which is a company called MSRP. They're located in the Richmond inner harbor, which is a few miles from our wharf. And they have an extensive amount of equipment - boats and skimmers and boom. I think they have at that facility something in the order of 27,000 feet of boom which they can deploy. My recollection in looking at the state requirement from OSPR is that in order to boom all the sensitive sites around the wharf, that would require about half of that, which is 15,000 feet of boom.

So I can tell you I think we're well prepared in preventing spills as far as our daily operating practices. And in the odd event that we do have a spill, we can respond.

The other thing I'm happy to say is that I think you should look at our record as far as spills. It's a very good one at the Long Wharf.

COMMISSIONER GARAMENDI: There's new technology that is required by the CEQA and the lease. Could you speak to the new technologies. I think it has to do with both the way in which the ships arrive as well as the kinds of connections to the pipelines from the ship.

MR. GILL: Yes, those are mitigation measures that are included in the EIR. And there are really two
main elements there. One is what's called an approach
meter. Those are radar screens, if you will, that as the
ships approach, the bar pilots can judge -- better judge
the rate of speed such that they're not running into the
dock potentially. So that's one important mitigation that
we're working to install.

The second are --
COMMISSIONER GARAMENDI: Excuse me. Is that
installed on the ship or on the dock or --

MR. GILL: That's installed on the dock. It's
actually an approach meter, if you will. As you drive
down residential streets you see police departments with
the speedometer type of things on the side of the road.

COMMISSIONER GARAMENDI: I have no experience
with those radar things.

(Laughter.)

MR. GILL: It's that type of device that would
allow the bar pilots and those operating the ships to make
sure they're approaching the wharf at a safe speed so
they're not potentially ramming the wharf.

But the second, as you mentioned, Lieutenant
Governor, are some quick release devices and tensometers
on the dock that attach to the ship that allow the wharf
operators to determine if a ship is unsafely drifting away
from the dock.
The other mitigation -- or operating measure that I'll mention that we have on the wharf that assist those devices is that our wharf, as was mentioned, is operated 24 hours a day, 7 days a week. It is manned by a fairly large crew of operators. If we have a ship in berth, there is an operator that's dedicated to -- on the dock watching that ship and working with our control room.

COMMISSIONER GARAMENDI: Thank you.

Are there any other significant mitigations that we should be aware of that you would like to address here?

MR. GILL: Relative to oil spills or --

COMMISSIONER GARAMENDI: With regard to the safety of the wharf and the pipelines that cross State lands.

MR. GILL: I can tell you that once again in addition to a lot in the way of technology - and we're always looking for opportunities to improve that technology, some of those have been suggested by staff - the wharf is staffed and manned on an ongoing basis. We have folks that are out on the dock 24 hours a day doing inspections to look for leaks, to look for any abnormalities so that those can be corrected and addressed rather immediately.

COMMISSIONER GARAMENDI: There are numerous State and federal agencies involved in the operations of the
wharf, the loading, unloading, and shipping and so forth.

Does the -- Mr. Thayer, does the State Lands
Commission under this lease have an opportunity to require
upgrading of any of the facilities and mechanisms for
additional safety? I think this lease is for an extensive
period of time, and I suspect over that time there will be
new technologies. Do we have the opportunity to review
and force those technologies?

EXECUTIVE OFFICER THAYER: I think there's two
responses to that.

First, with respect to the agencies with
expertise on those matters, they're the ones who would
usually generate the requirements and have the regulatory
authority to require that that be done. Our lease has
language in there that requires that Chevron be consistent
with all their permits and entitlements, be in violation
of their lease if it's not.

So if they do not comply with these requirements,
they both face enforcement difficulties with the agencies
that impose them, but also face the potential that the
Commission can review the status of their lease because of
those.

The second aspect of this is that for both of the
items that Marina's discussed with respect to unmitigable
significant impacts, the Commission has separate programs,
non-lease programs. Also on today's agenda are three
different items that deal with the running of the ballast
water program. And there are tough new standards coming
down the road which will require that the Commission has
approved, that have to be met by a certain schedule, for
all the tankers that will be calling there, and that those
performance standards are the toughest in the nation and
the world. And so we're in a position of moving towards
addressing those in a non-CEQA basis.

The other area that we have jurisdiction over is
the terminal. As a marine oil terminal, under the
Lempert-Keene-Seastrand Bill, the Commission has
inspection and operating responsibility to assure that all
of those, whether they're on granted or ungranted lands,
whether they're under a lease or not, have to meet certain
standards. And Gary Gregory is here from that division,
who could discuss the Long Wharf's compliance record.
Generally, it's been very good. We have the new program
in place -- relatively new -- to require seismic
modifications to make sure that in the event of a 500-year
earthquake, there wouldn't be pollution and the terminal
would survive. And I think Mr. Gregory could go into
those if you wanted to hear about their compliance.

COMMISSIONER GARAMENDI: Perhaps as we continue
on I'll pick it up. But thank you very much.
MR. GILL: Great. Thank you.

CHAIRPERSON CHIANG: Okay. You'll be given --

we're going to call for public comment. You'll be given

three minutes each. I will call three names. So I would

appreciate if you'd come on cue so that we don't have to

have everybody waiting.

The first three are Bill Lindsay -- oh, actually

let me start with Gayle McLaughlin, the Mayor of the City

of Richmond - thank you for joining us - followed by Bill

Lindsay, followed by Kelly Baraka.

Good morning.

RICHMOND CITY MAYOR McLAUGHLIN: Good morning,

Commissioners. Thank you so much for this opportunity to

address you today. My name is Gayle McLaughlin. I am the

Mayor of the City of Richmond. And I'm here today to

speak on a decision you will be making, a decision that's

really of crucial importance to the people of Richmond,

who I represent.

For over a hundred years the people of Richmond

have been subjected to the impacts of having the second

largest oil refinery in California operate in our city.

And the impact has been looming. We have and continue to

be affected in a myriad of ways.

We live with the heavy industrial pollution and

the resultant health impact. We have epidemic rates of
asthma, cancer, and heart disease in neighborhoods

bordering the refinery, and we live with daily risk from

having this inherently dangerous oil refining industry in

our city.

The Commission today is reviewing the 30-year
tidelands lease to the Chevron refinery. This is the
first time this lease has been reviewed since 1947.

Chevron has enjoyed immense economic benefits from its
exclusive use of the State's tidelands over the last 100
years. It's critical that this lease be looked at with
fresh eyes.

The Commission as trustee of the Public Trust
resources must look at this lease at this time in 2008 in
a different way than in the era of 1947. Since the
Commission's 1947 action, the Legislature has established
priorities of the State's tidelands, including public
access along those tidelands via the San Francisco Bay
Trail and public access over the tidelands through the San
Francisco Bay water trail.

Chevron does not own these lands and waters.

They are public lands and waters. That is why I'm here
today speaking before the Commission. As an elected
public official, it is my responsibility to speak out in
behalf of the public interest. And as the Commission, I
know you have stated in your explanation of the Public
Trust Doctrine that, quote, "Trust lands belong to the
public and are to be used to promote public rather than
exclusively private purposes."

What is required under the Public Trust Doctrine
here is that Chevron, in exchange for its private
commercial benefit, provide an equivalent public benefit
with respect to access to the area affected by the
granting of this lease.

Now, Chevron's continuous use of this public cove
for its private industrial operation harms the public in
many ways. Of course it impacts the public water usage.
It also impacts nighttime noise, glare, a steady dose of
fumes and smoke from the tankers, enormous diesel engines
in the water and droning oil pumps.

Of course the public views of San Francisco Bay,
Mount Tamalpais, Tiburon Peninsula and Angel Island along
several miles of the city's adjacent shoreline are
dominated by Chevron's gargantuan industrial complex.

The Final EIR before the Commission mistakenly
assumes that Chevron has the right to exclude the public
from these tidelands and to occupy them with its wharf for
exclusive refinery use. Consequently, it declines to
examine the impacts of this exclusive use. And that needs
to be remedied.

The Commission, as trustee of the public

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resources, seeks to occupy -- excuse me. This Commission, as trustee of the Public Trust resources that Chevron seeks to occupy for its immense economic benefit, has ample power.

The need for conditions on Chevron's lease could not be more compelling. Many, many local agencies and organizations have commented on this lease and agree that additional conditions are imperative. East Bay Park District, Contra Costa County, Save the Bay, Point Richmond Neighborhood Council, East Bay Bicycle Coalition - many, many - in addition to the City of Richmond that has passed a resolution that is urging the Commission to require Bay Area improvements as a condition of this 30-year lease in accordance with our city's -- with this city resolution.

Our city manager, who will be speaking next, has identified three conditions that the City is asking for, which I think are very reasonable. One is this --

CHAIRPERSON CHIANG: Ma'am, I've given you an additional minute if --

RICHMOND CITY MAYOR McLAUGHLIN: Oh, I very much appreciate that. I will wrap it up.

So the three conditions are the support for the improvements of the Bay Trail, reducing air emissions from tanker vessels, and reducing VOC emissions with various
retrofitting.

And I just want to end by saying it's clearly a new day and we really should not be allowing free rides for the oil industry. And to support this lease, without the conditions -- without balancing the public interest, would, in fact, not be looking at the future in the way that we need to. We know the impact of the oil industry over the past and we want to alter that. And, you know, Richmond is in a state of transformation. We have a new council coming on that has new relationships to Chevron that will not allow them to exercise the same rights over city government that they have in decades past. So we ask that the Commission look at this new day that we are locally, nationally, globally entering and require that conditions in the public interest be placed on this lease.

I thank you very much for the extra time.

CHAIRPERSON CHIANG: Thank you.

MR. LINDSAY: Good morning, Mr. Chair and members of the Commission. My name is Bill Lindsay, and I'm the City Manager for the City of Richmond.

I'm speaking on behalf of the other eight council members. So the Mayor clearly is able to speak for herself on this. And I feel a little bit like maybe having one person speak for the State Legislature with eight people to talk with. But on this the --
COMMISSIONER GARAMENDI: That actually might be helpful.

(Laughter.)

MR. LINDSAY: It might be helpful.

Well, on this it's clear that all of the council members for whom I'm speaking are of one voice, which might be helpful too in some ways.

Your staff indicated in their review that recreation facilities would be impacted by the lease and that access to recreational opportunities would be precluded. And also, as I believe it was Commissioner Garamendi noted, this lease is for an extended period of time. And there's a window of opportunity in this new lease to look at what the needs are, what the public interests are for -- in the year 2008 and moving forward.

I won't reiterate what's in the letter in terms of the conditions. But I did want to focus on one issue and, that is, the Bay Trail access. We feel that in terms of balancing the public interest that it is always helpful to be able to look at different interests and use an "and" instead of an "or" between those interests. And this is one where we feel that the Commission can make a decision where it grants the lease to Chevron providing them with their benefits and the State with economic benefits, but also includes broader public interest with access to the
recreational facility and to the bay. And we ask that you
balance all of those interests, that we think there really
is no need to have this be exclusive in the way it's
constructed.

The issuance of this new general lease is, as I
said, a great opportunity. The times have changed since
1947. And this opportunity to examine the public
interests -- again, this lease does not have to be
exclusive in the way it's constructed and it can be
broadened in terms of its benefit with appropriate
conditions.

The way we feel to do this is -- with respect to
the Bay Trail is, as a condition of the lease, require
that the leaseholder construct or contribute financially
to construct the Bay Trail that is necessary to safely
circumvent the pipeline that connects their facility to
the Long Wharf. That is, in fact, what creates the
obstruction. And providing a route around that would
basically allow the Bay Trail be completed. Chevron has
already agreed to provide the land for it. It's really a
financial issue.

So with that, I'll close by just asking you to
restore the public access, which was once had before this
lease existed.

Thank you.
CHAIRPERSON CHIANG: Thank you, Mr. Lindsay.

Yes.

COMMISSIONER GARAMENDI: We really ought to put on the record here a little more detail about this trail. My understanding is that an easement has been obtained or will be obtained as a result of the expansion of the hydrogen facility.

MR. LINDSAY: Yes, that's correct, sir.

COMMISSIONER GARAMENDI: Is there a map that we could put up? I can see one here, but -- the question of transiting the pipeline, could you talk about that. What is the plan to accomplish that?

MR. LINDSAY: Well --

COMMISSIONER GARAMENDI: Is there such a plan?

MR. LINDSAY: There is such a plan. Actually, with -- there have been members of the State -- of ABAG and Chevron. And actually there's a preferred alignment, which I probably can't point out precisely. But, in essence, I think the point is that there is something that is agreed to as a safe alignment that can be used to construct the trail. And I think that's the critical point. It's not about where it goes anymore. It's about how to really get the project done.

COMMISSIONER GARAMENDI: Okay. So it's going to go along the south side of the freeway in some way. So it...
MR. LINDSAY: Yeah, I --

COMMISSIONER GARAMENDI: If I'm looking at that --

MR. LINDSAY: That's right. And, again, it connects to the other side of Western Drive in a way that doesn't require that bicyclists or pedestrians, in essence, walk along the side of the freeway on a path where, sadly, there's no -- there was a gentleman who was killed on a bicycle and one put in a wheelchair. So this is really a critical safety issue.

COMMISSIONER GARAMENDI: Do you have an estimate of what it would cost to build this?

MR. LINDSAY: We're using, as sort of a round number, the additional financial contribution that would be needed is about $5 million. And I think it is important --

COMMISSIONER GARAMENDI: Total cost of the project?

MR. LINDSAY: Total cost would be in excess of 10. And I don't think it should be overlooked that Chevron has agreed to provide the easement that's absorbing that cost of the land. And they have agreed -- since their interest is to make sure that their facility is secure with the adjacency to the recreational trail,
they've agreed to fund the security improvements that are needed. But there's still this financial gap, which again we believe is appropriate to close through a condition on this lease.

COMMISSIONER GARAMENDI: It would be useful to me to understand the other participants in the construction and the payment for the trail. Certainly the Park District, I suppose, is engaged?

MR. LINDSAY: There actually are a number of potential sources. The East Bay Regional Park District is one.

COMMISSIONER GARAMENDI: And they just passed the recent bond? Is any of that money available?

MR. LINDSAY: They just passed Measure WW, if I read these letters right. And that does provide funds for recreational opportunities, including Bay Trail specifically.

And then ABAG has some grant money through its transportation funds. The City of Richmond through other development conditions, not in this area, has also contributed cost to construct the Bay Trail -- significant portions of the Bay Trail.

COMMISSIONER GARAMENDI: CalTrans?

MR. LINDSAY: I don't believe CalTrans has committed funds yet. We'd love to have them. We think
that that is really in their interest as well to help shore up this gap.

COMMISSIONER GARAMENDI: So I don't know. $50 billion of infrastructure bonds. I think there's some laws on the book having to do with CalTrans and bike trails and funding thereof.

MR. LINDSAY: That could be, sir. I'm not sure.

COMMISSIONER GARAMENDI: All right. So there's multiple sources of money for the $10 million project?

MR. LINDSAY: Some has already been committed. But there certainly is an identified gap.

COMMISSIONER GARAMENDI: Has Chevron committed any money yet, other than the lease?

MR. LINDSAY: Other than the lease and -- well, I'm sorry -- other than the easement and the security, no they have not.

COMMISSIONER GARAMENDI: Thank you.

MR. LINDSAY: Thank you.

CHAIRPERSON CHIANG: Thank you very much.

I'm sorry. Tom.

ACTING COMMISSIONER SHEEHY: I don't have a question so much for the witness. But I've heard him say several times during his testimony, he'd like to see the provisions of the lease agreement broadened to seek conditions put in the lease. Presumably this would be
broadened to require Chevron to contribute additional
funds towards the construction of this project.

I note from the staff report there are some
pretty serious legal concerns here. I note that we do
have Mr. Rusconi from the Attorney General's Office here
and we do have Mr. Fossum, our Chief Counsel. I'd like to
hear from them what, if any, legal flexibility we have
under the law as it stands to put additional conditions on
this lease that would compel Chevron to contribute
additional funds.

I would just mention for the record, you know, I
don't pretend to have an accounting of everything, who's
contributed what. And I would certainly hope that
Chevron's being a good neighbor in Richmond and is
participating. But it seems to me the decision before
this Commission is, you know, what are our options? And
we've been lobbied pretty -- I've been lobbied pretty
heavily on this issue. And I'd like to know what our
legal flexibility is here because I would hate to see the
Commission act in an ultra vires manner outside of the
law.

CHIEF COUNSEL FOSSUM: Primarily, I think our
restrictions on extracting additional revenues from the
applicant here are based on Public Resources Code Section
6217.6 that requires basically the consideration that the

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State obtains in its leasehold to be put into the General Fund and doesn't give the Commission a great deal of flexibility because of that.

EXECUTIVE OFFICER THAYER: I guess -- we have been struggling with this issue for over a year and, in fact, were hoping to bring this item to the Commission over a year ago, but put off doing so, partly at the request of the Lieutenant Governor, in an attempt to kind of struggle through to see if we could find some way to get this trail constructed.

And there are a variety of actors involved, as the last speaker mentioned, all of whom advocate having this trail constructed and all of whom have different roles to play. So over the last year, we've had meetings with CalTrans, the City, Chevron, ABAG, a variety of different entities down there; and State Parks and members of the Lieutenant Governor's staff also participated in this.

COMMISSIONER GARAMENDI: And we had a very nice hike.

EXECUTIVE OFFICER THAYER: Yeah, there you go.

But overlaying this struggle was the legal considerations. And we, in our review, came up with three bases by which the Commission might require Chevron to contribute money -- or contribute anything really. But in
this case we're talking about money because Chevron's
already agreed to provide the right of way.

And the first one is the one that Curtis talked
about. There have been those who have suggested -- and
staff has been interested in itself to see if we could do
it this way -- that we forgo some of the rent that would
normally be charged. And, in turn, Chevron -- I think
Chevron even thought of this too or suggested that this
would be the result, if we required payment for a trail,
then it shouldn't have to pay so much in the way of rent.

And, in fact, via -- there's a regulation -- in
addition to the Public Resources Code section that Curtis
cited, 6217.6, which requires that all revenue from the
lease be deposited in the General Fund -- and this would
potentially be contrary to that, because in effect the
lease revenue would be then dedicated for construction of
the trail -- we also have a Commission regulation that says
we can only charge fair market rent. So we couldn't go
the other way.

We couldn't, pursuant to 6217.6, take some of the
rent and have Chevron give it for the trail. And we also
couldn't charge Chevron more than the fair market rent;
and that is $875,000 a year is what we've arrived at is
the amount for this lease. So we couldn't, in addition to
that, ask them to pay the 5 or $10 million, which
different people have asked, to complete the trail. So we
didn't think working with diverting some of the revenues
to the State was a legal way to proceed.

The second way to proceed is pursuant to the
Public Trust Doctrine: Is there something about the
Public Trust Doctrine, which is the basic body of law that
the Commission follows in granting its leasees or taking
its actions, that would require this?

And the problem here is that the Chevron Marine
Terminal is entirely consistent with the Public Trust
Doctrine. There is no adverse impact to the Public Trust
Doctrine from a terminal. Whether it's private or public,
it's consistent with that body of law.

So, from our perspective, there's not a
mitigation that's possible for this terminal under the
Public Trust Doctrine. It's foursquare, a consistent use.
And the doctrine does not distinguish between uses that
are operated by private or public entities. And, in fact,
of course, from an economic perspective, this terminal
does provide benefit to the State of California.

I know we're all -- I think everyone here is
working to move beyond fossil fuels and that kind of
thing. But for now, there's still a need for the oil. So
it provides a public benefit.

The third general area for Commission
consideration, as to whether or not it has the basis for
requiring Chevron to pay for the trail, is CEQA. And as
the Commission knows and as the witnesses have indicated,
we've conducted an Environmental Impact Report on renewal
of this lease.

But I should say, when you look through the
calendar, on all the other leases where the Commission's
being asked to renew the lease for existing facilities,
each and every one of those has an exemption based on the
CEQA guidelines, the regulations, which say that these are
existing facilities and therefore are not subject to CEQA.
And basically the idea is if there's a certain level
of -- you have to evaluate a proposal in light of the
environmental -- environmental context that exists at the
time that it's being evaluated. And that's where this
is -- right now that terminal is up and operating. And
that's the context under CEQA.

So technically an argument can be made, we should
not have even done that Environmental Impact Report, that
we have a baseline condition that is with this terminal
and operation.

We, in fact, 10 or 15 years ago decided we would
do EIRs for marine terminals and marine terminals only,
because the threat of an oil spill is not a baseline
condition, that that was something that hadn't happened

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now. It wasn't part of the existing environmental context, but could happen in the future.

And so we do EIRs. And sometimes we look at other issues in the environmental analysis. But our sole basis for doing an EIR in this circumstance is concerned over whether or not oil was -- an oil spill was considered part of the baseline. And our determination was that it was not the baseline, therefore we could do it.

That's not without controversy. And a number of oil companies have suggested that we're overstepping CEQA by doing that. I'm certainly not going to say anything to undercut our position on this. But we haven't had that tested in court yet. We will continue to require them and give the Commission an opportunity to look at the potential impacts of oil spills when it renews the marine oil terminal and to ask the questions that the Lieutenant Governor did about whether or not these issues are being looked at.

But we don't think therefore that CEQA provides the basis for going in with an existing facility and requiring a trail that's not even on Public Trust lands.

Our position would be entirely different if there were a new terminal being proposed. And then there would be -- it would be a new project that would involve both onshore facilities that aren't under our jurisdiction, but
which would be part of the facilities that are under our
jurisdiction, the terminal. And if there's an existing
trail and the new terminal's going in, we would say
pursuant to CEQA that they, Chevron, would have to pay for
relocating that trail. But that trail wasn't even planned
or wasn't under consideration when this facility was put
in, and so we don't think, at this point, that the
Commission has the authority to mandate it.

We did work with Chevron and the City looking for
other ways to accomplish it. We're continuing to meet.
And I think some of the discussions from CalTrans was that
the County could look for funds from their five-year plan
as alternate ways to go. We're not going to pretend money
is easy to come ahold of -- to get ahold of now. And so I
understand why the people today are asking the Commission
to require this.

But we don't think we've got the regulatory
authority to do it and that other options have to be
pursued.

ACTING COMMISSIONER SHEEHY: Thank you, Mr.
Thayer.

Well, we have Mr. Rusconi here.

Mr. Rusconi, I think Mr. Thayer gave a pretty
comprehensive answer. But you do represent -- you are
Deputy Attorney General. Is there any condition we could
place on this lease or any way to broaden this lease agreement that you imagine that would provide additional funds in order to help with the construction of this bike trail?

DEPUTY ATTORNEY GENERAL RUSCONI: Attorneys don't like to ever say that something is impossible or -- and I won't say that now. However, given the facts of this case, which is an existing facility, there is no access -- present access that will be interrupted.

The limits on State Lands jurisdiction -- the jurisdiction of the State Lands Commission is to the tidelands.

The fact that we're getting consideration from them now in the form of our usual rent. And there's a case, the WOGA case, that the Commission was involved in about 20 years ago, where the 9th Circuit Court of Appeals when the Commission tried to change its regulations to gain more money for its pipelines from offshore terminals that was the highest and -- that would have been the highest in the nation, the 9th Circuit Court of Appeals said, "You have a monopoly of these tidelands, which are necessary for the transport of this product. And what you're trying to do is an impermissible burden on interstate commerce. You're trying to use the deep pockets of the oil companies in a way that they have no
choice but to do."
And so you must, in effect, treat them like you
would treat any other lessee. And to ask for full
compensation for the exclusive use of the tidelands and
then to try and exact other funds on top of that may very
well run counter to that.

ACTING COMMISSIONER SHEEHY: Okay. Thank you.
CHAIRPERSON CHIANG: We have Kelly, followed by
Mary Renfro and Robert Raburn.

MS. BARAKA: Good morning. My name's Kelly
Baraka and I'm here representing myself, my partner Dawn,
and many of my neighbors in Point Richmond. I leave at
875 Ocean Avenue and I am the Long Wharf's closest
neighbor.

Although the noise and air pollution from the
Long Wharf are an issue, the bright lights are the most
significant and the most easily solved problem for many of
us. I have many testaments from my neighbors as to the
effect these lights have on the quality of life, including
their inability to sleep at night.

I believe you also have several written comments
in your Email file.

The residents of Point Richmond have tried for
many years to get Chevron to address this lighting issue.
Despite Marina Brand's claim that the EIR addresses the
light and glare, I was unable to find any mention of it in
the mitigations that the SLC's Statement of Findings has
for the Final EIR that's in Exhibit D.

What we'd like to see is for Chevron to cover or
hood or replace the existing Cobalite fixtures on the Long
Wharf in order to reduce the glare that we experience.

We understand that lighting is a safety issue.

However, PG&E is leading our state in the effort to reduce
glare in the night environment and to reduce the use --
the energy use at the same time. They've shown that this
can be accomplished easily, inexpensively, and without
sacrifice to effective lighting or safety issues.

We would appreciate having the lighting issue
addressed before the lease is renewed.

Thank you.

CHAIRPERSON CHIANG: Thank you. Mary.

MS. RENFRO: My name is Mary Renfro. I'm an
assistant city attorney for the City of Richmond. And I'd
like to address some of the CEQA legal issues.

First of all, the question is whether or not this
renewal of the lease would qualify for a CEQA exemption as
an existing facility. And it would not, because in order
to qualify as an existing facility, there would have to be
negligible or no expansion of use. And to continue the
use, the exclusive use, keeping out all other Public Trust
users for another 30 years would constitute an expansion
of use beyond the existing facility's exemption under
CEQA.

Because the EIR was prepared, it needed to
discuss the environmental setting, the existing
environmental setting thoroughly, and that includes a
discussion of any inconsistency between the proposed
project and applicable regional plans.

The proposed project could have an -- is
inconsistent with the Bay Trail plan. Therefore, the City
contends that absent the conditions that were requested by
the City, the EIR is deficient because the mitigation of
the significant impacts on public regulation and the
adopted land-use plan is not infeasible. It is feasible
as a mitigation measure. For the inconsistency with the
Bay Trail plan, you can impose the requirement, as
requested by the City, that the Bay Trail be included.

We're not asking for a payment to the City,
because we understand that the income from the rent must
go to the General Fund and it needs to stay there. But we
can say that the impact on the adopted Bay Trail plan
needs to be mitigated by having Chevron contribute to or
provide the Bay Trail.

COMMISSIONER GARAMENDI: The lawyers will fight
it out.
CHAIRPERSON CHIANG: We have Robert Raburn, followed by Assemblymember Nancy Skinner and Derek Liecty.

MR. RABURN: Good morning, Chairman Chiang, Commissioners. My name is Robert Raburn. I'm the Executive Director of the East Bay Bicycle Coalition.

Since 1972 we've represented the interests of bicyclists throughout Alameda and Contra Costa counties. We count some 2,000 members, plus 6,000 members of our affiliated organizations.

We've been involved in this for a considerable length of time, beginning really in 1988 and 1987 with then Senator Lockyer to pass Senate Bill 100 establishing the Bay Trail. That is an adopted plan that is protected by the State Bay Conservation Development Commission.

And we respectfully ask that you condition the lease to, at a minimum, include $5 million to construct the Bay Trail segment through this area. And the Bay Trail will serve more than simply recreational needs. I think everybody's aware that there are considerable development proposals that will require public access to the Point Molate area.

I wish to make three points: One, nexus; two, the feasibility of the path; and, finally, comment on the community development agreement.
Nexus. A simple test for nexus is if the facility were not approved, would there be a problem? In this case, the impact is considerable on account of the lease agreement.

Furthermore, the leaser will not allow the path to occur in the lowest cost position adjacent to the shoreline. So the cost, the burden of the additional environmental -- or construction of retaining walls is borne by the path users. And we feel that it's eminently justifiable to request that this be included in the list of mitigations.

Secondly, in 2001, the Quest Study showed Option 2 was the most feasible proposal to design. You've seen the plan. Chevron has endorsed this as the preferred option. So we have an option on the table to establish. And, finally, the community benefits agreement is woefully inadequate. Not one dollar will be spent on the Bay Trail from this community benefits agreement, because without constructing one inch of the path, there will be no right of way or security contributions.

So Chevron's getting off incredibly lightly here. Anybody else would ask that the mitigations be included in this agreement.

Thank you.

CHAIRPERSON CHIANG: Thank you.
Assemblymember.
Welcome.

ASSEMBLYMEMBER SKINNER: Chairman, Lieutenant Governor, Commissioners. Thank you very much. Nancy Skinner, formerly Director of Region 1 for the East Bay Regional Park District and now Assemblymember for AD 14.

Both areas --

COMMISSIONER GARAMENDI: Excuse me.

ASSEMBLYMEMBER SKINNER: Yes.

COMMISSIONER GARAMENDI: Is this the first time you've spoken as an Assemblymember in this chamber?

ASSEMBLYMEMBER SKINNER: Yes, it is.

COMMISSIONER GARAMENDI: Well, you're going to get hassled --

(Laughter.)

COMMISSIONER GARAMENDI: -- as the tradition requires.

(Laughter.)

ASSEMBLYMEMBER SKINNER: Okay. I'm ready.

COMMISSIONER GARAMENDI: Prepare yourself.

(Laughter.)

ASSEMBLYMEMBER SKINNER: The jurisdiction of both Ward 1 of the East Bay Regional Park District and of AD 14 includes the area that we're discussing, includes City of Richmond and the Point Molate and Long Wharf area.
I come before you because I have been following this issue for some time. The Park District has communicated letters to the Commission on the question before you. And I've also obviously been interacting with the City of Richmond.

And I'm not speaking today for the Park District because I'm no longer in that hat. But I will relay to you some of the things that I know that the agency, the Park District, that the City of Richmond, and the constituents within AD 14 are concerned about.

First, Park District has a great relationship with Chevron and has a very good relationship with the advocates who are looking to get public access to extend the Bay Trail. The Bay Trail is a very loved and valued trail that gives people throughout California access to our bay. And there are portions of it that are very significant that are basically not connected, which cut people, whether you're walking or on your bicycle or whatever, from being able to really enjoy the shoreline.

And this -- the area in question is one of the key links to really making the Bay Trail a very workable trail.

Now, I understand that your counsel has -- in looking -- both your EIR document and your counsel feels that it is not really your jurisdiction to require within
the lease that Chevron give this public access. Now, the
East Bay Regional Park District counsel in the letter that
was sent to you in the 1st of March 2006 and then again a
second letter in June 2007 -- and I have a copy if you'd
like me to provide it -- they have a different legal
opinion. Now, I'm not going to venture to say which legal
opinion is correct. And I will say that I am not a
lawyer.

But I would say that my understanding of CEQA is
that CEQA does not require that the agency have
jurisdiction over the particular land for which it acts
for a mitigation. If you think about mitigations,
mitigations are really to respond to if there's a
circumstance we cannot fix within the area that we are
directly controlling. And in this case what we're doing
with the -- with the renewal of the lease is that we are
basically restricting public access to these tidelands.

Now, while the Bay Trail segment is not in the
tidelands area, it is a way to compensate for the fact
that we are restricting for another 30 years any public
access to this tideland area, and in effect compensating
by providing the public access on the trail segment.

Now, given that Chevron themselves have agreed
to, on a preferred alternative for this trail access,
there's not real opposition here. So you may wonder,
well, then what's the issue?

Now, while Chevron has now provided an easement in an agreement with the City of Richmond, that easement is basically a voluntary agreement, and it's an agreement that's tied to a project that certainly Chevron is very sincere about wanting to construct. And the City of Richmond is now -- you know, they've come to an agreement, but it's still not a guaranty. There's -- it's possible that that project is never constructed, is never seen through to fruition. So then what happens to this easement, right?

The State Lands Commission now has the ability in the renewal of this lease to ensure that there is public access and to ensure that we are not in a situation where another 30 years goes by where we have no access to both the trail and also, since we are restricted, in terms of the public access to the tidelands.

And it is certainly the legal counsel of the Park District's interpretation that under CEQA -- and they cite a number of cases, which are in the letters, so I won't repeat them to you now -- that this is a reasonable requirement. It is legitimate under CEQA, and there's case law that substantiates that.

Now, the City of Richmond and other advocates have also mentioned -- my primary issue is to require the
public access.

COMMISSIONER GARAMENDI: Excuse me, Mr. Chairman.

CHAIRPERSON CHIANG: I know I've been generous --

COMMISSIONER GARAMENDI: How many seconds are

there in three minutes.

CHAIRPERSON CHIANG: Four minutes.

ASSEMBLYMEMBER SKINNER: Oh, I'm sorry. Now, I'm

going to get razzed more.

CHAIRPERSON CHIANG: Would you like to engage

now?

COMMISSIONER GARAMENDI: Well, there a few things

you're going to have to learn if you're going to work in

this --

(Laughter.)

ASSEMBLYMEMBER SKINNER: Apologies that I did not

realize that I had a three-minute limitation. I will wrap

up --

COMMISSIONER GARAMENDI: That box there in front

of you, there's three little bulbs on it --

(Laughter.)

ASSEMBLYMEMBER SKINNER: Did my red light go on?

COMMISSIONER GARAMENDI: -- green, yellow, and

red.

COMMISSIONER GARAMENDI: I asked the question. I

don't have an answer.
1 (Laughter.)

2 ASSEMBLYMEMBER SKINNER: Oh, how many seconds

3 there --

4 COMMISSIONER GARAMENDI: How many seconds are

5 there in three minutes?

6 ASSEMBLYMEMBER SKINNER: Three times 60 is 180.

7 COMMISSIONER GARAMENDI: How many have you taken?

8 ASSEMBLYMEMBER SKINNER: I'm not sure.

9 COMMISSIONER GARAMENDI: Many more.

10 Making a legal argument and yet you're not a

11 lawyer.

12 ASSEMBLYMEMBER SKINNER: But I do have the

13 documentation of a lawyer right here before you.

14 COMMISSIONER GARAMENDI: She can do okay in this

15 building. Keep going.

16 (Laughter.)

17 ACTING COMMISSIONER SHEEHY: Assemblymember

18 Skinner, please don't feel picked on. When I did my first

19 meeting with the Lieutenant Governor, he gave it to me

20 pretty good too.

21 COMMISSIONER GARAMENDI: I'm not finished.

22 ASSEMBLYMEMBER SKINNER: I'm willing to take

23 more.

24 (Laughter.)

25 ASSEMBLYMEMBER SKINNER: I'm willing to take
more. And then we'll get public access to the Bay Trail.

So what I would wrap up with is that in addition
to the legal arguments that our counsel -- the Park
District counsel raised, that the City of Richmond has
also requested -- well, I want to step back. My primary
issue is to be able to get that public access. But the
secondary issue is the construction of the trail. And the
City of Richmond and the other advocates have, I believe,
legitimately raised the issue of the funding for the
construction of that trail.

Now, it is absolutely true that the Park
District, who has constructed much of the Bay Trail and
who manages much of it, was recently very successful --
and thank you very much to the voters of Alameda County
and Contra Costa County for supporting the bond measure.
Now, there is some money in that bond measure for Bay
Trail construction. Bay Trail, as you know, runs from
Antioch all the way down to Fremont. So certainly that
funding is not adequate to do all that is needed. And it
would be very legitimate to request and to have as part of
this agreement that Chevron would share in the cost of
that construction. Now, what dollar amount that is, I
would not specify or -- but I think that it would be
reasonable to request a share in the cost of that
construction.
And certainly since they've chosen a preferred alternative, their sharing in it will also help ensure that it's constructed to meet their needs as well as the public's needs.

So that is what I would ask. And I will turn this letter back over in case you don't have a copy of it before you.

And I'm happy to answer any questions and also to take further razzing from the Lieutenant Governor.

COMMISSIONER GARAMENDI: I have a question for the staff actually.

Paul, does the current lease, in any way, tie Chevron to the easement that has been discussed as a community -- with the hydrogen project, is there any way that we've tied that in to this lease?

EXECUTIVE OFFICER THAYER: We've done it, but not on the lease. There's an authorization in the Commission's action today for staff to enter into an agreement with Chevron which would commit them -- contractually commit them to the same easement that's in the City's community benefit agreement. And the purpose of that, even though it's a reiteration of the City's agreement, was to give the Commission independent authority to enforce that requirement.

COMMISSIONER GARAMENDI: I thought that was the
case. And I would suggest the Assemblywoman next time she
appears before this body look at every page of the --

(Laughter.)

ASSEMBLYMEMBER SKINNER: Is there a time period?

COMMISSIONER GARAMENDI: And thence would not

waste our time with something that we've already taken
care of.

(Laughter.)

ASSEMBLYMEMBER SKINNER: I would ask staff and
the Commissioners, is there a time period associated with
that condition?

COMMISSIONER GARAMENDI: You may have a future
here.

CHAIRPERSON CHIANG: We ask the questions.

(Laughter.)

CHAIRPERSON CHIANG: Go ahead.

EXECUTIVE OFFICER THAYER: I should say
parenthetically that you're lucky, because you'll get a
hard time from the Lieutenant Governor today and it will
stop. But for some of us it continues.

(Laughter.)

EXECUTIVE OFFICER THAYER: But in answer to that
question --

ASSEMBLYMEMBER SKINNER: I did welcome the

further razzing.
EXECUTIVE OFFICER THAYER: In answer to that question, there is not a firm deadline. But it recognizes that there's a process in place that, you know, staff has participated in, which is working on getting this thing built.

And so part of that process is that the alignment has to be determined. And the City is going to be the lead for a study that's going to determine where the alignment is. And so until that is done, we can't have them record the easement because that will -- the study will determine the location. But I think the wording generally provides, without having it right in front of me, that at the conclusion of the alignment specification phase, then they're to record it. And, you know, we'll be monitoring that process. And if it takes too long, then we'll go after it.

I should also say that we did receive copies of these, and they were forwarded onto the Commissioners.

ASSEMBLYMEMBER SKINNER: Wonderful.

Just in final wrap-up. The time period's important to the public, because I know that Chevron has been sincere about wanting to provide this public access. But there have been over the years many, many discussions and different preferred alternatives and then always a delay. So we've been in a situation where there's over 20
years now of history around waiting for this trail. So I think it's always good to have some kind of time period specified.

CHAIRPERSON CHIANG: Thank you.

ASSEMBLYMEMBER SKINNER: Thank you very much.

COMMISSIONER GARAMENDI: I'm not finished.

ASSEMBLYMEMBER SKINNER: Okay.

COMMISSIONER GARAMENDI: I have a couple more comments.

First of all, I want to congratulate you on your election and commend the citizens in your district for their wise choice.

ASSEMBLYMEMBER SKINNER: Thank you very much, Lieutenant Governor.

COMMISSIONER GARAMENDI: Thank you.

ASSEMBLYMEMBER SKINNER: Thank you.

CHAIRPERSON CHIANG: Derek Liecty, followed by Christopher Dolan and James McGrath.

MR. LIECTY: Mr. Chairman and members of the Commission, first of all, I'm Derek Liecty from Oakland, California.

And thank God I'm not an Assembly person.

(Laughter.)

MR. LIECTY: I come to you today as a citizen using the Bay Trail. I come to you as a volunteer member
of the East Bay Regional Park District bike patrol, although I do not speak for that district.

I'd like to just address three particular issues regarding this situation.

The first one has to do with access. The citizens without a car are not -- are totally cut off from access to the Point Molate recreation areas. And this path will provide that.

Safety. Today you can get to Point Molate on a bicycle by riding on I-80 Freeway, from Chevron Way over to the toll plaza. A gentleman was killed there two years ago, another one injured for life.

We need to provide some kind of easy access for people to get to Point Molate. And I speak only from a citizen's standpoint.

From a legal standpoint, obviously I can't get into this. But it seems to me that you don't even have a lease right now. It was ended in 2006. And it's been two years, if I'm not mistaken, that we're going through this process to get a new lease.

And so I would ask that under the arguments that have been put forth regarding CEQA that you put this off today until you can find more information about whether or not the CEQA regulation might accommodate this path and having Chevron provide mitigation.
Lastly, Chevron purports to be a good citizen and
improving and striving for improving the environment. But
with your urging, by requiring mitigation on this, they
can actually accomplish that goal. And I would ask that
you move forward on that.

Thank you very much.

CHAIRPERSON CHIANG: Thank you, Derek.

Christopher Dolan.

MR. DOLAN: Good morning, Chairman Chiang,
Lieutenant Governor. Thank you for your time today.

And may I ask a special request that we take a
witness out of order, who's Mr. Dan Doellstedt, who is
here today who has some ambulatory difficulties, after
myself please.

Thank you very much.

I'm here to speak to request that you do
everything in your power to make sure that no one else
gets hurt out on Highway 580.

I have a photograph with me that I'm trying to
get brought up here in a moment, if I could.

The current bike path is Highway 580. It is the
side of the road. If we're going to talk about
environmental impacts, you're going to meet a gentleman
who can be the most immediate environmental impact that
you can hear, because he was hurt on that roadway and his
friend died there, because the bike path that was
requested as far back as an Environmental Impact Study in
2001 still has not been built.

There was a letter sent to this Commission in
April 2006 - April, five months before my client's life
was irreparably changed - and it asked this Commission to
please, please do everything in its power to make sure
that a bike path was created so that no one would be
injured or killed. It was sent to you by a gentleman from
TRAC who just came up here again and said, "Please,
please, do everything to make sure that no one is injured
or killed."

I ask you to please not let another day go by.

There has been an engineering study. There have been many
comments on the Environmental Impact Report, the issues
regarding mitigation to recreation, timing with bike
plans. There is some money that is available, but not
enough to get this funded. But we need to get it put into
an agreement that it be done.

You asked a question about is there money from
CalTrans? I will tell you, not because I'm proud of it,
but because no action was taken earlier, there's a lawsuit
pending against CalTrans that will cost this state more
than it would have cost to build that bike path. And if
someone else gets hurt on that Highway 580 and this day
goes by where we did not take action, that it will be upon all of us and it will be upon the State, where right now the State can work with its partner to say, "Chevron, you've had your largest profitable quarter of any corporation in the history of the United States last quarter. Step up. Care for your community."

Please, get people off from Highway 580 before something else happens and we're all here again saying we could have done something.

I'd like to introduce Mr. Dan Doellstedt, who is a living reminder of what we didn't do earlier and hopefully will never happen again.

MR. DOELLSTEDT: Hello. My name is Dan Doellstedt and I grew up in Point Richmond and lived there most of my life.

In addition to the environmental impacts, there are real human impacts to this lease. I went for a bike ride on September 2006 to Point Molate. And because Chevron had refused requests to create a bike trail, no bike trail had been completed. I was directed to a bike trail on 580 along the freeway. I was hit by a car. My friend, Dan Weinstein, a father and husband, was killed. An insurance study was completed in 2001, which outlines the safe bike route alternative. None was created.

You were asked numerous times before 2006, before
my accident, to require a bike route. No action was
taken.

My friend Dan Weinstein died next to me on the
roadway trying to get back home. My life was irreparably
changed.

Please require as a condition of this lease that
the Bay Trail be fully funded and completed by Chevron
within five years basically from Point Molate to the
Tewksbury Avenue in Point Richmond. This is needed to
complete the bike trail and prevent anyone else from being
killed or injured.

MR. DOLAN: Thank you to the Commission for
taking this matter up and taking it so seriously. There
is more than just an impact to birds, water, and wildlife.
There’s an impact to our citizens and to our Public Trust.
Thank you.

CHAIRPERSON CHIANG: Thank you. Thank you,
both.

COMMISSIONER GARAMENDI: If I might, Mr.
Chairman.

CHAIRPERSON CHIANG: Yes.

COMMISSIONER GARAMENDI: I mentioned earlier that
in looking at this project a hike was taken. And one part
of the hike that I refused to travel was the 580 portion
of the trail. In my view, it was not a safe place for me
to be. And why bikers who are on that particular part of
dthat freeway is not something I understand.

CHAIRPERSON CHIANG: Thank you.

Mr. McGrath, followed by Zelda Holland and
Patricia Jones.

MR. McGRATH: My name is James McGrath. I
represent the trust users. Our future is on your cover.
I would much rather be in a wetsuit on the bay than here.

They're the users that are directly impacted by
that and they're the users that are asking you -- they've
been excluded. They will continue to be excluded. Do
something to mitigate that impact and better balance it
and make it safer.

As background, I also worked for 14 years for the
Coastal Commission and 16 years running the Environmental
Department for the Port of Oakland. So I've worked as a
trustee and I think I'm familiar with it.

Now, to the issues. I don't think you have
enough information before you about recreational impact to
make the best and reasoned decision, particularly that
access is impossible.

I looked through this document, a hundred pages,
downloaded it, kind of in vain, for any mention of my
users. They have been excluded from this area for 102
years and 106 years, and are proposed to be excluded for
another 30 years, or whether or not it's possible to
better balance those.

Now, I'm not telling you to open it up to
kayakers because I don't know that that's reasonable. I'm
saying that that is a reason to look at better ways to
balance and to provide alternative public facilities that
is the Bay Trail. So I'm supporting the City of Richmond
here.

I do understand from your staff that there are
CEQA concerns that they had. But it kind of confuses me.
You're arguing in one case that the pier exists as part of
the built environment and its impacts don't need to be
reviewed. But the CEQA document addresses use conflict
with fishing from that pier. Not my group. It also
addresses a footprint and those conflicts with fishing,
and it addresses noise. All established.

But more fundamentally in public policy, that
pier exists on a lease established in 1947 that said you
have to take it out when you're done. Maybe, not for
sure. But there's no expectation automatically to
continue that lease. And so what we're saying at this
time after 106 years of exclusive use by one, is it
possible to provide a better balance?

Now, for my users, you could take the pier out,
put an off-shore terminal, put the pipeline underneath the
local roads, the City could build the Bay Trail, and we
would be able to go on with that. I don't know if that's
a reasonable alternative.

The approach taken in the EIR is this is part of
the built environment and therefore it's no impact. Well,
of course it's an impact. There's a 30-year extension to
the term in which people are excluded. That footprint's
far larger than 68 acres, far larger.

So let's go to, is it reasonable?

I understand the constraints of the Public
Resources Code and the fair market rent, but I would put
in an analogy. It's kind of like putting the new roof on
the house before you re-rent it. So what we're asking for
represents for Chevron in this massive amount of world
going by 5 cents per barrel for a year on a commodity
selling for over $50. I think it's inherently reasonable.

Thank you.

CHAIRPERSON CHIANG: Thank you.

Zelda Holland followed by Patricia Jones and
Nancy Strauch.

Is Zelda here?

MS. HOLLAND: I guess it's still morning.

Good morning, Commissioners. I'm with Dan
Doellstedt. I was a friend of the late Daniel Weinstein.

And I want to prevent this from happening again.
Thank you.

CHAIRPERSON CHIANG: Thank you.

MS. JONES: Hi. Good morning, Commission. Thank you for allowing me to speak. My name is Patricia Jones. I'm a bicyclist and I'm also the Executive Director of Citizens for East Shore Parks, who represent community members and civic leaders who worked for 20 years to create regional open space shoreline access in the form of the East Shore State Park, which runs from the tippy tip north of Oakland into southern Richmond.

By the way, the land for that park was created from land that was held in private hands by the railroad and its development arms for many, many years.

You have CESP written comments already regarding the Chevron new lease. And there are many others here who can speak as eloquently about the flawed EIR and the legal reasons why conditions can be placed on this lease.

In short, Citizens for East Shore Parks supports the City of Richmond's position and CESP believes that the Commission not only has the authority but the responsibility to put the conditions for the public good into the lease.

Yesterday, during conference calls, I heard many reasons from cautious staff and attorneys about why the Commission cannot do this. I'd just like to point out...
that during the 100 years that Chevron has had the private
use of these tidelands many things in our world have
changed. We've had telephones, we've had televisions,
computers, and we no longer dump our garbage in the bay.

So now is the perfect opportunity for the state
to change its approach to this tidelands and shoreline to
be enjoyed by the whole community, taxpayers and voters of
the Bay Area who look to the shoreline as a place to
recreate, meditate, and experience nature as a natural
escape from the stress of everyday life.

In conclusion, CESP asks the State Lands
Commission to look forward instead of backwards in putting
conditions on this new lease and balance the needs of
Chevron with the public interest.

Thank you very much.

CHAIRPERSON CHIANG: Thank you very much.

COMMISSIONER GARAMENDI: Mr. Chairman, may I ask
a question of Mr. Thayer?

CHAIRPERSON CHIANG: Yes.

COMMISSIONER GARAMENDI: I'm a little confused as
to exactly what Chevron is doing with regard to this
trail. I understand there's a lease. And now that we
know that that lease is going to be somehow -- excuse me,
easement -- there's an easement and somehow that
easement's going to be nailed down with a side agreement,
if that's a fair word, what else is Chevron doing? There was some talk about maintaining a safety or security fence.

Can we get some clarification on that.

EXECUTIVE OFFICER THAYER: The two major elements were -- the one, the easement, to provide the land that's necessary for the trail wherever it ends up being sited as a result of the --

COMMISSIONER GARAMENDI: Let's be specific here. There's a specific location that's the preferred alternative and Chevron's going to provide an easement to accommodate that preferred alternative?

EXECUTIVE OFFICER THAYER: That's correct. Although, the exact siting of that has not yet been identified. It's approximately where that yellow line is along the highway there.

COMMISSIONER GARAMENDI: So it hasn't been surveyed and --

EXECUTIVE OFFICER THAYER: Yeah. And there's discussion, competing concerns about CalTrans not wanting that bike path too close to 580 and having it interfere with future expansion plans and security concerns that if you back it off --

COMMISSIONER GARAMENDI: It seems to me CalTrans' position in this is a weak position.

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EXECUTIVE OFFICER THAYER: Certainly. And I'm not --

COMMISSIONER GARAMENDI: You can't speak for them?

EXECUTIVE OFFICER THAYER: I'm not speaking for them. I'm not necessarily supporting them.

COMMISSIONER GARAMENDI: Do they have a representative here today?

I guess not.

Okay. Please continue.

EXECUTIVE OFFICER THAYER: Anyway, there are different factors that are now being looked at to determine the final alignment.

The second major element is that Chevron, as part of the community benefits agreement entered into with Richmond, agreed to provide up to $2 million for security improvements. In one of the meetings that I was at, they indicated -- the point was that they didn't want -- or that they thought the requirements from the Coast Guard and other federal agencies were such that they were going to have to assure that nobody on that bike path could have contact -- could get off of that bike path and get into the refinery area.

So there's some sort of super fence. It's more than just a chain-link fence that has to go up to...
accomplish that. But again more study is necessary before knowing what that is.

COMMISSIONER GARAMENDI: And that's up to --

EXECUTIVE OFFICER THAYER: $2 million.

COMMISSIONER GARAMENDI: -- is it $2 million?

EXECUTIVE OFFICER THAYER: Yes.

COMMISSIONER GARAMENDI: Is it 2 million?

EXECUTIVE OFFICER THAYER: Up to 2 million.

COMMISSIONER GARAMENDI: Up to 2 million.

And that's the extent of the commitment with regard to the trail?

EXECUTIVE OFFICER THAYER: I believe that there's also a commitment to continue to work on this in the same way that CalTrans and we and other entities are working on it, so that they would continue to have the discussions about how to best do this.

COMMISSIONER GARAMENDI: Thank you.

CHAIRPERSON CHIANG: Thank you.

Nancy, followed by Craig Murray and Bill Pinkham.

MS. STRAUCH: Mr. Chairman and Commissioners.

I'm Nancy Strauch and I'm from TRAC, the Trails for Richmond Action Committee.

We have been working with the City of Richmond to try to get trails all around Richmond's shoreline. They have 32 miles of shoreline, some of the most in the Bay

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Area. And we've been successful in getting 24 miles. So this is a little length that we don't have yet. And we would -- therefore we do support the City of Richmond's request to have the Bay Trail constructed here.

I'd like to say that I'm very pleased normally with the State Lands Commission. It has done a fabulous job. San Francisco Bay looks so beautiful because of the work that you do. So I'd like to compliment you there.

On the other hand, for this particular project, I think that your attorneys have been particularly timid. They've found a lot of reasons -- legal reasons why they can't move forward with this. And I don't necessarily agree with those opinions. I sort of look at it a different way, and I think TRAC does. This is my land. This is TRAC's land. It belongs to us. And you could give Chevron the rights to use it. But when you give Chevron the right to use it, I can't use it. I can't get by -- I sail. I can't use it for sailing. I can't walk along that shoreline. I can't use it at all.

So I think that your attorneys should be representing me. I'm the client here. And they should be looking for ways for you to find to be able to have this access provided.

Now, this lease expired. Chevron has no rights here at all, and they haven't had for some time. In the
meantime, they've been upgrading their facility, they've been adding to their facility. They haven't been paying any rent to me and you and this state. They owe $5 million and they have an illegal use.

State Lands can decide to approve this project or it can decide that they have to take their pier out. So you have the ultimate authority. You can say we're putting this condition in the lease. The condition is that in lieu of you providing fees because of this illegal use, you need to construct this trail. So you can accept this lease with the conditions of the fines that you would have to pay for having use of the tidelands without getting rights or without paying your lease. And you can accept that or you can take out your pier.

So you do have the authority. If you don't have it under CEQA, you have it under your own law and you have it as, you know, the ability to either approve, disapprove and have this removed.

ACTING COMMISSIONER SHEEHY: Mr. Chiang, question of staff.

CHAIRPERSON CHIANG: Sure.

And, Nancy, if you want to hang on.

ACTING COMMISSIONER SHEEHY: Thank you.

Mr. Thayer or Mr. Fossum, could you please clarify for my benefit whether or not Chevron has been
operating the Long Wharf illegally and what the status of
the $5 million is and our ability to get that money into
the State General Fund.

EXECUTIVE OFFICER THAYER: I'll let Curtis talk
about the legality of it.

But Chevron has continued to pay rent, but it was
at the old lower rate. And we've taken a position when
the prior lease expired, that they would owe rent when
that was eventually determined by the Commission what that
rent should be. And so the back payment that's occurring
is not of all rent, but just the increment that the
Commission is now approving on a partly-go-forward basis.
We've done an additional appraisal when the rent -- when
the lease expired, and the back rent is to reflect the
difference between what they've been paying year in and
year out since the lease expired and the higher rate that
that appraisal indicated.

Now, in terms of the legality of it.

CHIEF COUNSEL FOSSUM: Basically, since the lease
expired they've been in a holdover status and paying rent
based on -- as Paul said, based on the old rent rate.
Staff has negotiated the higher rent rate for the interim
period, and that's where the 5 actually -- if you go to
the current date, it would be almost $7.5 million in
additional rent that the State will be obtaining to this
point in time.

As to the legality of it, we have a number of leases that are in holdover status while we're negotiating with those parties. And that is a considered way of doing business amongst real estate professionals. It's not what we prefer. But when it's taken that long to actually negotiate the terms of this holdover status, they're still under the terms of the old lease as far as we're concerned.

ACTING COMMISSIONER SHEEHY: Mr. Fossum, it's been a number of years since the old lease expired. Has Chevron been dilatory in their negotiations with the State? Why has it taken so long?

CHIEF COUNSEL FOSSUM: I think there's been a number of factors. I haven't been personally involved in those negotiations. But from what I understand, conducting the EIR took some time. Some of these issues in negotiating with Chevron has taken time. And if you want details on it, other members of the staff are more familiar with it than I.

ACTING COMMISSIONER SHEEHY: And with respect to the background, are they going to be paying interest? From the calculation of what they owe us, does it include the rent at the higher rate? Plus, are they paying interest for those years where we would have had the
money?

EXECUTIVE OFFICER THAYER: No, it does not include interest.

ACTING COMMISSIONER SHEEHY: Well, it seems like a detail that, you know, it was overlooked. It could have been in the benefit to the general public and the State of California. I mean if they had been paying rent, we would have had those funds. We would have been earning interest in the pooled money investment account.

EXECUTIVE OFFICER THAYER: That's correct. And we can certainly look to that in the future.

I would say that some of the delay, as I indicated earlier, over at least the last year has been staff's attempt to deal with the trail issue. So that it was not the responsibility of Chevron. At that point, we were looking for some way to resolve that issue.

So there's different -- there are a variety of reasons why it's taken this long to get to today and bringing it back to the Commission, some of which we could say was Chevron's, but some of it was staff in terms of trying to work on some of these issues.

ACTING COMMISSIONER SHEEHY: Thank you, Mr. Thayer.

CHAIRPERSON CHIANG: Okay. Craig.

MR. MURRAY: Hello, Chair, Commissioners. I'm
Craig Murray, fourth generation Californian. Also immediate past president of Local 21, about 7,000 members in the Bay Area. And currently director of Las Gallinas Valley Sanitary District. I took the day off today to speak for folks that couldn't attend, and know this is important for people.

I did submit a letter of support of the mitigations. You should have that.

I just wanted to make a few points. In April 3rd of 2008, BCDC did consider this item of a Bay Trail connection on the Richmond-San Rafael Bridge. And one of the items they sent back to CalTrans was this issue of the eastern approach and approach from San Rafael. So this is important for the State of California as well as Bay Area.

My professional work, I work in redevelopment. And the State should feel that this is important, not just in the Chevron location. But for the San Pablo Bay and San Francisco Bay there are industrial areas that aren't determined to being used as the highest and best use are being put into redevelopment. There's new project areas that the State has approved on the peninsula that had not included just Point Molate but a terminal and a private marina. So there's some redevelopment issues in making sure that these properties are used in the highest and best interests of the State of California and the people.
Again, I support the mitigations. And if you have any questions, I'm available.

Thank you.

CHAIRPERSON CHIANG: Thank you very much.

Bill, welcome.

Then we have Bill, followed by Tony Suslak, Stephen Clark, and Wende Heath.

MR. PINKHAM: Good morning, Chairman Chiang, Commissioners. My name is Bill Pinkham and I've been a Richmond resident for over 20 years. I'm on the Board of Directors of the East Bay Bicycle Coalition and a member of the Contra Costa County Bicycle Advisory Committee; the Richmond Bicycle and Pedestrian Advisory Committee, which is developing a citywide plan; and the Friends of the Richmond Greenway. This is a group that is overseeing the building of the Richmond Greenway, which is a new Class I multi-use trail that goes through the center of Richmond. It's about half finished. And the second stage will start soon now that the bids are in. I'm happy to say they're under budget.

The Richmond Greenway connects several important regional trails. The western end starts at Garrard Boulevard, which is part of the Bay Trail, and the eastern terminus is at the junction of the end of the Ohlone Greenway, which is a Class I trail that goes from El...
1 Cerrito through Albany and Berkeley.
2 This spot is also the southern end of the I-80
3 bikeway, which is a Class II and sometimes III route that
4 goes all the way to the Rodeo Transit Center, which is an
5 important commuting nexus.
6
7 There are significant regional connections. But
8 unfortunately the Bay Trail ends before Chevron's Long
9 Wharf and does not connect with Garrard Boulevard except
10 by that travel on the I-80 freeway shoulder that you heard
11 a lot about today. Of course that kind a travel is legal
12 but highly undesirable.
13
14 I myself have ridden that stretch in order to get
15 to Point Molate. The very first time I went that way, I
16 didn't know about there's -- there is a path under the
17 freeway, which does not connect to the Bay Trail, but gets
18 you from one side of the freeway to the other. I didn't
19 know about it. And when I returned from Point Molate, I
20 emerged -- on Point Molate Road, I emerged in the middle
21 of the freeway with traffic going in both directions. I
22 hope nobody else makes that mistake.
23
24 Chevron has claimed in the past and has delayed
25 any action in the past because of security concerns or
26 going by the Long Wharf. This argument is specious. The
27 real danger is from the sea. Speaking as a sea kayaker
28 who's paddled in that area, I know anybody could sneak up
to the wharf or any ship moored there and surreptitiously wreak havoc. A fast motor boat would be even more effective. The damage would be done before anybody could stop it.

However, a trail could be monitored by camera, fenced in as you've heard, and patrolled by security. In fact, users of the trail would put more eyes on anyone attempting to do any sabotage. In other words the trail would enhance security.

Please, make Chevron pay for this mitigation. Thank you.

CHAIRPERSON CHIANG: Thank you, Bill.

COMMISSIONER GARAMENDI: Mr. Chairman, may I?

CHAIRPERSON CHIANG: Yes.

COMMISSIONER GARAMENDI: We've heard a lot of testimony here and a lot of passing responsibility back and forth among multiple parties. There is a solution to this problem.

The location of the trail was really the more difficult problem. That's been resolved, if not in its precise location, at least in its approximate location.

The issues of security are very real. I think that they need to be addressed. And as to whether it's a kayak or a speed boat or it's a car that stops on the freeway and lobs something over a railing, not even a fence, but over
a railing onto the pipes is another question. But, yes,
there are security issues here.

Clearly, in my view, CalTrans needs a very swift
kick to get in gear. They have vast sums of money. They
should be participating in a serious way in solving the
problem that is very real and very much theirs.

The regional park district has responsibility.
They have money. The community has money. There was some
$60 million in the community fund that is available to the
community.

Now, why all these parties can't get together and
do a little, what is known as, a stone soup solution here,
that is, everybody participating and adding a little bit
to the kettle and get the soup done, I don't know. Other
than perhaps not having sufficient motivation. Another
lawsuit ought to be a motivation to CalTrans. And
certainly the community pressure, which we're seeing here
today, ought to be a motivation to both Richmond and to
the Park District. And the new Assemblywoman, who I don't
know if she's still here or not, but she's certainly
capable of motivating people, and so are we.

Now, let's get this lease done. I think Chevron
ought to be very clear about what their participation is.
And I think they're pondering, at this moment, what their
participation should be.
I think there's also another issue that really hasn't been discussed, and that's access on the public lands. It was discussed with regard to kayaking. But it really hasn't been discussed with regard to the area between the high tide and the low tide. As near as I can tell, that access is severely restricted. In fact, it's nonexistent.

It hasn't been discussed, but it certainly is in Malibu, day after day after day in Malibu. It seems to me to be applicable here also.

So there are a lot of reasons to get this done. We're not talking about a great sum of money – 10 million, maybe a few million more, to complete this trail. Perhaps this can be resolved today, perhaps it can't. But it surely ought to be resolved in a big hurry.

Tom, you have some influence on this from your perspective in the Department of Finance. I'd ask you to do your magic there. We're going to do our magic here. And if this lease is going to be resolved, then Chevron's going to have to make some very serious and firm commitments, and money's part of it.

John, I don't know how much more time we're going to take in this hearing, but at least one party is at play, that is, Chevron. And maybe they can find a number that solves their problem.
And we have a few more witnesses.

CHAIRPERSON CHIANG: Four.

COMMISSIONER GARAMENDI: Four?

And this is our last item on the agenda?

EXECUTIVE OFFICER THAYER: It is. But we still have a closed session that would probably take somewhere between 10 minutes and 30 minutes.

COMMISSIONER GARAMENDI: Why don't we hear from the witnesses and let Chevron do its work. And maybe -- I don't know. CalTrans isn't here unfortunately. But I understand they're having meetings at this moment.

There's a four-party meeting going on at this time to see if there's some resolution. I'd sure like to know what they're up to.

So, Brian, why don't you find out what they're up to, wherever they happen to be.

Excuse me for interrupting, but I'd like to get this one resolved.

CHAIRPERSON CHIANG: Well, very good. I appreciate it.

Tony.

MR. SUSLAK: Hello, Mr. Chairman. Hello, Commissioners. Tony Suslak of Richmond.

Most of what I would have hoped for has already been said. And of course we obviously agree with the City
of Richmond's position. And what Lieutenant Governor
Garamendi just said, that covers a whole swath. Because I
think the most important thing that we could ask you to do
today is to use your powers of moral suasion and the fact
that you do hold positions of influence and power in the
State of California. And that might carry a little bit of
sway. And as Mr. Garamendi just pointed out, we're not
that far away perhaps from coming to this. And
particularly the thing, as you've just now discussed, that
other people have is the safety issue. And it's pretty
clear that perhaps even having some more eyes, I don't
think anybody's going to be rolling a bomb up that pathway
in a wheelbarrow. They're going to use some other
strategy than that.

People are crazy enough, for sure. But certainly
the main thrust is not going to be in that direction.
And of course, Lieutenant Governor Garamendi, it
was the last time -- I was at one meeting where, talking
about people being harassed, there was somebody walking
around with crutches after having some close encounter on
some ski slopes or something.

(Laughter.)

MS. SUSLAK: Well, have a good afternoon.
Bye-bye.

CHAIRPERSON CHIANG: Thank you, Tony.
We have Stephen Clark, Wende Heath, and Fraser Felter.

MR. CLARK: Good morning. My name is Stephen Clark, and I live right here --

(Laughter.)

MR. CLARK: -- which is past Point Molate. It's called Point San Pablo Yacht Harbor. And we are surrounded -- completely surrounded by Chevron.

I actually have a little map here. I don't know if you can see it. The pink is Chevron.

Here, there's one for each one.

CHAIRPERSON CHIANG: And you're from --

MR. CLARK: It shows that we are this little tiny pink area -- or green area surrounded by Chevron.

So we've formed -- which this brochure states, we formed what's called the Point San Pablo Preservation Society. And all of us there are directly affected by this Highway 580, where we have to go over to Point Richmond to do grocery shopping. We can't get there other than going on 580.

And we would like to support both the City of Richmond and TRAC's efforts to require Chevron to, you know, help build this so that we, as residents of that particular area, can get to and from Port Richmond.

The second thing I'd like to say is, if you can
see on that map, the Bay Trail proposal is to come out through Terminal 4. We're also going to be supporting the efforts for the Bay Trail to go past Terminal 4 through Chevron and over to Point San Pablo Yacht Harbor, and then provide a ferry service, which we'll probably provide to go over to Point Pinole National Park, which would be a great extension. That'd be a terrific increase in the Bay Trails.

So I hope you take our little brochure and read it. And we would just like to let you know that we totally support the City of Richmond and TRAC's efforts.

CHAIRPERSON CHIANG: Thanks for being here.

Wende.

MS. HEATH: Hi. My name is Wende Heath. I'm an arts commissioner for the City of Richmond. And I also live in that little teeny-weeny village of Point San Pablo Yacht Harbor.

And I've been there 17 years, and I have to say that nobody's treated that land very well, not Chevron; not the Navy; and not really even the City of Richmond, who's closed some parks there.

But it's a new day. And we have a new president who thinks more broadly about these things. We have a new green mayor. And as you can see, we've just become a little tiny nonprofit in order to help support that area.
I too went on that freeway in one horrifying ride on my bicycle and will never do it again.

What I'm concerned about as an art commissioner is the beauty of the City of Richmond. It's probably not nationally known as the most beautiful city in the world. But it does have one of the most beautiful coastlines, that we see daily - I see daily. I can walk -- you know, when I go to work, I get to see Mt. Tam, I get to see the coastline. I know how to sneak into the park, because we know every inch of it.

What I would like is for you to help us get the City of Richmond and the people of Richmond, who don't even know about this area, because they can't get there. There is really no place for them to be, because most everything is locked up unless you know the secret ways. And Chevron has been very careful, because of all the threats, to keep us out.

So I would just like us all to think of ourselves as the stewards of the land. I feel like a steward every time I go by. But you are the big stewards. And what we really want to do with all of this, bicycle, whatever, whatever, is to get the people back to the land where they could actually use all the areas there, because it's truly a gorgeous place.

So thank you. And I hope that you will support.
the mitigation.

CHAIRPERSON CHIANG: Thank you, Wende.

Fraser.

MR. FELTER: Good afternoon. My name is Fraser Felter and I'm a resident of west Contra Costa.

I came with prepared statements. But at this point, I would like to commend Lieutenant Governor Garamendi for his statements. As they say, out of the mud grows the lily. And anything I had to say here would just guild the lily.

Thank you very much again. I look forward to progress on this one.

(Laughter.)

CHAIRPERSON CHIANG: Very good. Thank you.

Do you have a comment?

ACTING COMMISSIONER SHEEHY: I'm just glad the witness wasn't slinging any mud, Mr. Chairman.

(Laughter.)

COMMISSIONER GARAMENDI: If I might, Mr. Chairman. We have -- I've got some issues that are in play. And it just seems to me that we've got about a $12 million project here. And normally none of us would waste a whole lot of our time on a project that's this because there's not enough zeros. But this is an important one for a variety of reasons.
By my calculations, Chevron is providing an easement, which is of some value; great or small, we'll let others determine. They're also committed to a $2 million upgrade of an existing -- of a trail that would otherwise not have security.

CalTrans has a major role in this thing. I mean they are at serious risk for reasons that we heard earlier today. And every moment from this moment on they're at serious risk. So they have a role in this.

They also -- there's also money for bike trails in CalTrans' budgets. And I don't know exactly what it is. I haven't followed it closely. I haven't followed it at all for several years. But there is money in CalTrans' budget for bike trails and there is an appropriations processes for that.

The bond money is also available. The park district has a new bond out, WW, which I assume is not the first two letters of some website.

And then the City has some money that is available to the City for mitigation on the hydrogen project.

It seems to me that from those four sources, and quite possibly there may be others that I'm unaware of, that 12 million can be found for this project. If, for example, Chevron were to increase their amount, perhaps by
doubling it, and CalTrans were to come in with a similar amount, and the City and the Park District were to come in with half of what either of the two of those would do, you'd have $12 million. And you'd have a project that could be constructed, I suppose, in a very quick period of time since a lot of the EIR has already been done, and may not even be required. I suppose it may be necessary.

So, perhaps Chevron should consider increasing. I've got a call in to Will Kempton at CalTrans and saying, "Will, do you want this thing solved or do you want to continue on with a headache that I'll give you, and I'm sure others will too."

And for the Park District, I'm afraid our Assemblywoman is no longer in a position to commit the Park District directly.

And the City is here. So, Mayor, how much are you willing to contribute to this stone soup solution?

Two million?

Well, somebody was speaking for the whole city council earlier this time around.

Let's give it some consideration. In the meantime, while all of you are pondering a solution that might actually get concluded here in this meeting, maybe we ought to take a break and maybe go to our private session, while others are pondering it. And then we'll
come back. Maybe it gets resolved and maybe it doesn't
get resolved.

There are a couple of other issues, however, that
I think we ought to really take hold of. And this comes
from the City of Richmond's letter, and it has to do with
air emissions, which are very real issues, and
specifically the issue of cold ironing, which I'm
particularly interested in.

The cold ironing issue is one that all ports are
going to be dealing with in the State of California. I
think it's really an issue that the Air Board and the port
districts are taking up. It's something that I'm sure
Chevron ought to be participating in.

So I'd like to have some discussion of whether we
can deal with the cold ironing issue or whether that's
beyond our jurisdiction.

CHAIRPERSON CHIANG: Okay. We'll take a
five-minute break.

EXECUTIVE OFFICER THAYER: We have one sign-up
that I see, perhaps two, for the public comment period at
the end. So that's something else that we'd be able to
just look into.

(Thereupon a recess was taken.)

COMMISSIONER GARAMENDI: We're going to go to the
public comment portion. We're going to hold in abeyance
the current issue. Take up public comment and we'll see
where we are at the end of the public comment.

So moving onto the public comment period on
whatever the public wants to comment on.

And we have a couple of folks that have signed up
to do so.

EXECUTIVE OFFICER THAYER: That might be John
Asuncion.

ACTING CHAIRPERSON MANDEL: Yes it is.

MR. ASUNCION: Good morning.

COMMISSIONER GARAMENDI: Very good. This must
have something to do with a yacht club.

MR. ASUNCION: Yes, morning. I'm John Asuncion,
and I'm the President and Founder of the Blue Whale
Sailing School. We're a charitable educational
corporation here in the state. We're in our 15th year.

And we own some property. Myself and I bought some
property -- my wife and I, I should say, bought some
property in the south bay on the Alviso Slough and donated
it to our educational corporation.

We have some neighbors -- Paul Thayer brought
that up with the South Bay Yacht Club. And I'd like to
give these photographs to our Lieutenant Governor and the
Commission showing the facility of the South Bay Yacht
Club. We know they're trying to clean up the place, and
they're not doing a very good job. We just removed a
large trawler from the Alviso Slough. And this particular
boat was 42 feet long. And I personally paid $63,000 of
my own money to remove it, because none of the agencies
would step up.

At this time, we've removed approximately close
to 70 tons of garbage out of the south bay, this last week
with all our volunteers. And we have a whole group of
volunteers, from doctors, attorneys, engineers, designers,
contractors that support the foundation. And we just had
Starbucks jump on board and is going to have 150 of their
general managers assist the foundation in picking up an
area probably three and a half miles long and 80 feet wide
of garbage that you cannot help stepping on when you're
walking along the wetlands.

I know the criteria right now is what's happening
in the north bay and Point Richmond and Richmond with this
refinery. But I hope the Commission looks more in detail
at what has been taking place in Silicon Valley. I
stepped up to the plate, my wife has stepped up to the
plate and used our personal money, not the foundation's,
and done the right thing as the caretaker of the south
bay.

And the boats that we removed and the trash that
continues to go on -- and I'm hoping the South Bay Yacht

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Club steps up and does their job. But what we've seen in
the last month and a half, it hasn't been going on.
They've had some problems with their contractor. And now
he's abandoned the job. For the second time we've had to
go out and retrieve boats.

On another item I think is very important, the
public access through State lands that the yacht club sits
on. There's been no public access. I, as a private
individual, and a taxpayer of this great state, had
provided public access to the University of Berkeley,
Stanford, Santa Clara University, San Jose State, UC
Davis, the Department of Interior, because there's been no
public access. And the yacht club under their lease has
denied public access. Right now, this coming Monday, I'll
be meeting with the City of San Jose because I'm giving
public access and giving them a deed to public access
across our property.

So, again, the general public and the taxpayers
have to stand up and do the right thing. We put the
Commission -- and I applaud the State Lands' office. I've
always respected their staff and everything. But we have
to do the right thing. And if the yacht club can't clean
it up, I'll pay for the clean-up. I'll step forward. I
have the equipment. I have the knowledge. I have the
background to do this. As a retired golf course architect
and a landscape architect, I have the know-how, and my son, that has our corporation and runs our business now, we have every piece of equipment. I'll provide getting the permits and everything to do this job.

Because the most important thing is public access on the Trust that it states in the brochure. It's our lands. It's everybody's property right here.

So I haven't attended the last few meetings, because I'm the fella that stepped forward and I was beaten. I was attacked by the yacht club. I was in the hospital. I have brain problems with my skull because of this, okay, because I stood up and blew the whistle and said, "Clean this mess up." And those photographs have been taken some months ago. But the photographs that we have now are appalling for what has been going on.

COMMISSIONER GARAMENDI: A question. You said you would clean it up. You would take over the lease if there were to be a new lease?

MR. ASUNCION: No, I don't need the lease. I'll clean it up, if one condition -- and I proposed that to them seven years ago. All I want out of it is the public access through the State property, that it should have been taken care of under the years with this lease with the yacht club. And they have not performed. They've intimidated people, myself. Okay? Intimidated my wife,
stalked our handicapped students, you know. This isn't the first time that this has gone on over the years. This is a continuing problem as long as you've had the South Bay Yacht Club.

So to answer the Lieutenant Governor's question, I don't want the lease. What we need to do is get public access back in there. And I have a group of gentlemen that are tugboat operators, crane operators, that will all donate their time to the foundation. And let's get this place cleaned up.

This has been going on for eight years and there's a little bit of progress.

ACTING COMMISSIONER SHEEHY: Thank you for your testimony.

Perhaps you or staff could clarify. Is there a specific action that you're asking the State Lands Commission to take in this matter? Are you saying -- you're calling it to our attention. I understand there's a Public Trust Doctrine issue here that you're raising. But beyond that are you looking for some sort of official action by the Commission?

MR. ASUNCION: Well, I've asked them some years when Cruz Bustamante was in office, and Steve Westly. And they'd been working diligently. I know Mr. Thayer here and his staff has been working diligently to try to
correct it. But there's been nobody to monitor this
disaster that what has been going on with the oils and,
you know, the beavers and the sea otters being polluted
and killed.

ACTING COMMISSIONER SHEEHY: I'd like to hear
from Mr. Thayer. Could you comment on what, if any,
direct role there is for the State Lands Commission to
play in this matter.

EXECUTIVE OFFICER THAYER: It is the role that
I've described in the opening under the Executive
Officer's report, which is that we're -- you know, we
agree with Mr. Asuncion that the yacht club operation
needs to be cleaned up, and steps are being taken. The
Commission directed staff to pursue this a year ago, and
we're continuing to do this.

The permits are difficult to come by, as we've
described. And we tried to facilitate, to act as a
go-between between the yacht club and BCDC and Department
of Fish and Game, both of whom have to provide these
permits. And we think they're moving in the right
direction at this point.

ACTING COMMISSIONER SHEEHY: So we are acting on
this matter?

EXECUTIVE OFFICER THAYER: Absolutely.

ACTING COMMISSIONER SHEEHY: Okay. Was there
anything more that you wanted to add?

MR. ASUNCION: Yeah, I just wanted to add one more thing, is -- you know, I appreciate Mr. Thayer's comment. But he's not down there. And our volunteers and my staff are there every day, you know, picking up debris with all our volunteers over the years. And, you know, this last week alone with the sunken boats and the discharging of material, it's a hazard -- navigational hazard. And this large trawler, I mean it sat there. You know, it was abandoned by the yacht club commodore, Roger Dillinger. Okay? And I feel that the yacht club cannot be trusted. I've had to take them into State court. I have them in Superior Court. You know, we're looking at hopefully 90 to 120 days, then we'll go to trial on this matter. It's a public nuisance.

The Santa Clara Valley Water District, their representative, Beau Goldie, told me last week before the holidays that the Santa Clara Valley Water District has put the yacht club on notice. They're going to -- because they just signed a lease with the yacht club and they've not performed.

And so it continues to go on unmonitored, and the pollution constantly going on.

You know, thank you for your time.

ACTING COMMISSIONER SHEEHY: Well, Mr. Asuncion,
thank you so much for coming today and addressing the
Commission. I do have confidence, and the State Lands
Commission staff is acting on this. And please feel free
to come back to our next meeting and you can give us an
update from your perspective. We appreciate hearing from
you today.

MR. ASUNCION: Okay. Thank you very much.

ACTING COMMISSIONER SHEEHY: Do we have the next
speaker?

COMMISSIONER GARAMENDI: It was very clear to me
what it is you would like to have, which is public access.

MR. ASUNCION: That's right.

COMMISSIONER GARAMENDI: And you're willing to
put a lot into solving the problem to get that.

MR. ASUNCION: Yes.

COMMISSIONER GARAMENDI: We'll see if we can make
that happen.

MR. ASUNCION: Okay. Thank you, sir.

COMMISSIONER GARAMENDI: Anybody else on public
comment?

Then we're going to go to a closed session of
this Commission. And we will, following the closed
session, return to the Long Wharf issue.

COMMISSIONER GARAMENDI: Shall we do it here?

EXECUTIVE OFFICER THAYER: I think so.
COMMISSIONER GARAMENDI: Okay. We'll do the closed session here. So if you would all like to take --
this is going to take us at least a half hour. Okay?

So we'll come back at 1 o'clock. Those of you that remain interested in the Long Wharf, we will return
at 1 o'clock to that issue.

(Thereupon the meeting recessed into closed session.)

COMMISSIONER GARAMENDI: The Commission is ready to resume the public session dealing with the Chevron Long Wharf issue.

A couple of things. I was looking at the map. And I raised the question earlier about the public access. Somewhere along the line -- it doesn't look like Lake Tahoe, but it kind of reminded me of an issue that we've been dealing with at Tahoe, which is access along the public land that appears in the Tahoe basin in Lake Tahoe have made it impossible for the public to traverse their land.

In looking at this Long Wharf, I see a pier that is making it impossible for the public to traverse their land.

I don't know what the similarity -- I see a visual similarity, perhaps a physical similarity to Tahoe. And I'm curious as to what it means in the context of this
lease and the issues surrounding the lease.

Also, there's -- I've discussed this publicly and I want to come back to it. The ability of the public to traverse its land between the high water and the low water, the high tide and the low tide line is compensated by the bike trail or the Bay Trail, whatever we want to call it, and so it is a substitute for that.

Now, we got to build it before it exists as a substitute. We had discussions here. I think CalTrans has a significant role to play, and I think they will play a significant role. I think the Park District WW proposition has money that can play a role in building this trail. And Chevron has already indicated a willingness to participate to an extent that I think is insufficient, but has at least some skin in the game. And I think the City of Richmond also has a role to play here.

It appears to me, at this moment, that it's not yet firm the level of the roles that are to be played by all of those four players. And maybe there's a fifth one that I haven't yet identified. But if they're out there, I'll find them and let them participate too.

I think more time's going to be needed to put this deal together. And I understand commencing soon there's discussions going on somewhere in the Bay Area among at least three of the parties. And I think that's
important that they be given an opportunity to fully
discuss. They now know my thoughts on this.

I'm recommending to my colleague that we take
this up at the next hearing for the purposes of hearing if
there's a -- learning if there's a resolution to how this
trail is going to be financed and having a more complete
discussion about the public access between the high
water -- the high-tide and the low-tide line along the bay
shore. Okay?

Our next meeting will be, as I understand it, an
informational meeting towards the earliest days of
January, and followed by a full board meeting in --
presently scheduled January 29th, subject to modification.

But that's where we are, January 29th. So we would
schedule this for the January 29th meeting, which will
take place unfortunately far from the Bay Area. I believe
it's currently scheduled in the Santa Barbara area.

My apologies for those of you that would like to
attend. But there is Highway 1, which is equally
dangerous. You can cycle down if you'd like.

(Laughter.)

COMMISSIONER GARAMENDI: That being the last item
of business that we have, this issue is now scheduled for
January 29th.

ACTING CHAIRPERSON MANDEL: The Controller's fine
with that.

COMMISSIONER GARAMENDI: Okay. Very good.

EXECUTIVE OFFICER THAYER: Thank you.

COMMISSIONER GARAMENDI: I believe we've covered all the business, and this meeting's adjourned.

Thank you.

(Thereupon the State Lands Commission meeting adjourned at 1:33 p.m.)
CERTIFICATE OF REPORTER

I, JAMES F. PETERS, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing California State Lands Commission meeting was reported in shorthand by me, James F. Peters, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting nor in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of December, 2008.

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